

Licensing Sub-Committee

Meeting of held on Friday, 17 November 2023 at 10.30 am in MS Teams

MINUTES

Present: Councillor Patsy Cummings (Chair);
Councillors Margaret Bird and Nina Degrad

PART A

69/22 Appointment of Chair

It was **MOVED** by Councillor Bird and **SECONDED** by Councillor Degrad and **RESOLVED**, to:

Appoint Councillor Patsy Cummings as Chair for the meeting.

70/22 Disclosure of Interests

There were none.

71/22 Urgent Business (if any)

There were no items of urgent business.

72/22 Licensing Act 2003 - Application for a Premises Licence at 314 Whitehorse Road, Croydon, CR0 2LE.

The Chair outlined the procedures for the Licensing Hearing in line with the Licensing Act 2003 and the Council's protocol. The applicant and their representative were both present. Apologies were given by the objector and their representative was present but did not wish to be identified.

The Head of Environmental Health, Trading Standards and Licensing introduced the report and explained the application was for a premises licence at Adjoa's Kitchen Limited, 314 Whitehorse Road Croydon for the sale by retail of alcohol Monday - Sunday, 12.00pm - 11.00pm, for consumption of alcohol on the premises. The application had received one representation from a local resident, the details of this were

available in the agenda pack at appendix A2. It was noted that whilst the objector was not present their representations remained relevant and for consideration by the Sub-Committee.

In response to questions from the Sub-Committee officers advised there was no licence currently held by the premises. It was noted that the sale of alcohol, not the consumption, was the licensable activity.

The Sub-Committee asked officers to verify the multiple noise complaints cited in the objector's written representations. Officers advised two noise complaints had been reported to the Council's Noise Pollution Team but no nuisance had been witnessed.

The applicant was given the opportunity to speak. Their representative advised the Sub Committee:

- They had spoken to all their neighbours and had signed agreement from neighbours in support of the premises' alcohol license application.
- There was a flat above the premises which caused noise nuisance at weekends.
- There was a bus stop and pathway outside the premises which the staff sometimes cleaned.
- There was no intention for alcohol to be consumed outside the premises.
- The premises had a large refuse bin and did not cause litter in the vicinity.
- They were in good standing with the neighbours and businesses and queried whether the objector lived close to the premises.

In response to questions from the Sub-Committee the applicant's representative advised:

- The premises currently closed between 10.00pm and 10.30pm.
- There was no alcohol currently consumed on the premises. The application for an alcohol license had been made to aid the business.
- The garden space at the rear of the premises was used rarely, for customers to sit outside during the summer.
- The garden space had shared access with the premises' upstairs neighbours.
- The upstairs neighbours had a large outside space upstairs which they used for parties. The applicant had spoken with the neighbours on a couple of occasions regarding the disturbance caused by their music.
- They had contacted their shared landlord about the noise disturbance.

The Sub-Committee queried how the applicant communicated with the community and other local businesses and how neighbours could contact the applicant should they have any concerns to raise. The applicant's representative advised the upstairs property was residential and not affiliated with the premises. They had previously spoken with the residents regarding noise and had now written to their landlord. The neighbour's parties took place in the evenings after the restaurant had closed.

The applicant's representative described the business as an African style restaurant with diverse customers and explained the layout of the premises. The premises had been operating for 3 years and they believed having an alcohol license would help their business and noted at present no alcohol was sold. Soft music was played via the television in the premises, there was no music system or loudspeakers.

In response to questions from the Sub-Committee the applicant's representative advised:

- They discouraged customers from being loud so as to not disturb other customers.
- The outside seating was for 4-6 people, inside seating was 18-20 people.
- A lot of the restaurant's business was for takeaways and home delivery.

The Sub-Committee requested clarification from officers on whether visits to the premises had taken place following the two noise complaints. There had been a visit made after the first complaint and a Council officer had spoken with the applicant who had denied the allegations. The complainant had been provided with the officer's contact telephone number. The allegations had not been witnessed by officers.

Officers advised there were several businesses in the immediate vicinity with both on and off sales licenses.

The objector's representative advised the objector had been a local resident for more than 50 years, the representative also lived nearby and had not received letters or communication regarding the license application from the premises. There were several other residents who had concerns but did not submit objections for fear of retribution. Officers confirmed the objecting party was a local resident.

The Sub-Committee asked the applicant to address the concerns included in the objector's written representations. The applicant's representative stated:

- They had never had any complaints about noise from the premises and had not been contacted by the Council.
- The premises would only sell alcohol for consumption on the premises. People sat at the bus stop outside the premises drinking alcohol they had bought elsewhere. The litter was not from the premises customers and the staff cleaned the area.
- There had been no noise complaints, or visitations regarding this.
- The resident could speak to the applicant, call the police or council.
- There was an issue with urination outside the premises due to the bus stop, which the premises sometimes had to clean.
- There were no public bins in the area.

The Sub-Committee asked if the premises had provision in place to manage the noise of customers standing outside the premises to smoke. The applicant's representative advised they would encourage customers to stand away from the premises and tell patrons to be mindful of residents.

Officers clarified the Council's Noise Pollution Team had spoken to the applicant on two occasions on the telephone.

The objector's representative stated:

- The Council's Noise Pollution Team had been contacted with complaints on many other occasions.
- There was a lot of rubbish in area.
- The noise issues were from March to October.
- There were often far more than 4 people in the garden to the rear of the premises.

Officers noted that when a license was granted, the holder must uphold the licensing objectives and the relevant authorities; Council and Police Licensing Team, would take a keen interest in any complaints.

The applicant's representative advised they had a lockable industrial rubbish bin, they had not been contacted or visited by the Council regarding noise and if the license were granted they would abide by the law.

The Chair advised attendees that parties would be notified of the outcome of the hearing within 5 working days and thanked those present for their participation.

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

LONDON BOROUGH OF CROYDON STATEMENT OF LICENSING SUB-COMMITTEE DECISION

The Licensing Sub-Committee considered the Application for a Premises Licence at **314 Whitehorse Road Croydon CR7 7PB** and the representations received as contained in the report of the Corporate Director, Sustainable Communities, Regeneration & Economic Recovery.

The Sub-Committee also considered representations made on behalf of the Applicant by their representative, and representations made on behalf of an objector during the hearing. The Sub-Committee also considered the written representations made by the objector, which were contained in the report.

The Sub-Committee, having reference to the licensing objectives under the Licensing Act 2003, the Revised Guidance issued under section 182 of the

Licensing Act 2003 (the Statutory Guidance) and the Council's Statement of Licensing Policy 2023-2028, **RESOLVED to GRANT** the Application on the basis that the Sub-Committee were satisfied that it would be appropriate to promote the licensing objectives to do so. The Sub-Committee considered that in particular, the objective of the prevention of public nuisance was relevant in relation to the consideration of the matter.

The reasons of the Sub-Committee were as follows:

1. In respect of the prevention of public nuisance objective, the Sub-Committee noted the importance of focussing on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable, as is recommended by the Statutory Guidance. In this regard the Sub-Committee considered the concerns raised relating to very loud music and noise in the garden at the back of the premises, broken glass and food containers littering the pavement, and the smell of urine and intimidating behaviour.
2. The Sub-Committee also considered representations made by the objector's representative, the Applicant and the Licensing Officer in relation to two complaints concerning noise nuisance at the premises. The Sub-Committee noted that one complaint had been made in August and one in October, and that the Council had contacted the Applicant about these matters, which had been denied.
3. The objector's representative suggested that there had been complaints on many other occasions. Conversely, the Applicant suggested that many local residents and businesses had been contacted and had signed letters of support for the Application. No other evidence of these matters was put before the Sub-Committee, and the Sub-Committee noted that a constructive dialogue between the Applicant and local businesses and residents may assist with dealing with any issues which may arise in future.
4. The Sub-Committee were aware, and had reference to the Statutory Guidance which provides that, beyond the immediate area surrounding the premises, noise nuisance, anti-social behaviour etc. are matters for the personal responsibility of individuals under the law. An individual who engages in antisocial behaviour is accountable in their own right.
5. The Sub-Committee also noted representations from the Applicant that the garden at the back of the premises was only used on a small number of occasions, that loud music sometimes emanated from a flat above the premises and that the premises had no sound system of their own, that customers were not allowed to consume alcohol on the premises, and that broken bottles and littering did not emanate from the premises. The Sub-Committee also heard evidence from the

Licensing Officer that there were a number of other premises in the immediate area who were licensed to sell alcohol for consumption on and off the premises.

6. With regard to noise from the garden at the back of the premises, the Sub-Committee noted the relevant provisions of the Operating Schedule comprised in the Application, including that there shall be no noise emanating from the premises which gives rise to a nuisance, and that notices be prominently displayed in smoking areas and at exits requesting patrons to respect the needs of local residents and businesses and use/leave the area quietly.
7. The Sub-Committee noted there was no objection to the Application from Environmental Health, which is the main source of advice in relation to the public nuisance licensing objective.
8. The Sub-Committee noted that there was no objection to the Application from the Police, and noted also that in accordance with the Statutory Guidance the Police should usually be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective.
9. The Sub-Committee also noted representations from the Applicant that they were a well-established local business, being an African-style restaurant with customers from many different backgrounds. The Sub-Committee noted that in the Statement of Licensing Policy, it is recognised that the diversity of premises selling alcohol, and serving food covers a wide range of contrasting styles and characteristics and full regard will be had to those differences and the differing impact these will have on the local community.
10. Having regard to all of the above matters, the Sub-Committee concluded it would be appropriate to promote the licensing objectives to grant the Application.
11. The Sub-Committee wished to thank all participants for engaging with and supporting the hearing.

The meeting ended at 11.33 am.

Signed:

Date:

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