

Crawley Borough Council

Minutes of Licensing Sub-Committee

Monday, 12 February 2024 at 10.30 am

Councillors Present:

M L Ayling, T G Belben and I T Irvine

Officers Present:

Georgina Bouette	Head of Community Services
Dan Carberry	Public Protection and Enforcement Manager
Warren Jones	Senior Licensing Officer
Kareen Plympton	Team Leader - Health, Safety and Licensing
Jess Tamplin	Democratic Services Officer
Astrid Williams	Senior Lawyer (Solicitor)

Also in Attendance:

For the Premises	Noel Samaroo (Licensing Consultant)
	Lutfi Neza (Business Owner)

1. Appointment of Chair

RESOLVED

That Councillor Belben be appointed Chair for the hearing.

2. Disclosures of Interest

No disclosures of interests were made.

3. Applications to Vary and to Review the Premises Licence - Mon Ami, 20 Broad Walk, Northgate, Crawley, RH10 1HQ

The Sub-Committee considered an application to vary and an application to review the premises licence held in respect of Mon Ami, 20 Broad Walk, Northgate, Crawley, RH10 1HQ.

Following the introduction of those present, the Senior Lawyer outlined the procedure to be followed at the hearing. It was highlighted to all parties that the Sub-Committee had requested a pre-meeting with the Senior Lawyer and Democratic Services Officer prior to the commencement of the hearing, to confirm the procedure that would be followed. It was confirmed that the Sub-Committee had not asked for clarification of any aspect of the application or on the representations received from any party.

The Senior Lawyer then asked all parties present if they wished to make any relevant applications, for example additional information or to cross-examine any party. No applications were made.

It was proposed by the Chair that the Sub-Committee consider the application to vary the premises licence and the application to review the premises licence at the same time, so taking agenda items four and five together. It was heard that the two matters comprised the same issues and were based on the same evidence, so all information contained within the agenda was relevant to both items. The Senior Lawyer invited all parties to comment on the proposed way forward. Some parties expressed support for the approach and no objections were raised, so the approach was agreed.

The Applications

Reports [HCS/076](#) and [HCS/077](#) of the Council's Head of Community Services were summarised by Dan Carberry, Public Protection and Enforcement Manager for Crawley Borough Council.

The Sub-Committee was informed that on 29 November 2023, the Premises Licence Holder (PLH) for the premises known as Mon Ami (20 Broad Walk, Northgate, Crawley, RH10 1HQ) had submitted an [application](#) to the Council as the licensing authority for the borough of Crawley for a variation of the existing licence in accordance with the provision of the Licensing Act 2003.

It was confirmed that the application had been advertised in accordance with legislation, and as a result of the consultation process, the Council had received a relevant representation from Kareen Plympton, Health Safety and Licensing Team Leader for Crawley Borough Council (included with the report at Document 1).

The Sub-Committee was then guided through the remainder of the report which set out the reasons for the hearing and the matters which the Sub-Committee should take into consideration when dealing with the application, including the relevant sections of the Guidance issued by Government pursuant of Section 182 of the Licensing Act 2003, and the Council's policy considerations. The reasons for the hearing being held were on the grounds that the licence holder was not promoting the statutory licensing objectives of the prevention of crime and disorder, public safety, and the protection of children from harm. A number of premises licence conditions had been breached, including those relating to smoking and alcohol consumption, which had led to concerns about the operation of the premises. However the involved parties had since held discussions to try to resolve matters and a memorandum of agreement had been created which satisfied all parties.

The Sub-Committee was informed of the options available to it in respect of the application, and it was highlighted that any decision must be appropriate for the promotion of the four Licensing Objectives. The options were to:

- (i) Consider that no steps are necessary to address matters.
- (ii) Issue an informal warning.
- (iii) Modify the conditions of the premises licence (i.e. adding new conditions or any alteration to or omission of existing conditions).
- (iv) Exclude a licensable activity from the scope of the premises licence.
- (v) Remove the Designated Premises Supervisor.
- (vi) Suspend the licence for a period not exceeding three months.
- (vii) Revoke the licence.

Questions asked by the Sub-Committee of the Council's Public Protection and Enforcement Manager

The Sub-Committee then asked the following questions of the Council's Public Protection and Enforcement Manager:

Questions by the Sub-Committee	Response (<i>Dan Carberry</i>)
<p>The report states that children are allowed unrestricted to the premises. There is a particular concern about smoke inhalation by children. Did council officers themselves witness children at the premises?</p>	<p>I will defer to Kareen Plympton to answer this question as she has more information on the matter.</p> <p><i>(Kareen Plympton)</i> Officers did not witness children at the premises, but the premises licence allows the presence of children, so this could have occurred.</p>
<p>Smoking in an enclosed space is a criminal offence, so has a prosecution route been followed in regard to the illegal smoking witnessed on the premises?</p>	<p>That matter is covered by different legislation so would be progressed slightly differently. It is a matter still under consideration.</p>

The Responsible Authority

Kareen Plympton, on behalf of Crawley Borough Council as the responsible authority, addressed the Sub-Committee and made the following submissions:

- A number of breaches of the Licensing Act 2003, the Smoke-free Regulations 2006, and the premises licence conditions had been reported and witnessed, of which details were set out in Appendices A-M of the agenda.
- Individuals in charge of the premises were cautioned about the offences taking place but had not been receptive to interventions or discussions.
- Discussions had since taken place with the business owner who had provided reassurance that work had been undertaken to improve the operation of the premises, such as the removal of the individuals previously cautioned and the provision of training to staff. A change of culture was promised and new licence conditions were agreed to support this.
- The responsible authority supported the memorandum of agreement that had been created and sought to move forward positively with the premises to ensure future compliance.

Questions asked by the Sub-Committee of the Responsible Authority

The Sub-Committee then asked the following questions of the responsible authority:

Questions by the Sub-Committee	Response (<i>Kareen Plympton</i>)
<p>The memorandum of agreement states that the parties agree to condition 1b, which states that food would be available throughout the time that alcohol was to be served.</p>	<p>The original condition on the application that required a table meal to be served with an alcoholic drink was agreed between the PLH and Sussex Police. This agreement removes that condition so the food available can be of</p>

Questions by the Sub-Committee	Response (<i>Kareen Plympton</i>)
<p>What is the definition of food in this instance? Would a substantial meal be required?</p> <p>I understand this has now been agreed with Sussex Police, however would it be possible to strengthen the agreement to specify a minimum amount of food that is required alongside an alcoholic drink?</p>	<p>any type or size.</p> <p>The application to vary the premises licence which is in front of the Sub-Committee today sought to remove the requirement to serve a table meal. The premises would like the ability to offer people drinks without a meal. Food is available if customers would like but the agreement sets out that it is no longer required.</p>
<p>Please can the definition of 'no vertical drinking' be further explained? Will customers be able to stand or sit at the bar with a drink?</p>	<p>The conditions specify that customers must be seated and will place their orders via a waiter service. They would be permitted to sit at the bar if they were being served by a waiter or bartender. 'No vertical drinking' implies that there would be a 'no standing' rule.</p>
<p>How many tables and customers will the premises cater for? Is this covered by the premises licence?</p>	<p>The number of covers is not currently specified in the premises licence, but the Sub-Committee could choose to include this in the licence if desired.</p>

Premises

Noel Samaroo addressed the Sub-Committee in relation to the applications and made the following submissions:

- The initial application for the premises licence had been made by an agent on behalf of the business owner, but key information had been omitted which had led to misunderstandings and miscommunications, particularly about the permitting of smoking on the premises.
- The previous DPS and PLH had been removed from their post after failing to resolve issues and being unwilling to cooperate with the business owner or the licensing authority. The business owner was now the appointed DPS and PLH.
- There was no evidence of crime and disorder at the premises and the lack of representations from Sussex Police reflected this. The Police had initially required the premises licence to state that food must be served alongside alcohol, but discussions had led to their agreement that it was acceptable to instead operate as a bar/café with the option of having food available to customers.
- The premises and the responsible authorities were now seeking to work together and the signed memorandum of agreement reflected this.

Questions asked by the Sub-Committee of the Premises

The Sub-Committee then asked the following questions of the premises:

Questions by the Sub-Committee	Response (Noel Samaroo)
Does the previous PLH have any financial involvement in the business?	The previous DPS/PLH was not an owner of the business and has never had or will have financial involvement in it.
We mentioned previously the number of customers the premises can cater for. How many covers are there currently?	We are not completely certain but there are approximately 100 covers.
Who paid for the retracting roof at the rear of the premises?	My client, the business owner, paid. The previous PLH was an employee, did not contribute financially, and was unwilling to work with the business owner. He did not report the conversations with the licensing authority back to the business owner until much later down the line.

Questions asked by the Responsible Authority of the Premises

The responsible authority then asked the following questions of the premises:

Questions by the Responsible Authority	Response (respondent in brackets)
Can I ask the business owner to respond to this question – what exactly is their day-to-day involvement in the business?	<p>(Lutfi Neza) I have taken over as DPS and PLH and will be on the premises at all times.</p> <p>(Noel Samaroo) My client has invested his own money into this business and understands the importance of being present to oversee what is happening at the premises. He has a personal licence and is experienced in running a similar business.</p>

Closing Statement by the Responsible Authority

Kareen Plympton made the following points in their closing statement:

- Assurances had been provided that the premises was now seeking to cooperate with its licence conditions and with the responsible authority. This was reflected in the change of management, change in culture, removal of smoking paraphernalia, and changes to licence conditions.
- Training materials had been provided as evidence but the premises was asked to note that these required updating.
- Any future transgressions would be dealt with by the licensing authority as appropriate, but it was hoped that the licensing objectives would be promoted.
- It was recommended that the Sub-Committee approve the memorandum of agreement.

Closing Statement by the Premises

Noel Samaroo made the following points in their closing statement:

- The premises sought to work with the licensing authority and wished to adhere to the licence conditions in order to run a compliant and successful business.
- There was confidence that the removal of the previous PLH/DPS would prevent future breaches.
- The premises would be happy to cooperate if the Sub-Committee were to propose the addition of further conditions.

The Chair announced that the Sub-Committee would undertake its deliberations in private and the hearing would resume upon the reaching of a decision.

The meeting was temporarily adjourned at 11:20 am.

4. Applications to Vary and to Review the Premises Licence - Mon Ami, 20 Broad Walk, Northgate, Crawley, RH10 1HQ

The Chair declared the hearing re-open for consideration of business in public session.

It was heard that the Sub-Committee had given further consideration to the application and to the matters raised at the hearing. In formulating its decision, the Sub-Committee took into account the options that were available to it and considered what was appropriate to ensure that the licensing objectives were promoted.

The Senior Lawyer, on behalf of the Sub-Committee, read out the Sub-Committee's decision as detailed in **Appendix A** to these minutes. It was also announced that all parties would receive a copy of the decision within five working days of the hearing.

RESOLVED

The Sub-Committee, having considered the application and the relevant representation in detail, resolved to take the actions detailed in **Appendix A** to these minutes, because it was considered appropriate to promote the licensing objectives.

Closure of Meeting

With the business of the Licensing Sub-Committee concluded, the Chair declared the meeting closed at 12.24 pm.

T G Belben (Chair)

DECISION NOTICE

Sections 35 and 52 of the Licensing Act 2003

Decisions of the Licensing Sub-Committee sitting at Crawley Borough Council in relation to:

(1) an application to vary the premises licence held by Mr Lufti Neza in effect for the premises Mon Ami, 20 Broad Walk, Northgate, Crawley, RH10 1HQ; and

(2) the application by Crawley Borough Council as licensing authority under section 51 of the Licensing Act 2003 for a review of the same premises licence

1. At the beginning of the meeting on 12.02.2024, the sub-committee decided to hear both applications together given that the relevant representation by Crawley Borough Council as licensing authority raised substantially the same issues and was based on the same evidence as the application for a review of the premises licence.
2. The sub-committee carefully considered the material submitted in respect of both applications, and carefully listened to the representations made today. In making its decision the sub-committee had regard to its own statement of licensing policy and the guidance issued under section 182 of the Licensing Act 2003.

3. The Sub-Committee was encouraged that despite the difficulties at the premises under the former licence holder and designated premises supervisor (DPS), the current licence holder/DPS and the licensing authority have held constructive negotiations resulting in a proposed way forward. The sub-committee noted the proposed changes were designed to give effect to a fresh start in management at this premises, and included some changes in staffing, training for staff and a commitment not to have shisha on the premises. The sub-committee also noted that the licensing authority accepted the re-assurances given by the new licence holder, and also the licence holder's statement through his agent today of his wish to move forward in the business in partnership with the licensing authority.
4. The sub-committee confirms that it too, is re-assured by the significant change in attitude and commitment to partnership-working which has come about with the new licence holder/DPS and that this is reflected in the memorandum of agreement. The sub-committee's view is that the proposed steps in the memorandum of agreement were steps which promoted the licensing objectives.

Decision in respect of the application to vary the premises licence

5. The sub-committee's decision in relation to the application to vary the premises licence is to modify the conditions of the licence as described in paragraph 1 of the memorandum of agreement, as set out below:
 - (a) To modify existing condition in Annex 2 Condition 2 requiring those wishing to consume alcohol on the premises to read:

The sale, supply, and consumption of all beverages (including alcohol) on the premises, shall be restricted to patrons seated at tables, service will be by waiter/ess only.
 - (b) To add the following condition:

There is to be no vertical drinking permitted, food will be available throughout the time that alcohol is being served.

- (c) To add the following condition:

There shall be no smoking nor use of smoking-related products, including shisha, in any part of the premises at any time. All types of smoking paraphernalia including shisha pipes and associated products must be removed from the premises prior to the recommencement of trading, and in any event by 15/01/24.

- (d) To add the following condition:

Mr Egzon Nezaj, former Designated Premises Supervisor and Premises Licence Holder, will not be involved in the operation of premises in any capacity, nor will he be on the premises whilst any licensable activity is taking place.

- (e) To add the following condition:

Written evidence is to be provided to the Council to demonstrate that prior to the recommencement of trading, all staff members have been re-trained in the Licensing Act 2003 and requirements of the premises licence, including premises licence conditions. This evidence must be provided to the Council no later than 14/02/24.

- (f) To add the following condition:

No persons under the age of 18 shall be permitted on the premises after 2100 hours or before 0700 hours.

Decision in respect of the application to review the premises licence

6. In light of the decision in relation to the variation application, the sub-committee's decision was to take no steps in relation to the application for a review of the licence.

Right of Appeal – decision in respect of the application to vary the premises licence

An appeal may be made against the decision by—

- (a) The applicant licence holder, and
- (b) any person who made relevant representations in relation to the application.

Any such appeal must be made within the period of 21 days beginning with the day on which you were given this decision notice.

The decision will not come into effect until the end of the period for appealing, or, if an appeal is filed, after any appeal has been heard.

Right of Appeal – decision in respect of the application to review the premises licence

An appeal may be made against this decision by—

- (a) the applicant for the review,
- (b) the holder of the premises licence, and
- (c) any other person who made relevant representations in relation to the application.

Any such appeal must be made within the period of 21 days beginning with the day on which you were given this decision notice.

The decision will not come into effect until the end of the period for appealing, or, if an appeal is filed, after any appeal has been heard.