

LICENSING SUB-COMMITTEE

Minutes of the meeting held at 10.00 am on 20 November 2023

Present:

Councillor Nicholas Bennett J.P. (Chairman)
Councillors Melanie Stevens and Sam Webber

1 APPOINTMENT OF CHAIRMAN FOR THE MEETING

Councillor Nicholas Bennett was appointed as Chairman for the meeting.

2 DECLARATIONS OF INTEREST

There were no declarations of interest.

3 APPLICATION FOR A NEW PREMISES LICENCE AT LOPETO CAFE AT PRIORY GARDENS HIGH STREET ORPINGTON BR6 0HH

Mr Slaney pointed out that the application had been amended to stop alcohol sales at 21:30 rather than 22:00.

Applicant's Case:

The premises currently sold hot and cold drinks as well as food and customers had expressed a wish for alcohol to be on sale as well.

Questions to the applicant:

Cllr Webber asked if alcohol would be sold through delivery apps. The owner said it would not.

Cllr Stevens asked about the park closing time. The owner said the rear door that had access to the park could be locked earlier than 8 pm, so it was not open when the park was closed.

In response to questions from the licensing officer, the owner confirmed there were no plans for live entertainment outside during the summer, nor were there speakers projecting outside.

Objectors' case:

There were no objectors present.

The licensing officer offered to read out the representations from Cllr Mrs Botting, however Members said they had already noted them in the agenda pack.

Final comments from applicant:

The owner stated the premises were used by a wide range of customers and that its use brought activity and natural surveillance to the park.

Summary of decision:

Following an adjournment, Members returned and the Chairman announced the licence would be granted subject to the conditions agreed between the applicant and police but with an amended condition 1.

Reasons

The following are the reasons for the decision.

The Licensing Sub-Committee carefully considered the application for a new premises licence at Lopeto Cafe at Priory Gardens High Street Orpington BR6 0HH. In doing so, they had regard in particular to:

- The four licensing objectives
- The Council's current Statement of Licensing Policy
- The Secretary of State's guidance issued under section 182 of the Licensing Act 2003 (December 2022)
- The application and all representations

Members noted the absence of any objection from any responsible authority. In relation to the police, they did not object provided that their conditions were attached, which the applicant said they agreed to. Members were therefore reassured in relation to the prevention of crime and disorder.

Members took into account the Council's Statement of Licensing Policy, that the access of children to licensed premises would only be limited where it was necessary for the prevention of physical, moral or psychological harm (P27). No such harm was identified. There was no objection from the Child Protection Team, and the applicant agreed to a Challenge 25 scheme condition. Members therefore reached the conclusion that children would be protected from harm.

In particular, in light of the training and incident register conditions, there was no reason for Members to believe public safety would be at risk.

When it came to public nuisance, Members took the concerns raised by local residents seriously, as well as the comments of the ward councillor. Members were conscious though that pre-existing problems could not be visited upon the applicant. The premises was not in an area of cumulative impact, there were no complaints about the current manner in which the premises were being operated or used, and there was some distance to residential properties. The applicant had agreed to a condition prohibiting vertical

drinking and the premises would be a café rather than a pub or bar. The applicant had also amended the application to bring forward last sales to 30 minutes before closing. Condition 1 would help protect the public, but in order to be consistent, Members decided that it should be revised to make the time of locking the rear door the same as the closing of the park.

On balance, Members were satisfied that any public nuisance would not be disproportionate or unreasonable. Accordingly, the objective of preventing public nuisance would be met.

The Licensing Sub-Committee therefore decided to grant a new premises licence for Lopeto Cafe at Priory Gardens High Street Orpington BR6 0HH in accordance with the application as amended, for the supply of alcohol to finish at 21:30 and subject to the agreed conditions as set out on pages 42 and 43 of the hearing bundle, but with condition 1 amended to read “The rear door that has access to the park will be closed and locked at the same time as when the park is closed.” Those conditions were necessary in order to uphold the licensing objectives.

4 TEMPORARY EVENT NOTICE FOR FETHR LOUNGE LTD, 145 – 147 CROYDON ROAD, BECKENHAM, BR3 3RB FOR 30TH – 31ST DECEMBER 2023

4.1 Applicant’s absence:

Prior to the start of the hearing, Mr Slaney had informed Members that efforts were being made to contact the applicant, as neither he nor an agent were present.

At the start of this item, Mr Phillips reiterated that both landline and mobile phone numbers had been rung. Either there was no reply or the call went to voicemail. Mr Phillips had managed to speak to one person, but that individual was unaware of today’s hearing. Members were satisfied that the applicant had been given proper notice of the hearing and that it was just to proceed in his absence.

4.2 Objectors Case

The environmental health officer stated a possible breach of the noise abatement notice was being investigated. He alleged the licence holder was not currently complying with the premises licence and that he did not think the licence holder would comply with any limitations of this application.

The police officer informed Members that the objection was maintained.

There were no questions and no representations in support.

4.3 Summary of decision:

Following an adjournment, Members returned and the Chairman announced the objections were supported and a counter notice would therefore be given.

4.4 Reasons

The following are the reasons for the decision.

The Licensing Sub-Committee carefully considered the temporary event notice for Fethr Lounge Ltd, 145 – 147 Croydon Road, Beckenham, BR3 3RB for 30th – 31st December 2023. In doing so, they had regard in particular to:

- The four licensing objectives
- The Council's current Statement of Licensing Policy
- The Secretary of State's guidance issued under section 182 of the Licensing Act 2003 (December 2022)
- The application and all representations

The abatement notice demonstrated public nuisance was not being prevented. Members were troubled by reports of there continuing to be complaints and the notice apparently not being complied with.

The applicant was not present to provide any explanation and the event would be limited to an additional 2.5 hours beyond the current opening hours.

However a closing time of 3:00 am was late and in light of the history of enforcement and complaints, Members were not satisfied the event would not lead to disproportionate and unreasonable impacts on residents, resulting in public nuisance. As a consequence, the event would undermine the licensing objectives and should not take place, so a counter notice would be given.

Chairman