

BOURNEMOUTH, CHRISTCHURCH AND POOLE COUNCIL
LICENSING SUB-COMMITTEE

Minutes of the Meeting held on 12 November 2019 at 10.00 am

Present:-

Present: Cllr B Dion, Cllr B Dunlop and Cllr G Farquhar

64. Election of Chairman

RESOLVED that Cllr G Farquhar be elected Chairman of the Sub-Committee for the duration of the meeting.

Voting: Unanimous

65. Apologies

Apologies were received from Cllr D Flagg. The reserve member, Cllr G Farquhar, replaced Cllr D Flagg as a Sub-Committee member for this meeting.

66. Declarations of Interests

There were no declarations of interest.

67. Application for Review of Premises Licence - More the Merrier, 68 Kimberley Road BH6 5BY

Attendance:

From BCP Council:

Sarah Rogers – Senior Licensing Officer

Nananka Randle – Licensing Manager

Tania Jardim – Licensing Technician

Sean Whitney – Public Health and Protection Manager

Johanne McNamara – Senior Solicitor

Joseph Tyler – Democratic and Overview and Scrutiny Officer

On behalf of Dorset Police:

Sergeant Gareth Gosling – Drug and Alcohol Harm Reduction Team

Louise Busfield – Licensing Officer

On behalf of the license holder:

David Ramsey - Licensing Consultant

Mr Muzaffer Oksuz – Licence Holder

Miss Esra Oksuz - (Daughter of Mr Oksuz for translation purposes

Mr Ismail Gunduz - Proposed Designated Premises Supervisor

Press: 2

The Chairman opened the meeting, made introductions and explained the procedure for the hearing, to which all parties agreed. The Senior Licensing Officer presented the report and informed the Sub-Committee that 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. The Sub-Committee were asked to consider an application to review the premises licence for 'More the Merrier', under Section 51 of the Licensing Act 2003, made by Dorset Police on 4th September 2019 following a breach of licence condition 2.12: *"Muzaffer Oksuz will not be responsible for, or authorise, any sale of alcohol at the premises."* Dorset Police believed that the premises was not upholding two of the licensing objectives: 'The prevention of crime and disorder and protection of children from harm'. Since the application as lodged by Dorset Police, there had been mediation between the premises, their agent and Dorset Police, to which the Licensing Authority had been informed. On the 15th October 2019 an email was received confirming that an additional condition to the licence had been agreed between the premises and Dorset Police. The condition states "A personal licence holder will be present on the premises at all times when alcohol sales are made."

The Applicant's representative, Mr David Ramsay, submitted additional documentation via email on 7 November 2019 that included a list of actions that Mr Oksuz was willing to take. All parties received this information and hard copies were circulated at the start of the hearing and are attached as an appendix to these Minutes. Dorset Police advised the Sub-Committee that they would be satisfied if the good practices recommended in Mr Ramsey's review, the measures discussed during the Sub-Committee and the agreed additional conditions were all adopted and adhered to by the premises.

RESOLVED that:-

Having considered the written evidence submitted before the hearing along with the verbal submissions at the hearing, and noting the successful outcome of mediation between the premises and Dorset Police, the sub-committee decided to modify the licence as follows:

- 1) The Dedicated Premises Supervisor will to be Mr Ismail Gunduz**
- 2) The Premises Licence Holder to be Mr Ismail Gunduz**
- 3) The Licence to be varied to reflect the recommendations as set out in David Ramsay's report dated the 4th November 2019. The exact wording of the variations to be sent out with the formal decision letter as the sub-committee are mindful that some of the recommendations are already duplicated in the existing licence.**
- 4) A Personal Licence Holder will be present on the premises at all times when alcohol sales are made.**

In reaching this decision the sub-committee considered that as the premises licence holder, Mr Oksuz should have been aware of and understood the terms of the licence. The Sub Committee also noted

that point 4 had been agreed following mediation with Dorset Police. Dorset Police also indicated that if this was adhered to, they would have no further concerns. It was also noted that Mr Oksuz offered the recommendations in Mr Ramsay's report as conditions.

Right of Appeal

The Legal Advisor reported that 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 applicant is notified by the Licensing Authority of the decision in writing.

68. 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 Act and that the public interest in withholding the information outweighs such interest in disclosing the information.

69. Private Hire Driver Licence and Private Hire Operator Licence Applications

The Chairman made introductions and explained the procedure for the hearing, which all parties agreed to. The Sub-Committee considered applications for a Private Hire Driver Licence and Private Hire Operator Licence, from the person named in the non-public report for agenda item 6. A copy of item 6 was circulated to members of the Sub-Committee prior to the meeting and a copy of which will appear in the Minute Book. The Public Health and Protection Manager presented the report and explained that the applicant had disclosed a caution for battery relating to an offence in 2015. Details of this disclosure was set out in the report and appendix. The Sub-Committee was asked whether in light of this disclosure and having heard from the applicant, that he was a fit and proper person to hold a Private Hire Driver Licence and Private Hire Operator Licence. The Licensing Manager outlined the test of a fit and proper person and relevant guidance, and the options available to the Sub-Committee in determining the case, as detailed in the report. The applicant attended the hearing and addressed the Sub-Committee. The applicant provided more detail about the personal circumstances around the caution for battery as well as documentation for a firearm licence and a shotgun licence that he had held without problem, since being issued with them both by the Police Fire Arms Department. To support his application, the applicant spoke about the positions of responsibility he had held in the community since the caution and he asked the Sub Committee to take these submissions into account when determining the case. The applicant was given the opportunity to sum up before the Sub Committee retired to make its decision.

RESOLVED that:-

Having heard from the Licensing Officer and the applicant, and having considered the circumstances surrounding the caution, and having regard to the policy and the Institute of Licensing Guidance, the Sub

Committee decided the applicant to be a fit and proper person to be granted a Private Hire Drivers and Private Hire Operator License, for the following reasons:

The demonstration of holding roles of responsibility in the community as well as the responsibility of holding a fire arms / shotgun license, alcohol licenses and indicating he had undergone conflict management training since the incident that resulted in a caution. In addition, the applicant had shown honesty and remorse for his actions. For these reasons the Sub-Committee departed from the Institute of Licenses Guidance.

The application was therefore granted.

Right of Appeal

The Legal Advisor reported that 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 applicant is notified by the Licensing Authority of the decision in writing.

70. Public Carriage Driver Licence Application

The Chairman made introductions and explained the procedure for the hearing, which all parties agreed to. The Sub-Committee considered application for a new Public Carriage Driver Licence, from the person named in the non-public report for agenda item 7. A copy of item 7 was circulated to members of the Sub-Committee prior to the meeting and a copy of which will appear in the Minute Book. The Licensing Technician presented the report and explained that applicant's enhanced DBS certificate showed a conviction for battery relating to an offence in 2016. Details of the conviction was set out in the report and appendix. The Licensing Technician also advised the Sub-Committee that the applicant had received an SP30 endorsement during the early stages of 2019. The Sub-Committee was asked whether in light of this conviction and having heard from the applicant, that he was a fit and proper person to hold a Public Carriage Drivers Licence. The Licensing Manager outlined the test of a fit and proper person and relevant guidance, and the options available to the Sub-Committee in determining the case, as detailed in the report. The applicant attended the hearing and addressed the Sub-Committee. The applicant provided more detail about the personal circumstances relating to the conviction for battery as well as further information on his application. The applicant was given the opportunity to sum up before the Sub Committee retired to make its decision.

RESOLVED that:-

Having heard from the Licensing Officer and the applicant, and having considered the circumstances surrounding the convictions and offences, the Sub Committee decided to refuse the granting of the license as the applicant is not a fit and proper person. In coming to this decision the Sub-Committee had regard to the following:

The applicant was convicted of battery in 2016, he was also subject to an SP30 endorsement in 2019. The record of the application shows

that he was dishonest in regard to his answers to the questions relating to convictions, on two occasions. The Sub-Committee felt there appeared to be a pattern of negative behaviour. In reaching this decision, the Sub-Committee had regard to Clause 1.8, 1.14, 6.6 and 11.8 of the Statement of Policy and Guidelines relating to the relevance of convictions for public carriage licenses, for the Bournemouth Zone.

The application was therefore refused.

Right of Appeal

The Legal Advisor reported that 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 applicant is notified by the Licensing Authority of the decision in writing.

71. Review of a Public Carriage Drivers Licence

The Chairman made introductions and explained the procedure for the hearing, which all parties agreed to. The Sub-Committee considered a review of a Public Carriage Drivers Licence, relating to the person named in the non-public report for agenda item 8. A copy of item 8 was circulated to members of the Sub-Committee prior to the meeting and a copy of which will appear in the Minute Book. The Licensing Manager presented the report and explained that the named driver had informed the Licensing Authority that he been convicted for drink driving and subsequently disqualified from driving for 17 months. Details of the conviction were set out in the report and appendix. The Sub-Committee was asked whether in light of this conviction and having heard from the applicant, that he was a fit and proper person to hold a Public Carriage Drivers Licence. The Licensing Manager outlined the test of a fit and proper person and relevant guidance, and the options available to the Sub-Committee in determining the case, as detailed in the report. The applicant attended the hearing and addressed the Sub-Committee. The applicant provided more detail about the circumstances around the conviction for drink driving as well as further information. The applicant was given the opportunity to sum up before the Sub Committee retired to make its decision.

RESOLVED that:-

Having heard from the Licensing Officer and the applicant, and having considered the circumstances surrounding the conviction, the Sub Committee decided to revoke the license with immediate effect on public safety grounds as the applicant is not a fit and proper person to hold a Public Carriage Drivers licence. In coming to this decision the sub-committee had regard to the following:

The applicant was convicted of a drink driving offence for which he received a driving ban for 17 months with a 25% discount after completing a drink driving awareness course. In making this decision, the sub-committee also had regard to paragraphs 10.1 and 10.4 of the

Statement of Policy and Guidelines relating to the relevance of convictions for public carriage licenses.

The licence was therefore revoked with immediate effect on public safety grounds.

Right of Appeal

The Legal Advisor reported that 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 applicant is notified by the Licensing Authority of the decision in writing.

The meeting ended at 3.00 pm

CHAIRMAN