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## 1. THE APPLICATION

On 24<sup>th</sup> July 2023, Charlotte's Cloud Ltd ("the applicant") submitted an application for a new premises licence to be granted in respect of the premises known as the Charlotte's Cloud, Unit E Distillery Wharf, Regatta Lane, London, W6 9BF. Based on the application, the premises intends to operate as an all-day brunch café/ restaurant and also provide deliveries and takeaway.

### 1.1 Application Requested

The applicant has applied for a new premises licence for the sale of alcohol both on and off the premises as detailed below:

#### Licensable activities sought

##### The sale of alcohol both on and off the premises

Mondays to Sundays 07:30 to 23:00

##### Opening Hours of the premises

Mondays to Sundays 06:30 to 23:00

A copy of the application form and plan can be seen on pages 13-19 of this report.

### 1.2 Applicants Operating Schedule

The applicant has proposed a number of additional steps to promote the four licensing objectives if the application is granted. A copy of the proposed conditions can be seen on page 17 of this report.

On 9<sup>th</sup> August 2023, following correspondence received from the Police, the applicant agreed to amend the hours for the sale of alcohol on the premises and add 13 further conditions to the licence, if granted. The amendments are detailed below:

##### The sale of alcohol on the premises

Mondays to Sundays 10:00 to 23:00

##### The sale of alcohol off the premises

Mondays to Sundays 07:30 to 23:00

##### Opening Hours of the premises

Mondays to Sundays 06:30 to 23:00

#### Conditions

1. *High Definition CCTV shall be installed, operated and maintained, at all times that the premises are open for licensable activities and;*
  - *shall be checked every two weeks to ensure that the system is working properly and that the date and time are correct. A record of these checks, showing the date and name of the person checking, shall be kept and made available to Police or authorised Council officers on request*

- *one camera will show a close-up of the entrance to the premises, to capture a clear, full length image of anyone entering.*
  - *shall cover any internal or external area of the premises where licensable activities take place.*
  - *recordings shall be in real time and stored for a minimum period of 31 days with date and time stamping.*
  - *footage shall be provided free of charge to Police or authorised council officer within 24 hours of a request.*
  - *a staff member from the premises that is conversant with the operation of the CCTV system shall be on the premises at all times. This staff member will be able to show police or authorised officers of the Licensing Authority recent data footage with the minimum of delay when requested. This data or footage reproduction shall be almost instantaneous.*
2. *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. Written records of this training shall be retained and made available to police and authorised officers of the Licensing Authority on request.*
  3. *The premises shall operate a 'Challenge 25' age-restricted sales policy and promote it through the prominent display of posters*
  4. *The licence holder see shall put arrangements in place to ensure that before serving alcohol or other age-restricted goods to customers they believe to be less than 25 years of age, staff ask to see accredited proof of age: that is, proof of age cards carrying the 'PASS' logo (and no others), a Passport, or UK Driving Licence bearing the photograph and date of birth of the customer.*
  5. *The licence holder shall require staff to note any refusals in a refusals log. The refusals log shall record the date and time of the refusal; the name of the staff member refusing; and the reason for refusal. It must be checked and signed monthly by the designated premises supervisor. The refusals log shall be made available for inspection upon request by the Licensing Team, Police or Trading Standards.*
  6. *An incident record shall be kept on the premises and be available for inspection by the police or an authorised officer of the Licensing Authority at all times the premises is open.*
  7. *Management shall undertake the relevant training in relation to responding and ensuring the welfare and safeguarding of vulnerable patrons. Management shall risk assess the need for all other relevant staff to undertake such training. Written records of the training completed shall be recorded and available to the Police and Authorised Officers from the Local Authority upon request.*
  8. *Any alcohol sold for consumption off the premises shall be sold in a sealed container.*
  9. *Deliveries shall only be made to bona fide residential or business addresses.*

10. *A warning shall be displayed on the digital platform on which an order is placed informing customers that they must be aged 18 or over to make a purchase of alcohol and notifying customers that the delivery rider will carry out age verification on delivery. The customer will be asked to provide ID to prove their age in accordance with Challenge 25 scheme. If the rider is not satisfied then the alcohol in the order will be withheld.*
11. *A record shall be kept detailing all refused sales of alcohol upon delivery. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The refusals log shall be made available for inspection upon request by the Licensing Team, Police or Trading Standards.*
12. *On days when Fulham Football Club are playing at home or on days when a Fulham victory parade takes place there shall be no off sales of alcohol from 2 hours before the advertised kick off time until 2 hours after the match has been completed.*
13. *On days when Fulham Football Club are playing at home, if the premises have been given 7 days' notice by the police, plastic glasses shall be used for 2 hours before the advertised kick off time until 2 hours after the match has been completed.*

A copy of this correspondence can be seen on pages 20-24 of this report.

## **2. BACKGROUND**

The main access to the premise's is located on the Regatta Lane near its junction with Parris Way. The area is made up of mostly residential properties with some commercial premises and is close to the Thames Path. A map showing the location of the premises and neighbouring licensed premises can be seen on pages 25-26 of this report.

There are several options for transport away from the area including buses and taxis which run from in and around the Fulham Palace Road area. Hammersmith tube station is a 10-minute walk away, Barons Court tube station is a 15-minute walk away and Ravenscourt Park tub station is a 17-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 seven representations objecting to the licence application. These were made up of one from the Noise and Nuisance Team, one on behalf of the Fulham Reach Residents Association and five from local residents objecting to the licence application. A copy of these representations can be seen on pages 27-39 of this report.

On the 11<sup>th</sup> August 2023 a copy of the amendments to the application which were agreed with the police was sent by the Licensing team to all objectors. A copy of the email and responses can be seen on pages 46-50 of this report.

The licensing section also received comments from the Planning team. A copy of the comments can be seen on page 40-41 of this report.

Further to this, the licensing section also received three comments of support for the grant of the application from three local residents. A copy of the comments of support can be seen on pages 42-45 of this report.

## **4. OTHER INFORMATION**

### **4.1 Enforcement History**

There have not been any warnings, simple cautions or prosecutions given in respect of the premises during the past three years.

### **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 of the SLP states that applicant are to undertake a local risk assessment as part of the licence application. 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.

**5.2** 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.

In determining representations to an application which incorporates an external area to the premises, the licensing committee might decide that the circumstances are such that a restriction on hours in that area is the only appropriate means to achieve the promotion of the Licensing Objectives.

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
<b>Restaurants and cafes</b>	Fri – Sat 01:30 Mon - Thurs 01:00 Sun – 00:00	Fri – Sat 01:00 Mon - Thurs 00:00 Sun – 23:00	Fri – Sat 23:00 Sun – 22:00

**5.3** 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:

- Planning controls (where development or change of use is involved, or where trading hours are limited by planning conditions)
- 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.

**5.4** Policy 11 page 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.

**5.5** Policy 13 page 31 of the SLP states that the local planning authority has powers to control opening times of all new establishments seeking planning permission, where harm might occur.

Licensing applications will not be a re-run of the planning application. If the licensing committee grants any variation of a licence which involves a material alteration to a building, the applicant still needs to apply for planning permission, or building regulation control, where appropriate.

Where an applicant is granted a premises licence with operating hours that are different to the hours permitted by the premises planning permission, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law. We would suggest that the applicant contacts Planning apply to vary their conditions.

The Licensing Authority may refuse to grant a licence if a representation from the Planning Department has been received AND ONE or more of the licensing objectives would not be promoted.

**5.6** Policy 14 pages 32 and 33 of the SLP in relation to delivery services states that the Licensing Authority has concerns with the potential for the following:

- Age verification at both purchase point and delivery point;
- The safety of delivery drivers at the point of delivery;
- Safety of the premises from which orders are taken and sent out for deliver; and,
- Possible public nuisance and anti-social behaviour (ASB) caused by delivery drivers collecting deliveries from the licensed premises.

The Licensing Authority is likely to place the following conditions on to a premises licence for delivery services where it is appropriate and relevant to the individual licence application:

- A standard age verification check shall be undertaken on entering the website.
- A signature at the point of delivery must be obtained. No delivery shall be left without a signature.
- Alcohol shall only be delivered to a residential or business address and not to a public place.
- Every third-party courier delivery box shall be labelled with the words "Age Restricted Product".
- Any delivery driver or third-party courier will be required to have appropriate age verification training, particularly they will be required to have training in refusal of supply where age verification is not provided.
- A refusals log will be maintained for deliveries.



- Appropriate security will be in place at the premises as agreed with Police.
- Measures for minimising noise and disturbance and anti-social behaviour (ASB) caused by the dispatch of deliveries to be identified in the operating schedule. In particular applicants are expected to consider the use of electric vehicles to minimise air pollution and noise. The Licensing Authority expects that applicants will make arrangements for all deliveries after 8 pm to be made using electric vehicles or non motorised vehicles i.e. bicycles.
- A requirement for a specific delivery collection area to be made clear to any third party delivery service. This area may not be directly outside the licensed premises to take account of any residential accommodation close by or obstructing the pavement/highways.

**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:

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.

**5.8** 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:

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.

vi. Limiting the number of people permitted to use a garden or other open-air areas, including those for the use of smoking, at any one time.

vii. Restricting the use of a garden or other open-air areas, including those for the use of smoking, after a particular time e.g. 11:00pm (or such earlier time as may be considered appropriate).

- 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);
- 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 noise sensitive 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.

m) **Noise and/or vibration** breakout from the provision of regulated entertainment, particularly from (but not limited to) live music – consider what type of entertainment is to be provided, in what room/area of the premises and the suitability of the construction of this room/area to contain sound. Windows are a particular weak-point for noise break-out so consider providing regulated entertainment in a room without windows or with as few windows as possible, particularly windows that face towards nearby 40 residential properties. Where suitable, install a lobby to prevent spillage of noise each time an entrance/exit door is opened.

n) **External Areas** – External areas such as gardens can be the source of noise disturbance to surrounding premises. Consider limiting the use of the garden to a reasonable time and number of people.

o) **Odour** – odour from cooking is a common source of complaint, particularly from restaurants and fast-food takeaways. The Council's Noise and Nuisance Service may therefore require evidence that the kitchen ventilation and/or extract systems are regularly maintained and serviced to ensure that it is operating efficiently and with minimal nuisance to neighbours arising from odour and also noise. This includes the siting of BBQs.

q) **Ventilation** – where regulated entertainment is to be provided there may be a requirement to keep doors and/or windows closed during its provision to limit noise breakout, consider therefore the provision of air conditioning for the comfort of your

customers if doors and windows have to be closed during the summer. However, also note air conditioning can be the source of noise complaints in itself, so careful consideration also needs to be given to the siting of this equipment.

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

## 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.