

Licensing Sub-Committee

Meeting of held on Thursday, 7 December 2023 at 10.30 am in MS Teams

MINUTES

Present: Councillor Patsy Cummings (Chair);
Councillors Danielle Denton and Ria Patel

PART A

73/22 **Appointment of Chair**

It was **MOVED** by Councillor Denton and **SECONDED** by Councillor Patel and **RESOLVED**, to:

Appoint Councillor Patsy Cummings as Chair for the meeting.

74/22 **Disclosure of Interests**

There were none.

75/22 **Urgent Business (if any)**

There were no items of urgent business.

76/22 **Application for Review of a Premises Licence at Efie Ne Fie, 50 High Street, Thornton Heath, CR7 8LF.**

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

Kay Jones, Licensing Compliance Officer; Peter Wright and Zoe Garrod, Metropolitan Police; Claire Nevin, Legal representative to the Metropolitan Police; Roberta Asafu-Adjaye the Premises Licence holder and Aaron Asafu, the Designated Premises Supervisor were all present.

The Licensing Officer introduced the report to the Sub-Committee. It was noted that premises licence holders were required to promote the four

licensing objectives; the prevention of crime and disorder, the prevention of public nuisance, public safety and the prevention of children from harm. Responsible authorities and other persons were able to apply for a review of a premises licence if they believed these objectives were being compromised. Once a formal application for review was made, the Licensing Sub-Committee was tasked to consider this at a review hearing and had the following options:

- To modify the premises licence
- To exclude the licensable activity from the scope of the licence
- To remove the Designated Premises Supervisor
- To suspend the license for a period not exceeding 3 months
- To revoke the licence
- To take no action

The Licensing Officer explained the nature of the application for consideration was a review of the premises licence at Efe Ne Fie, 50 Highstreet, Thornton Heath, CR7 8LF. The application for the review had been made by the Metropolitan Police. The premises licence had been granted on 31 March 2016 for the sale by retail of alcohol, Monday to Sunday 10.00am – 10.30pm.

Other parties were given the opportunity to speak. Kay Jones, Licensing Compliance Officer advised they had visited the premises several times in conjunction with the Police since 2020 and on each occasion witnessed breaches of one or more of the premises licence conditions. On the most recent visit changes to the layout of the premises to include an additional bar had been made. The request for the submission of plans for this variation had not been received to date. The Licensing Compliance Officer stated their support for the review application, as the conditions of the premises licence were not being met.

The applicant was given the opportunity to speak. Claire Nevin representing the Metropolitan Police advised the Sub-Committee Efe Ne Fie was located on the busy Thornton Heath Highstreet nearby to Crystal Palace Football Club and saw increased footfall on match days. The Highstreet was part one of the Council's cumulative impact areas due to antisocial behaviour and alcohol related crime and hospital admissions.

The Premises Licence included five conditions including the requirement for CCTV, a refusals register, an incidents log book, adherence to Challenge 25 and for staff to receive training on this policy. The prevention of Crime and Disorder objective and the importance the Licensing statutory guidance placed on CCTV were highlighted.

The Police were seeking revocation of the premises licence due to clear and consistent breaches of the conditions. The premises licence holder had been given many opportunities to operate the premises in accordance with the conditions over three years of interactions with the Police. There had been frequent interventions and warnings given since 30 December 2019 onwards. It was felt the level of crime and disorder had escalated and therefore the

Police had lost faith in the ability or willingness of the premise license holder to promote the licensing objectives.

The crime and disorder incidents and Police communications with the premises licence holder included in the report pack were described chronologically for the Licensing Sub-Committee. It was noted a stepped approach had been taken and the application for a review and revocation were not taken lightly.

Aaron Asafu, Designated Premises Supervisor (DPS) were given the opportunity to speak and advised the Licensing Sub Committee:

- The premises' layout had been changed which had caused the issues with CCTV cameras.
- The premises had recently bought a new CCTV system which had only been saving for 16-18 days, meaning the police were unable to use it to view the most recent incident. This had now been rectified and the CCTV was saved for up to 32 days.
- The premises was now fully compliant. There were challenge 25 signs in the premises and the incident report book, training logs and sale refusal register were up to date.

Roberta Asafu-Adjaye, the Premises License Holder advised the Sub-Committee they were not aware of the police incidents cited from 2020. They were running the business to provide for their family. It had been their intention to apply for a licence once the extension of the premises was completed.

In response to questions from the Sub-Committee it was advised:

- The CCTV had been purchased following a visit by the Council Licensing Officer and the issue of the system not recording had been discovered in 2023. The first issues with the CCTV not recording had been raised in 2019.
- There were no other staff working at the premises and both the DPS and Premises licence holder were trained in the Challenge 25 policy.
- The extension building works to the premises were not complete and it was their intention to apply for a licence for the area once ready for use.
- The extended area was not currently in use.

The Sub-Committee noted the numerous breaches which had occurred since 2019 and commented that it was the responsibility of premises license holder to rectify issues as they occurred and that all licence conditions should be adhered to from when the licence was granted. The DPS advised they had learnt from their mistakes and had now rectified the CCTV issue. They were not aware of the 2020 incidents and the DPS had become more involved in the business recently.

The Sub-Committee advised there should have been training in place to ensure compliance with the licensing objectives and understanding of the

need to rectify any breaches. The premises license holder did not remember the police incidents in 2020 and advised the premises had not been open for a period after the Covid-19 lockdown. There had been issues with a CCTV engineer and the premises had not been aware the CCTV system was not recording.

The Sub-Committee queried whether there had been an incident log book at the time of the 2020 incident. It was advised the incident log book from 2020 was not available and the current incident book had been in use since 2022. It was clarified that the premises had not been closed for over year during Covid-19 as there had been police incidents recorded at the premises during this time.

Claire Nevin representing the Metropolitan Police advised:

- There had been a recent incident (5 October 2023) at the premises where the police had sought access to CCTV and the premises licence holder had been obstructive, refused access to the CCTV and incorrectly suggested the police required a warrant.
- The police had been unable to investigate numerous serious allegations of crime at the premises and the premises was not upholding the prevention of crime and disorder licensing objective. It was noted the premises licence holder had responded to emails regarding the 2020 incident.
- Personal circumstances and impact were not part of the considerations of the Licensing Sub-Committee.

Aaron Asafu, Designated Premises Supervisor (DPS) advised they had learnt from their mistakes and welcomed a visit to show that everything was now up to date. Roberta Asafu-Adjaye, the Premises License noted it was a family business and it was supporting their family.

The Chair thanked those present for their attendance.

After the hearing the Sub-Committee withdrew to the virtual deliberation room and **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 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 Review of the Premises Licence at **Efie Ne Fie 50 High Street, Thornton Heath CR7 8LF** made by the Police as a responsible authority under section 51 of the Licensing Act 2003 on the grounds of the prevention of crime and disorder.

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/Licensing Compliance Officer 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, and by, and on behalf of the premises licence holder during the hearing.

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 (August 2023) (“the Statutory Guidance”) and the Council’s Statement of Licensing Policy 2023-2028, **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 in accordance with the licence conditions, 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. As regards the condition relating to CCTV, the Sub-Committee noted that the Croydon Council Environmental Health Practitioner/Licensing Compliance Officer had visited the premises on 11.1.2020, 31.1.2020, 24.10.2020, 19.7.2023, 14.8.2023, 15.8.2023 and 6.10.2023, and on each occasion this condition was not being complied with.
3. The Sub-Committee also noted, following an allegation of common assault on 30.12.2019, the visit to the premises by the Applicant on

11.1.2020 and the follow-up letter dated 14.1.2020, and the further visit and follow-up letter on 31.1.2020. The Sub-Committee also noted, following an allegation of a phone being stolen on 28.7.2020, the visit to the premises by the Applicant on 6.8.2020, and the follow-up letter on 7.8.2020.

4. The Sub-Committee also noted, following an allegation of a knife attack on 17.7.2023, the visit to the premises by the Applicant on 19.7.2023 and the follow-up letter dated 19.7.2023. In addition, the Sub-Committee noted, following an incident involving a 17 year-old girl on 13.8.2023, the visit to the premises by the Applicant on 15.8.2023 and the follow-up letter on 17.8.2023. The Sub-Committee also noted, following an allegation of crime on 24.9.2023, visits to the premises by the Applicant on 5.10.2023, and on 6.10.2023 and the follow-up letter dated 6.10.2023.
5. The Sub-Committee also noted 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 her. The Sub-Committee also noted that on the visit to the premises on 5.10.2023, the premises licence holder was obstructive and refused to let officer view the CCTV, even though this is a condition on the premises licence.
6. The Sub-Committee also noted the Applicant had been unable to investigate fully the alleged crimes at the premises due to the lack of CCTV evidence, and that there had recently been an increase in the allegations of violent crimes at the premises. The Sub-Committee noted that the premises licence condition relating to CCTV required the premises licence holder not only to install a CCTV system, but to ensure the system was operational at all relevant times. In particular, the Sub-Committee noted the requirement for the CCTV system to “record whenever licensable activities are being provided and whenever customers are on the premises”, and the requirement that “recordings shall be kept for a minimum of 31 days and shall be made available to Police or authorised Council officers on request”, and also the requirement that “there shall always be a member of staff on the premises who is conversant with the operation of the CCTV system, and who is able to provide recordings without delay”. The Sub-Committee noted the many breaches of these requirements.
7. The Sub-Committee also noted there had been persistent breaches of the other licence conditions. In particular, in the Applicant’s letter dated 11.1.2020 it had been noted there were breaches of all five of the licence conditions, and in the Applicant’s letter dated 31.1.20 it had been noted that there were breaches of the licence conditions relating to staff training records, an incident book and a refusals register, and in the Applicant’s letter dated 6.10.2023 it had been noted there were

breaches of the licence conditions relating to staff training records and a refusals register.

8. 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”.
9. 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 that no proposal had been made by the licence holder to remove and replace the designated premises supervisor.
10. The Sub-Committee also noted the representations by and on behalf of the licence holder as to the financial impact of revoking the licence on the licence holder, and that the Statutory Guidance provides “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...”
11. 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”.
12. The Sub-Committee noted that the Applicant considered the licence holder had shown a total disregard for supporting the prevention of crime and disorder licensing objective, and had no intention of operating the premises in accordance with the licence conditions. 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 her, and the serious and persistent breaches of the licence conditions over several years. 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.

13. The Sub-Committee wished to thank all participants for the manner in which they engaged with and supported the hearing.

77/22 Exclusion of the Press and Public

This was not required.

The meeting ended at 11.40 am

Signed:

Date:

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