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1. THE APPLICATION

On the 11 August 2017, Swallow Coffee Shop Limited submitted an application for a premises licence to be granted in respect of the premises known as Swallow Coffee Shop, 75 Goldhawk Road, London, W12 8EG.

1.2 Application Requested

The applicant is applying for a new premises licence for the sale of alcohol on the premises only.

1.3 Proposed Hours of Operation

Sale of alcohol on the premises

Monday to Sunday 12:00 until 19:30

Hours premises open to the public

Monday to Sunday 07:30 until 20:00

A copy of the application can be seen on pages 8-15 of this report.

1.4 Applicants Operating Schedule

The applicants are proposing in section M of their application steps to promote the four licensing objectives. The steps proposed can be seen on page 14 of this report.

On the 20 September 2017 the Noise and Nuisance Officer withdrew his objection as the applicant agreed to add the 2 following conditions to the licence:

1. The sale and supply of alcohol on the premises, to include the rear external area, shall be to customers seated at tables by waiter/waitress service.
2. The premises shall close and all patrons to have departed the premises, no later than 30 minutes after the terminal hour for the sale by retail of alcohol on the premises.

A copy of the representation from the Noise and Nuisance Officer and relevant correspondence can be seen on pages 16-18 of this report.

2. BACKGROUND

- 2.1. The premises are located on Goldhawk Road at its junction with Richford Street. The premises operates as a cafe on the ground floor and basement of the building with a small outdoor rear area in the basement. A plan of the premises can be seen on page 19 of this report.
- 2.2. The main access to the premises is located on the corner of Goldhawk Road and Richford Street. There is a mixture of both commercial and residential properties located within the Goldhawk Road area. A map showing the location of the premises can be seen on page 20 of this report.

- 2.3. There are several options of transport away from the area including buses and taxis which run from in and around the Goldhawk Road and Shepherd's Bush Green area. Goldhawk Road tube station is a minute's walk away from the premises, Shepherd's Bush Market tube station is a 5 minute walk away and Shepherds Bush tube station a 10 minute walk away.
- 2.4. The premises are situated within the Cumulative Impact Policy for the Shepherds Bush Area.

3. CONSULTATION

A public notice was displayed at the premises. 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 parties that have made representations in respect of the application.

3.1 Relevant Representations

The licensing section has received 1 representation from the owner of a small restaurant opposite the premises. A copy of the representation from the restaurant owner and the response from the applicant can be seen on pages 21-24 of this report.

4. POLICY CONSIDERATIONS

- 4.1. Section 6.1 page 13 of the Council's Statement of Licensing Policy (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 (collective) effect of the number, type and density of licensed premises already existing in the area. A saturation of licensed premises can attract customers to an area to such a degree that it has an adverse impact on the surrounding area beyond the control of individual licence holders.
- 4.2. Section 6.2 page 13 of the SLP states that in accordance with paragraph 13.30 of the Secretary of State's current Guidance, where the cumulative effect of many licensed premises within an area gives rise to problems of public disorder and nuisance in the surrounding area, the Licensing Authority may consider it inappropriate for any further licensed premises to be established in the area, or extension to licensed hours of existing premises to be approved. In such circumstances, an application for a licence for activities which would undermine the promotion of any of the four Licensing Objectives would be refused.
- 4.3. Section 6.4 page 13 of the SLP states that in 2011 the Licensing Authority also identified Shepherd's Bush as an area which was suffering adversely from the concentration of a number of licensed premises in a specified area. After an extensive evidence gathering process a further special policy was adopted by the Licensing Authority in June 2011. This policy is also only applicable where relevant representations are made in the area specified. This special policy was also reviewed in 2015 and data from the police, ambulance service and noise complaints assessed. The conclusions were similar to the results of the review of the Fulham Broadway special policy, with a reduction in alcohol related crime, anti-social behavior and noise complaints after midnight. The Special licensing policy for the Shepherds Bush area can be seen on pages 25-28 of this report.
- 4.4. Section 6.8 of the SLP page 14 states that in coming to any decision regarding cumulative impact the Licensing Authority will also have regard to other mechanisms outside of the licensing regime which may also be available to address this issue, these are:

- Planning controls (where development or change of use is involved, or where trading hours are limited by planning conditions)
- Police enforcement of the normal law concerning disorder and anti-social behaviour.
- Prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk
- Prosecution of any personal licence holder or member of staff at such premises who is selling to underage persons or selling illegal alcohol or tobacco
- 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 anti-social behavior is taking place at licensed premises under the Anti-social Behaviour, Crime and Policing Act 2014.

4.5. Section 10.1 page 18 of the SLP states that the Licensing Authority will require the applicant to demonstrate within the operating plan 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.

4.6. Section 10.2 page 19 of the SLP states that in considering an application, the Licensing Authority will consider the adequacy of proposed measures to remove or effectively manage the potential for public nuisance and anti-social behaviour.

5. PROPOSED CONDITIONS

5.1. It is the Council's duty under the Licensing Act 2003 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.

5.2. 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 Licensing Act.

5.3. The operating schedule and the comments made by responsible authorities and interested parties are clearly important considerations.

5.4. Should the committee decide to grant the application it is requested that consideration be given to any additional conditions to promote further the licensing objections that may be offered by the applicant at the hearing.

5.5. Accordingly, the Act imposes the following mandatory conditions upon this Licence:

1. Mandatory Condition

(1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

2. Mandatory Condition

The responsible person shall ensure that free potable water is provided on request to customers where it is reasonably available.

3. Mandatory Condition

1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—

(a) a holographic mark, or

(b) an ultraviolet feature.

4. Mandatory Condition

The responsible person must ensure that—

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance

ready for sale or supply in a securely closed container) it is available to customers in the following measures—

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

5. Mandatory Condition

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1—

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) "permitted price" is the price found by applying the formula—

$$P = D + (D \times V)$$

where—

- (i) P is the permitted price,
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence—

- (i) the holder of the premises licence,
- (ii) the designated premises supervisor (if any) in respect of such a licence, or
- (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4.(1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

6. Mandatory Condition

(1) No supply of alcohol may be made under the premises licence-

(a) at a time when there is no designated premises supervisor in respect of the premises licence, or

(b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

(2) Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence