

BOURNEMOUTH, CHRISTCHURCH AND POOLE COUNCIL
LICENSING SUB-COMMITTEE

Minutes of the Meeting held on 06 August 2019 at 10.00 am

Present:-

Cllr D A Flagg – Chairman

Present: Cllr J Bagwell and Cllr D Kelsey

27. Election of Chairman

RESOLVED that Councillor D Flagg be elected Chairman of the Sub-Committee for the duration of the meeting.

Nominated by Councillor D Kelsey
Seconded by Councillor J Bagwell

Voting: Unanimous

28. Apologies

There were no apologies for absence received for this meeting.

29. Declarations of Interests

There were no declarations of interest.

30. Baggies Coffee House, 43 High Street, Christchurch

Attendance:

Sean Whitney – Public Health and Protection Manager, BCP Council
Johanne McNamara – Senior Solicitor, Law and Governance, BCP Council
Michelle Cutler – Democratic and Overview and Scrutiny Officer, Law and Governance, BCP Council
Councillor G Farquhar – Observing for training purposes
Press – 1
Members of the Public: 3

An application to vary the Premises Licence at 'Baggies Coffee House', 43 High Street, Christchurch, had been received under section 34 of the Licensing Act 2003. An objection to that variation application had been received from Dorset Police, concerned with the licensing objectives of the prevention of crime and disorder and public safety.

Where representations are received the Licensing Authority is obliged to hold a hearing to consider those representations and determine what action to take in respect of the application.

Additional evidence had been received from Dorset Police via email on 5 August 2019 and this had been sent to all parties prior to the Hearing. Hard copies were circulated at the start of the Hearing and are attached as an appendix to these Minutes.

The Applicant, Mr Ismail, submitted additional evidence via email on 5 August 2019 in response to that submitted by Dorset Police. This evidence was not sent to Dorset Police prior to the Hearing and therefore Dorset Police did not consent to it being submitted to the Sub-Committee for consideration. The Sub Committee therefore disregarded the additional evidence.

The Public Health and Protection Manager presented a report, as previously circulated. The Licensing Sub-Committee was asked to consider the application to vary the Premises Licence in respect of the Premises known as 'Baggies Coffee House', 43 High Street, Christchurch, to extend the terminal hour for the sale of alcohol to 02:00 hours Monday to Sunday and to permit late night refreshment until 02:30 hours.

An objection to the application to vary the Premises Licence had been received on behalf of Dorset Police in relation to the prevention of crime and disorder and public safety.

The Chairman asked the Applicant, Mr Ismail, to clarify the hours that he was applying for, as there appeared to be some confusion in the paperwork. Mr Ismail confirmed that he wished to extend the terminal hour for the sale of alcohol by one hour to 00:00 hours.

The following persons attended the Sub-Committee and gave verbal evidence based on their written submissions:

On behalf of the Applicant:

Mr Ahmed Ismail – Director and Owner of 'Baggies Coffee House'

On behalf of Dorset Police:

Sergeant Gareth Gosling – Drug and Alcohol Harm Reduction Team,
Dorset Police

Louise Busfield – Licensing Officer, Dorset Police

Members of the Sub-Committee asked various questions to all parties present at the hearing.

All parties were then given the opportunity to sum up, before the Sub-Committee retired to make its decision.

It was RESOLVED that:

The Sub-Committee, having considered the application and representations made by Dorset Police relating to crime and disorder objectives, has decided not to grant the application to vary the Premises Licence in respect of the premises known as ‘Baggies Coffee House’, 43 High Street, Christchurch.

Reasons for Decision

The Sub-Committee has no confidence in the applicant being able to uphold the licensing objectives, in particular, public safety and crime and disorder, due to the applicant’s apparent lack of understanding of the duties of a licensee.

Right of Appeal

All parties to the Application have the right to Appeal to the Magistrates Court within the period of 21 days beginning with the day on which the Appellant is notified by the Licensing Authority of the decision appealed against.

Voting: Unanimous

31. Exclusion of Press and Public

RESOLVED that under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraphs 1 and 2 in Part I of Schedule 12A of the said Act and that the public interest in withholding the information outweighs such interest in disclosing the information.

32. Personal Licence Application

Attendance:

Sarah Rogers – Senior Licensing Officer, BCP Council

The Senior Licensing Officer presented a confidential report, as previously circulated.

The Sub-Committee was advised that Dorset Police had served an objection notice in respect of an application for a Personal Licence on the grounds that they believed that to grant the application would undermine the crime prevention licensing objective.

The following persons attended the Sub-Committee and gave verbal evidence based on their written submissions:

On behalf of the Applicant:

The Applicant and his partner

On behalf of Dorset Police:

Sarah Dutton – Alcohol Licensing Officer, Dorset Police

Sergeant Gareth Gosling – Drug and Alcohol Harm Reduction Team,
Dorset Police

Louise Busfield – Licensing Officer, Dorset Police

The Licensing Sub-Committee was advised that the applicant had a relevant conviction disclosed in his DBS check in the form of a drug driving conviction.

The Licensing Sub-Committee considered the written evidence presented in the report and subsequent appendices.

Members of the Sub-Committee asked various questions to all parties present at the hearing.

All parties were then given the opportunity to sum up, before the Sub-Committee retired to make its decision.

It was RESOLVED that

the application for a Personal Licence be refused.

Reasons for the Decision

Whilst the Sub-Committee accepts that the applicant has made a grave error of judgement and that the applicant fully regrets his actions and the mistake he has made, it feels that the application for a Personal Licence has been made too soon to defer from the current policies in place.

The Sub-Committee is mindful of section 120 (2) of the Licensing Act 2003 and therefore refuses this application.

Right of Appeal

All parties to the Application have the right to Appeal to the Magistrates Court within the period of 21 days beginning with the day on which the Appellant is notified by the Licensing Authority of the decision appealed against.

Voting: Unanimous

33. Private Hire Drivers Licence Application

The applicant was present at the hearing.

The Public Health and Protection Manager introduced a confidential report, as previously circulated.

The Licensing Sub-Committee was advised that an application had been received for a Private Hire Driver's Licence and the DBS certificate had disclosed a conviction dated 5 February 2010 for 2 offences committed on 26 September 2008, for possessing a class A drug with intent to supply.

The Licensing Sub-Committee was asked to consider whether, in light of this conviction, and the time that had passed since the conviction, the applicant was deemed to be a 'fit and proper' person to hold a Private Hire Driver's Licence.

The Licensing Sub-Committee considered the written evidence presented in the report and asked various questions of all parties present.

All parties present at the hearing had the opportunity to make verbal representations.

It was RESOLVED that

the application for a Private Hire Driver's Licence be refused.

Reasons for the Decision

The Sub-Committee has decided not to grant the application, having deemed the applicant not to be a 'fit and proper' person to hold a Private Hire Driver's Licence, in accordance with Section 51 of the Local Government (Miscellaneous Provisions) Act 1976.

In reaching its decision the Sub-Committee has taken into account the conviction and sentence dated 5 February 2010 and the guidance issued in April 2018 by the Institute of Licensing at paragraph 4.36, which states that 'where an applicant has any conviction, or related to, the supply of drugs, or possession with intent to supply, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed'.

Right of Appeal

All parties to the Application have the right to Appeal to the Magistrates Court within the period of 21 days beginning with the day on which the Appellant is notified by the Licensing Authority of the decision appealed against.

Voting: Unanimous

The meeting ended at 1.30 pm

CHAIRMAN