

## **Licensing Sub-Committee**

Meeting of Licensing Sub-Committee held on Tuesday, 20 December 2022 at 10.30 am

### **MINUTES**

**Present:** Councillors Margaret Bird, Patsy Cummings and Ria Patel

### **PART A**

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

It was **MOVED** by Councillor Margaret Bird and **SECONDED** by Councillor Ria Patel and **RESOLVED**, to:

Appoint Councillor Patsy Cummings as chair for the meeting.

#### **23/22 Disclosure of Interests**

In the interests of openness and transparency, Councillor Cummings declared she had previously been ward councillor for South Norwood ward.

#### **24/22 Urgent Business (if any)**

There were no items of urgent business.

#### **25/22 LICENSING ACT 2003 - Application For Variation To A Premises Licence at 281 South Norwood Hill, SE25 6DP**

The Chair outlined the procedures for the licensing hearing in line with the Licensing Act, and then introduced the applicant and objector to the meeting.

The Head of Environmental Health, Trading Standards and Licensing described the various types of licensable activity that could be applied for, and stated that licences could be varied by application. The application in question was to vary the existing hours of a licensable activity and to include the provision of late-night refreshment.

Councillor Claire Bonham, objecting to the application on behalf of residents, informed the committee that she was happy with the conditions that had been

applied to the application since it had been made, and that she believed it would mitigate the concerns that residents had expressed.

The applicant then spoke and informed the committee that they were requesting the extended hours of licensable activity due to increased financial pressures. The applicant expressed that the business was keen to have positive relationships with its neighbours, and that they felt the conditions applied were stringent enough to ensure this. The applicant assured the sub-committee that they would encourage better dialogue with residents, and that they were keen to maintain an open dialogue with neighbours and the council to ensure the licensing objectives were protected.

In response to questions from members the applicant explained that:

- They would ensure that outside activity was limited to smoking past 10 pm;
- They would prevent patrons from congregating outside on the street past 10 pm;
- Only table service would be available after 10 pm; and,
- Security provision would be in place.

The sub-committee thanked the applicant and objector for attending and informed them that a decision would be made within the statutory time period.

After the hearing the sub-committee withdrew to the virtual deliberation room and **RESOLVED**, to **GRANT** the application subject to conditions detailed in the decision notice as follows:

**LONDON BOROUGH OF CROYDON  
STATEMENT OF LICENSING SUB-COMMITTEE DECISION**

**LICENSING ACT 2003 - APPLICATION FOR VARIATION TO A PREMISES  
LICENCE AT 281 SOUTH NORWOOD HILL, SE25 6DP**

**Details of decision:**

The Licensing Sub-Committee considered the Application for a Variation of a Premises Licence at **281 South Norwood Hill SE25 6DP** and the representations received as contained in the report of the Corporate Director Sustainable Communities, Regeneration and Economic Recovery and the additional documentary evidence submitted by the Applicant prior to the hearing and incorporated in the supplementary information published as an addendum to the report.

The Sub-Committee also considered the representations made by the Applicant, their Agent and a ward councillor on behalf of residents during the hearing.

The Sub-Committee, having reference to the licensing objectives under the Licensing Act 2003 ("the Act") and the Council Licensing Policy, **RESOLVED to GRANT** the application subject to conditions detailed below which had been offered by the Applicant following discussions with the Police and the mandatory statutory conditions which apply to the sale of alcohol under a premises license issued under the Act, 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 the A215 in a small parade of shops with residential premises above. There is also a small parade of shops to the right of the premises on the other side of Spa Close also with residential premises above them and residential premises to the rear. The immediately surrounding area includes both residential and commercial premises, although predominantly residential.
2. The Sub-Committee had regard to the fact that there were no objections from the Police who had agreed a set of conditions with the applicant as set out in Appendix A3 to the report which were to be applied to the premises license in the event that the Sub-Committee

was minded to grant the variation. In addition, the Sub-Committee had regard to the fact that the Ward Councillor, having considered the proposed conditions at Appendix A3 was of the view that these dealt with the concerns raised and welcomed the offers from the manager of the premises to work with residents.

3. The offered conditions at Appendix A3 will be in addition to the mandatory statutory conditions which apply to premises licenses granted under the Licensing Act 2003 which authorise the sale of alcohol.
4. 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. The Sub-Committee noted that there was concern about the parking situation in front of the premises and in the surrounding roads. The Sub-Committee were mindful that parking and the provision thereof is not one of the licensing objectives but that the objective engaged is around public nuisance as it pertains to the provision of a licensable activity. There were, according to representations before the sub-committee, existing and current issues with parking in the area however, that was not shown to be attributable to a licensable activity being undertaken at the premises – pre-existing issues around parking ought properly to be addressed by regimes other than Licensing.
5. 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. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, and to respect the rights of people living nearby to a peaceful night. The Sub-Committee noted that the Applicant had already offered, as part of the proposed conditions to have such conditions on the license if granted.

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.

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Date of Decision:

20 December 2022

26/22

**LICENSING ACT 2003 - Application For A Premises Licence at 83-84 High Street, South Norwood, SE25 6EA**

The Chair then welcomed the applicant and objector to the hearing and outlined the protocol for the benefit of all parties. The Head of Environmental Health, Trading Standards and Licensing again described the types of licensable activity that could be applied for in line with the Licensing Act 2003, and informed the committee that this was an application for the sale by retail of alcohol Monday to Sunday 11 am to midnight, for the playing of recorded music with the same hours, and with a closing time of 0030 hours the following morning. Officers asked members to note that the applicant had amended their application to include certain conditions following discussion with the police, which would apply should the committee decide to grant the application. There were also some amendments to the requested hours, which were detailed in Appendix A2 to the report.

The Chair then invited the objector to speak, who informed that committee that:

- The premises had a history of breaching licensing conditions;
- There had been anti-social behaviour issues caused by patrons of the previously licensed premises;
- The area was saturated with bars and that patrons of these premises congregated in the narrow pavements drinking outside the premises, which intimidated residents;
- The high street on which the premises was situated was very narrow and the congregations of people drinking outside premises caused traffic issues, causing vehicles to sound their horns late at night;
- The venue was already promoting events that involved licensable activity even though it did not have a current alcohol licence;

- There had been instances of activity going on in the basement outside of licensed hours;
- Flat above the premises would suffer a lot of noise nuisance; and,
- People entering and leaving the premises also caused nuisance to residents.

The applicant was then offered the opportunity to speak to the sub-committee. On behalf of the applicant, the Applicant's Agent, Robert Sutherland informed the sub-committee that:

- The Applicant is a new operator of the premises and is separate from the former operator.
- The previous licence holder whose licence was revoked following a number of breaches of the licensing conditions would not have any involvement in the running of the business under the new licence should it be granted;
- There was a hatched area not included in the original plan submitted, subsequently agreed with Police which would cover part of the area where patrons could stand, despite the ground floor being predominantly table service only;
- Following discussions with police and the Local Authority robust licensing conditions as detailed in the Appendix to the report would be applied to the licence should it be granted, including reduction to the hours of licensable activity, and that regulated entertainment was restricted to take place in the basement only; and,
- The applicant had 25 years' worth of experience in the hospitality industry, and that they also worked in a hotel, meaning that a breach of conditions was not likely.

The sub-committee questioned the advertisements for ticket sales that were live on a website that promoted events, as it was not clear who had listed the events or when, since the premises did not have a licence for the activity advertised, and the Temporary Event Notices (TENs) that the applicant had been granted in the meantime did not cover all the hours of licensable activity shown on those advertisements. The applicant's representative explained that if there was any online information stating that licensable activity would be taking place outside of the hours sought by the application or that was allowed for by the TENs they would seek to remove those advertisements immediately. The representative also explained that the applicant did not list the advertisements.

The objector explained that, in addition to the online advertisement of the licensable activity, there was also a large banner outside the premises itself advertising the same events.

In response to questions from the sub-committee, officers explained that TENs were a means to lawfully undertake licensable activities at a premises and neither the police nor the council's noise team had objected to any of the TENs which the current Applicant had applied for, and that there was a maximum allocation of TENs per calendar year for any one applicant . Officers also explained that the cumulative impact areas (CIAs) in place at this time did not cover this area and in any event related only to off licences, and not to any other kind of premises in the area.

The applicant's representative summed up by assuring the sub-committee that there was an agreement in place to ensure that the previous licence holder would not be allowed to be present at the premises during the hours of licensable activity, and that they would not have any involvement with the daily running of the business.

The sub-committee withdrew to the virtual deliberation room and **RESOLVED** by majority to **GRANT** the application based on the conditions detailed in the decision notice as follows:

**LONDON BOROUGH OF CROYDON**  
**STATEMENT OF LICENSING SUB-COMMITTEE DECISION**

**LICENSING ACT 2003 - APPLICATION FOR A PREMISES LICENCE AT  
83-84 HIGH STREET, SOUTH NORWOOD, SE25 6EA**

**Details of decision:**

The Licensing Sub-Committee considered the Application for a Premises Licence at **83-84 High Street South Norwood, SE25 6EA** and the representations received as contained in the report of the Corporate Director Sustainable Communities, Regeneration and Economic Recovery and the additional documentary and photographic evidence submitted by the objector prior to the commencement of the hearing. The Sub-Committee did not have regard to the information which the objector sought to share via the chat facility during the virtual meeting as this had not been shared with the Applicant or his Agent prior to the commencement of the hearing.

The Sub-Committee also considered the representations made by the Agent on behalf of the Applicant and the objector during the hearing. Whilst the Sub-Committee would have liked to have the Applicant present for the hearing, the Agent for the Applicant indicated that the Applicant had proposed to be present but was unfortunately unable to do so but he was able to proceed in the Applicant's absence. The Agent did indicate to the Sub-Committee that if they wished the Applicant's presence, that the consideration of the matter be adjourned to a later date which the Applicant could attend.

The Sub-Committee, having reference to the licensing objectives under the Licensing Act 2003 ("the Act") and the Council Licensing Policy, **RESOLVED to GRANT** the application subject to conditions detailed below which had been offered by the Applicant and the mandatory statutory conditions which apply to the sale of alcohol under a premises license issued under the Act, 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 the High Street in a parade of shops with residential premises above. There is also a parade of shops on the other side of the road, also with residential premises above them and two blocks of flats to the rear in reasonable proximity. The immediately surrounding area includes both residential and commercial premises.



2. The Sub-Committee had regard to the fact that there were no objections to the application from the Police on crime and disorder grounds nor from the noise nuisance team in respect of public nuisance. The Sub-Committee noted that, as per the Statutory Guidance, Licensing authorities should look to the police as the main source of advice on crime and disorder and the police had agreed a set of conditions with the applicant, in the event that the Sub-Committee was minded to grant the application.
3. The applicant had, in response to discussions with the police amended their application in a number of important respects – to reduce the hours applied for as detailed in Appendix A2 to the report and to include the conditions proposed and set out at Appendix A2 to the report - so that these amendments will apply to the license granted. The offered conditions will be in addition to the mandatory statutory conditions which apply to premises licenses granted under the Licensing Act 2003 which authorise the sale of alcohol.
4. The Sub-Committee were mindful that 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. The 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. The Sub-committee took into account the provisions within the Statutory Guidance at paragraph 9.44 which provides 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 any 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.
5. The Sub-Committee were addressed by the Objector in relation to historic issues at the premises which took place under the auspices

of a previous premises license holder and former DPS. The Sub-Committee were clear that the current Applicant was a new operator and new DPS (to whom the police had not objected) and could not be held responsible for the manner in which the previous operator had run the premises. The Agent for the Applicant indicated that the Applicant had 25 years worth of experience in the hospitality industry and would divide his time, at least initially, between his current role in a hotel and the premises with a view to growing the business at the premises. Despite not being responsible for previous running of this premises, the current Applicant had agreed a number of conditions with the Police (Appendix A2) which were designed to support the Licensing Objectives and a well run premises in light of historic concerns. These included conditions such as the ground floor operating as restaurant and bar with predominantly sit down service with no regulated entertainment being provided on the ground floor; the basement floor only being used for licensable activities for private functions and parties and these bookings be recorded and police notified as provided for in conditions 4 and 22 respectively. In particular, condition 22 offered by the Applicant (and supported by conditions 23 and 24) is quite restrictive in that it provides as follows:

- a. *“At least 14 days, or such shorter period as may be agreed by the police, prior written notice shall be provided to the police of an event booking for the premises to include the date, name of person booking the event and any other details as requested by the police For the purpose of promoting the licensing objectives the police may have a right of veto in respect of events deemed high risk.”*

6. Allegations were also made that the premises was operating “without a license” following the revocation of the previous license. The Sub-Committee were mindful that each application ought to be considered on its own merits and in light of the information presented to the Sub-Committee considering the matter and the representations before it. The Sub-Committee were advised by the Agent for the Applicant that the Applicant had only this past weekend (16<sup>th</sup> December) commenced trading at the premises and that there was a Temporary Event Notice granted to the Applicant in place between the 16<sup>th</sup> - 19<sup>th</sup> December and that a further Temporary Event Notice had been granted for 21<sup>st</sup> - 27<sup>th</sup> December. The granting of the Temporary Event Notices for the above dates was confirmed by the Head of Environmental Health, Trading Standards and Licensing. The Temporary Event notices had a terminal hour for licensable activities of midnight and the Applicant had offered to

adhere to the conditions which are set out at Appendix A2 as part of those Temporary Event Notices. The Sub-Committee were clear that operating pursuant to a Temporary Event Notice was not operating an unlicensed event but were also mindful that they were not seized with making decisions in relation to the temporary event notices as part of the current application.

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. The Sub-Committee noted that there was a concern about the parking situation on the high street and surrounding roads. The Sub-Committee were mindful that parking and the provision thereof is not one of the licensing objectives and there were no representations in relation to the current Applicant and their provision of licensable activities at the premises in this regard.
8. There was a significant amount of discussion around the advertisement of tickets for events at the premises which had terminal hours beyond what was currently applied for given the amendments made to the application to reduce the proposed hours of operation and provision of licensable activities at the premises. The Agent for the Applicant stated that the Applicant was not responsible for the advertisements, and it was unclear how long the advertisements had been online. The Sub-Committee were clear that if the application was granted, the Applicant would need to ensure that they abided by the permitted hours in the license otherwise it would be a breach of the license conditions and that the Applicant would need to take steps to attempt to remove those advertisements to avoid misleading potential patrons and the attendant issues which would arise as a result.
9. Concerns were also raised about the potential involvement of the previous proprietor of the premises in the new business. The Agent confirmed that there was a formal management agreement in place between the Applicant and the Leaseholder of the premises who is also the former proprietor of the premises. However, the Sub-Committee were also mindful of the conditions set out at Appendix A2, in particular the proposed condition 26 which was specifically designed to address these concerns by providing that the former proprietor and DPS not be on the premises whilst licensable activities are being undertaken and that they will not be involved in the day to

day management of the premises. This was also addressed by the Agent for the applicant who indicated to the Sub-Committee that the CCTV conditions (conditions 8, 9 10 and 11) would also support ensuring that condition 26 was adhered to.

10. 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. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, and to respect the rights of people living nearby to a peaceful night. The Sub-Committee noted that the Applicant had already offered, as part of the proposed conditions to have such conditions on the license if granted.
11. Whilst the Sub-Committee were aware, and the objector made representations that the area in which the premises is situated is within what the Council's current Statement of Licensing Policy terms a "special stress area", the Sub-Committee were clear that the special stress area did not have any statutory weight but was merely an area where concerns had arisen about the number of premises authorised for off sales (in other words sale of alcohol for consumption off the premises) but in respect of which there was insufficient evidence to put a cumulative impact area in place. The Sub-Committee was clear that this was not an application for off sales but for on sales (sales of alcohol for consumption on the premises) and therefore did not engage with the special stress area and furthermore that the special stress area did not delineate a cumulative impact area and only the latter had statutory force. The existence of a "special stress area" did not therefore impact their decision making on this matter.

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.

27/22 **Exclusion of the Press and Public**

This was not required.

The meeting ended at 12.12 pm

**Signed:**

**Date:**

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