

BOURNEMOUTH, CHRISTCHURCH AND POOLE COUNCIL
LICENSING SUB-COMMITTEE

Minutes of the Meeting held on 07 June 2021 at 10.00 am

Present:-

Cllr J J Butt – Chairman

Present: Cllr R Burton and Cllr L Williams

1. Election of Chairman

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

Voting: Unanimous

2. Apologies

There were no apologies for this meeting. The Chair thanked Cllrs D Brown and A Hadley for attending before the start of the meeting in their role as reserves.

3. Declarations of Interests

There were no declarations of interest submitted on this occasion.

4. Application for a new Premises Licence, Juniper Tree Catering Ltd, 38 Salterns Way, Poole

Attendance:

From BCP Council:

Nananka Randle, Licensing Manager

Linda Cole, Legal Advisor to the Sub Committee

Sarah Culwick, Clerk to the Sub Committee

Philip Day – Applicants representative - Lacey Solicitors

Norman Gomes – Proposed DPS

Nick Smith – Managing Director Salterns Marina

Lucy Etches – PA to Managing Director

Jon Exton – Other person, representing Dr and Mrs Matthews

Patrick Mulligan – Other person

Judy Cimdins – Other person

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

The Licensing Manager presented a report, a copy of which had been circulated to each Member 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 new premises licence for Juniper Tree Catering Ltd, 38 Salterns Way, Poole for

the supply of alcohol on and off the premises between the hours of 08:00 – 23:00 Monday to Sunday.

The sub-committee was advised that the application had resulted in four representations being received from 'Other Persons' on the grounds that if this application were granted it would undermine the licensing objectives.

Following mediation, the sub-committee were informed that Mr Day representing the applicant had sent an email on the 24 May 2021 offering reduced hours of operating on Sundays to Thursdays by way of mediation to the 4 'other persons' who have made representation. In relation to this the Sub Committee were advised that the proposal is that the application be amended so that the permitted hours for the sale of alcohol both on and off the premises be varied to:

From 8am until 10pm on Sundays to Thursdays and from 8am until 11pm on Fridays, Saturdays, days that are Bank Holidays and on Sundays immediately preceding a Bank Holiday.

Further to this the sub-committee was advised that as a result of the mediation achieved Mr Donnelly had withdrawn his objection.

The following persons attended the hearing and addressed the sub-committee to expand on the points made in their written submissions:

Philip Day – Applicants representative – Lacey's Solicitors

Norman Gomes- Proposed DPS

Nick Smith – Managing Director Salterns Marina

Jon Exton – 'other person' (Representing Dr and Mrs Matthews as objectors)

Patrick Mulligan - 'other person' objecting

Judy Cimdins - 'other person' objecting

During the hearing Mr Day advised of the amendment to the original application for the hours being applied for, for the supply of alcohol, made in response to the representations made to the application and in an attempt to mediate. The Sub Committee were grateful for the attempts already undertaken between the parties to mediate this application.

The sub-committee asked various questions of all parties present and were grateful for 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.

RESOLVED that the application for a new premises licence dated 19 April 2021, for Juniper Tree Catering Ltd at 38 Salterns Way, Poole be GRANTED for the supply of alcohol on and off the premises from 08:00 – 22:00 Sundays to Thursdays and from 08:00 to 23:00 on Fridays, Saturdays, days that are Bank Holidays and on Sundays immediately preceding a Bank Holiday.

This premises licence is granted subject to all of the conditions offered in the operating schedule in part M of the application.

Reasons for Decision

The sub-committee gave detailed consideration to all of the information which had been submitted before the hearing and contained in the report

for Agenda Item 5, in particular the written representations made by 'other persons' and the verbal submissions made at the hearing by the Licensing Manager, Mr Day, the applicants representative, Mr Gomes, Mr Smith, Miss Cimdins, Mr Mulligan and Mr Exton who represented and spoke on behalf of Dr and Mrs Matthews but not in his own right as Mr Exton's submission was not received within the required time.

The sub-committee also considered the revised Licensing Plan which had been submitted with the agenda papers and copies of emails between Mr Day and the 'other persons' objecting, which showed the mediation being attempted between the parties in respect of this application. They also noted the email from Mr Donnelly withdrawing his representation as a result of the mediation achieved. The sub-committee also considered the responses given to all of the questions asked at the hearing by members of the sub-committee.

While the sub-committee acknowledged the concerns expressed in each of the representations, in regards to the potential increase in noise, it appeared that as a result of the mediation and the variation to the hours now being applied for, for the sale of alcohol, what remained of most concern to those 'other person's objecting, was the 8am opening time and the potential for noise and disturbance at the location, particularly if the premises was operating at full capacity. These concerns appeared to be based on a fear of what may happen in the future should the licence be granted and did not provide any substantial evidence of public nuisance that could be taken into account 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*.

The sub-committee were reassured that the primary purpose of the application was to provide food and drink for owners of boats and yachts docked in Salterns Marina, and local residents living near the vicinity; and not necessarily to attract patrons from outside this area. They noted the applicant is being funded by Salterns Marina Ltd, that it is very expensive to berth in this marina and those operating the premises would not want to jeopardise the loss of these customers, by allowing noise to emanate from this premises that would disturb those using the marina. The sub-committee noted the measures being put in place, such as premium pricing, new toilet blocks and the additional CCTV covering the pop-up bar area and noted that the entire marina has 24 hour security. They also noted that despite currently having 25 tables within this outdoor area, which would seat approximately 100 patrons, the limited size of the bar and kitchen area would not be conducive to the premises operating at this capacity. The sub-committee noted that Mr Gomes was an experienced operator, it was felt his experience, and that there was no plan to run events from the premises and no application had been made for regulated entertainment, that this would all assist in managing noise escaping from the area.

The sub-committee were satisfied that if the premises operated in accordance with both the conditions offered in the operating schedule of the application and as described at the hearing, that the premises should not undermine the licensing objectives. It was noted that a review of the premises licence could be applied for at any time by a Responsible

Authority or any other person should there be any issues associated with the premises in the future that undermine the licensing objectives

Voting: Unanimous

The meeting ended at 11.21 am

CHAIRMAN