

BOURNEMOUTH, CHRISTCHURCH AND POOLE COUNCIL
LICENSING SUB-COMMITTEE

Minutes of the Meeting held on 13 October 2021 at 10.00 am

Present: Cllr J J Butt, Cllr D A Flagg and Cllr T Johnson

27. Election of Chairman

RESOLVED that Councillor Judes Butt be elected Chairman of the Sub-Committee for the duration of the meeting.

Voting: Unanimous

28. Apologies

Following the publication of the agenda, Councillor Duane Farr submitted apologies for this meeting and Councillor Toby Johnson, as first reserve, assumed the role as a Licensing Sub-Committee member.

There were no other apologies for absence.

29. Declarations of Interests

No declarations of interest were received.

30. Aldi, 257-263 Holdenhurst Road, Bournemouth, BH8 8NT

Attendance:

From BCP Council:

Linda Cole, Legal Advisor to the Sub-Committee
Tania Jardim, Licensing Officer
Michelle Cutler, Clerk to the Sub-Committee

The Chairman made introductions and explained the procedure for the Hearing, which was agreed by all parties.

The Senior Licensing Officer presented the report at Agenda Item 5, a copy of which had been circulated to all parties prior to the meeting and a copy of which appears as Appendix 'A' to these Minutes in the Minute Book.

The Sub-Committee was asked to consider an application for a variation of the premises licence for the premise known 'Aldi Stores', 257 – 263

Holdenhurst Road, Bournemouth, BH8 8NT. Variation was made to extend the permitted hours of opening and for the supply of alcohol off the premises Monday to Sunday 06:00 to 00:00 hours.

The Licensing Authority had received a representation from one other person on the grounds that to grant the application, would undermine the prevention of crime and disorder licensing objective.

The following person attended the Hearing and addressed the Sub-Committee to expand on the points made in their written submissions:

Lisa Gilligan, of Freeths – Solicitor representing the Applicant ‘Aldi Stores’.

The Chairman noted that Mr David Walsh, objector to the Application, had indicated that he wished to attend the Hearing to make representations, however, he was not present. The Clerk confirmed that Mr Walsh had been provided with the information required to join the virtual hearing and that his attendance was expected. Numerous efforts had been made to contact him prior to the start of the Hearing, without success.

The Sub-Committee asked various questions of all parties present and were grateful for the responses received.

All parties were invited to sum up before the Sub-Committee retired to make its decision.

Before concluding the Hearing, the Legal Advisor advised all parties of the right of appeal.

Post Meeting Note:

Mr Walsh contacted the clerk post meeting to send his apologies.

It was RESOLVED that the application to vary the premises licence of the premises known as ‘Aldi Stores’ 257-263 Holdenhurst Road, Bournemouth, BH8 8NT, be GRANTED in its entirety, subject to the inclusion of the conditions detailed below, submitted by Dorset Police and agreed with the Applicant in advance of the Hearing:

- 1) A CCTV system shall be installed and in operation at all times whilst the premises are open to the public for licensable activities.**
- 2) The recording system shall be able to capture images of evidential quality and such recordings shall be maintained for as long as the system is able (whilst retaining the high quality image) and in any event for a minimum of 31 days.**

The CCTV system must be kept in a secure environment under the control of the manager or other responsible named individual.

Store management shall be trained to view and download CCTV footage.

For urgent matters, at all-time officers shall be able to view CCTV footage to verify if a reported offence is covered, and whenever required, CCTV shall be downloaded and made available in a viewable format to the officer as soon as reasonably practical.

For non-urgent matters, CCTV shall be available to view and download at all times during normal office hours.

- 3) All equipment shall have a constant and accurate time and date generation.**
- 4) Refusal forms to be completed as standard procedure on the tills by the Store Assistant at the point of refusal.**
- 5) The premises shall operate a Challenge 25 Policy. Challenge 25 posters shall be displayed in prominent positions at the premises.**
- 6) Members of staff shall be trained in respect of the sale of age restricted products and documented records shall be maintained.**
- 7) Refresher training shall be provided every 6 months as a minimum and records shall be kept of this.**
- 8) All training records shall be kept and made available to the Licensing Authority or the Police as soon as possible and in any event within 7 days of the request.**
- 9) No bottled or canned super-strength beer, lager or cider over 6% ABV shall be sold in the core range, other than speciality/artisan beer, lager or cider.**
- 10) Alcohol shall not be sold in open containers and the consumption of alcohol on the premises shall not be permitted.**
- 11) No customers carrying open alcoholic drinks shall be permitted on the premises.**

Reasons for the Decision

The Sub-Committee considered all the information that had been submitted before the meeting and contained in Agenda Item 6, in particular the written and verbal representations made by Tania Jardim, Licensing Officer of BCP Council and Mrs Lisa Gilligan of Freeth's – Solicitor for the applicant, Aldi Stores.

Mrs Gilligan advised the Sub-Committee that this application to vary the premises licence was one of 400 applications being made nationally to extend the hours allowed for sale of alcohol to give future operational flexibility so the premises can adapt quickly to change opening hours as may be required rather than make application for TENs or individual variations as they have done so throughout the pandemic. She confirmed that the premises intended to continue to open and trade within its current opening hours but wanted the flexibility to be able to quickly change such as in the run up to Christmas, when trading may start at 7:00am.

The Sub-Committee also considered the written representations of Mr David Walsh, objecting to the application on the grounds of crime and disorder.

The Sub-Committee was sympathetic to the points raised by Mr Walsh in his written objection with regard his personal experience of high levels of anti-social behaviour and begging in the area and his belief that granting the application for variation to extend the licensable hours at the premises would exacerbate the problem.

The Sub-Committee noted that following mediation, 11 conditions had been agreed between the Applicant and Dorset Police to be imposed on the licence if granted, to uphold and promote the prevention of crime and disorder and public safety licensing objectives and that because of this mediation Dorset Police, a Responsible Authority, had not made a representation in respect of the application. A Licensing Committee will look to the Police as their main source of information regarding issues of crime and disorder in an area. Paragraph 9.11 of the section 182 Statutory

Guidance sets out, that it is the responsibility of the Responsible Authority to determine if they have the appropriate grounds to make a representation.

The Sub-Committee noted that Mr Walsh's concerns appeared to be based on a fear of what might happen in the future should the licence be varied and did not provide any substantial evidence of crime and disorder that could be considered when determining the application. The Sub-Committee was mindful of the spirit of the Licensing Act 2003 and the case of *Thwaites PLC v Wirral Borough Magistrates' Court 2008*. They were satisfied that if the premises operated in accordance with the conditions agreed with Dorset Police, that the premises should not undermine the licensing objectives.

The Sub-Committee was reassured by the Licensing Officer confirming that there was a security guard in place at the premises and that there had been no reported issues or complaints made in relation to the premises which undermined any of the four licensing objectives and that the premises licence had not previously been subject to any review.

The Licensing-Committee wished to highlight that whilst the granting of the application for variation would allow the premises to sell alcohol between 06:00 hrs and midnight every day, the premises must adhere to Sunday trading hours and could therefore only trade on Sundays for 6 consecutive hours between 10:00 hrs and 18:00hrs.

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 Applicant is notified by the Licensing Authority of this decision in writing.

The meeting ended at 10.35 am

CHAIRMAN