

## LICENSING SUB-COMMITTEE

WEDNESDAY 6 JANUARY 2021

(9:45 - 11:26 am)

Councillor Margaret Thompson  
Councillor Ian George  
Councillor Olly Wehring (Chair)

### 1. APPOINTMENT OF CHAIR

Moved by Councillor Thompson, seconded by Councillor George and

**Resolved**, that Councillor Wehring be appointed 'chair' for the duration of the meeting.

### 2. DECLARATIONS OF INTEREST

There were no declarations of interest.

### 3. MINUTES

**Resolved**, that the minutes of the previous meeting held on 14 December 2020 be confirmed and signed as a correct record.

### 4. LAXMI – 90 TOLWORTH BROADWAY, SURBITON, KT6 7HT Appendix A

The Licensing Officer introduced the matter for determination and confirmed that on 10 November 2020 the Metropolitan Police, as Responsible Authority, served on the Licensing Authority an application for a Review of the Premises Licence for Laxmi, 90 Tolworth Broadway, Surbiton, KT6 7HT held by Laxmi & Sisters Limited. The Premises Licence permits the provision of regulated entertainment (recorded music) and late night refreshment from 23:00 to midnight daily and the sale by retail of alcohol (for consumption on the premises) from 10:00 hours to 00:00 midnight daily.

The application stated that a Review of the Premises Licence had been initiated in order to address the Premises Licence Holder's repeated failure to comply with the authorisations and conditions of the Premises Licence, these actions were stated to have undermined the Prevention of Crime and Disorder and the Prevention of Public Nuisance Licensing Objectives.

The Licensing Officer confirmed that a public notice about the Review had been displayed on a lamppost next to the premises, and that officers had checked to ensure that the notice remained in place for the duration of the consultation period. A notice had also been displayed on the Council's noticeboard in the main Guildhall building.

All responsible authorities had received a copy of the Review application and the Licensing Authority, in its capacity as Responsible Authority, had made a representation to the application. As required by the Council's Licensing Policy, 334 addresses were contacted in writing and advised that a Review application had been received. Eleven representations had been received from Other Parties, one in support of the Review application and ten in support of the Premises Licence Holder. The representation in support of the Review application made reference to matters that relate to the prevention of public nuisance Licensing Objective.

The Sub-Committee were then addressed by PC Lee Hopkins and the Counsel for the Metropolitan Police, Mr Reichhold, who outlined reasons for initiating the review, as set out in the agenda papers before the Licensing Sub-Committee. In summary, Mr Reichhold referred to the timeline of events from 22 March 2019 to 13 October 2020 which included serious incidents involving a customer brandishing a knife in a fight (22 March 2019) and affray involving 10 customers involved in a brawl where chairs were thrown into the street (9 November 2019); non-provision of CCTV to the Police in relation to those and other incidents; ignoring verbal advice and written warnings from both the Police and the Licensing Authority about breaches of numerous licence conditions, in particular the continuous breaches of the licence condition requiring alcohol to be sold and supplied only with a table meal (restaurant condition), even after the refusal by the Licensing Sub-Committee to vary the Premises Licence to remove the restaurant conditions on 2 occasions; complaints received about late night noise and outside smoking; and breaches of Covid-19 regulations.

The Licensing Sub-Committee noted that the Premises Licence Holder (PLH) is Laxmi and Sisters Ltd, whose sole director is Mr Paul Mathimaran who was shown as the Designated Premises Supervisor (DPS) until 12 January 2020. The current DPS was now Mr Thamotharpillal Sathiyamoorthy. The Police contended that the change of DPS had not addressed the previous problems of licence condition non-compliance affecting the premises.

Mr Reichhold said that it was the view of the Police that the PLH had shown a continued disregard for the conditions on the Premises Licence and, by operating the venue unlawfully, had failed to uphold the Licensing Objectives, in particular the prevention of crime and disorder and the prevention of public nuisance. Given that the PLH had an inability and unwillingness to comply with the conditions currently attached to the licence, it was the opinion of the Police that it was unlikely that the imposition of further conditions or a reduction of the hours permitted for licensable activity would be complied with. The Police therefore requested that the Sub-Committee consider revoking the premises licence.

The Licensing Sub-Committee also heard representations from the Licensing Authority as a Responsible Authority, from Marcella Basso, a licensing officer employed by Royal Borough of Kingston upon Thames Council. Ms Basso confirmed her support for the Review process with regard to the events referred to in the submission from the Police.

Members of the Licensing Sub-Committee then took account of the written submissions from Other Parties, who were not present at the hearing, and clarified points around these submissions with the Police and the PLH and his representative.

The PLH, Mr Mathimaran, through his Interpreter Mr Kavali, and his representative Graham Hopkins, then had the opportunity to address the hearing. In summary, Mr Hopkins confirmed that the PLH did not contest the evidential submission from the Police regarding breach of Premises Licence conditions relating to service of alcohol without table meals, and was deeply sorry that these management shortcomings and breaches had continued to occur, in mitigation that some of these issues had been caused by unintentional misunderstandings of conditions. Mr Hopkins informed the Licensing Sub-Committee that the PLH was fully aware of the request to revoke the licence and wanted a further opportunity to prove that he was able to comply with the licence issued.

The Licensing Sub-Committee heard that the PLH's proposal was that Mr Hopkins would work with the PLH to ensure that training of management and staff at the restaurant addressed current issues and that Laxmi would operate in a way that promoted and did not undermine Licensing Objectives. Mr Hopkins drew attention to the supportive written submissions from patrons received by the Council as a result of the Review process, although the Licensing Sub-Committee expressed concern as the supportive objectors were resident above the premises.

Mr Hopkins went on to outline a number of measures and where relevant licence conditions that, with appropriate staff training from him, would resolve current issues and ensure compliance with the restaurant condition, and also address concerns relating to use of the outside area, amplified music, and the Noise Management and Dispersal Plan. These measures included a full licence compliance audit of the premises by Mr Hopkins, liaison with the Responsible Authorities and further refresher training to keep staff up-to-date with licence conditions. It was proposed that CCTV recording failures and other requirements would be addressed by an appropriate contractor. The Licensing Sub-Committee also noted that Mr Hopkins had given advice to the PLH regarding private 'staff' parties outside trading hours, and the requirement for Temporary Event Notice applications when necessary, as well as in relation to the recording of incidents at the premises. As an alternative to licence revocation, Mr Hopkins put forward to the Licensing Sub-Committee the option of a licence suspension for 2 months to allow time for the training measures he was suggesting to be fully embedded prior to the licence then continuing.

During questions from Licensing Sub-Committee members, Mr Hopkins confirmed that the PLH was confident that the premises could operate successfully just as a restaurant and it was noted that alcohol sales provided between 40 and 45 % of Laxmi's business. The Licensing Sub-Committee also sought to clarify matters around the non-provision of CCTV when requested by the Police during which it was noted that the licence condition relating to CCTV had been imposed by the Licensing Sub-Committee at its meeting in May 2020.

Finally, the Licensing Sub-Committee heard closing statements from the Police and the PLH and his representatives in relation to submissions made during the hearing.

In making their decision, the Licensing Sub-Committee considered the merits of the application by the Metropolitan Police for Review of the Premises Licence under the Licensing Act 2003 complying with the requirement to promote the Licensing Objectives and had regard to the Statutory Guidance and the Council's own Statement of Licensing Policy. The Licensing Sub-Committee took account of the oral and written representations put forward by the Police, Responsible Authorities and the Premises Licence Holder and his representative, along with the written representations submitted by other persons. The Licensing Sub-Committee, after taking account of all relevant issues that had been raised in the Review application and in the written and verbal representations, decided to revoke the Premises Licence held by Laxmi & Sisters limited for Laxmi, 90 Tolworth Broadway, Surbiton, KT6 7HT.

The Licensing Sub-Committee were concerned by the wilful and continued disregard of conditions attached to the Premises Licence, in particular condition 16 (restaurant condition that restricts the sale or supply of alcohol to those taking table meals and ancillary to that meal only). This was against a background that the PLH had been warned in writing, had had meetings with the Police and Licensing Officers to explain the breaches, and had appeared before a Licensing Sub-Committee to seek the removal of the restaurant condition that had been refused and still allowed alcohol sales in breach of that condition.

In reaching this decision, the Licensing Sub-Committee took account of their previous decisions to refuse a variation to the licence to remove condition 16; the disregarding of advice issued to the Premises Licence Holder by the Licensing Authority and the Police, in writing and at site meetings, about continuous non-compliance with licence conditions, as well as recent Covid-19 regulation breaches risking public safety; serious incidents involving a knife and affray that have occurred at the premises in the past and the failure to provide CCTV recordings to the Police following request in relation to the affray incident; and that a recent change of Designated Premises Supervisor has not led to greater compliance with licence conditions.

The Licensing Sub-Committee took account of the Premises Licence Holder's proposal for a 2 month suspension with the proposal to include further conditions and measures. Such a proposal ignored the breaches occurring after the Police and Licensing Authority had provided repeated written and oral advice on the breach of the restaurant condition (in one case 2 hours after the meeting on 30/09/2020) and after the Licensing Sub-Committee had twice refused to remove the restaurant condition.

The Sub-Committee considered this decision to be proportionate, appropriate and the only option in the circumstances.

**Resolved**, that the Premises Licence held by Laxmi & Sisters limited for Laxmi, 90 Tolworth Broadway, Surbiton, KT6 7HT providing for regulated entertainment (recorded music) and late night refreshment from 23:00 to midnight daily, and the sale by retail of alcohol (for consumption on the premises) from 10:00 hours to 00:00 midnight daily, be revoked.

**5. URGENT ITEMS AUTHORISED BY THE CHAIR**

There were no urgent items.

**6. EXCLUSION OF THE PRESS AND PUBLIC**

The motion to exclude press and public was not required.

Signed.....Date.....  
Chair