

MUNICIPAL YEAR 2023/24 REPORT NO.

COMMITTEE :
Licensing Sub-Committee
13 September 2023

REPORT OF :
Principal Licensing Officer

LEGISLATION :
Licensing Act 2003

Agenda - Part	Item
SUBJECT : New Premises Licence Application	
PREMISES : Carpathina Ltd 337 Bowes Road, N11 1BA	
WARD : Southgate Green	

1 LICENSING HISTORY - LN/201700925

- 1.1 A new premises licence (LN/201700925) was issued to Carpathina Ltd, of which Mr Iulian Frasinescu was Company Director, on 8 March 2018 without objection.
- 1.2 The named Designated Premises Supervisor (DPS) was also Mr Iulian Frasinescu, since the licence was issued.
- 1.3 A minor variation application was submitted on 18 September 2018 at the request by Licensing Enforcement, following a seizure of illicit tobacco. The application was granted with modified conditions on 3 October 2018.
- 1.4 Premises Licence (LN/201700925) permitted:

Hours the premises are open to the public: From 06:00 to 22:00 daily.

Supply of alcohol (off supplies only): From 11:00 to 22:00 daily.
- 1.15 A copy of premises licence (LN/201700925) is attached in Annex 1.
- 1.16 On 24 January 2020 an application was made by Enfield Council's Trading Standards for the review of Premises Licence LN/201700925. The full report can be found online here (Item 519): [Agenda for Licensing Sub-Committee on Wednesday, 18th March, 2020, 10.00 am | Enfield Council](#)
- 1.17 The review application was submitted in relation to the prevention of crime and disorder licensing objective, as smuggled goods had been found on the premises for a second time i.e.. non-duty paid cigarettes. Revocation was being sought.
- 1.18 On 18 March 2020, the Licensing Sub-Committee resolved to revoke premises licence LN/201700925 and a copy of the Decision Notice is produced as Annex 2.

1.19 This Decision Notice was subsequently appealed to the Magistrates Court. The appeal hearing took place on 17 March 2022 and the outcome of the court was as follows:

- not to give any weighting to Nicoletta Gafita's (NG) witness statement where given positive assertions;
- has given weighting where NG's evidence undermined Mr Frasinescu's (IF) evidence;
- In light of the evidence that the LSC evidence was unassailable;
- Evidence heard that day undermines the appellants lack of credibility, judgement and as other events have taken place;
- IF and NG are inextricably intertwined;
- Uphold to revoke this licence.

1.20 Therefore premises licence LN/201700925 was revoked on 17 March 2022.

2 THIS APPLICATION

2.1 On 19 June 2023, a new premises licence application was submitted to Enfield's Licensing Team, naming Mr Stefan Razvan Ene (referred to by the agent as Mr Razvan) as the premises licence holder and also as the proposed Designated Premises Supervisor (DPS).

2.2 The new premises licence application seeks the following licensable activity:

- Hours the premises are open to the public: From 07:00 to 21:00 Monday to Saturday and from 09:00 to 21:00 Sunday.
- Supply of alcohol (off supplies only): From 07:00 to 21:00 Monday to Saturday and from 09:00 to 21:00 Sunday.

2.3 Each of the Responsible Authorities were consulted in respect of the application.

2.4 A copy of the new premises licence application is attached as Annex 3.

3 RELEVANT REPRESENTATIONS:

- 3.1 **Metropolitan Police:** The Police object to this new premises licence application as they do not believe the prevention of crime and disorder licensing objective is going to be upheld. The Police are also aware that there are family links with Mr Razvan and Mr Iulian Frasinescu. The Police representation contains sensitive information, so is split into two parts: Part 1 (Annex 4) – can be published, Part 2 (Annex 5) – must be redacted and not published.
- 3.2 **Licensing Authority:** The Licensing Authority object to this new application as they are not satisfied the prevention of crime and disorder, the prevention of nuisance and the protection of children from harm licensing objectives are being met. The Licensing Authority are concerned with Mr Frasinescu's involvement with the current business and have requested evidence from Mr Razvan to demonstrate this otherwise. A copy of the Licensing Authority representation (including Additional Information) is produced in Annex 6.
- 3.3 Mr Razvan has not responded in full to either of these representations at the time this report was being prepared (31 August 2023). The only correspondence received is from Mr Razvan's agent, asking some questions of the Responsible Authorities. That email is produced as Annex 7.

4 PROPOSED LICENCE CONDITIONS:

- 4.1 The Licensing Authority has requested licence conditions, should the Licensing Sub-Committee consider granting the licence in full or part. The applicant offered some additional conditions. Those conditions are produced in Annex 8.
- 4.2 Mr Razvan has not indicated agreement to the conditions sought by the Licensing Authority.

5 RELEVANT LAW, GUIDANCE & POLICIES:

The paragraphs below are extracted from either :

- 5.1.1 the Licensing Act 2003 ('Act'); or
- 5.1.2 the Guidance issued by the Secretary of State to the Home Office of July 2023 ('Guid'); or
- 5.1.3 the London Borough of Enfield's Licensing Policy Statement of January 2020 ('Pol').

General Principles :

- 5.2 The Licensing Sub-Committee must carry out its functions with a view to promoting the licensing objectives [Act s.4(1)].

5.3 The licensing objectives are :

- 5.3.1 the prevention of crime and disorder;
- 5.3.2 public safety;
- 5.3.3 the prevention of public nuisance; &
- 5.3.4 the protection of children from harm [Act s.4(2)].

5.4 In carrying out its functions, the Sub-Committee must also have regard to :

- 5.4.1 the Council's licensing policy statement; &
- 5.4.2 guidance issued by the Secretary of State [Act s.4(3)].

Cumulative Impact Policy

5.5 The premises is not situated in any of Enfield's Cumulative Impact Policy areas [Pol 9.20].

GUIDANCE EXTRACTS:

Determining actions that are appropriate for the promotion of the licensing objectives

- 9.42 Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.
- 9.43 The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.
- 9.44 Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that any condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is

imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.

Designated premises supervisor

- 9.42 The 2003 Act provides that, where a premises licence authorises the supply of alcohol, it must include a condition that no supply of alcohol may be made at a time when no designated premises supervisor has been specified in the licence or at a time when the designated premises supervisor does not hold a personal licence or the personal licence has been suspended.
- 9.43 The main purpose of the ‘designated premises supervisor’ as defined in the 2003 Act is to ensure that there is always one specified individual among these personal licence holders who can be readily identified for the premises where a premises licence is in force. That person will normally have been given day to day responsibility for running the premises by the premises licence holder. The requirements set out in relation to the designated premises supervisor and authorisation of alcohol sales by a personal licence holder do not apply to community premises in respect of which a successful application has been made to disapply the usual mandatory conditions in sections 19(2) and 19(3) of the 2003 Act (see Chapter 4 of this Guidance).
- 9.44 The 2003 Act does not require a designated premises supervisor or any other personal licence holder to be present on the premises at all times when alcohol is sold. However, the designated premises supervisor and the premises licence holder remain responsible for the premises at all times including compliance with the terms of the 2003 Act and conditions attached to the premises licence to promote the licensing objectives.

(Although this application is a new application rather than a review, the review guidance is still appropriate to mention)

Reviews arising in connection with crime

- 9.42 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises, money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.
- 9.43 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.
- 9.44 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.
- 9.45 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:
- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
 - for the sale and distribution of illegal firearms;
 - for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;

- for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
- as the base for the organisation of criminal activity, particularly by gangs;
- for the organisation of racist activity or the promotion of racist attacks;
- for employing a person who is disqualified from that work by reason of their immigration status in the UK;
- for unlawful gambling; and
- for the sale or storage of smuggled tobacco and alcohol.

11.28 It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

LBE's LICENSING POLICY

10. LICENCE APPLICATIONS AND REVIEW

10.1 In its consideration of applications or in a review of a licence where representations have been received, the Council must give appropriate weight to the steps that are necessary to promote the Licensing Objectives; the representations presented by all parties; the Guidance; and this Policy. Where relevant, particular regard will be given to the factors shown under Special Factors for Consideration below. Particular regard will be given to evidence identifying any history or pattern of practice which impacts upon the Licensing Objectives.

10.2 When preparing their Operating Schedules, applicants should consider the Special Factors for Consideration below. The Council may refuse to grant or may attach conditions to a licence where it is not satisfied that these factors have been properly addressed by the applicant's Operating Schedule.

12. SPECIAL FACTORS FOR CONSIDERATION

12.1 Prevention of Crime and Disorder - the means by which crime and disorder will be or is prevented by the effective management and operation of the licensed activities including:

- crime prevention design, including adequate lighting of car parks and CCTV;
- text/radio pagers;
- door supervision, including arrangements for screening for weapons and drugs;

- other measures to control violent, drunken or abusive behaviour (including exclusion of troublemakers; refusal to sell to those who are or appear to be drunk or underage; use of toughened and plastic 'glasses'; and bottle bins);
- drug dealing and abuse;
- prostitution and indecency;
- methods to discourage drinking of alcohol supplied for consumption on the premises, in a public place in the vicinity of the premises;
- methods to discourage taking alcohol off the premises in open containers;
- methods to discourage the handling and distribution of stolen, counterfeit goods or other illegal goods;
- capacity limits where necessary to prevent overcrowding or prevent nuisance upon entry and exit;
- appropriate ratio of tables and chairs to customers (based on the capacity) where the premises are used exclusively or primarily for the 'vertical' consumption of alcohol;

12.4 Protection of Children from Harm - the means by which harm to children will be or is prevented by the effective arrangement and operation of the licensed activities including:

- the prevention of unlawful supply, consumption and use of alcohol and drugs and other products which it is illegal to supply to children, including proof of age arrangements;
- premises restrictions on the access by children to the whole or any part of premises, including times when children may not be present;
- the protection from inappropriate exposure to strong language, expletives or entertainment of an adult or sexual nature;
- the protection from significant gambling;
- arrangements to deter, drug taking or dealing;
- adequacy of controls on the times during which children may be present on the premises;
- the nature of the licensed premises and facilities provided e.g. sporting, cultural and recreational, where these may provide a tangible social benefit, particularly for children and may contribute to crime and disorder reduction and the protection of children from harm.

6 DECISION:

6.1 As a matter of practice, the Sub-Committee should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas [Guid 9.37].

6.2 In determining the application with a view to promoting the licensing objectives

in the overall interests of the local community, the Sub-Committee must give appropriate weight to:

6.2.1 the steps that are appropriate to promote the licensing objectives;

6.2.2 the representations (including supporting information) presented by all the parties;

6.2.3 the guidance; and

6.2.4 its own statement of licensing policy [Guid 9.38].

- 6.3 Having heard all of the representations (from all parties) the Sub-Committee must take such steps as it considers appropriate for the promotion of the licensing objectives. The steps are:
- 6.3.1 to grant the application subject to the mandatory conditions and such conditions as it considers necessary for the promotion of the licensing objectives;
 - 6.3.2 to exclude from the scope of the licence any of the licensable activities to which the application relates;
 - 6.3.3 to refuse to specify a person in the licence as the premises supervisor;
 - 6.3.4 to reject the application [Act s.18].

Background Papers :
None other than any identified within the report.

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