

APPLICATION FOR THE GRANT OF A NEW PREMISES LICENCE

**PREMISES:
FIRST LONDON
UNIT 1,
WHARFSIDE,
ROSEMOUNT ROAD,
WEMBLEY, BRENT
HA0 4PE**

WRITTEN SUBMISSION OF THE APPLICANT INVENT ENTERPRISE LIMITED

The Proposal

1. The Applicant is a Limited Company known as Invent Enterprise Limited ("**the Applicant**") who is also the proposed Premises Licence Holder for the premises known as First London, Unit 1, Wharfside, Rosemount Road, Wembley, Brent, HA0 4PE ("**the Premises**").
2. The Applicant has had 7 year's experience in the hospitality sector.
3. The Applicant is placing a substantial investment into this Premises, which is estimated to be in the region of £1.5 million and will accompany the investment in residential development which is currently undergoing in the local area.
4. The Applicant is looking to hire 25 full time employees and 15 part time employees.
5. The Applicant seeks to apply for the grant of a new Premises Licence for the Premises. The Premises is designed to be a venue which celebrates food and drink culture from Italy, Turkey and Uzbekistan.
6. The Applicant's offer is intended to be a food focus bar/restaurant operation. The primary focal point of the operation will be food, but still welcoming guests to visit the Premises for just drinks.
7. The Premises is not designed to be nightclub or a vertical drinking establishment. It is expected that the majority of the Premises' clientele will be seated.
8. The Applicant has sought to apply for the following licensable activities:
 - a. Live music (indoors)
 - b. Recorded music (indoors)
 - c. Provision of Late Night Refreshment (indoor and outdoor)
 - d. Sale of alcohol (on the Premises)
9. The Premises is not applying for sale of alcohol for consumption off the Premises.
10. The Applicant has applied for the following hours:

- a. Live and Recorded music – 09:30 to 01:30 hours daily
 - b. Late Night Refreshment – 23:00 to 01:30 hours daily
 - c. Supply of Alcohol on the Premises - 09:30 to 01:30 hours daily.
 - d. With the opening hours 09:00 to 02:00 daily.
 - e. Seasonal variation of up to 02:00 hours for Bank Holiday weekends, Christmas Eve, Boxing Day, New Years Eve, New Years Day and All Saints Days.
11. The Applicant's operating schedule, when submitted, contained proposed conditions which are appropriate and proportionate to the intended style and operation of the Premises, when balanced with the Licensing Objections. The proposed conditions cover the following measures:
- a. Installation of a CCTV system;
 - b. A refusal's book/log;
 - c. Noise management in respect of music entertainment and customers;
 - d. Challenge 21 scheme.

Operation of the Premises

12. As detailed above, the proposed offering of the Premises is to be a luxury high end restaurant and bar, with a primary focus on its food offering, but still allowing for guests to visit and enjoy drinks.
13. From the plans deposited with the application it can be seen that there is approximately 180 covers on the ground floor.
14. The ground floor also shows a large outdoor space, which also contains ample seating for guests.

Representations

15. The application has received 3 Representations.
 - a. Environmental Health
 - b. Licensing Authority
 - c. Police
16. There have been no representations by local residents.
17. The Applicant and the Local Authorities have been engaged in a dialogue regarding their proposed representations.
18. The representations do not object to the granting of the licence for the Premises in its entirety.
19. There are no objections to the licensable activities applied for nor the hours of operation. The communications are based around the implementation of conditions.

The Law

20. The relevant sections of Guidance issued under sections 182 of the Licensing Act 2003 ("**the Guidance**") are as follows:

1.5

However, the legislation also supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work. They include:

- *protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;*
- *giving the police and licensing authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing problems;*
- *recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises;*
- *providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area; and*
- *encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them.*

1.9

Section 4 of the 2003 Act provides that, in carrying out its functions, a licensing authority must 'have regard to' guidance issued by the Secretary of State under section 182. This Guidance is therefore binding on all licensing authorities to that extent. However, this Guidance cannot anticipate every possible scenario or set of circumstances that may arise and, as long as licensing authorities have properly understood this Guidance, they may depart from it if they have good reason to do so and can provide full reasons. Departure from this Guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken.

1.16

Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. The use of wording such as "must", "shall" and "will" is encouraged. Licence conditions:

- *must be appropriate for the promotion of the licensing objectives;*
- *must be precise and enforceable;*
- *must be unambiguous and clear in what they intend to achieve;*

- *should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation;*
- *must be tailored to the individual type, location and characteristics of the premises and events concerned;*
- *should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;*
- *should not replicate offences set out in the 2003 Act or other legislation;*
- *should be proportionate, justifiable and be capable of being met;*
- *cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and*
- *should be written in a prescriptive format.*

1.17

Each application must be considered on its own merits and in accordance with the licensing authority's statement of licensing policy; for example, if the application falls within the scope of a cumulative impact policy. Conditions attached to licences and certificates must be tailored to the individual type, location and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should be avoided and indeed may be unlawful where they cannot be shown to be appropriate for the promotion of the licensing objectives in an individual case.

9.12

Each responsible authority will be an expert in their respective field, and in some cases it is likely that a particular responsible authority will be the licensing authority's main source of advice in relation to a particular licensing objective. For example, the police have a key role in managing the night-time economy and should have good working relationships with those operating in their local area⁵. The police should usually therefore be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective. However, any responsible authority under the 2003 Act may make representations with regard to any of the licensing objectives if they have evidence to support such representations. Licensing authorities must therefore consider all relevant representations from responsible authorities carefully, even where the reason for a particular responsible authority's interest or expertise in the promotion of a particular objective may not be immediately apparent. However, it remains

incumbent on all responsible authorities to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing.

9.42

Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.

9.43

The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

9.44

Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.

11.27

There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:

- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
- for the sale and distribution of illegal firearms;
- for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
- for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
- as the base for the organisation of criminal activity, particularly by gangs;
- for the organisation of racist activity or the promotion of racist attacks;
- for employing a person who is disqualified from that work by reason of their immigration status in the UK;
- for unlawful gambling; and
- for the sale or storage of smuggled tobacco and alcohol.

11.28

It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

Case Law

Daniel Thwaites plc v Wirral Borough Magistrates' Court [2008] EWHC 838 (Admin)

"As it was clearly incumbent on the magistrates at least to advert in broad terms to those matters that they took into account, it is fair to conclude in the circumstances that they proceeded upon the basis that there was no reliable evidence of actual problems linked to the premises either under the old licence or under the new revised licence."

Environmental Health

21. Representation has been withdrawn, please see the attached list of conditions.

Licensing Authority

22. Majority of the conditions proposed by the Licensing Authority have been agreed, save for 1 condition which remains in dispute. Please see the attached list of conditions.

23. The disputed condition being,

"The Premises Licence Holder shall produce proof of full compliance with the Home Office "AN EMPLOYERS GUIDE TO RIGHT TO WORK CHECKS" - April 2022 or any subsequent issue. This proof must be available to be produced on demand, to an Authorised Officer of Brent Council, a Police Officer or Home Office Immigration Officer."

24. The above proposed condition appears to be a duplication of legislation and the powers which are open to the Home Office Environmental Immigration Services.

25. There is no evidence produced by the LA to support the need for such a condition to be placed on the licence, should it be granted.

26. The Home Office (Immigration Enforcement) have not made a representation against this application.

The Police

27. It appears the representation from the Police raised 4 areas;

Those living in close proximity to this venue which is to operate into the early hours of the morning

28. The Applicant has reached a compromise with the Environmental Health team, regarding noise management at the Premises. The Environmental Health team are content with these measures and have withdrawn their objection.

Sale of alcohol to drunken people and children

29. The Applicant has offered a Challenge 21 condition in their operating Schedule and a condition regarding last entry to customers under the age of 16.

30. The Applicant is also prepared to offer the below condition in respect of training of staff;

"Any staff directly involved in selling alcohol for retail to consumers and staff who provide training including managers shall undergo regular training of the sale of alcohol requirements and offences under the Licensing Act 2003 legislation (at least every 12 months). The training shall be documented and signed off by the DPS and the member of staff receiving the training. This training log shall be kept centrally and made available for inspection by police and relevant authorities upon request."

The need for CCTV

31. The Applicant has proposed CCTV conditions be placed on the licence.

Wembley Stadium match day restrictions

32. The police have not provided any evidence why the Premises requires these types of conditions to be placed on the licence.

33. If the police are attempting to place standard conditions on this licence, then this is inappropriate, especially when the Premises is around 2 miles from Wembley Stadium and the Applicant refers to paragraph 1.17 of the Guidance.

Summary

34. The Applicant is a good operator.

35. The Applicant is placing a £1.5 million investment into the local area.

36. Environmental Health have withdrawn their objection.

37. The Applicant has reached an agreement with the Licensing Authority on all but 1 condition.

38. The Applicant has reached an agreement with the Police on a majority of their conditions.

39. The Police have not provided any evidence to support the need for the disputed conditions.

40. The Licensing Authority have not provided any evidence to support the need for their Immigration condition to be placed on the licence.

41. The Home Office (Immigration Enforcement) have not made a representation in this application.

42. No objections from local residents.

Dated 19 October 2022

John Gaunt & Partners