

Report to:	Licensing Sub Committee 25 September 2017
Agenda Item:	6
Subject:	Application for a premises licence Licensing Act 2003
Lead Officer:	Executive Director, Place Department
Cabinet Member:	Cllr. Hamida Ali, Cabinet Member for Communities Safety & Justice
Ward/s:	Ashburton
Corporate Priority/Policy Context:	
This report is specific to this application and has no implications on the Council's Corporate Policies.	
Financial Summary:	
This application is being processed as part of normal duties carried out by the Department with no additional costs involved.	
Forward Plan Key Decision Reference Number: Not applicable	

For general release

1. Recommendation
1.1 The Sub-Committee is asked to determine whether to grant the application for a premises licence at 278-280 Lower Addiscombe Road, Croydon, CR0 7AE.

2. Executive Summary

- 2.1 The purpose of this report is to advise the Sub-Committee that an application has been received for a premises licence under the *Licensing Act 2003*. This application is the subject of representations, therefore a hearing is required.

3. Detail

- 3.1 A Protocol for Licensing Hearings and a Procedure for Licensing Sub-Committee Hearings has previously been agreed by the Licensing Committee (minute A/24/05 refers). The protocol has been subsequently amended by the licensing committee (minutes A/32/06, A/40/07 and A/07/12 refer).
- 3.2 The applicant and the party making representations have been notified of the hearing in accordance with the *Licensing Act (Hearings) Regulations 2005* and *Licensing Act (Hearings) (Amendment) Regulations 2005* “the Regulations”. Information to accompany the notice of hearing was provided to the applicant and the party making representations in accordance with the Regulations.
- 3.3 Appendix A to this report provides details of this application.

4. Financial Considerations

1 Revenue and Capital consequences of report recommendations

There are no direct financial implications associated with this report, subject to the risks at 4.2 & 4.3. This application is being processed as part of normal duties and therefore the work associated with it is contained within the departmental budget.

2 The effect of the decision

The decision of the Sub-Committee may be subject to appeal and/or Judicial Review

3 Risks

An appeal against a decision of the Sub-Committee or a Judicial Review of the application process may present financial risks to the Council with regard to any award of costs against it.

4 Options

The options available are: to grant the application, to vary the application, with or without further conditions, or to refuse the application.

5 Savings/ future efficiencies

None identified.

6 Approved by: Zulfiqar Darr, Interim Head of Finance, Place & Resources.

5. Comments of the solicitor to the Council

5.1 The Solicitor to the Council comments that the sub-committee must determine the application, taking into account relevant representations, the Licensing Act, the regulations made there under statutory guidance and the Council's own licensing policy.

5.2 Approved by: Jaqueline Harris – Baker, Director of Law & Monitoring Officer.

6. Human Resources Impact

6.1 The Human Resources impact of supporting the Licensing Hearings will be contained within the budgeted establishments of the Democratic and Legal Services and Licensing Teams.

6.2 Approved by: Adrian Prescod, HR Business Partner, for and on behalf of Director of Human Resources, Chief Executive's Department.

7. Equalities Impact

7.1 The arrangements for the Licensing Hearings seek to ensure that all applicants and other interested parties receive a fair hearing and that the process is accessible to all groups within the community.

8. Environmental and Design Impact

8.1 The effective implementation of the Licensing Act will contribute to an improved environment for local residents and other stakeholders.

9. Licensing Objectives Impact

9.1 The licensing objectives contained in the Act are:

- prevention of crime and disorder
- public safety
- prevention of public nuisance and
- protection of children from harm.

9.2 Officers comments and relevant representations on the impact of the application on these objectives appear in Appendix A to the application.

10. Human Rights Impact

10.1 The *Human Rights 1998* requires public bodies to ensure everything they do is compatible with Convention Rights and makes it unlawful for a public authority to act incompatibly with those Rights. Article 6 (A6) of the European Convention on Human Rights is the right to a fair trial. The key elements of this include the right to:

- fair hearing;
- public hearing;

- hearing before an independent and impartial tribunal;
- hearing within a reasonable time

10.2 When hearing an application, the proceedings of a non-judicial body such as the Licensing Sub Committee, as opposed to an actual Court, need not meet the full requirements of A6 where there is a right of appeal from the Licensing Sub Committee to a Court that does meet the full A6 standards and can consider all aspects of the case (even if that does not include a full re-hearing of the facts).

10.3 While it is good practice to make a hearing before the Licensing Sub Committee as A6 compliant as possible, it will not be a breach of the Human Rights Act if it is not. Further, the hearing of all applications is subject to the principles of Natural Justice and the requirement for decisions to be 'Wednesbury reasonable'.

11. Freedom of Information / Data Protection Considerations

11.1 Protocols agreed in relation to Licensing Hearings are within the Council's Constitution and will be accessible as part of the Council's Publication Scheme maintained under the Freedom of Information Act.

Contact Officer: Darren Saarbrucken, Principal Officer, Place Department, extension 18379.

Appendices: Application Forms
Licensing Hearings and Protocol and Procedure
Supplementary Representation Letter