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Licensing Sub-Committee

Meeting held on Thursday, 28 July 2022 at 3.00 pm. This meeting was held remotely.

MINUTES

Present: Councillor Karen Jewitt (Chair);

Councillors Margaret Bird and Nina Degrad

Also

Present: Michael Goddard (Head of Environmental Health, Trading Standards and Licensing); Mark Turnbull (Corporate Lawyer); Jayde Watts (Trainee Democratic Services Officer).

PART A

112/22 **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.

113/22 **Disclosure of Interests**

There were none.

114/22 **Urgent Business (if any)**

There were no items of urgent business.

115/22 **LICENSING ACT 2003 - Application For a Review of a Premises Licence at Oceanic Bar, 83-84 High Street, South Norwood, SE25 6EA**

The Licensing Sub-Committee considered the Application for a Review of the Premises Licence at **Oceanic Bar, 83-84 High Street, South Norwood SE25 6EA** made by the Police as a responsible authority under S51 of the Licensing Act 2003 on the grounds of the prevention of crime and disorder, public safety and the prevention of public nuisance. The Sub-Committee also considered the further information submitted by the Applicant in support of the

Application, comprising statements by Police officers and copies of letters sent to the licensed premises by the Applicant, and the written representation in support of the Application by Croydon Council Environmental Health Practitioner as contained in the report of the Corporate Director, Sustainable Communities, Regeneration & Economic Recovery.

The Sub-Committee also considered the information submitted by the premises licence holder before the hearing, and representations made on behalf of the Applicant, and on behalf of the premises licence holder during the hearing. The Sub-Committee noted that although some of those making representations were not present at the hearing, they had the benefit of the written representations as part of the report.

The Sub-Committee, having reference to the licensing objectives under the Licensing Act 2003 the Statutory Guidance issued under S182 of the Licensing Act 2003 and the Council Licensing Policy, **RESOLVED to REVOKE** the premises licence 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 were mindful that the Statutory Guidance provides “Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review”. In this respect, the Sub-Committee noted the strenuous efforts made by the Applicant to work with the premises licence holder in trying to ensure that the premises were run safely, in particular the many visits to the premises by the Applicant, and the Applicant’s comprehensive letters to the premises licence holder whereby the premises licence holder was directed to the relevant licence conditions, provided with advice and instructions as to what action was required, and warned that if there were continuing breaches of the licence conditions, the Applicant would apply for a Review.
2. In respect of the prevention of crime and disorder objective, the Sub-Committee noted the many breaches of the licence conditions, in particular the conditions relating to CCTV, signage for Challenge 25, use of an identification scanning device, the deployment of SIA door staff, the searching of members of the public at the premises, and the use of the basement for licensable activities after the hours permitted by the licence.
3. The Sub-Committee was mindful that the Statement of Licensing Policy provides “The Council considers that the promotion of the Licensing

Objective to prevent crime and disorder also places a responsibility on licence holders to work in partnership to achieve this Objective”, and that the premises licence holder had failed to respond positively to the many attempts by the Applicant to work with him.

4. The Sub-Committee also noted that when requested by the Council Environmental Health practitioner, the premises licence holder failed to produce documents relating to Staff refresher training, Welfare and Vulnerability & Counter Terrorism training, a written Policy in relation to Drugs, Weapons and Theft, a Refusal Book or Electronic System to record refusal, or a Dispersal Policy.
5. In respect of the prevention of public nuisance licensing objective, the Sub-Committee noted the importance of focussing on the effects 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 also noted this may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. The Sub-Committee noted that there are residential premises above, beside and opposite the licensed premises. The Sub-Committee noted the phone calls to the Applicant by members of the public complaining about loud music coming from the premises after the hours permitted by the licence, and in particular the Sub-Committee noted the Witness Statement submitted by the Applicant as to the impact of noise, and anti-social behaviour on local residents. The Sub-Committee also noted that there were breaches of the licence conditions in that there was no Dispersal Policy, and no Signage displayed asking customers to leave quietly.
6. In respect of the public safety licensing objective, the Sub-Committee noted breaches of the licence conditions relating to CCTV, use of an identification scanning device, the deployment of SIA door staff, the searching of members of the public at the premises and the failure by the licence holder to produce the documents referred to above.
7. The Sub-Committee was mindful that where it considers action under its statutory powers is appropriate, a licensing authority may take any of a number of steps, namely modify the conditions of a premises licence, exclude a licensable activity from the scope of the licence, remove the designated premises supervisor, suspend the licence for a period not exceeding three months, or revoke the licence. As provided by the Statutory Guidance, in deciding which power to invoke, the remedial action taken should always be no more than an “appropriate and proportionate response to address the causes of concern that instigated the review”.
8. As regards removal of the designated premises supervisor, the Sub-Committee was mindful of the Statutory Guidance which provides the

removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual. Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. In this respect, the Sub-Committee noted the licence holder had accepted there was a need to remove and replace the designated premises supervisor. However, the Sub-Committee noted that the licence holder had not identified another individual to become the designated premises supervisor after 7 months.

9. The Sub-Committee also noted the representation on behalf of the licence holder that other appropriate and proportionate measures would be a suspension of the licence to permit time for training, and the modification of certain of the licence conditions relating to the number of SIA door staff, when they should be deployed, the wearing of body worn cameras, and the searching of customers. The Sub-Committee was also mindful that as provided by the Statutory Guidance, “it will always be important that any detrimental financial impact that may result from a licensing authority’s decision is appropriate and proportionate to the promotion of the licensing objectives”.
10. However, the Sub-Committee was also mindful that as provided by the Statutory Guidance “where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence”.
11. The Sub-Committee noted that the Applicant considered the cause of the concerns was the management of the premises, and the Applicant had lost faith in the licence holder’s ability to operate the premises safely and responsibly in accordance with the licence conditions, and consistently with the licensing objectives. The Sub-Committee also noted the lack of any positive response by the licence holder to the many attempts by the Applicant to work with him, and the serious and persistent breaches of the licence conditions over the last 7 months. For these reasons, the Sub-Committee considered that in the circumstances the suspension of the licence, the modification of the licence conditions, and the removal of the designated premises supervisor were insufficient and inadequate measures to address the causes of the concerns, and that it was appropriate and proportionate and would support the licensing objectives to revoke the licence.
12. 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.

116/22 **Exclusion of the Press and Public**

This item was not required.

The meeting ended at 4.19 pm

Signed:

Date:

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