

## **Licensing Sub-Committee**

Meeting of held on Wednesday, 26 January 2022 at 10.30 am in This meeting was held remotely.

### **MINUTES**

**Present:** Councillors Robert Canning, Karen Jewitt and Robert Ward

**Also**

**Present:** Michael Goddard (Head of Environmental Health, Trading Standards and Licensing); Jessica Stockton (Solicitor and Legal Advisor to the Committee); Tariq Aniemeka-Bailey (Trainee Democratic Services Officer) & Jayde Watts (Trainee Democratic Services Officer).

### **PART A**

57/22 **Appointment of Chair**

Councillor Karen Jewitt nominated Councillor Robert Canning as chair and Councillor Robert Ward seconded the motion.

The Sub-Committee **RESOLVED** to appoint Councillor Robert Canning as Chair for the duration of the meeting of the Sub-Committee.

58/22 **Disclosure of Interests**

There were none.

59/22 **Urgent Business (if any)**

There were no items of urgent business.

60/22 **Licensing Act 2003 - Application For a Variation to a Premises Licence at 72 Westow Hill, Upper Norwood, SE19 1SB.**

This application was withdrawn.

**Licensing Act 2003 - Application For a Premises Licence at 890 London Road, Thornton Heath, CR7 7PB**

The Licensing Sub-Committee considered the Application for a Premises Licence at **890 London Road, Thornton Heath, CR7 7PB** and the representations received as contained in the report of the Interim Corporate Director, Sustainable Communities, Regeneration & Economic Recovery, Culture & Community Safety.

The Sub-Committee also considered the representations made by the Applicant, the Applicant's Licensing Agent and the objector during the hearing. The Sub-Committee noted that although some of the objectors were not present at the hearing, they had the benefit of the written representations as part of the report.

The Sub-Committee, having reference to the licensing objectives under the Licensing Act 2003 and the Council Licensing Policy, **RESOLVED to REFUSE** the application on the basis that the Sub-Committee were satisfied that it would be appropriate to promote the licensing objectives to do so. The Sub-Committee considered that the objective of the prevention of public nuisance was relevant in relation to the consideration of the matter as well as the Cumulative Impact policy adopted by the Council which relates to high levels of alcohol related crime and alcohol related hospital admissions in areas where it is clear that the density of shops selling alcohol for consumption off the premises is significantly higher than in other parts of the borough.

The reasons of the Sub-Committee were as follows:

1. The Sub-Committee noted that the premises are situated on the A23 in a parade of shops with a primary school diagonally opposite the premises. There was a petrol station and large retailer on the other side of the road. The Sub-Committee heard that there were a number of off-license premises in close proximity to the proposed premises.
2. In respect of prevention of public nuisance objective, the Sub-Committee noted the importance of focussing on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable, as is suggested by the Statutory Guidance. In this regard the Sub-Committee considered the concerns raised relating to anti-social behaviour arising in the area due to drunkenness and the associated harms.
3. The Sub-Committee were aware, and had reference to the Statutory Guidance which provides that, beyond the immediate area surrounding the premises, these are matters for the personal responsibility of

individuals under the law. An individual who engages in antisocial behaviour is accountable in their own right.

4. However, there are concerns about parts of the borough which experience high levels of alcohol related crime and alcohol related hospital admissions and where it is clear that the density of shops selling alcohol for consumption off the premises is significantly higher than in other parts of the borough. As a result, the Council has considered it appropriate to designate areas within Croydon as being subject to a special Cumulative Impact Policy in respect of off licences and shops and supermarkets selling alcohol off the premises. The premises in question fall within a cumulative impact area as detailed within the Council's Statement of Licensing Policy.
5. The effect of this is that where relevant representations are received on any new applications for a premises licence to sell alcohol off the premises, there will be a presumption under the special policy that the application will be refused. The Cumulative Impact Policy is intended to be strict, and will only be overridden in genuinely exceptional circumstances. However, the Licensing Sub-Committee was clear that it considered each matter on its own merits and did not apply this policy inflexibly. It will always consider the individual circumstances of each application; even where an application is made for a proposal that is apparently contrary to policy.
6. To this end the Sub-Committee specifically drew the attention of the Applicant and the Applicant's Licensing Agent to the provisions in the policy and invited the opportunity to explain to the committee why they considered that their application could be an exception to the policy. In response, the Applicant and his agent made reference to what the applicant had set out in his operating schedule, how he would support the licensing objectives and indicated that customers had asked for alcohol to be sold which the applicant wished to do as it would improve income at the premises.
7. The Sub-Committee, whilst sympathetic to the desire to generate more income and improve revenue by making sales of alcohol from the premises, were clear that commercial need is not a matter which is a relevant consideration for the sub-committee to take into account in determining whether or not the licensing objectives would be satisfied or indeed if the application could be considered exceptional so that the cumulative impact policy ought not to be applied. In this regard the Sub-committee had regard to the statutory guidance at paragraph 14.19 which provides that "Need" concerns the commercial demand and is a matter for the planning authority and for the market and not a matter for a licensing authority in discharging its licensing functions.
8. The Sub-Committee considered whether or not the amendment to the Applicant's application to reduce the proposed hours for sale of alcohol by one hour each day (a reduction from 11.30 pm to 10.30pm) would

impact on the application of cumulative impact policy and whilst the Sub-Committee felt that this indicated a willingness to work with the Licensing Authority in light of concerns raised the Sub-Committee were not satisfied that this amendment would amount to exceptional circumstances within the policy.

9. The Sub-Committee specifically had reference to paragraph 4.27 of the Council's Statement of Licensing Policy which provides that "the Licensing Authority will not consider a case to be exceptional merely on the grounds that the premises have been or will be operated within the terms of the conditions on the licence, or that are or will be generally well managed because of the reputation or good character of the licence holder or operator. This is expected in the conduct of all licensed premises."
10. The Sub-Committee noted the suggestion by the Applicant and the Applicants' Agent that granting the license for this premises would mean that neighbouring shops would have more competition and would therefore reduce the cost of alcohol sold on their premises which would ultimately benefit the customer. The Sub-Committee was concerned that this showed a lack of appreciation for the issues in the area which are detailed within the Licensing Statement of Policy and in the representations because one of the concerns in introducing the cumulative impact areas was around reducing availability, affordability and attractiveness of alcohol in those areas which are already subject to significant levels of alcohol-harm and related crime where it is clear that the density of shops selling alcohol for consumption off the premises is significantly higher than in other parts of the borough. The Sub-Committee did not consider that this suggestion would support the licensing objectives and had the potential to exacerbate concerns already present in the area.
11. The Sub-Committee wished to thank all participants for the manner in which they engaged with and supported the hearing in providing information to allow the Sub-Committee's consideration.

62/22 **Exclusion of the Press and Public**

This item was not required.

The meeting ended at 11:13am.

**Signed:**

**Date:**

.....  
.....

