

## **Licensing Sub-Committee**

Meeting held on Wednesday, 27 July 2022 at 10.30 am. This meeting was held remotely.

### **MINUTES**

**Present:** Councillor Karen Jewitt (Chair);

Councillors Margaret Bird and Nina Degrad

**Also**

**Present:** Councillor Tony Pearson, Michael Goddard (Head of Environmental Health, Trading Standards and Licensing); Jessica Stockton (Corporate Lawyer); Jayde Watts (Trainee Democratic Services Officer).

### **PART A**

#### **11/22 Appointment of Chair**

Councillor Nina Degrad nominated Councillor Karen Jewitt as Chair and Councillor Margaret Bird seconded the motion.

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

#### **12/22 Disclosure of Interests**

There were none.

#### **13/22 Urgent Business (if any)**

There were no items of urgent business.

#### **14/22 LICENSING ACT 2003 - Application for a premises licence at 21-22 Central Parade, New Addington, CRO 0JB**

The Licensing Sub-Committee considered the Application for a Premises Licence at **21-22 Central Parade, New Addington, CRO 0JB** and the representations received as contained in the report of the Corporate Director, Sustainable Communities, Regeneration & Economic Recovery, as well as the supplementary information provided.

The Sub-Committee also considered the representations made on behalf of the Applicant, an objector and a Ward Councillor 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 and published information.

The Sub-Committee, having reference to the licensing objectives under the Licensing Act 2003 and the Council Licensing Policy, **RESOLVED to GRANT** the application subject to the imposition of the conditions detailed in Appendix A2 agreed with the police and subject to the conditions set out in the operating schedule submitted by the Applicant in Appendix A1, on the basis that the Sub-Committee were satisfied that it would be appropriate to promote the licensing objectives to do so.

The reasons of the Sub-Committee were as follows:

1. The Sub-Committee noted that the premises are situated on Central Parade in a lengthy parade of shops with residential premises above the shops. The Sub-Committee heard that there were a number of off-license premises in close proximity to the proposed premises on the parade— one of the parties making representations indicated that half the shops on the parade sold alcohol, another indicated that there were 9 such shops, whilst the another indicated that there were 10 in the parade of over 50 commercial premises, which included a McColls, a Co-op, an Iceland, a Food and Wine convenience store and several takeaway premises
2. The Sub-Committee noted that the location of the premises was within one of the areas in which the Cumulative Impact policy adopted by the Council is in place, which applies in respect of off licences and shops and supermarkets selling alcohol for consumption off the premises. The Cumulative impact policy was introduced due 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 Council policy indicates that reducing availability, affordability and attractiveness are some of the most effective ways to reduce alcohol-harm and related crime.

3. The effect of the Cumulative impact policy 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.
4. The Sub-committee were clear that the cumulative impact policy could not be used as a blanket ban on any premises seeking to sell alcohol for consumption off the premises in the area. Each application must be considered on its merits and in light of the representations received. In addition, the cumulative impact policy must be considered in context and against other policy aims which form part of the Council's Statement of Licensing Policy. The Sub-Committee were also clear that they had to have regard to the statutory guidance issued under section 182 of the Licensing Act 2003 in exercising their functions.
5. The Statutory guidance sets out that a cumulative impact area does not change the fundamental way that licensing decisions are made. It is therefore open to the licensing authority to grant an application in a cumulative impact area where it considers it is appropriate and where the applicant has demonstrated in their operating schedule that they

would not be adding to the cumulative impact. Cumulative impact policies must not impose quotas based on either the number of premises or the capacity of those premises. This is because quotas indirectly have the effect of predetermining the outcome of any application and would have no regard to the individual characteristics of the premises concerned.

6. The premises is proposed to be a Turkish supermarket which supplies what the Applicant terms “ethnic” goods which people from Turkey, the middle east and surrounds would normally purchase, and which are not readily available in the surrounding stores. The Applicant indicated that they were not seeking to sell cheap alcohol but to ensure that they catered to their proposed customers. The premises is a large one with a butchery and bakery as part of the offering. The Applicant’s operating schedule also included a number of measures which were designed to reduce the attractiveness and accessibility of alcohol, some of which are detailed below in paragraphs 9 and 10. This indicates to the Sub-Committee the Applicant’s awareness of, and willingness to operate in a manner which does not add to the cumulative impact in the area.
7. In considering Cumulative Impact, the Statement of Licensing Policy indicates that the Council will recognise that the diversity of premises selling alcohol, serving food and providing entertainment covers a wide range of contrasting styles and characteristics and will have full regard to those differences and the differing impact these will have on the local community.
8. The representations detail existing issues with alcohol reliant individuals, youth congregating and harassing people to buy alcohol on their behalf, anti-social behaviour in the area and the concern being expressed that with each premises selling alcohol the risk of crime and disorder increases. Views were also expressed that there was no need for an additional outlet which was permitted to sell alcohol or that the Applicant ought to consider selling products which were of more benefit

to the community than alcohol. In the first instance, the Sub-Committee were clear that matters of commercial need or lack thereof, were not relevant considerations for the sub-committee to take into account. This premise is set out in both the Council's Statement of Licensing Policy and the Statutory Guidance. Whilst the Sub-Committee were sympathetic to the concerns about anti-social behaviour of this nature in the area, the representations before the sub-committee did not relate to what this specific premises was or was not proposing to do and how it was proposed to operate, rather they expressed the general view that any premises would exacerbate the issues without considering the proposals, the measures to be put in place and manner in which the premises was proposed to be run. The Sub-Committee were however clear that they had to consider the individual circumstances of this premises in light of the Council's policy and the statutory guidance.

9. In respect of Crime and Disorder, the Sub-Committee noted the recommendation in the Statutory Guidance that the Licensing Authority should look to the police as the main source of advice on crime and disorder. In this regard, the Sub-Committee had before it a set of conditions which the Applicant had discussed with and agreed with the Police with a view to supporting the licensing objectives. These include such matters as the following:

- “No more than 10% of the total shop floor space shall be given for the sale of alcohol”;
- “All spirits on sale will be kept behind the cigarette/kiosk counter”;
- “There shall be no sale of beer, lager or cider with an ABV content above 6% save for premium products/artisan products which have been agreed with the police”;
- “ There shall be no self-service of spirits except for spirit mixtures with an ABV content below 6%.”

10. In addition, the Applicant has included the following as part of their operating schedule which the sub-committee considered pertinent to the representations made:

- “All alcoholic drinks which are displayed shall be in sight of the till”;
- “There shall be a minimum of three personal license holders present on the premises at all times”;
- “ There shall be no advertisements for alcohol in the shop window” and
- “There shall be no display boards or other advertising for alcohol showing on the shop floor”.

11. Having regard to the proposed conditions set out in the operating schedule in Appendix A1 and as agreed with the Police in Appendix A2, and having regard to the nature of the proposed business the Sub-committee is of the view that the proposed conditions would support the licensing objectives at this premises and not exacerbate cumulative impact issues and was of the view that the proposals in some instances go substantially beyond what might be expected of a premises license holder in other circumstances – for example the provision in the operating schedule that three personal license holders being on the premises at all times. As such, and in all the circumstances of this matter, the Sub-Committee considered that it was appropriate that the application be granted despite being in a cumulative impact area.

12. 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 but noted that these did not relate to the specific premises but to the area in general and did not consider, with the proposals before the sub-committee, that this premises would exacerbate the existing issues.

13. The Sub-Committee were also 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. In addition, the offered conditions in the operating schedule and agreed with the police sought to address such issues as they apply at the premises and within the control of the premises license holder.

14. 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.

15/22     **LICENSING ACT 2003 - Application for a review of the premises licence at 3 Brighton Road, South Croydon, CR2 6EA**

The Licensing Sub-Committee considered the SUMMARY REVIEW of the Premises Licence at **3 Brighton Road, South Croydon, CR2 6EA** under Section 53C of the Licensing Act 2003 and the representations received as contained in the report of the Executive Director 'Place' and the additional documentary evidence submitted by the Applicant and Parties to the hearing prior to the hearing and incorporated in the supplementary information published as an addendum to the report and videos considered by the Sub-Committee in private session.

The Sub-Committee also considered the representations made by the Applicant, the premises license holders, responsible authorities and other persons and their representatives during the hearing.

The Sub-Committee, having reference to the licensing objectives under the Licensing Act 2003 and the Council Licensing Policy, **RESOLVED to Modify the conditions which apply to the license as detailed below in paragraphs 3, 6, 11 and 12** 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 licensing objectives of the prevention of crime and disorder, public safety and public nuisance were particularly relevant in relation to the consideration of the matter.

The reasons of the Sub-Committee were as follows:

1. The Sub-Committee noted that the premises are situated on the A235 two doors down from a residential block of flats, residential premises further along both sides of the Brighton Road, with a small parade of shops with residential premises above on the opposite side of the road and a mental health hospital across the road from the premises.
2. The Sub-Committee noted that not only had the Police raised concerns about serious crime and disorder associated with the premises, as evidenced by, among other matters the stabbing of three persons in the area immediately outside/ on the threshold of the premises, but that the Sub -Committee had also been provided evidence of public safety concerns by Environmental health, pertaining to fire exits, fire hazards and missing fire extinguishers and public nuisance issues by the Council's Pollution team and a resident who had been in extensive contact with the premises license holder about the ongoing issues.



3. In respect of the Prevention of Crime and Disorder objective, the Sub-Committee noted that following discussions between the Police and the representative for the Premises License Holders, the below amended conditions had been agreed should the Sub-Committee be minded not to suspend or revoke the license. The Sub-Committee has agreed that the premises license be amended accordingly:

- That the existing conditions 1-6 in Annex2 to the premises license be removed and replaced with the following:

1. Staff must be given training in relation to Licensing Act 2003, conflict management and the protection of children from harm. Refresher training shall be given every 6 months and records shall be kept at the premises and made available for inspection by the police or authorised official from the local authority.

2. All members of staff working at the premises will undertake counter terrorism training, on an annual basis, this may include (but is not limited to) Action Counter Terrorism Awareness E-learning (ACT-E). Such training is available through <https://www.gov.uk/government/news/act-awareness-elearning>

3. The premises licence holder will operate a vulnerable person policy, this must include (but not limited to); Welfare And Vulnerability Engagement (WAVE) and Ask For Angela training for all staff, on an annual basis (As long as such, or similar training is available).

4. A CCTV system must be installed at the premises covering the entrance, the external area and all internal areas. A head and shoulders image to identification standard must be

captured of every person entering the premises. Images shall be kept for 31 days and supplied to the police or local authority on request.

5. The CCTV system will display, on screen and on any recording, the correct time and date that images were captured.

6. CCTV signage must be displayed, reminding customers that CCTV is in operation.

7. Signage shall be displayed in a prominent position on the premises requesting that customers leave quietly.

8. A member of staff trained in the use of the CCTV system must be available at the premises at all times that the premises is open to the public in order to show police images if required. A member of staff suitably trained to download CCTV footage must then be available within 24hrs. The downloaded footage is to be supplied in a useable digital format.

9. A comprehensive incident register must be maintained, at the premises. Details of incidents shall be added to the register within 24hrs of any incident. CCTV images of any incident will be recorded and kept at the premises along with a copy of the incident report and written reports from all members of staff involved

- a. The following details must be recorded: -
- b. Date of the incident
- c. Time of the incident
- d. Location of the incident
- e. Persons concerned in the incident
- f. Summary of incident

g. Identification of any Emergency Services Personnel attending where possible

10. A challenge 25 policy shall be in operation at the premises with appropriate signage on display throughout the premises.

11. Ensure that a refusal book or electronic system to record all refusals of sales of alcohol shall be maintained on the premises and made available to the police and local authority officers upon reasonable request.

12. A personal licence holder must be present at all times that licensable activities are taking place.

13. Ensure all bookings are made at least 14 days in advance of the event and may only be made by a person over the age of 21 years.

14. Ensure all bookings are made in person at the premises and an application completed on a booking agreement form agreed with the Metropolitan Police and all records of these bookings and a guest list must be available for inspection by an authorised officer of the police at any time that the premises is open. Copies of photographic ID must accompany any application (Passport, Driving Licence, Pass logo ID)

15. There shall be no promoted events held in any area of the premises, events should not be advertised on social media and no tickets should be sold for events.

16. All events held in any part of the premises must be ancillary to a table meal, the main function of the premises is to operate as a restaurant.

17. The premises will provide all alcohol and food for events. Only alcohol purchased by the DPS or premises licence holder can be sold at the premises and these events are to be staffed by persons employed by the premises.

18. When the upstairs event space is being used a minimum of two SIA door supervisors shall be deployed at the venue from 21:00hrs until the premises closes.

19. Ensure that records are kept by the DPS, at the premises, of the following details of any door-supervisor employed at the premises: -

- a. Name and date of birth
- b. Full 16 digit SIA badge number
- c. Dates and times employed

These records must be made available, in useable form, to the Metropolitan Police, Croydon Council officers or authorised officers of the Security Industry Authority upon request.

- That the existing hours of sales of alcohol, late night refreshment and regulated entertainment be amended by replacing the existing provisions in the license with the following:

Sale by Retail of Alcohol

Monday to Thursday & Sunday 10:00 to 23:00

Friday and Saturday 10:00 to 00:00

Provision of Regulated Entertainment

Monday to Thursday & Sunday 10:00 to 23:00

Friday and Saturday 10:00 to 00:00

Provision of Late Night Refreshment

Friday and Saturday 23:00 to 00:00

### No seasonal variations

- That the hours of operation of the premises be reduced so that the premises close at midnight.
4. The Sub-Committee also noted that the representative of the premise license holders conceded the following in written representations and during the hearing: That the statements of the police officers are not challenged and that a suspension of the licence was correct pending enquiries being made.
  5. In respect of the Promotion of Public Safety objective, the Sub-Committee noted the statutory guidance in this regard which provides that Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. The statutory guidance goes on to provide that a number of matters should be considered in relation to public safety, including such matters as fire safety; ensuring appropriate access for emergency services such as ambulances; ensuring the safety of people when leaving the premises, ensuring appropriate and frequent waste disposal, particularly of glass bottles.
  6. The Sub-Committee were concerned about the public safety issues raised due to the removal of fire extinguishers, the blocking of fire exits and issues of fire safety at the premises which could arise as a result. It is clear from the information provided to the Sub-Committee that there was a significant accumulation of rubbish obstructing an emergency exit and the removal/inaccessibility of fire extinguishers as well as accumulation of glass bottles at the premises prior to and during the incidents which gave rise to the review, some of which were used as

potential weapons in the incidents. Each of those matters gave rise to concern that the premises license holder was not adequately addressing the licensing objective of public safety. Accordingly, the Sub-Committee considered that it is appropriate to impose the below additional conditions in order to support the promotion of public safety at the premises. In addition, the Sub-committee considered that the below conditions are proportionate to the harm they have been made aware of by virtue of the representations before the Sub-Committee. The imposed conditions are as follows:

- The Premises Licence holder/s shall ensure that there is no accumulation of rubbish or waste obstructing the emergency exits from the property
- The Premises License Holder/s shall ensure that fire extinguishers are appropriately located, operational and available at the premises to the satisfaction of the London Fire Brigade.
- The Premises License Holder/s shall ensure that there is no accumulation of glasses, glass bottles or glass containers in those parts of the premises open to the public and shall ensure that regular sweeps are made by staff to remove these so that these do not present a public safety issue to patrons at the premises.
- Any SIA accredited door supervisors who are employed at the premises shall be readily identifiable to patrons.

7. In respect of Prevention of Public Nuisance, 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.

8. In this regard the Sub-Committee noted the concerns raised by the Noise Nuisance team and a resident who had been in contact with the premises license holder/s for some time about ongoing and seemingly escalating issues of noise nuisance for residents of the nearby properties. The issues have been ongoing for a substantial amount of time and there appears to be an unwillingness or inability of the premises license holder to deal with the issues arising around nuisance to the neighbours including disturbances several times a week, including during the week.
9. The Sub-Committee considered that the noise nuisance complained of and the impacts thereof on local residents, jeopardised the licensing objective of prevention of public nuisance and accordingly considered what options might be appropriate in order to promote the prevention of public nuisance licensing objective.
10. In the first instance, the Sub-Committee considered whether it would be appropriate to impose conditions in order to address the concerns. The Sub-committee took into account the provisions within the Statutory Guidance at paragraph 9.44 regarding the imposition of conditions and noted that 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) as well as the potential benefit in terms of the promotion of the licensing objectives. The above referenced paragraph also suggests that 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.

11. The Sub-Committee observed that the variation to the conditions as detailed above in paragraph 3 in relation to operation of the premises and hours during which licensable activities would be permitted, did go some way to mitigating the public nuisance which residents have suffered. However, the Sub-Committee considered that, in light of the representations before them, it was appropriate for there to be additional conditions imposed to manage the issues raised pertaining to public nuisance. Accordingly, the Sub-Committee imposed the following additional conditions to support the prevention of Public Nuisance objective:

- The Premises License holder/s shall ensure that the emergency exit is used only for that purpose by patrons and no patrons are permitted to gather outside the emergency exit for purposes of smoking.
- The Premises License holders/ shall ensure that doors and windows are kept closed after 23h00 on any evening that the premises is open for business.
- The Premises License holder/s shall ensure that any patrons are reminded to be mindful of not disturbing the neighbours and to leave in a quiet manner.
- The Premises License holder/s shall ensure that they put in place a dispersal policy to ensure patrons' safety whilst leaving the premises and to ensure that patrons do not gather outside the premises and disturb neighbours. The dispersal policy shall be agreed with the Council's Licensing officers and noise nuisance team.

12. The Sub-Committee noted that one of the premises license holders was both the owner of the business and Designated Premises Supervisor ("DPS") for the premises in respect of sale of alcohol. The DPS is the key person who is responsible for the day to day



management of the premises, including the promotion of the licensing objectives. The Sub-Committee considered that the DPS for this premises has indicated a lack of awareness and ability to uphold the licensing objectives in the operation of his business. Accordingly, the Sub-Committee considered that it was appropriate to impose the following additional condition on the license:

- The Designated Premises Supervisor shall undergo refresher training under the Licensing Act 2003 and confirm to the Licensing Authority when this refresher training has been completed.

Pursuant to Section 53D, the Sub-Committee considered the Interim Steps currently imposed on the Premises Licence at **3 Brighton Road, South Croydon, CR2 6EA** under Section 53B of the Licensing Act 2003 and the representations received as contained in the report of the Corporate Director, Sustainable Communities, Regeneration & Economic Recovery and the additional documentary evidence submitted by the Parties and the representations made by and on behalf of the various Parties to the hearing. The Sub-Committee considered whether the current interim steps are appropriate for the promotion of the licensing objectives, the relevant representations received and those made at the meeting and considered whether to withdraw or modify the current interim steps. The Sub-Committee **RESOLVED to remove the suspension in place as an Interim Step imposed under S 53B but to modify the conditions of the premises license as detailed above in paragraphs 3, 6, 11 and 12 as an interim Step under S53D. The sub-committee resolved that these revised interim steps shall remain in place pending the expiration of the time period for appeal or the determination of the appeal if one is lodged, whichever is the later.** [Note: Any interim steps taken at the review hearing apply until— (a) the end of the period given for appealing against a decision made under section 53C (21 days), (b) if the decision under section 53C is appealed against, the time the appeal is disposed of, or (c) the end of a period

determined by the relevant licensing authority (which may not be longer than the period of time for which such interim steps could apply under (a) or (b) above)].

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.

16/22      **Exclusion of the Press and Public**

The Sub-Committee agreed to exclude the press and public during the course of the meeting for the following reasons:

The Licensing Sub-Committee deemed it appropriate to exclude the public from part of the hearing having considered the nature of some of the evidence that was to be taken into account. In making this decision, the public interest test was considered, and it was felt necessary to hear the relevant evidence in private, as in doing so it outweighed the public interest in hearing the relevant evidence in public. On this basis the motion was put forward and agreed by the Committee to exclude the press and public for a portion of the meeting.

The meeting ended at 1.47 pm

**Signed:**

.....

**Date:**

.....