

## **Licensing Sub-Committee**

Meeting held on Tuesday, 1 October 2024 at 10.30 am. This meeting will be held remotely.

### **MINUTES**

**Present:** Councillor Patsy Cummings (Chair);  
Councillor Mohammed Islam (Vice-Chair);  
Councillors Danielle Denton

### **PART A**

#### **51/24 Appointment of Chair**

It was **MOVED** by Councillor Danielle Denton and **SECONDED** by Councillor Mohammed Islam and **RESOLVED** to appoint Councillor Patsy Cummings as Chair of the meeting.

#### **52/24 Disclosure of Interests**

Councillor Denton stated that she knew Mr. Shawani through a community group via the South Croydon Business Association but specified that she did not know him personally. Councillor Denton confirmed that she was able to consider the application without any bias or predetermination.

#### **53/24 Urgent Business (if any)**

There were no items of urgent business.

#### **54/24 Licensing Act 2003 - Application for a Premises Licence at 100 Beulah Road, Thornton Heath, CR7 8JF**

The Chair outlined the procedures for the Licensing Hearing in line with the Licensing Act 2003 and the Council's protocol.

The applicant Mr Srirooban Santhiralingam was present.

The applicant's representative, Suresh Kanapathi, was present.

Parties who had submitted representations PC Chris Woods and PC Zoe Garrod were also present.

The Head of Environmental Health, Trading Standards and Licensing introduced the application to the Sub Committee.

The Head of Environmental Health, Trading Standards and Licensing explained that the application sought one licensable activity, the sale by retail of alcohol for consumption off the premises on Monday to Saturday from 7am to 11.59pm and on Sunday from 7am to 11pm.

The Head of Environmental Health, Trading Standards and Licensing informed Members that the applicant set out the steps that they intended to take to promote the licensing objectives should the application be granted and if the application was granted, the licensing team would extract relevant parts from this operating schedule and attach them to the premises licence so the terms were enforceable.

The first objecting party was given the opportunity to speak. PC Chris Woods advised:

- The Police had received the application at the start of September and within a couple of days they went to the premises to explain to the applicant that an application for a premises licence had already been refused in May 2023.
- The Police believed that the area was already highly saturated with off licences, had many anti-social behavioural problems and street drinking etc. In order to combat these problems, officers believed that it would be irresponsible to provide another establishment with the licence to sell alcohol in the area, especially given its close proximity to a school.
- The police community support officer (PCSO) for that local area was fully aware of these issues and they were instrumental in the Public Space Protection Order (PSPO) being granted for the area.
- The PSPO was introduced on the 21 February 2024 and would remain in place for another three years.
- Since the start of the year, there had been 30 calls to the police which warranted a response. Most of these calls were related to anti-social behaviour and street drinking.
- Granting another licence would have a detrimental effect on the area and would add to the problems already experienced in the area.

In response to questions from the Sub-Committee the objector informed Members that they were unable to confirm whether granting the licence would increase the number of street drinkers in the area, however, it would provide them with another option of where to buy alcohol.

In response to questions from the Sub-Committee the objector explained that the police have not had any previous issues with the applicant. The previous

application for a premises licence for the site which had been refused was not submitted by the applicant.

In response to questions from the Sub-Committee the objector informed Members that the store was next to an infant school and was opposite a scout hut, selling alcohol would encourage street drinking and people gathering outside would not be positive for the area.

The applicant's representative, Suresh Kanapathi, was given the opportunity to speak. Suresh Kanapathi advised:

- It was clear from the representations made that there were concerns regarding street drinking and the PSPO was in place to prevent street drinking.
- In order to address the Police's concerns about street drinkers consuming large amounts of high strength alcohol, the applicant was willing to not sell high strength beer.
- In order to address the Police's concerns regarding the store's proximity to an infant school, the applicant was prepared to amend their application to start selling alcohol from 10am rather than 7am.
- The store would implement a challenge 25 policy in order to prevent the sale of alcohol to underage customers.
- The applicant would not sell beer, larger, stout or ciders which exceeded 6% alcohol by volume.
- The applicant would not sell single cans and bottles of beer, larger, stout or ciders from the premises.
- The applicant would not sell small bottles of spirits which were less than 35cl and all spirits would be kept behind the counter.
- The alcohol display would take up less than 15% of the overall shop space.
- The applicant had received a personal licence in 2005 and had run two other shops in the past.

In response to questions from the Sub-Committee the applicant informed Members that he did not want to sell strong beers or small spirits to members of the public and any drinks purchased would not be consumed within the retail unit.

In response to questions from the Sub-Committee the applicant's representative informed Members that one of the conditions in the application stated that there would be no self-service of spirits.

In response to questions from the Sub-Committee the applicant's representative explained that the beer and wine fridge would be locked between 7am and 10am as this was outside the proposed licensing hours.

In response to questions from the Sub-Committee the applicant informed Members that there would be two staff members working in the shop alongside him and they had already been trained.

In response to questions from the Sub-Committee the applicant explained that he had placed a CCTV camera which monitored the area where the spirits were kept as well as the area which the beer and wine was stored. The applicant confirmed that the CCTV would also monitor the outside of the store and as part of the conditions, the police were able to visit the store to access the CCTV recordings whenever they needed to.

In response to questions from the Sub-Committee the applicant's representative informed Members that the applicant had changed the operating schedule to address the concerns raised by the Police.

In response to questions from the Sub-Committee the applicant stated that he had over 20 years of experience working in supermarkets and petrol stations which sold beer and alcohol throughout the day.

In response to questions from the Sub-Committee the applicant explained that he had never had a Designated Premises Supervisor (DPS) in his name before.

In response to questions from the Sub-Committee the applicant informed Members that he was present at the store full time each day.

After the hearing the Sub-Committee withdrew to the virtual deliberation room and **RESOLVED** to **GRANT** the application to the premises licence. The reasons for this decision are set out in the Statement of Licensing Sub Committee decision as follows:

The Licensing Sub-Committee considered the Application for a Premises Licence at **100 Beulah Road, Thornton Heath, CR7 8JF** and the representations received as contained in the report of the Corporate Director, Sustainable Communities, Regeneration & Economic Recovery.

The Sub-Committee considered the representations made by the Applicant, the Applicant's agent and the Police during the hearing. The Sub-Committee also considered the substantial amendments to the Applicant's operating schedule and additional conditions which the Applicant offered in order to support the licensing objectives in light of the Police concerns, these conditions are set out in full at Appendix A to this decision. The Sub-Committee also considered the reduction in hours offered by the applicant in respect of the sale of alcohol so that such sales would not commence until 10am, rather than the 7am initially applied for.

The Sub-Committee, having reference to the licensing objectives under the Licensing Act 2003, the statutory guidance issued under Section 182 of the Licensing Act 2003 and the Council Licensing Policy, **RESOLVED to GRANT** the amended application on the basis that the Sub-Committee were satisfied that it would be appropriate in order to promote the licensing objectives to do so. The Sub-Committee considered that the objectives of the prevention of public nuisance, prevention of crime and disorder and protection of children from harm were most relevant in relation to their consideration of the matter.

The reasons of the Sub-Committee were as follows:

1. The Sub-Committee noted that the premises are situated on Beulah Road directly next to and backing onto Beulah Junior School and Beulah Infant and Nursery School and opposite the premises used by the local scout group. The premises is the last in a small parade of shops with residential premises above the shops. There are also residential premises on the opposite side of the road to the premises. The premises is a short distance from a bus stop.
2. 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.
3. The Sub-Committee were aware and had reference to the Statutory Guidance which provides that, beyond the immediate area surrounding the premises, that public nuisance 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, as detailed below, the Statutory Guidance makes clear that operators should demonstrate knowledge and awareness of the area in which they propose to operate and show how their application will support the licensing objectives.
4. The Sub-Committee noted the provisions in the guidance which indicate that Licensing authorities should look to the police as the main source of advice on crime and disorder. In respect of Prevention of Crime and Disorder, the Sub-Committee were aware that any conditions should be targeted on deterrence and preventing crime and disorder. For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. The Applicant has already put in place CCTV for the premises and has offered 7 specific conditions relating to CCTV as follows:

*“1. CCTV:*

*a) The CCTV system at the premises shall be maintained in working condition and shall record 24 hours every day. Recordings shall be retained for a minimum of 31 days and shall be made available to Police or Local Authority officers on request and shall be capable of identification and of evidential quality in any light conditions.*

*b) The equipment MUST have a suitable export method i.e. CD/DVD/USB facility so that the Police and officers of the Council can make an evidential copy of the data they require. This data should be in the native file format to*

*ensure that no image quality is lost when making the copy. If this format is non-standard (i.e. manufacturers proprietary), then the licence holder shall within 14 days of being requested supply the replay software to ensure that the video on the CD can be replayed by the Police and officers of the Council on a standard computer. Copies shall be made available to the police and officers of the Council on request, or within 24 hours.*

*c) Staff working at the premises shall be trained in the use of the equipment and a log will be kept to verify this. At least one member of staff, so trained, shall be present at the premises at all times when it is open for licensable activities.*

*d) Cameras on the entrances, including both serving hatches, must capture full frame shots of the heads and shoulders of ALL people entering the premises, i.e. capable of identification and of evidential quality in any light conditions.*

*e) There shall be signs displayed in the customer area to advise that CCTV is in operation.*

*f) Should the CCTV become non-functional this shall be reported immediately to the Licensing Authority and the problem rectified as soon as practicable.*

*g) CCTV cameras shall monitor all areas of the premises that are accessible to members of the public including the area immediately outside the premises to monitor numbers and prevent crime and disorder.”*

5. The Sub-Committee noted the police representations that the conditions suggested by the Applicant, including around CCTV, where the types of conditions they would have suggested to an Applicant as being appropriate for compliant operation of an off license which supports the licensing objectives. However, the police were concerned that in this locale, with the problems already experienced due to street drinking and prevalence of off licenses, a further off license premises would exacerbate the existing problems in this area, regardless of conditions imposed and remained of the view that the only means to alleviate their concerns was refusal of the application, not because of the applicant's ability to run a compliant premises, but because of the location and pre-existing issues. That position obviously creates a challenging balancing exercise for the sub-committee of considering valid police concerns but being faced with an applicant who is, on the basis of the application and in their representations to the Sub-Committee, demonstrating how their application would support the licensing objectives and one who had specifically sought to address the Police concerns by imposition of a number of additional conditions and a reduction in hours; and in respect of whom the Police had no evidence of concerns as an operator.

6. The Statutory Guidance indicates that conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. The DPS is the key person who will usually be

responsible for the day-to-day management of the premises rather than the premises licence holder, including the prevention of crime and disorder.

7. The Applicant is the proposed DPS for the premises and the Sub-Committee heard of his extensive experience in working as a DPS at other premises over the last 20 years and in respect of which there were no concerns as to his ability to act as a responsible DPS. The police confirmed that they have no concerns about the Applicant as an operator of a premises or DPS but rather the location and the current problems meant that they were, understandably, in the Sub-Committee's view, concerned about the impact of an additional off license in the area. Conversely, the Sub-Committee were clear that this location was not subject to a cumulative impact assessment area adopted by the Council under the Licensing Act 2003. And whilst it may be appropriate to consider whether, given the issues highlighted, it is an area which should be considered for future inclusion as a cumulative impact assessment area, such provision is not currently in place and the Sub-Committee is not able to rely on that as part of their determination. The effect of a Cumulative impact assessment is that where relevant representations are received on any new applications for a premises licence in the cumulative impact area, there will be a presumption that the application will be refused unless the applicant is able to demonstrate that their application is exceptional.

8. The protection of children from harm objective includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives. In this regard, the Sub-Committee were mindful of the Police evidence that the groups of street drinkers behaved in a particularly offensive manner towards women and girls (as detailed below) and the concern that locating an off-license next to a school would mean that there would potentially no longer be a separation between the area where the issues were most prevalent and the school gates, thereby increasing the risk to the protection of children from harm objective as a result. Whilst the police confirmed that they had no evidence to indicate that there would be such a shift, the availability of alcohol for sale gave rise to an additional location from which those behaving antisocially in the area might purchase alcohol.

9. Whilst the Police made reference to the lack of "need" for a premises or particular hours of operation, the Sub-Committee was mindful, as detailed in Statutory Guidance and the Council's statement of licensing Policy, that "need" concerns the commercial demand for premises of a particular nature and is a matter for the planning authority and for the market. This is not a matter for a licensing authority in discharging its licensing functions or for its statement of licensing policy.

10. The Sub-Committee were made aware, via the papers and the representations before them, that there is a substantial anti-social behaviour problem in the area with gatherings of street drinkers

predominantly outside the off-license premises in the area. The police indicated as follows:

- The premises is on the east side of Beulah Road from the junction with Parchmore and the anti-social behaviour is predominantly on the east side of the road outside existing off licenses and take away outlets and the groups mainly gather outside the off licenses.
- Reports of groups of intoxicated people (mainly males) blocking pavements, playing loud music, causing distress to other users and even urinating in the street is common place.
- The issues are such that there is now a Public Spaces Protection Order (PSPO) in place in the area since 1 February 2024 for three years and is designed to prevent certain activities, namely :-
  - - a. Consuming alcohol in the Restricted Area other than in premises identified in Section 62 of Antisocial Behaviour Crime and Policing Act 2014, as amended;
    - b. Individuals or groups of people behaving in a manner causing or likely to cause harassment, alarm or distress, in the Restricted Area;
    - c. Urinating in any public place in the Restricted Area, other than public toilets.
- Shopkeepers in the area have been subject to intimidation to sell alcohol to the groups who gather to street drink.
- Shops have been asked by the Police to display details of the PSPO in their windows to raise awareness of the PSPO in the area.
- It is too early to tell what impact the PSPO is having on the issues which it is designed to address

11. The Sub-Committee were aware, and had regard to the Statutory Guidance which provides that in completing an operating schedule, applicants are expected to have regard to the statement of licensing policy for their area and must be aware of the expectations of the responsible authorities (such as the police) as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives. Paragraph 8.42 of the Statutory Guidance indicates that Applicants are, in particular, expected to obtain sufficient information to enable them to demonstrate, when setting out the steps they propose to take to promote the licensing objectives, that they understand:

- the layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children may congregate;
- any risk posed to the local area by the applicants' proposed licensable activities; and



- any local initiatives (for example, local crime reduction initiatives or voluntary schemes including local taxi-marshalling schemes, street pastors and other schemes) which may help to mitigate potential risks.
12. In the hearing, the Applicant and his agent addressed how the above matters had been taken into account in presenting the application for Members' consideration and in light of the Police concerns, including how the shop was laid out, with access to alcohol not being prevalent and situated towards the rear of the shop, spirits located behind the counter and conditions offered as detailed below.
13. The Sub-committee noted that the Applicant's amended operating schedule conditions included the following provisions:
- *There shall be no supply of alcohol for consumption off the premises except in sealed containers.*
  - *Beers, lagers, stout and ciders sold at the premises shall not exceed 6% alcohol by volume.*
  - *There shall be no sales of single cans or bottles of beers, lagers, stout and ciders from the premises.*
  - *Spirits shall not be sold in bottles of less than 35cl.*

In addition, the following condition was offered by the Applicant at the hearing: *"Beer Fridge will be locked outside the licensing hours, and all other alcohol will be covered on the retail floor outside licensing hours preventing access to alcohol."*

14. In light of what is set out earlier about the police concerns and nature of anti-social behaviour in the area of the premises, the Applicant had amended their application to revise, in full, the proposed conditions to form part of the operating schedule, as detailed fully in Appendix A; had offered a further condition around ensuring that alcohol was not accessible outside of licensable hours, again as set out in full at Appendix A and had amended the application so that sales of alcohol would not take place before 10am, again as set out fully at Appendix A.
15. The Applicant had also indicated to the Sub-Committee that there would always be two members of staff at the shop and during the school day, there would be three. The Applicant would also be running this premises as his family business so intended to be on the premises most of the time that the premises were open for sales of alcohol. The Applicant had offered a condition, as part of the revised operating schedule that *"The Premises Licence holder, the DPS or a nominated person shall be present at the premises at all times during licensing hours."*
16. The Sub-Committee considered that the Applicant had applied his mind sufficiently to the area in which the premises would be situated in suggesting how the licensing objectives could be supported through his

application, but they wished to urge the applicant to remain vigilant and careful in his operations to ensure that existing problems did not encroach on his premises or that his premises did not add to existing issues. The Sub-Committee also wished to remind the Applicant of the ability of the Police (and/or other responsible authorities or other persons as defined by the Licensing Act 2003) to seek a review of the premises licence in future if the conditions on the licence or the licensing objectives were not being upheld.

17. The Sub-Committee were aware that their 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.
18. As set out in the Statutory Guidance, the Sub-Committee were mindful 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 imposed 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. 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. In this instance, whilst the Sub-Committee did not have the benefit of details of the track record at this business as the Applicant had not thus far been selling alcohol at the premises, the Applicant has acted as a DPS at a number of other premises over a period of 20 years, including several within the borough and there was no evidence presented to indicate that the Police had concerns with compliance by the Applicant as DPS at those premises.
19. The sale and supply of alcohol, because of its potential impact on the wider community and on crime and anti-social behaviour, carries with it greater responsibility than the provision of regulated entertainment and late night refreshment. This is why sales of alcohol may not be made under a premises licence unless there is a DPS in respect of the premises (who must hold a personal licence); and every sale must be made or authorised by a personal licence holder. Every premises licence that authorises the sale of alcohol must specify a DPS. This will normally be the person who has been given day to day responsibility for running the premises by the premises licence holder. The DPS must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy. This means that the DPS has personal responsibility for ensuring that staff are not only aware of,

but are also applying, the age verification policy. In the current circumstances, the proposed premises licence holder is also the proposed DPS and no concerns had been raised in respect of the applicant's ability to successfully run a compliant premises but rather that it was the Police view that the location, because of the current antisocial behaviour did not need a further off license, which would give those acting antisocially another outlet from which to potentially purchase alcohol.

20. The Sub-Committee acknowledged, as provided for in both the Statutory Guidance and the Council's Licensing Statement of Policy, that all parties are expected to work together in partnership to ensure that the licensing objectives are promoted collectively. To this end the Police had attended the premises and spoken to the Applicant about their concerns about the area when they were notified of the Application. The Applicant in turn has suggested, as detailed above and in Appendix A, a number of measures to support the promotion of the licensing objectives in light of those concerns. The Sub-Committee accepts that the Police have valid concerns over the level of the antisocial behaviour and street drinking, including as evidenced by the PSPO being put in place but conversely the applicant had indicated a willingness to work with the Police and an applicant should not be prevented from running a business as an off license if he is able to demonstrate through his application and submissions that he can support the licensing objectives at his premises. The Sub-committee were also mindful of the ability to review the premises license if the Applicant was not supporting the Licensing Objectives in his operations in future.
21. As a final point, the Sub-Committee noted that whilst there had been mention made of a previous application at the same premises by a different applicant which had been refused, each application must be considered on its merits and in light of the representations received and in relation to the applicant in question.

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.

#### APPENDIX A:

##### **Amendment to hours for the Sale by Retail of Alcohol (off the premises):**

Revised Hours: Monday to Saturday 1000 hours until 2359 hours  
Sunday 1000 hours until 2300 hours

##### **Conditions offered by the Applicant to replace the initial conditions set out in the Operating Schedule of the Application (Part M):**

## 1. CCTV:

- a) The CCTV system at the premises shall be maintained in working condition and shall record 24 hours every day. Recordings shall be retained for a minimum of 31 days and shall be made available to Police or Local Authority officers on request and shall be capable of identification and of evidential quality in any light conditions.
- b) The equipment MUST have a suitable export method i.e. CD/DVD/USB facility so that the Police and officers of the Council can make an evidential copy of the data they require. This data should be in the native file format to ensure that no image quality is lost when making the copy. If this format is non-standard (i.e. manufacturers proprietary), then the licence holder shall within 14 days of being requested supply the replay software to ensure that the video on the CD can be replayed by the Police and officers of the Council on a standard computer. Copies shall be made available to the police and officers of the Council on request, or within 24 hours.
- c) Staff working at the premises shall be trained in the use of the equipment and a log will be kept to verify this. At least one member of staff, so trained, shall be present at the premises at all times when it is open for licensable activities.
- d) Cameras on the entrances, including both serving hatches, must capture full frame shots of the heads and shoulders of ALL people entering the premises, i.e. capable of identification and of evidential quality in any light conditions.
- e) There shall be signs displayed in the customer area to advise that CCTV is in operation.
- f) Should the CCTV become non-functional this shall be reported immediately to the Licensing Authority and the problem rectified as soon as practicable.
- g) CCTV cameras shall monitor all areas of the premises that are accessible to members of the public including the area immediately outside the premises to monitor numbers and prevent crime and disorder.

## 2. "Challenge 25":

- a) The Licensee shall adopt a "Challenge 25" policy, where all customers who appear to be under the age of 25 and attempt to purchase alcohol or other age-restricted products, shall be asked for proof of their age.
- b) The Licensee shall prominently display notices advising customers of the "Challenge 25" policy.
- c) The following proofs of age are the only ones to be accepted:

- Proof of age cards bearing the "Pass" hologram symbol
- UK Photo Driving licence
- Passport
- Military ID

3. Staff Competence and Training:

- a) The Licensee shall keep a written record of all staff authorised to sell alcohol, the record to contain the full name, home address, date of birth and national insurance number of each person so authorised. The staff record shall be kept on the licensed premises and made available for inspection by the Licensing Officer, Trading Standards or the Police, on request.
- b) The Licensee shall ensure that each member of staff authorised to sell alcohol has received appropriate training on the law with regard to age-restricted products, proxy sales, and the licensable hours and conditions attached to the licence, including refresher training every six months, and that this is properly documented and training records kept. The training record (either written or electronic) shall be kept on the licensed premises and made available for inspection by the Licensing Officer, Trading Standards or the Police, on request.
- c) The Licensee shall ensure that each member of staff authorised to sell alcohol is fully aware of his /her responsibilities in relation to verifying a customer's age and is able to effectively question purchasers and check evidence of proof of age.
- d) The Licensee shall ensure that each member of staff authorised to sell alcohol is sufficiently capable and confident to confront and challenge under 25's attempting to purchase alcohol.

4. Refusals Book:

- a) The licensee shall keep a register of refused sales of all age-restricted products.
- b) The refusals book shall contain details of time and date, description of the attempting purchaser, description of the age-restricted products they attempted to purchase, reason why the sale was refused and the name/signature of the sales person refusing the sale.
- c) The Refusals Book shall be kept on the licensed premises and made available for inspection by the Licensing Officer, Trading Standards or the Police, on request.

5. Controls of alcohol:

- a) A till prompt system shall be installed to assist staff by reminding them to challenge for ID when a sale is made.

- b) There shall be no supply of alcohol for consumption off the premises except in sealed containers.
- c) Beers, lagers, stout and ciders sold at the premises shall not exceed 6% alcohol by volume.
- d) There shall be no sales of single cans or bottles of beers, lagers, stout and ciders from the premises.
- e) Spirits shall not be sold in bottles of less than 35cl.
- f) The Premises Licence holder, the DPS or a nominated person shall be present at the premises at all times during licensing hours.
- g) Documented delegation of authorisations to sell alcohol shall be maintained at the premises and shall be available on request by an authorised officer of the Licensing Authority or the Police.
- h) Spirits shall be located behind the counter. All other alcohol exposed for sale shall be displayed in a position that is not obscured from the constant view of the cashier / staff or CCTV by fixtures.
- i) There shall be no self-service of spirits.

6. Incident Book:

- a) The Premises Licence Holder shall ensure that an "Incident report register" is kept in a bound book or electronic format, in which full details of all incidents are recorded.
- b) This shall be completed as soon as possible and in any case no later than the close of business on the day of the incident. The time and date when the report was completed, and by whom, is to form part of the entry. The register shall be kept on the premises at all times and shall be produced to an authorised officer of the Licensing Authority or the Police on request.

**Additional conditions offered by the Applicant at the hearing:**

Beer Fridge will be locked outside the licensing hours, and all other alcohol will be covered on the retail floor outside licensing hours preventing access to alcohol.

55/24

**Licensing Act 2003 - Application for a Review of a Premises Licence at 5 Station Parade, Sanderstead Road, South Croydon, CR2 0PH**

The Chair outlined the procedures for the Licensing Hearing in line with the Licensing Act 2003 and the Council's protocol.

The premises licence holder, Mohibur Rahman, was present.

The premises licence holder's agent, Waseem Sherwani, was present.

The applicants, Heidi Woodham, Cleopatra Cassius and Raj Hundal were present.

The Head of Environmental Health, Trading Standards and Licensing introduced the application to the Sub Committee.

The Head of Environmental Health, Trading Standards and Licensing explained that this was a formal application which brought the premises licence that had been granted back before the Licensing Sub Committee, as the applicant had concerns that the licensing objectives had been compromised.

The Head of Environmental Health, Trading Standards and Licensing stated that the application was made by the Home Office Immigration Enforcement Service which was considered a responsible authority under the Licensing Act 2003.

The Head of Environmental Health, Trading Standards and Licensing informed Members that the premises licence had been granted in 2005.

The Head of Environmental Health, Trading Standards and Licensing explained that the application was made on the grounds that the prevention of crime and disorder licensing objective had not been upheld.

The Head of Environmental Health, Trading Standards and Licensing informed Members that subsequent to the review application being submitted an application to transfer the premises licence had been received. The Head of Environmental Health, Trading Standards and Licensing stated that the transfer had since been made, this would not change the situation in respect of why the review application had been made.

The premises licence holder's agent, Waseem Sherwani, was given the opportunity to speak. Waseem Sherwani advised:

- Sanderstead Tandoori was run as Sanderstead Tandoori LTD, however, the premises licence was under the name of an individual.
- Mr Mohibur Rahman acquired the premises on the 13 November 2023 and had no prior knowledge of what had occurred prior to acquiring the premises.
- Sanderstead Tandoori had been found guilty of allowing illegal workers to work on the premises and the company had been fined £30,000.
- Mr Mohibur Rahman held a personal licence and had a DPS certificate since December 2010.

- Mr Mohibur Rahman had no criminal record or convictions and had applied to the Council to register his personal licence so that he could transfer the DPS solely into his name.
- If the premises licence was revoked the Mr Mohibur Rahman would be an innocent victim of the incident which occurred before he acquired the company on the 13 November 2023.
- They understood the Home Office's concerns about the licensing objectives not being upheld, and there being more crime and disorder on site as a result of employing illegal workers. However, since Mr Mohibur Rahman had acquired the company, he made sure that all staff members were legal and had the right to work in the country.
- Mr Mohibur Rahman had no connection to the previous LTD company which owned the business before he acquired it.

In response to questions from the Sub-Committee the premises licence holder informed Members that he had never been employed by Sanderstead Tandoori LTD in the past nor did he have any relation to the previous owner.

In response to questions from the Sub-Committee the premises licence holder's agent explained that the immigration raid took place on the 5 November 2023 and once the raid had taken place, the previous DPS holder fled the premises. The current premises licence holder contacted the owner of the freehold and they agreed to grant him a new licence to occupy the premises. The owner of the freehold and the premises licence holder did not have any lawyers involved when they executed their licence agreement, therefore there were no local authority searches done and no inquiries with the home office and so a due diligence process did not take place.

The Legal Advisor explained that there was a distinction between a licence to occupy and the licence of the premises for Licensing Act purposes.

In response to questions from the Sub-Committee the premises licence holder's agent informed Members that the premises licence holder had received a DPS certificate in 2010 from the British Institute of Innkeeping Awarding Body (BIAB).

In response to questions from the Sub-Committee the premises licence holder stated that he had the details of all his employees such as a photocopy of their passport and details regarding their right to work.

In response to questions from the Sub-Committee the premises licence holder's agent informed Members that if the premises licence holder had non-British citizens, he would normally receive a share code from the Immigration authority and that share code was put into the file so that he had a photocopy of their foreign passport with the share code.

In response to questions from the Sub-Committee the premises licence holder explained that when the end of term for his staff members right to work was near, he would contact his solicitor to ensure the checks were conducted again.



The applicant, Raj Hundal, explained that at the time that the application for the review of the premises licence was made, they were not aware that Mr Mohibur Rahman had taken over at the premises. Therefore the statement that they had prepared for the meeting was not going to be completely relevant to the situation on the premises.

The applicant, Cleopatra Cassius, was given the opportunity to speak. Cleopatra Cassius advised:

- The ability to work illegally was a key driver in illegal migration and provided the practical means for migrants to remain in the UK.
- It encouraged people to take risks in trying to enter the UK illegally by putting their lives in the hands of people smugglers and left them vulnerable to exploitative employers.
- Illegal working resulted in businesses not playing by the rules, undercutting businesses that were.
- It also negatively impacted on the wages of lawful workers and could be linked to other labour market abuse such as tax evasion, breach of the national minimum wage and exploitative working conditions.
- Working illegally was a criminal offence and upon conviction an illegal worker may receive a custodial sentence of up to six months and an unlimited fine.
- Employment illegal workers undermined the licence objectives, specifically in this case, the prevention of crime and disorder.
- At Sanderstead Tandoori there were three people working illegally. Immigration Enforcement received an allegation of illegal workers being employed at these premises and as a result, an enforcement team visited them on the 5th of November 2023.
- Upon arrival 5 individuals were working, three of which were immigration offenders. One worker attempted to evade officers, however, they were caught shortly after.
- If the Sub Committee were inclined to add any conditions, they should consider imposing a condition that the employment records for the premises were kept up to date for all employees and workers and were stored at the premises and made available for any inspection by local authority officers, police constables or home office immigration officers upon request.

In response to questions from the Sub-Committee the applicant explained that the civil penalty was issued to Sanderstead Tandoori LTD, rather than an individual.

The premises licence holder's agent stated that they completely agreed with the Home Office Immigration Enforcement and accepted all their conditions.

The applicant, Raj Hundal, explained that the conditions that they proposed were that the licence holder must retain copies of documents as a result of conducting checks that related to the right to work. These must be stored securely at the premises, or a digital copy must be immediately accessible from the premises by ease of inspection by immigration officials, the Police,

local authority or other relevant officer. The licence holder or any person appearing to represent the licence holder must be able to produce immediately documents relating to the right to work checks at the request of immigration officials, the Police, local authority or other relevant officer.

After the hearing the Sub-Committee withdrew to the virtual deliberation room and RESOLVED to MODIFY THE CONDITIONS OF THE LICENSE BY THE ADDITION OF TWO NEW CONDITIONS to the application to the premises licence. The reasons for this decision are set out in the Statement of Licensing Sub Committee decision as follows:

The Licensing Sub-Committee considered the Application for a Review of a Premises Licence at 5 Station Parade, Sanderstead Road, South Croydon, CR2 0PH, the associated papers as contained in the report of the Corporate Director Sustainable Communities, Regeneration and Economic Recovery.

During the hearing, the Sub-Committee heard the verbal representations of Applicant for review (Home Office) and the current premises licence holder and their agent as well as giving consideration to the written papers.

The Sub-Committee, having reference to the licensing objectives under the Licensing Act 2003 (“the Act”), Statutory guidance under Section 182 of the Act and the Council’s Licensing Policy 2023-2028, considered whether it was necessary for the promotion of the Licensing Objectives to take any of the following steps: to modify the conditions of the licence; exclude a licensable activity from the scope of the licence; remove the designated premises supervisor; suspend the licence for a period not exceeding 3 months; to revoke the licence or to take no further action. The Sub-Committee RESOLVED to **Modify the Conditions of the License by the addition of two new conditions**, as detailed below 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 prevention of Crime and Disorder objective was the most relevant to their consideration of this matter.

The reasons of the Sub-Committee were as follows:

2. The Sub-Committee noted that the premises are situated on the B269 in a small parade of shops, takeaways and restaurants with residential premises above. The opposite side of the road has flats opposite and the premises is around the corner from Sanderstead station.
3. The premises is known as/trades as Sanderstead Tandoori. At the time of the application for review, the premises licence was held by Mukkid Miah and the Designated Premises Supervisor was also Mukkid Miah. The business was said to be run by Sanderstead Tandoori Limited, Company number 14582284, which was established as trading from the restaurant address, 5 Station Parade, Sanderstead.
4. The Sub-Committee received evidence and information from officers from the Home Office South London Immigration Compliance and

Enforcement (ICE) team about breaches of immigration law, in relation to the employment of persons subject to immigration control and those who were not permitted to work in the UK at the premises, following on from a raid at the premises on 5 November 2023, triggered by evidence and intelligence gathered by the officers. As a result, a civil penalty of £30 000 has been issued against Sanderstead Tandoori Limited on 1 March 2024, which at the time of the review hearing, remained unpaid.

5. The Sub-Committee heard that subsequent to the review application being made, an application to transfer the license was received from the current Premises licence holder, Mr Mohibur Rahman who was, with his agent, present at the hearing. Mr Rahman took over the business on 15<sup>th</sup> of November 2023 after the raid by ICE had taken place and was unaware of the issues at that time. Officers from ICE present at the hearing indicated that they had not been aware that Mr Rahman had taken over the business in November. In respect of the transfer application, it is, as a matter of course, notified to the home office immigration services and to the Police as part of the statutory procedures. Mr Rahman confirmed that he had no previous business dealings with the premises, nor had he previously worked for either Sanderstead Tandoori or Mukkid Miah as the former premises licence holder. In addition, he confirmed that he had no personal relationship with the former premises licence holder or operation of the business prior to taking it over.
6. The Statutory Guidance, at paragraph 2.6, makes clear that the prevention of crime and disorder objective includes the prevention of immigration crime including the prevention of illegal working in licensed premises. Licensing authorities should work with Home Office Immigration Enforcement, as well as the police, in respect of these matters. Where licensing conditions are considered appropriate to support the licensing objectives, these might include, in relation to the prevention of illegal working in licensed premises, requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that evidence of a right to work check, either physical or digital (e.g. a copy of any document checked as part of a right to work check or a clear copy of the online right to work check) are retained at the licensed premises.
10. When considering an appropriate outcome of a review, the statutory guidance (at para 11.18) makes clear that licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker. The Sub-Committee were clear, however, that there was no such civil penalty against the current holder of the premises licence.
11. At review, where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- exclude a licensable activity from the scope of the licence;
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- suspend the licence for a period not exceeding three months;
- revoke the licence
- take no further action.

12. The statutory guidance makes clear that in deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

13. The Licensing sub-committee were aware that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives or preventing illegal working. (extracted from paragraph 11.23 of the Statutory Guidance).

14. A number of reviews may arise in connection with crime. The sub-committee were clear that they did not have the power to judge the criminality or otherwise of any issue. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective. Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective.

15. There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously, as identified by the statutory guidance, this includes offences for employing a person who is disqualified from that work by reason of their immigration status in the UK. The sub-committee specifically noted that paragraph 11.26 of the statutory guidance makes clear that the licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.

16. As at the date of the hearing, there has been no application to vary who is specified on the premises license as DPS. In other words, Mukkid Miah, the person who was specified as DPS (and premises licence holder) at the time of the immigration failures and at the time of the imposition of the civil penalty for immigration offences, is still the person acting as DPS after the transfer application. The Sub-Committee heard from the new premises licence holder that he intended to make an application for a variation to specify himself as DPS at the premises going forward and he had acted as a DPS at other premises since 2010. In addition, the premises licence holder explained how he already did, but would continue to ensure that appropriate right to work checks were undertaken and the necessary information retained. The premises licence holder was also asked by the Sub-committee to explain, which he did, how he would ensure that when a right to work is time limited, he ensured he remained on top of these so that he wasn't employing people whose right to work had expired at the premises.
16. The Sub-Committee were clear that at the time of the immigration control failures and the issuance of the civil penalty in respect of those failures, the current premises licence holder was not holder of the premises license or DPS and there have been no objections to the transfer application. Both Police and Immigration Enforcement officers are notified of such applications when they are received. If the police or the Home Office (Immigration Enforcement) raise no objection about the transfer application, the licensing authority must transfer the licence in accordance with the application, amend the licence accordingly and return it to the new holder.
17. Having heard the information presented by the current premise licence holder, officers from ICE indicated that instead of the revocation which they had initially sought they considered that it would now be more appropriate to consider the imposition of conditions on the licence to support the licensing objectives. To this end, the ICE agents proposed the below two conditions, which the premises licence holder and his agent confirmed that they were happy to comply with and have added to the licence should the Sub-Committee be minded to impose this modification of conditions. The Conditions were as follows:

*The Licence Holder must retain copies of documents as a result of conducting checks relating to the right to work. These must be stored securely at the premises, or a digital copy must be immediately accessible from the premises for ease of inspection by Immigration Officials, the Police, Local Authority or Another Relevant Officer.*

*The Licence Holder, or any person appearing to represent the Licence Holder, must be able to produce immediately documents relating to the right to work at the request of an Immigration Officer, the Police, Local Authority or Another Relevant Officer.*

18. In light of the above, the Sub-Committee considered that it was appropriate to modify the license permanently (rather than on a time limited basis), by the addition of the above specified conditions to the licence and that the review be resolved in this way on the basis that it was appropriate for the promotion of the Licensing Objectives to do so.

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.

56/24 **Exclusion of the Press and Public**

This was not required.

The meeting ended at 2.01 pm

**Signed:**

**Date:**

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