

BOURNEMOUTH, CHRISTCHURCH AND POOLE COUNCIL
LICENSING SUB-COMMITTEE

Minutes of the Meeting held on 18 June 2024 at 10.00 am

Present:-

Cllr G Farquhar – Chairman
– Vice-Chairman

Present: Cllr A Chapmanlaw, Cllr G Farquhar and Cllr J Richardson

Officers in attendance: Sarah Rogers – Licensing Officer
Michelle Fletcher – Licensing Officer
Mary Almeida - Legal Advisor to the Sub-Committee
Claire Johnston - Clerk to the Sub-Committee
Rebekah Rhodes – Clerk to the Sub-Committee

Also in attendance: Cllr P Hilliard

6. Election of Chair

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

Voting: Unanimous

7. Apologies

There were no apologies received for this meeting.

8. Declarations of Interests

There were none on this occasion.

9. Protocol for Public Speaking at Licensing Hearings

The Protocol for Public Speaking was noted.

10. Bournemouth Bake House, 3-5 Fir Vale Road, Bournemouth

Attendance:

BCP Council:

Sarah Rogers – Licensing Officer
Mary Almeida - Legal Advisor to the Sub-Committee
Claire Johnston - Clerk to the Sub-Committee
Rebekah Rhodes – Clerk to the Sub-Committee (observing)

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

The Licensing Officer presented the report, a copy of which had 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 new premises licence at Bournemouth Bake House, 3 – 5 Fir Vale Road, Bournemouth, to permit late night refreshment between the hours of 23:00 and 05:00, each day of the week.

The Licensing Authority received 3 representations from other persons on the grounds that to grant the application would undermine the prevention of crime and disorder, public safety and the prevention of public nuisance licensing objectives. It was clarified that 2 of the representations which were identical in content were received by the same person and therefore there were only 2 separate representations.

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

Mr Mark Cater – Applicant
Mr Ismail Ecker – Objector

Mr Ecker also brought the following witnesses who addressed the Sub-Committee:

Ms Merve Eker
Ms Berfin Eker
Mr Jesus Giordano

The Sub-Committee asked various questions of the parties present and was 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.

RESOLVED: RESOLVED that the application for a new premises licence at Bournemouth Bake House, to permit late night refreshment between the hours of 23:00 and 05:00, each day of the week, be GRANTED.

The Application is granted with the conditions offered in the applicants' operating schedule, the condition suggested by Dorset Police as outlined in the report and the following additional conditions offered by the applicant during the hearing:

Conditions put forward by the applicant at the hearing:

- The premises shall operate and maintain a record of regular litter checks in the vicinity of the premises in accordance with a schedule to be agreed with the Licensing Authority
- CCTV coverage provided by the premises shall be extended to the alleyway adjacent to the premises, which will be checked and maintained in accordance with the conditions offered by the premises in the Licensing Schedule.

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.

The Sub-Committee also considered additional information submitted by the applicant on 12th June prior to the hearing and the verbal submissions made at the hearing by Mr Mark Cater, the applicant, Mr Ismail Eker, who had submitted a representation and two witnesses.

The Sub-Committee did not feel that it was appropriate to accept additional information from the applicant which had been received the evening prior to the hearing and this did not therefore form part of their considerations.

The Sub-Committee also noted that there were effectively only two objections received to the application as two of the representations were identical and had been made by the same person, Mr Ecker, in different names and for different addresses.

The Sub-Committee noted that the applicant had demonstrated a willingness to negotiate with those making representations prior to the hearing to address their concerns however, those making representations had not responded to any of his communications.

The Sub-Committee also noted that the applicant had agreed to an additional condition as suggested by Dorset Police that an SIA registered door supervisor shall be on duty at the premises from 23:00 hours until the end of licensable hours daily, this negated a representation from the police.

The Sub-Committee noted that the applicant appeared to have a good understanding of the Licensing Objectives and was willing to respond positively to concerns which were raised by the Sub-Committee concerning the generation of litter from the premises and the CCTV cover of an alleyway in the immediate vicinity of the premises.

The Sub-Committee was reassured by the applicant's previous experience in the industry which was outlined by Mr Cater and which included a number of businesses run over several years in demanding areas of the town. The Sub-Committee was of the opinion that an additional SIA in the area and the greater CCTV coverage offered by the applicant would support the prevention of crime and disorder.

The Sub-Committee also considered relevant case law, R (on application of Daniel Thwaites plc) v Wirral Magistrates' Court and Others (2008) and that the Responsible Authorities who were experts in their fields, had not made any representations.

The Sub-Committee was satisfied that if the premises operated in accordance with the conditions offered in the operating schedule of the application, the conditions agreed with Dorset Police and the conditions put forward by the applicant at the hearing, that the premises would not undermine the licensing objectives and as such the application for the premises licence should be allowed.

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.

Finally, the objections which were received did not appear to be relevant to the application and were based on speculation.

All parties to the application have the right to appeal to the Magistrate's Court within the period of twenty-one days beginning with the day on which the applicant is notified by the Licensing Authority of this decision in writing.

11. 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.

12. Private Hire and Operator Licence Holder

This item was withdrawn prior to the meeting.

13. Public Carriage Driver / Operator Suitability

This item was restricted by virtue of paragraphs 1 and 2 of Schedule 12A of the Local Government Act 1972.

Exempt information – Categories 1 (information relating to any individual) and 2 (information which is likely to reveal the identity of an individual).

From BCP Council:

Mary Almeida – Legal Adviser to the Sub-Committee

Michelle Fletcher – Licensing Officer

Rebekah Rhodes – Clerk to the Sub-Committee

Claire Johnston – Clerk to the Sub-Committee (observing)

The Applicant was also in attendance.

The Chair made introductions and explained the procedure to be followed in considering this item, which was agreed by all participating parties.

The Licensing Officer presented a report, a copy of which had been circulated to each Member and a copy of which appears as a non-public Appendix 'B' to these Minutes in the Minute Book.

The Sub Committee was asked to consider whether the driver remained a 'fit and proper' person to continue to hold a Hackney Carriage and Private Hire driver licence.

The applicant addressed the Sub Committee to present their case.

The Sub-Committee asked various questions of all parties present and was 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 Council's Legal Advisor advised all parties of the right of appeal.

RESOLVED that the applicant was not considered to be a 'fit and proper' person to continue holding a hackney carriage and/or private hire driver/operator Licence.

Reasons For Decision

Detailed reasons for the decision are outlined further in the exempt minute for this item. The Sub Committee concluded that the applicant was not a 'fit and proper person' to continue to hold a license and that it was appropriate to depart from the policy, that the applicant cannot continue with the renewal process to become a licensed Hackney Carriage driver.

The Sub-Committee took into consideration the written documents and information contained in Agenda Item 6; the BCP Council Private Hire and Hackney Carriage Conditions, Bylaws and Guidance, the BCP Private Hire and Hackney Carriage Policy, the provisions of the Local Government (Miscellaneous Provisions) Act 1976 and the Institute of Licensing (IOL) Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades and the oral representations made at the Hearing on 18th June 2024.

Anyone aggrieved by the decision has the right of appeal to the Magistrates' Court within a period of 21 days beginning with the day that the applicant is notified, in writing, of the decision.

The meeting ended at 12.50 pm

CHAIRMAN