

# Supplementary Papers for Licensing Sub-Committee

Date: Thursday, 24 November 2022



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<b>5. Application for Premises Licence at MV Margarita moored at Elgin's Boatyard, Christchurch River</b> Information provided on behalf of the applicant is attached.	3 - 8
<b>6. Application to Vary Premises Licence at DYMK, 31 Poole Hill, Bournemouth, BH2 5PW</b> Information provided on behalf of the applicant is attached.	9 - 16

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## PREMISES LICENCE APPLICATION

### MV MARGARITTA

## RESPONSE TO REPRESENTATIONS

### Introduction

This is an unusual but by no means unique application for a number of reasons:

It seeks to licence a relatively small boat for the supply of alcohol on board;  
It has attracted a huge number of representations, both in favour and against; and  
The Council have had to contend with an argument that it should have regard the Conservation of Habitats and Species Regulations 2017 and in particular regulation 63 (1) of the same in making its decision.

The latter has led to long exchanges of emails with Licensing Officers, Legal Advisers and the Council's Bio-Biodiversity officer about whether the representation is relevant but the upshot is that the officer concerned (and Natural England) have concluded that granting the application would not have an adverse effect under the regulations and the representation has therefore been withdrawn. Given that a large number of the representations against the application have raised the issue of the effect of the grant of the licence to a greater or lesser extent on this issue, it may assist the Committee to see the final response from Mr Martin – the relevant officer as follows:

Dear Mr Day

Having passed on current information to Natural England have agreed that application does not have a likely significant effect on features of Solent and Dorset Coast Special Protection Area under the Habitat Regulations

So no objection to this licence being granted if committee so wishes.

No further information is required



***Jez Martin CEnv MCIEEM***

Biodiversity Officer  
Environmental Development Team  
tel. 01202 127559

[jez.martin@bcpcouncil.gov.uk](mailto:jez.martin@bcpcouncil.gov.uk)

[bcpcouncil.gov.uk](http://bcpcouncil.gov.uk)

## **Other Responsible Authority Representations.**

There have been none and the Sub-Committee will no doubt take comfort from that as both the Secretary of State's Guidance and the Council's own policy make it clear that it should take its lead on matters such as crime and disorder, nuisance and the other licensing objectives from the relevant responsible authorities.

The sub-committee will of course be aware that its decision must be based on evidence (and I mention that through no disrespect to members but to highlight the point to those who have objected). Much of what is said by way of objections is not supported evidentially).

## **A suggested approach to the application.**

It is suggested that the sub-committee approach this application in two stages:

Firstly to determine whether the vessel should be licensed to supply alcohol on board and, if so

Whether to restrict the supply of alcohol when the vessel is moored (i.e. whether to prevent or restrict "off-sales")

Some representations have queried the location of the vessel. This is a technical issue – the Licensing Act requires that any application to licence a boat/ship/sailing vessel etc has to be made to the Licensing Authority where the vessel is normally moored. If the mooring changes, all that is required is that a notification of what would in effect be a change of address is made to the Licensing Authority.

## **Should the vessel be licensed at all?**

Any "premises" that seeks to sell or supply alcohol has to contend with a host of other regulations e.g. planning, building control, fire safety and the like.

A vessel such as this is no different – it needs to comply with maritime and a host of other regulations (including Habitat Regulations). Specifically, before the vessel is able to take passengers, it will need to be "fully coded" (which it previously was before the refit). The necessary surveys are already underway. Further, the skipper in control of the vessel will also have to hold a full commercially endorsed skippers ticket to operate.

The sub-committee will only be concerned with the four licensing objectives.

In brief summary, the vessel can (subject to obtaining all other necessary consents/licences/permissions etc) operate as a fishing and/or charter boat and those on board cannot be prevented from taking their own alcohol on board and consuming it to their heart's content. By granting a licence the supply of alcohol on board can and would be controlled and conditioned.

A number of those objecting seem to be under the impression that the vessel will become some sort of "party boat" reminiscent perhaps of the replica pirate boats that

operate out of Mediterranean and other resorts. Nothing could be further from the reality – this is a small vessel that would have a maximum capacity of 12 passengers and 2 crew and would not be licensed for any form of regulated entertainment. An important element of the offering will be food – please see the photographs of the cooking facilities on board.

**Assuming that the Vessel is licensed, should it be permitted to supply alcohol for consumption “off” the premises?**

The application includes “off sales” in very limited circumstances. The applicant (Mr Malone) is a keen supporter of local charities, including in particular the RNLI.

It is not his intention that the vessel become some sort of floating off-licensed bar wherever it might be moored but that it could be used to support events along the Christchurch River quay.

Again, note should be taken of the fact that none of the responsible authorities have raised any issue regarding the conditions suggested with regard to this aspect of the application which conditions also limit the times and occasions upon which off-sales might be permitted.

**Summary**

Personally, I find it surprising that this application has attracted the interest that it has and I have a concern that a number of those who have made representations have either not fully understood nature of the application (this is not an application for a “Party Boat” nor a floating off-licence), the grounds on which objections can be properly be made, the need to support proper objections with evidence and perhaps more to the point, precisely what is being applied for here.

Those who have made representations to the application need also perhaps to be both reminded and re-assured that if their worst fears are realised, they have the absolute right (at no expense to themselves) to seek a review of the licence which could ultimately result in the revocation of the same.

Philip J Day  
Laceys Solicitors LLP  
9 Poole Road  
Bournemouth  
BH2 5QR  
p.day@laceyssolicitors.co.uk  
01202 377687

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**MV Margarita**

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## BEFORE THE BCP COUNCIL LICENSING SUB-COMMITTEE

## IN THE MATTER OF AN APPLICATION FOR A VARIATION OF A PREMISES LICENCE

DYMK, 31 POOLE HILL, BOURNEMOUTH BH2 5PW ('The Premises')

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### WITNESS STATEMENT OF SHAUN MITCHELL

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#### INTRODUCTION

1. My Name is Shaun Mitchell and I am the operator of DYMK. I lease The Premises from Greene King who are the landlords and premises licence holders- however I run the business on a day-to-day basis, hire staff and deal with all issues relating to the operation of The Premises.
2. I am making this statement in support of the variation to the premises licence at The Premises.

#### ABOUT THE APPLICANTS

3. I have held a personal license since the system was first introduced in 2005. DYMK opened in July 2010 as a bar from 12pm on to 12 midnight. At the time, the triangle area of Bournemouth was famous for its alternative clubs, bars and cafes and was known locally as the GAY area of town. Back then the triangle had 7 venues that attracted many visitors to the town, especially for weekends breaks. The area has sadly lost many of these venues and DYMK is now the only LGBTQ+ venue left. Our aim has always been to welcome all age groups from 18 to 80 and to create a safe and friendly environment for our community. We have held many charity events over the years using TEN notices and have never had any complaints.
4. We work closely with organisations such as Bourne Free, the organisers of Bournemouth's Pride Festival to ensure that The Premises is open and inclusive and supports the gay community of Bournemouth and the wider south of England.

#### AMENDMENT TO THE APPLICATION

5. We have made this application following discussion with our customers about what would improve their nights out. In particular, we were keen to make sure that customers looking to

stay out later did not have to leave our premises and go elsewhere where they may not feel as safe.

6. However, listening to the resident concerns, we recognise the need to balance this with what we are looking to achieve. As such, we are now asking to extend our hours for licensable activities to 2am Wednesday and Thursday and our trading hours until 3am on Wednesday and Thursday nights to allow for a gradual dispersal. This is an hour less than we originally applied for.

## **REPRESENTATIONS**

7. I have carefully considered the issues arising in the objections made against the variation and would make the following observations:

- a. I met with Tom Jeffes of Hunnings Homes, who run 23 West Hill Road on Wednesday 9<sup>th</sup> November. We discussed the objections he made to the application and also the comments from residents, which he agreed to pass back to them. In short, we discussed the following:
  - i. In close proximity to residents are: DYMK, The Vault, Canvas and Poole Hill Brewery. Blaming DYMK in such circumstances was premature and proper investigation was needed, especially given that there was evidence to support our contention that a lot of the issues were not related to DYMK.
  - ii. The emptying of bottle bins is not from DYMK. The premises currently closes at 1am so we are not emptying the bins between 2am/3am. Tom will ask the tenants to get some video evidence of bins being emptied as it was agreed that it was likely to be someone at the front of the property. Tom noted at the meeting that the glass bin was full in the courtyard area so it was evident that this particular glass bin is not emptied in the early hours of the morning.
  - iii. The three bins are stored out the front of the building are from The Vault. All the padlock codes are the same and match the address of the property. One is a glass bin and the other two seem to be general waste bins. At least two of the bins are Hurn Recycling who DYMK don't use.
  - iv. The ringing of the buzzers is a mystery, DYMK only have beer deliveries once a week or once a fortnight and they ring the manager before arriving, so there is no need to use the buzzer. It is worth noting that DYMK do have other deliveries but all of these are via the front of the building so shouldn't affect residents.
  - v. The only bin that DYMK take through the corridor for 23 West Hill Road is the glass bin. No general rubbish or recycling is taken through here. This bin is put out every Wednesday for a Thursday collection when they take it back into The Premises.

- vi. Customers would only be permitted to use the walkway through 23 West Hill Road in the event of a fire as the route is a fire escape. There is access for the beer delivery (once a week max) and for people living in the accommodation above DYMK. This is not a thoroughfare for people cutting through for easy access.
  - vii. There are two security cameras along the corridor (installed by the owners of the building). Therefore, any suspicious activity can be reported and investigated. DYMK also have their own camera system in place which they are happy to use to investigate matters, should the landlords have an issue or something needs clarifying.
- b. I can confirm that we have provided video content to Andrew Hill from the council EH team in relation to complaints of noise and music from our rear courtyard. This clearly shows our courtyard empty and no music escape from The Premises. However, music noise can be heard from another premises.
  - c. In 11 years of trading we never had noise complaints from our garden area until our neighbours started trading and playing very loud music. We are also aware that they have speakers outside.
  - d. I made the video on Saturday 29th May 2021 at 02.30 to prove that DYMK was closed and the noise was coming from our neighbours should there have been any confusion.
  - e. We have invited Andrew to visit The Premises and look at the works we have been undertaking to ensure that there is no music outbreak. This includes additional soundproofing for the windows. Recently he identified that one of the speakers beside the stage was in close proximity to some ductwork leading to the rear smoking area. He suggested that this would provide a noise transmission path. The duct was immediately sealed to ensure that there was no noise that could escape this route. We notified Andrew that the work had taken place.
  - f. We take the happiness of our neighbours very seriously- as you can see from the work we have undertaken with Environmental Health. We will continue to do so, however, it is clear that DYMK has been held responsible for a number of issues that clearly are not related to the premises.
  - g. Our willingness to engage with the landlords of our nearest neighbours and Environmental Health, I hope, demonstrates how we are prepared to continue to work with any party that wishes to engage proactively with us.

## SUMMARY

- 8. This application is to allow for our customers to stay at a venue they feel safe and comfortable on Wednesday and Thursday, rather than customers seeking to go elsewhere. We have been working with the council and our neighbours and will continue to do so to ensure that we cause as little disruption as possible. However, it has been clear to us in our

11 years at The Premises that complaints only started when a new premises opened nearby. Whilst we would not say that there have not been times where we might have been responsible for some noise- no licensed premises can say that- we have always sought to be proactive and work with other parties when we have been notified. We will continue to do so.

9. We are confident that we can trade the additional time without causing any disturbance to our resident neighbours. We would also ask that if there are any noise issues they suffer from that they contact us directly and we can work with them to identify whether it is coming from our premises or not.

10. I have included with this statement some correspondence to add context to what I have said above.

The Contents of this statement are true to the best of my knowledge and belief.

SIGNED.....

DATED .....2022

**BEFORE THE BCP COUNCIL LICENSING SUB-COMMITEE**

**IN THE MATTER OF AN APPLICATION FOR A VARIATION OF A PREMISES LICENCE**

**DYMK, 31 POOLE HILL, BOURNEMOUTH BH2 5PW ('The Premises')**

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**APPENDIXES**

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**Email from Andy Proctor dated 18/11/2022 sent to the solicitor for the applicant**

Good morning Piers

1. I live in Poole Hill Terrace, a group of flats situated above both The Dancing Jug and a pet store. My flat, **XX** is on the top floor above The Dancing Jug.
2. I moved into this address on the 4th of February 2022.
3. My complaint was made due to the very high audio level of music and noise coming from The Dancing Jug most nights, particularly from Thursday to Sunday nights. It not only can be felt reverberating through the building but it is extremely loud, it's basically like the speakers are in your own home. At night, I have to sleep with earplugs in. They play the music also in their outdoor garden section at full blast which doesn't help and, at kick out time, their clientele are always the worst for wear - shouting, fighting, etc.
4. My complaint was being handled by Andrew Hill - Senior Environmental Health Officer at BCP.
5. All the noise heard within Poole Hill Terrace comes from The Dancing Jug, not DYMK.

Hope this helps.

Kind regards

Andy Proctor (They/Them)



8 Stratfield Saye  
20-22 Wellington Road  
Bournemouth  
BH8 8JN

Tel: XXXXXXXXX  
Website: [www.bournefree.co.uk](http://www.bournefree.co.uk)  
Registered Charity: 1115708

**15<sup>TH</sup> November 2022**

Dear DYMK,

I hope this letter finds you well. I am writing to formally support your license variation on behalf of Bourne Free.

As you are aware, Bourne Free is Bournemouth's Pride festival and local LGBTQ+ charity. One of our key aims is to support diversity and inclusion in Dorset, with a specific focus on providing safe spaces for people to be themselves and feel included. This is increasingly important with the unfortunate number of hate crimes being reported in Dorset each year (with published figures showing an increase on reported hate crimes from 2020 to 2021).

As a charity we believe DYMK offers a safe environment for the LGTBQ+ community, and this includes vulnerable people who live in Bournemouth. We often hear of individuals who leave your establishment upon closing and visit other bars where they feel less safe and raise concerns about inclusion. Therefore, we would support you being able to increase hours offered so that these individuals can stay in a place they feel safe and wanted for their entire evening out.

Please feel free to contact myself directly if you would like any further information.  
Kind Regards

*C. J. Ashton*

Chris Ashton  
Bourne Free Chair

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