

# Croydon Council

<b>REPORT TO:</b>	<b>LICENSING SUB COMMITTEE</b> <b>10 November 2015</b>
<b>AGENDA ITEM:</b>	<b>6</b>
<b>SUBJECT:</b>	<b>LICENSING ACT 2003 - REVIEW OF PREMISES LICENCE</b>
<b>LEAD OFFICER:</b>	<b>Executive Director, Place Department</b>
<b>CABINET MEMBER:</b>	<b>Councillor Mark Watson, Cabinet Member for Communities Safety &amp; Justice</b>
<b>WARDS:</b>	<b>Purley</b>
<b>CORPORATE PRIORITY/POLICY CONTEXT:</b> This report is specific to this application and has no implications on the Council's Corporate Policies.	
<b>FINANCIAL SUMMARY:</b> This application is being processed as part of normal duties carried out by the Department with no additional costs involved.	
<b>FORWARD PLAN KEY DECISION REFERENCE NO.:</b> N/A	

For general release

## 1. RECOMMENDATIONS

1.1 The sub-committee is asked to consider the application for a review of the premises licence at Shisha Oui, 20 High Street, Purley, CR8 2AA and whether to take such of the following steps as it considers necessary for the promotion of the licensing objectives:

- To modify the conditions of the licence;
- To exclude a licensable activity from the scope of the licence;
- To remove the designated premises supervisor;
- To suspend the licence for a period not exceeding 3 months;
- To revoke the licence.

## **2. EXECUTIVE SUMMARY**

- 2.1 The purpose of this report is to advise the Sub-Committee that an application has been received for a review of a premises licence under the Licensing Act 2003 (“the Act”). This application is made by the Police, as a responsible authority under the Act and the Councils licensing sub-committee is required to hear the application.

## **3. DETAIL**

- 3.1 A Protocol for Licensing Hearings and a Procedure for Licensing Sub-Committee Hearings has previously been agreed by the Licensing Committee (minute A/24/05 refers). The protocol has been subsequently amended by the licensing committee (minutes A/32/06, A/40/07 and A/07/12 refer).
- 3.2 The premises licence holder and the applicant have been notified of the hearing in accordance with the Licensing Act 2003 (Hearings) Regulations 2005 (as amended) and the Licensing Act 2003 (Summary Review of Premises Licences) Regulations 2007 (the Regulations). Information to accompany the notice of hearing was provided to the licence holder and the applicant in accordance with the Regulations.
- 3.3 Appendix A to this report provides details of the application for review.

## **4. CONSULTATION**

- 4.1 The review was advertised in accordance with the Regulations.

## **5. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS**

### **1 Revenue and Capital consequences of report recommendations**

There are no direct financial implications associated with this report, subject to the risks at 5.2 & 5.3. This application is being processed as part of normal duties and therefore the work associated with it is contained within the departmental budget.

### **2 The effect of the decision**

The decision of the Sub-Committee may be subject to appeal and/or Judicial Review.

### **3 Risks**

An appeal against a decision of the Sub-Committee or a Judicial Review of the application process may present financial risks to the Council with regard to any award of costs against it.

#### **4 Options**

The options available are as detailed in the recommendations at paragraph 1 above.

#### **5 Future savings/efficiencies**

None identified.

(Approved by: Dianne Ellender, Head of Finance and Deputy S151 Officer – Chief Executive’s Department)

### **6. COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER**

6.1 The Solicitor to the Council comments that the Sub-committee must determine the review, taking into account relevant representations, the Licensing Act 2003, statutory guidance and the Council’s own licensing policy.

6.2 The power to modify the licence conditions includes the alteration or omission of existing conditions or the addition of any new condition.

(Approved by: Gabriel MacGregor, Head of Corporate Law on behalf of the Council Solicitor and Monitoring Officer).

### **7. HUMAN RESOURCES IMPACT**

7.1 The Human Resources impact of supporting the Licensing Hearings will be contained within the budgeted establishments of the Democratic and Legal Services and Licensing Teams.

7.2 (Approved by: Adrian Prescod, HR Business Partner, for and on behalf of Director of Human Resources, Chief Executive’s Department )

### **8. CUSTOMER IMPACT**

8.1 Apart from the powers available to the sub committee, there are no specific customer services issues relating to this matter.

### **9. EQUALITIES IMPACT ASSESSMENT (EIA)**

9.1 The arrangements for the Licensing Hearings seek to ensure that all applicants, licence/certificate holders and other interested parties receive a fair hearing and that the process is accessible to all groups within the community.

### **10. ENVIRONMENTAL AND DESIGN IMPACT**

10.1 The effective implementation of the Licensing Act 2003 contributes to an improved environment for local residents and other stakeholders.

## **11. CRIME AND DISORDER REDUCTION IMPACT**

11.1 One of the licensing objectives is the prevention of crime and disorder and the police, as a responsible authority, have the opportunity to make representations in this matter if they so wish.

## **12. HUMAN RIGHTS IMPACT**

12.1 The Human Rights 1998 (HRA) requires public bodies to ensure everything they do is compatible with Convention Rights and makes it unlawful for a public authority to act incompatibly with those Rights. **Article 6 (A6)** of the European Convention on Human Rights (ECHR) is the right to a fair trial. The key elements of this include

- The right to a *fair* hearing;
- The right to a *public* hearing;
- The right to a hearing before an *independent and impartial tribunal*;
- The right to a hearing *within a reasonable time*.

12.2 When hearing an application, the proceedings of a non-judicial body such as the Licensing Sub Committee, as opposed to an actual Court, need not meet the full requirements of A6 where there is a right of appeal from the Licensing Sub Committee to a Court that does meet the full A6 standards and can consider all aspects of the case (even if that does not include a full re-hearing of the facts).

12.3 So, while it is good practice to make a hearing before the Licensing Sub Committee as A6 compliant as possible, it will not be a breach of the HRA if it is not. Further, the hearing of all applications is subject to the principles of Natural Justice and the requirement for decisions to be 'Wednesbury reasonable'.

## **13. FREEDOM OF INFORMATION/DATA PROTECTION CONSIDERATIONS**

13.1 Protocols agreed in relation to Licensing Hearings are within the Council's Constitution and will be accessible as part of the Council's Publication Scheme maintained under the Freedom of Information Act.

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**CONTACT OFFICER:** Michael Goddard, Licensing Manager, Place Department, ext. 61838.

**BACKGROUND DOCUMENTS:** Application Forms, Licensing Hearings Protocol and Procedure.