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1. THE APPLICATION

On 10 November 2022, Mr Graham Hopkins of GT Licensing Consultants submitted an application on behalf of Mr Prabakaran Shanmugaratham (“the applicant”) for a new premises licence in respect of the premises known as Broadway Food & Wine, 51 Fulham Broadway London SW6 1AE

1.1 Application Requested

The applicant has applied for a new premises licence for the sale of alcohol off the premises only as outlined below:

Sale by retail of alcohol off the premises

Mondays to Sundays 10:00 to 23:00

Proposed Opening Hours:

Mondays to Sundays 08:00 to 02:00

A copy of the application form and plan can be seen on pages **14-33** of this report.

1.2 Applicants Operating Schedule

The applicant has proposed a number of steps to promote the four licensing objectives if the application is granted. A copy of the proposed conditions can be seen on page **24-26** of this report.

On the 06 December 2022, following correspondence received from the Police, the applicant agreed the licence be **time limited for a period of twelve months** from the date that any licence is granted and agreed to five extra conditions to their licence if granted. A copy of this amendment and relevant correspondence can be seen on pages **34-40** of this report.

- 1. The following people are not to be employed in any capacity of the business at the premises or involved in the management of licensable activities at the premises either directly or indirectly. Suganthan Sinnathurai, Mr Thayalan Ratnam and Mrs Nageswary Shanmugaratnam.*
- 2. The following people are not to enter the premises at any time in any capacity whilst licensable activities are taking place. Suganthan Sinnathurai, Mr Thayalan Ratnam and Mrs Nageswary Shanmugaratnam.*
- 3. All staff responsible for selling alcohol shall receive regular training in the Licensing Act 2003 in terms of the licensing objectives, offences committed under the Act and conditions of the Premises Licence. For a period of twelve months from the date the licence is granted, all staff training shall be provided by a professional licensing agent. Written records of this training shall be retained and made available to Police and authorised officers of the Licensing Authority on request.*
- 4. On days when Chelsea Football Club are playing a home fixture, or on any day that a Chelsea Victory Parade takes place, the premises shall stop the sale of alcohol*

three hours before the advertised kick-off time until one hour after the match has finished. During this time frame, all alcohol shall be locked behind shutters and not displayed.

- 5. On any day that Chelsea Football Club Men's First Team play in any Cup Final, specifically European Cup Finals, the premises shall stop the sale of alcohol three hours before the advertised kick off time until three hours after the match has been completed. During this time frame, all alcohol shall be locked behind shutters and not displayed.*

On the 07 December 2022, following correspondence received from Health & Safety, the applicant agreed to add the below condition to their licence if granted. A copy of this amendment and relevant correspondence can be seen on pages **41-43** of this report.

1. That the premises cannot be used for any activity licensed under the Licensing Act 2003 until the licence holder: -

- 1. Presents to the Safety Officer a documented safety management plan to satisfy the authority that the business can operate safely and address the objectives within the Licensing Act 2003.*
- 2. A record of a pre-opening inspection to confirm the premises is safe for the public to access.*
- 3. Written confirmation that the Safety Officer is satisfied with the Documented safety management system shall be made available on request to authorised officers of the Council upon request.*

On the 04 February 2023, following correspondence received from Trading Standards, the applicant agreed to add the below condition to their licence if granted. A copy of this amendment and relevant correspondence can be seen at pages **44-55** of this report.

- 1. The premises licence shall not come into effect until written notification from the Licensing Authority, Police and Trading Standards team has been sent to the licensee confirming they are satisfied the business is able to operate in accordance with the terms and conditions of the premises licence. A copy of this notification shall be made available to authorised officers of the Licensing Authority on request. The notification shall be subject to:*
 - the licensee contacting the aforementioned teams requesting a full pre-licensing inspection, and*
 - the inspection being undertaken within 14 days of request.*

2. BACKGROUND

The main access to the premise's unit is located on Fulham Broadway. There is a mixture of both residential and commercial premises within the area. A map showing the location of the premises and neighbouring licensed premises can be seen on pages **56-60** of this report.

There are several options for transport away from the area including buses and taxis which run from in and around Fulham Broadway area. Fulham Broadway tube station is a 2-minute walk away, Parsons Green tube station is an 11-minute walk away.

3. CONSULTATION

A public notice was displayed at the premises for 28 days. The application was advertised in a local circular and all statutory consultees were notified as required by the Regulations. The Council has served written notice of hearing upon the applicant and all those parties that have made representations in respect of the application.

3.1. Relevant Representations

The Licensing section received one representation from The Licensing Authority objecting to the licence application. A copy of the representation can be seen on pages **61-65** of this report.

The Licensing section received one representation from The Head Of Safeguarding, objecting to the licence application. A copy of the representation can be seen on pages **66** of this report.

The licensing section received eight representations from local residents objecting to the licence application. A copy of the representations can be seen on pages **67-74** of this report.

4. OTHER INFORMATION

4.1 Enforcement History

This premises has been the subject of adverse enforcement history over the last 2 years, with some of the original offences taking place in 2017. The licence was originally reviewed asking for revocation in October 2018, after multiple licensing breaches and the sale of alcohol to a child. This revocation was granted by the Sub-Committee in December 2018.

The decision was then appealed early in 2019 and in September 2019 a consent order was agreed on the basis that the two individuals who managed the premises previously should not be involved in any licensable activities at the premises – Mr Suganthan Sinnathurai and Mrs Nageswary Shanmugaratnah were specifically named in a condition which was then added to the licence.

The licence was reviewed again in May 2020 (asking for revocation following licensing offences ascertained) but the hearing did not take place until July 2020 due to Covid.

The licence was revoked for the second time in July 2020 and subsequently appealed again. Further Licensing and Trading Standards breaches were found in August 2021 which were also used in evidence for the appeal. On the 12th November 2021 the Magistrates' Court dismissed the appeal on all counts and upheld the Council's decision to revoke the premises licence in July 2020.

A new application was made by Mr Prabakaran Shanmugaratham (the current applicant) in November 2021, which was refused by the licensing sub-committee in January 2022. No appeal was made on this occasion.

A copy of a detailed summary regarding the Background and Enforcement History can be seen on pages **75-76** of this report.

4.2 Temporary Event Notices (“TENs”)

No TENs have been submitted in respect of this premises in the past twelve months.

5. POLICY CONSIDERATIONS

5.1 Section 5 pages 12 and 13 of the Statement of Licensing Policy (“SLP”) states that in order to ensure the promotion of the four Licensing Objectives the Licensing Authority will require applicants to detail in their operating schedule:

- the steps proposed to promote the licensing objective of the prevention of crime and disorder on, and in the vicinity of, the premises, having regard to their location, character, condition, the nature and extent of the proposed use and the persons likely to use the premises;
- the steps proposed to ensure the physical safety of people using the relevant premises or place
- how they intend to prevent nuisance arising, prevent disturbance and protect amenity so far as is appropriate to ensure that the Licensing Objectives are met. Where there is a relevant representation regarding extended hours, the Licensing Authority will not permit an extension unless it is satisfied that the Licensing Objectives would be met;
- the measures and management controls in place to protect children from harm. Where appropriate a written childcare policy should be available and be incorporated in the induction of staff.

5.2 Policy 1 page 18 confirms that The Secretary of State’s Guidance states that applicants are expected to obtain sufficient information to enable them to demonstrate, the steps they propose to take to promote the licensing objectives; and that they understand the layout of the local area and physical environment including:

- a) crime and disorder hotspots;
- b) proximity to residential premises;
- c) proximity to areas where children may congregate;
- d) any risk posed to the local area by the applicants’ proposed licensable activities; and
- e) participation in any local initiatives (for example, local crime reduction initiatives or voluntary schemes, such as ‘Ask for Angela’, local taxi-marshalling schemes, street pastors and other schemes) which may help to mitigate potential risks.

Applicants are expected to include positive proposals in their application on how they will manage any potential risks.

The Guidance goes on to state that ‘Applicants are expected to provide licensing authorities with sufficient information in this section to determine the extent to which their proposed steps are appropriate to promote the licensing objectives in the local area. Applications must not be based on providing a set of standard conditions to promote the licensing objectives and applicants are expected to make it clear why the steps they are proposing are appropriate for the premises.’

The Licensing Authority notes the contents of these paragraphs from the Secretary of State's Guidance and, in particular, the use of the word 'expected'. Licence applications that do not in any way address the contents of these paragraphs in their operating schedules may be returned to the applicant as 'incomplete'.

5.3 Policy 3 page 21 of the SLP states that where there is a relevant representation, the Licensing Authority will consider each particular case on its merits having regard in particular to the following matters:

- a) Whether the licensed activities are likely to have an adverse impact especially on local residents and, if there is potential to have an adverse impact, what, if any, appropriate measures will be put in place to prevent it;
- b) Whether there will be a substantial increase in the cumulative adverse impact from these or similar activities, on an adjacent residential area;
- c) Whether there is a suitable level of public transport accessibility to and from the premises at the appropriate times;
- d) Whether the activity will be likely to lead to a harmful and unmanageable increase in car parking demand in surrounding residential streets suffering high levels of parking stress or on roads forming part of the Strategic London Road Network or the London Bus Priority Network leading to a negative impact on the Licensing Objectives relating to the prevention of crime, disorder, anti-social behaviour (ASB), nuisance and vehicle emissions;
- e) Whether there have been any representations made by Responsible Authorities, or other relevant agency or representative.

The Licensing Authority will closely scrutinise extended hours applications to ensure that the Licensing Objectives are met. In determining an application the licensing committee might decide that the circumstances are such that a restriction on hours is the only appropriate means to achieve the Licensing Objectives. If an 'hours' restriction is imposed, the Licensing Authority will normally require that customers should be allowed a minimum of thirty minutes to consume alcohol.

To act as a guide for new or existing operators we have set out the suggested closing times for licensed premises below:

Type of premises	Town centres	Mixed use areas	Residential areas
Off-licences and alcohol sales in supermarkets	23:00 daily	23:00 daily	22:00 daily

5.4 Policy 4 pages 22 and 23 of the SLP states that in determining an application where there has been a relevant representation the Licensing Authority will, where appropriate, take into account the cumulative effect of the number, type and density of licensed premises already existing in the area. Consideration will be given to the proximity to any drug and alcohol treatment site, A&E department or homeless hostel in a local area type remit ie applicants need to make the case for how they would not increase further problems for residents/clients nearby.

In coming to any decision regarding cumulative impact the Licensing Authority will consider other mechanisms outside of the licensing regime which may also be available to address this issue, these include but are not limited to:

- Police and other enforcement of the normal law concerning disorder and anti-social behaviour.
- Police powers to close down instantly any licensed premises or temporary events on grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises, for up to 24 hours.
- The power of the police, other responsible authorities, a local resident, business or Councillor to seek a review of the licence or certificate in question.
- Police and Local Authority power to issue a Closure Notice for up to 48 hours where serious antisocial behaviour is taking place at licensed premises under the Anti-social Behaviour, Crime and Policing Act 2014.
- To ensure that residents are protected from the negative impact of late-night local licensing activities the Licensing Authority may decide to adopt an Area Specific Cumulative Impact Policy in relation to a specific area; where the number, type and density of premises providing licensable activities is having a serious negative impact on the local community and local amenities.

5.5 Policy 11 pages 30 of the SLP states that Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour caused by people once they are away from the licensed premises and, therefore, beyond the direct control of the licensee. However, licensing is a key aspect of such control and licensing law is part of a holistic approach to the management of the night time economy.

As a matter of policy the council expects every holder of a licence, certificate or permission, to accept and be responsible for minimising the impact of their activities and anti-social behaviour by their patrons within the vicinity of their premises by taking appropriate measures and action consistent with that responsibility.

Licensees and certificate holders should take reasonable steps to prevent the occurrence of crime and disorder and public nuisance immediately outside their premises, for example on the pavement, in a beer garden or in a smoking area, to the extent that these matters are within their control.

Population densities in this borough are high, with many residential premises located above or in close proximity to licensed premises. This means that the public nuisance and crime and disorder objectives will be of paramount concern when evaluating Operating Schedules. Licensing Committees will place high regard on the control measures put in place by the applicant to ensure that our residents are protected from the potential detrimental effects of any licensed premises.

5.6 Policy 12 pages 30 and 31 of the SLP states that we are committed to the Regulators Code and supporting businesses.

i) We will work with businesses in our borough and provide the advice you need to help you comply with the law. This may be through meeting with you at your premises or at our offices, providing written advice in an email or letter or verbally over the telephone.

ii) We will usually confirm any technical/ legal advice in writing. For applicants and agents, we also offer a pre-application advice service. Further details about this service can be found on our website.

iii) We will attend pub watch meetings and work with local businesses, including the Hammersmith Business Improvement District (BID) and Fulham BID, to help facilitate the sharing of information and advice amongst licensees in our borough.

iv) We are continuously working to improve our online application process for a range of licence permissions. If you want to know what services are available or you want to make an application online please check our website for further details.

v) We want to ensure that businesses comply with the law. Where this has not been possible through advice and education we will carry out enforcement action in accordance with our enforcement policy and as part of our commitment to the Regulators Code.

vi) We want local businesses in our borough to thrive and survive. We recognise that the law can be complex at times and that despite trying to resolve issues through discussion in the first instance, enforcement will be necessary on some occasions. We also recognise that attitudes, circumstances and personnel often change over time.

Where enforcement action has been taken against a business in the past, relevant Responsible Authorities will be mindful of this when considering any new applications. However, all new applications e.g. variations to hours or licensable activities will be decided on their merits and the information provided to demonstrate promotion of the four licensing objectives. Where a premises licence or club premises certificate has previously been reviewed or the business has been prosecuted for licensing offences, licensees are advised to discuss any new/proposed changes with the Licensing Authority and/or the relevant Responsible Authority e.g. The Police, to resolve any ongoing concerns and/or issues.

5.7 Annex 1 pages 35 and 36 of the SLP in relation to the prevention of crime and disorder states licence applicants will be expected to demonstrate the following in their operating schedules:

- a) Measures to control excessive consumption and intoxication.
- b) Consideration of any additional measures or restrictions that may be placed on alcohol sales to prevent binge drinking and promote 'sensible drinking'.
- c) Operators of off-licences in areas problems relating to street drinking and under age drinking are prevalent, measures should be outlined to strictly monitor the way alcohol is sold, specifically where the premises are located close to schools and hostels and similar premises that provide shelter or services to alcohol dependent persons.
- d) It is important to ensure that staff working at off licences are suitably trained and receive appropriate refresher training in their responsibilities under the Act and can discharge their duties in full compliance with the licence conditions and requirements of the Act. This includes the ability to competently check a customer's age with acceptable forms of identification where necessary. The Licensing Authority will particularly consider the following matters where they are material to the individual application:
 - i. The likelihood of any violence, public order or policing problem if the licence is granted;
 - ii. The measures taken to control admission to the premises, and to take reasonable steps to prevent the occurrence of crime and disorder and public nuisance immediately outside the premises, where and to the extent that these matters are within their control.
 - iii. Past conduct and prior history of complaints against the premises;
 - iv. Whether a dispersal policy has been prepared to minimise the potential for disorder as customers leave the premises; and
 - v. Any relevant representations.

- e) Measures to demonstrate compliance Home Office guidance ' Safer Clubbing' in relation to the control of illegal drugs on their premises. They should agree a protocol with the Licensing Authority and the police on the handling of illegal drugs found on their premises.
- f) Robust measures in place to avoid the presence of weapons on their premises and should agree a protocol with the Licensing Authority and the police on the handling of weapons found on their premises.
- g) Conditions will, so far as possible, reflect local crime prevention strategies, and the Licensing Authority will also have regard to the views of the local Crime and Disorder Reduction Partnership.
- h) **Crime and disorder in the vicinity of the premises:** this may include the crime and disorder risks arising from persons queuing to enter the premises; persons exiting the premises and customers smoking eating or drinking in outdoor areas and on the highway outside the premises. This can also include crime arising from pickpockets and bag snatchers, particularly in open spaces or crowded areas where alcohol is being consumed.
- j) **CCTV** - using CCTV inside and/or outside the premises together with appropriate procedures and having staff properly trained to use CCTV equipment
- l) **dealing with and reporting crime and disorder** - training for staff and door security aimed at reducing crime and disorder in the premises and its vicinity and dealing with and reporting incidents if they occur.
- p) **local schemes** – joining and attending local Pubwatch meetings and participating in the Behave or Be Banned Scheme (BOBB) and/or signing up and using the Council's Safety Net Radio scheme.
- q) **prevention of theft** - using bag hooks and signage to warn customers of pickpockets and bag snatchers.

5.8 Annex 1 page 37 of the SLP states the Licensing Authority will require the applicant to demonstrate the steps proposed to ensure the physical safety of people using the relevant premises or place. This does not cover the separate need for applicants to provide relevant public safety requirements dealt with by Environmental Health.

5.9 Annex 1 pages 38 to 40 of the SLP in relation to the prevention of public nuisance states that the Licensing Authority will particularly consider the following matters where they are material to the individual application:

- i. The Licensing Authority recommends that primarily alcohol led premises such as nightclubs and pubs, located close to any residential premises, implement a dispersal policy at their venue. All relevant staff should be trained on any policy, and all Page 39 reasonable steps should be taken to ensure it is fully implemented and adhered to at all times.
- ii. The proximity of residential accommodation;
- iii. The type of use proposed, including the likely numbers of customers, proposed hours of operation and the frequency of activity;
- iv. The steps taken or proposed to be taken by the applicant to prevent noise and vibration escaping from the premises, including music, noise from ventilation equipment, and human voices. Such measures may include the installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices;
- v. The steps taken or proposed to be taken by the applicant to prevent disturbance by customers arriving at or leaving the premises.
- viii. The steps taken or proposed to be taken by the applicant to prevent queuing (either by pedestrian or vehicular traffic). If some queuing is inevitable then queues should be diverted away from neighbouring premises or be otherwise managed to prevent disturbance or obstruction;

- ix. The steps taken or proposed to be taken by the applicant to ensure staff leave the premises quietly;
 - x. The arrangements made or proposed for parking by patrons, and the effect of parking by patrons on local residents;
 - xi. The provision for public transport in the locality (including taxis and private hire vehicles) for patrons;
 - xii. The level of likely disturbance from associated vehicular and pedestrian movement to and from the premises;
 - xiii. The delivery and collection areas and delivery/collection times;
 - xv. The arrangements for refuse disposal, storage and the prevention/tidying of litter (including fly posters and illegal placards);
- The history of previous nuisance complaints proved against the premises, particularly where statutory notices have been served on the present licence holder;
- xvii. The history of the applicant in controlling anti-social behaviour and preventing nuisance;
 - xviii. The generation of odour, e.g. from the preparation of food;
 - xix. Any other relevant activity likely to give rise to nuisance;
 - xx. Any representations made by the Police, or other relevant agency or representative;

The following provides a non-exhaustive list of risks associated with the public nuisance objective that applicants may want to consider when preparing their Operating Schedule:

j) **Deliveries/collections** – noise from deliveries to and/or collections (e.g. refuse) from the premises are another common source of complaint. Consider the times of such deliveries/collections and make sure you specify to any contractors that deliveries/collections should not be made at anti-social times. As a guide, the Noise and Nuisance Service recommend that deliveries/collections should only be made between the hours of 7:30am and 9:00pm, depending on the proximity of residential and/or other noisesensitive properties.

l) **Light pollution** – this is an increasingly common source of complaint, particularly from illuminated signs and external security lighting. Where provided, illuminated signs should not cause glare to neighbouring properties, ideally being turned off at night, and external lighting should be angled and/or diffused to also prevent nuisance.

r) **Waste** – consider how and where waste will be stored/disposed of at the end of trading hours, particularly if trading until late at night. This is important because the disposal of glass and/or cans to outside bin areas can be very noisy and give rise to complaints, so it may be necessary to store such items and other non-degradable refuse inside the premises until the next trading day. Consideration should also be given to the time of deliveries to minimize disruption to local residents.

s) **Litter** – for example, litter patrols for late night take-away premises

5.10 Annex 1 pages 40 to 41 of the SLP in relation to the protection of children from harm states the Licensing Authority will require operating plans to specify the measures and management controls in place to protect children from harm. Where appropriate a written childcare policy should be available and be incorporated in the induction of staff. This is expected to include:

c) The sale of alcohol to a minor is a criminal offence and Trading Standards officers will conduct appropriate covert test purchasing exercises and will take account of any complaints and intelligence. The Act permits the use of children under the age of 18 to undertake test purchases when they have been directed to do so by a duly authorised officer.

d) Where a sale of alcohol has been made on the same premises to a minor on two or more different occasions within a period of three months the premises licence could be suspended for a defined period.

g) The Licensing Authority will expect operating plans to specify the measures and management controls in place to prevent alcohol being served to children, other than in those limited circumstances permitted by the Act. The Council's Trading Standards officers have a role to play in the protection of children from harm, and proof of age schemes, and are able to provide advice in relation to measures that can be taken to help prevent the sale of alcohol to underage children. Potential licence holders should also be aware of the Proof of Age London (PAL) Scheme hosted by Southwark Council.

i) Where premises are subject to age-restrictions, the procedures in place to conduct age verification checks. The Council will expect premises only to accept current passports, driving licences or documents bearing the national PASS logo, such as Citizencard. The Proof of Age Standards Scheme (PASS) is the UK's national guarantee scheme for proof-of-age cards as endorsed by the Home Office. More information can be found on The Proof of Age Standards Scheme (PASS) website.

6. DETERMINATION

6.1 In determining this application, the Committee must have regard to the representations and take such of the following steps as it considers necessary for the promotion of the licensing objectives. The steps are:

- (a) Grant the application in full
- (b) Grant the application in part – modifying the proposed hours, activities or conditions.
- (c) Reject the application

It is the Council's duty under the Licensing Act 2003 ("The Act") to determine applications with a view to promoting the four licensing objectives; Prevention of Crime and Disorder, Public Safety, Prevention of Public Nuisance and the Protection of Children from Harm.

In reaching a decision the Council shall consider the details of any relevant representations received; the applicant's Operating Schedule; the Council's adopted Statement of Licensing Policy and the guidance issued by the Secretary of State under section 182 of the Act.

If the Committee is minded to grant the application conditions may be attached to the licence to alleviate the concerns raised through the representations.