

BOURNEMOUTH, CHRISTCHURCH AND POOLE COUNCIL
LICENSING SUB-COMMITTEE

Minutes of the Meeting held on 17 January 2024 at 10.00 am

Present: Cllr C Matthews, Cllr S Moore and Cllr J Richardson

76. Election of Chair

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

Voting: Unanimous

77. Apologies

There were no apologies for absence.

78. Declarations of Interests

There were no declarations of interest.

79. Protocol for Public Speaking at Licensing Hearings

The protocol for public speaking was noted.

80. Swan Inn, Unit B & Unit C 29 Old Orchard, Poole BH15 1SD

The Sub-Committee received a request to adjourn this hearing until 22 January 2024 in accordance with regulation 12 of the Licensing Act 2003 (Hearings) Regulations 2005 as necessary for its consideration of any representations or notice made by a party.

RESOLVED that this hearing be adjourned until 22 January 2024

Decision: unanimous

81. Swan In Food and Wine Ltd, Unit A, 29 Old Orchard, Poole BH15 1SD

The Sub-Committee received a request to adjourn this hearing until 22 January 2024 in accordance with regulation 12 of the Licensing Act 2003 (Hearings) Regulations 2005 as necessary for its consideration of any representations or notice made by a party.

RESOLVED that this hearing be adjourned until 22 January 2024

Decision: unanimous

82. Highcliffe Sports and Social Club, 387 Lymington Road, Christchurch BH23 5EG

The Sub-Committee received a request to adjourn this hearing until 22 January 2024 in accordance with regulation 12 of the Licensing Act 2003 (Hearings) Regulations 2005 as necessary for its consideration of any representations or notice made by a party.

RESOLVED that this hearing be adjourned until 22 January 2024

Decision: unanimous

83. Application for Review of Premises Licence at Bargain Convenience Store, 495 Wimborne Road, Bournemouth, BH9 2AW

Attendance:

From BCP Council:

Tania Jardim – Licensing Officer
Linda Cole – Legal Adviser to the Sub-Committee
Michelle Cutler – Clerk to the Sub-Committee
Cllr Chapmanlaw (Observing remotely)

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

The Licensing officer presented a report, a copy of which has been circulated 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 review of the premises licence for the premises known as 'Bargain Convenience Store', 459 Wimborne Road, Bournemouth, BH9 2AW. The application for review had been submitted by Dorset Police following two serious incidents which undermined the public safety and protection of children from harm licensing objectives. The review related to concerns that the premises were not upholding the licensing objectives of crime and disorder and protection of children from harm and that Dorset police no longer had confidence in the premises Licence holder/DPS.

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

Ms Louise Busfield – Dorset Police, the applicant
Sargeant Gareth Gosling, Dorset Police, the applicant
Mr Philip Day –Lacey's Solicitors, Solicitor representing the premises
Mr Warrenner – Lacey's Solicitors (observing)
Mr Alo Rashid Zmnako – Premises Licence Holder

Mr Karem – friend of Mr Zmnako

The Sub-Committee asked various questions of all parties present and was grateful for the responses received. All parties had the opportunity to ask questions. 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 having considered the application to review the premises licence for the Premises known as ‘Bargain Convenience Store’, 495 Wimborne Road Bournemouth the Sub-Committee has decided to suspend the licence for a period of 1 month and modify the conditions of the licence as follows:

- I. All staff working at the premises must undertake conflict management training.**
- II. A Personal Licence Holder must always be present on the premises at times that licensable activities are taking place.**

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 8, in particular the application for review made by Dorset Police, the email chain between Mr Philip Day, licensing representative for Mr Zmnako, the Premises Licence Holder and Sergeant Gosling and the verbal submissions made at the hearing by Ms Louise Busfield and Sergeant Gareth Gosling on behalf of Dorset Police and by Mr Philip Day, on behalf of Mr Zmnako, and the responses to questions given at the hearing by all parties.

In determining the review, the Sub-Committee considered the options available as set out in the recommendations of the report and the Licensing Act 2003 and acknowledged that it was only able to take into account matters directly relevant to the licensing objectives in respect of the operation of the premises licence.

The Sub-Committee acknowledged that extensive mediation had taken place between Mr Day and Dorset Police and that appropriate and proportionate conditions had been offered by Mr Day in the form of a one-month suspension of the licence and a condition that all staff working at the premises would undertake conflict management training. In addition, a Personal Licence Holder would always be present on the premises at times that licensable activities were taking place.

The Sub-Committee was assured by Dorset Police that they would continue to support and engage with Mr Zmnako to ensure compliance to uphold the licensing objectives and the Sub-Committee encouraged Dorset Police to continue to visit the premises particularly in the short term.

The Sub-Committee was satisfied that suspending the licence would allow Mr Zmnako time to address the concerns raised by Dorset Police and give him and any other staff time to undertake the conflict management training and ensure all staff had obtained Personal Licences as proposed.

The Sub-Committee also wished to draw Mr Zmnako's attention to the following conditions already attached to his licence:

2.10. All staff shall be trained regarding the terms and conditions of the premises licence, on sales to those who are intoxicated and on sales of age restricted goods using the TSSW 'No Proof of Age No Sale' training scheme or equivalent. This shall include any delivery drivers other than those employed by delivery companies who have themselves provided appropriate training.

2.10.1 Refresher training shall be provided at least every six months or when there is a change of legislation.

2.10.2 Full written training records shall be kept on the premises for each member of staff detailing the content and duration of any training. The training records shall be signed and dated by the employee, the Premises Licence Holder and the trainer as appropriate and shall be made available immediately on request to an authorised officer of the Licensing Authority or the Police

Although breaches of condition 2.10. had not formed part of the review, the Sub-Committee were of the view that staff working at the premises when the underage sales took place were not adequately trained and it is unfortunate that Mr Zmnako left such untrained staff alone to manage the premises in his absence. They were concerned that he was not managing this licensed premises responsibly and that there appeared to be no process in place where he as the premises licence holder be advised of any incidents occurring in his absence. The Sub-Committee hoped going forward, and having been the subject of two reviews, he will take his responsibility of being a Premises Licence holder seriously and manage the premises accordingly.

It was noted that a further 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 that again undermine the licensing objectives. It is felt that if this premises does come before the Sub-Committee again on review the options available to the committee would be more limited and this determination should be taken by Mr Zmnako as both an opportunity and a final warning.

In making this decision the Sub-Committee have had regard to the Bournemouth, Christchurch and Poole Council Licensing Policy, the revised guidance, as set out by the Secretary of State and the licensing objectives, as set out in the Licensing Act 2003.

Right of appeal

An appeal against the review decision may be made to a Magistrates Court within 21 days of the appellant being notified of the Licensing Authority's determination on the review. An appeal may be made by the premises licence holder, the Chief Officer of Police and/or any interested person who made relevant representations.

84. Review of Nala Tapas & Cocktail Lounge, 135-137 West Hill Road, Bournemouth, BH2 5EG

The Sub-Committee received a request from Mr Philip Day, Lacey's Solicitor's, representing 'Nala Tapas & Cocktail Lounge' to adjourn this hearing until 24 January 2024.

Mr Day advised the Sub-Committee that mediation had taken place, which had resulted in an application being made for a new premises licence, which was being heard on 24 January 2024. If the new premises licence was granted, then the existing licence for 'Nala Tapas & Cocktail Lounge' would be surrendered and the application for review would become redundant.

The Licensing Sub-Committee agreed to Mr Day's request for an adjournment.

RESOLVED that this hearing be adjourned until 22 January 2024

Decision: unanimous

The meeting ended at 10.50 am

CHAIRMAN