

BOURNEMOUTH, CHRISTCHURCH AND POOLE COUNCIL
LICENSING SUB-COMMITTEE

Minutes of the Meeting held on 03 July 2024 at 10.15 am

Present: Cllr M Dower, Cllr G Farquhar and Cllr A Filer

20. Election of Chair

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

Voting: Unanimous

21. Apologies

Apologies were received from Cllrs Sandra Moore & Brian Castle. Cllrs Farquhar and Dower stepped up as reserve members to sit on the Sub-Committee.

22. Declarations of Interests

There were no declarations of interest received on this occasion.

23. Protocol for Public Speaking at Licensing Hearings

The Protocol for Public Speaking at Licensing Hearings was noted.

24. Application for a Premises Licence at Trouville Hotel, 5-7 Priory Road, Bournemouth, BH2 5DH

Present:

BCP Council:

Ellie King – Licensing Officer

Linda Cole – Legal Advisor to the Sub-Committee

Louise Smith – Clerk to the Sub-Committee

Michelle Cutler – Democratic Support

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.

Mr Philip Day of Laceys Solicitors made an application on behalf of ABQ Leisure Ltd for a new premises licence at the Trouville Hotel, located at 5-7 Priory Road, Bournemouth

The application was to permit:

- Plays (Indoors) - 10:00 to 01:00 Monday to Sunday
- Indoor sporting events - 10:00 to 01:00 Monday to Sunday
- Live Music (Indoors) - 10:00 to 01:00 Monday to Sunday
- Recorded Music (Indoors) - 10:00 to 01:00 Monday to Sunday
- Performances of dance (Indoors) - 10:00 to 01:00 Monday to Sunday
- Activity similar to music and dance (Indoors) - 10:00 to 01:00 Monday to Sunday
- Late night refreshment (Indoors) - 23:00 to 01:00 Monday to Sunday for non residents and until 05:00 hours for residents and bona fide guests
- Supply of Alcohol (On and Off Sales) from 10:00 to 01:00 on every day of the week, for non residents and 24 hours a day for residents and bona fide guests.

The Licensing Authority had received representations from 27 other persons on the grounds that to grant the application would undermine the prevention of crime and disorder, prevention of public nuisance, public safety and protection of children from harm licensing objectives.

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

For the Applicant:

Philip Day – Applicant's representative

Muhammad Malik - applicant

Other Persons:

Karen & Anthony Davies (also representing Laith & Diana Majeed, who had made a representation but did not attend).

Stewart Green

The following joined the meeting virtually:

Michael Carr

Keith Lucas

Peter Jopling

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.

Decision:

GRANTED as applied for, to include the conditions offered by the Applicant Company as detailed in Part 3 Operating Schedule,

Paragraph M. In addition, that the following conditions, be added to the Licence at the request of the Sub-Committee:

- **That all non-fixed tables and chairs located in the outside areas at the front of the premises be removed by 11pm each day.**
- **That contact details of the hotel manager and DPS be placed on display within the hotel reception area and made available to residents of Coast Development if requested.**

Reasons for Decision

The Sub-Committee considered all the information which had been submitted before the Hearing and contained in the report for Agenda Item 5, together with verbal submissions made at the hearing by Mr Philip Day, the applicant's solicitor, Mr Muhammad Malik, on behalf of the applicant and Mrs Davies (also representing Mr Davies and Mr and Mrs Majeed), Mr Green, Mr Carr, Mr Lucas and Mr Jopling all objecting to the application.

The Sub-Committee also considered the 27 written representations made by 'other persons' and noted the concerns raised should the licence be granted. The Sub-Committee noted the issues raised re anti-social behaviour being experienced in the wider locality and were sympathetic to the residents' concerns that the licence if granted would exacerbate the problems. However, in determining this application, the Sub-Committee is only able to consider the licensing objectives and whether the proposed premises licence would undermine those licensing objectives. No relevant substantial evidence had been provided that the premises, if licensed would lead to increased crime and disorder or public nuisance in the local area that could be considered when determining the application.

The Sub-Committee noted that the Licensing Officer had advised that no complaints had been made to the Licensing team when the Trouville Hotel was previously operational under the lapsed licence and no complaints had been received regarding the recent operation under the Temporary Event Notices. The Sub-Committee particularly noted that no representations had been made by either Dorset Police or Environment Health or any other responsible authority and that there was no evidence of crime and disorder, public nuisance or public safety issues associated with the premises. The Sub-Committee deem each responsible authority to be an expert in their respective field and the licensing authority's main source of advice in relation to a particular licensing objective. For example, the police have a key role in managing the night-time economy and should usually therefore be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective.

Residents were concerned that table and chairs being outside the premises overnight could attract late night drinkers and the Sub-Committee did agree that such furniture could encourage those walking from the town centre to sit and cause a noise nuisance. Mr Day on behalf of the premises offered a condition that the non-fixed tables and chairs would be removed and stored

away by 11pm each evening to mitigate this concern and the Sub-Committee agreed that this condition should be added to the Licence

The Sub-Committee heard that Mr Jopling had in the past complained to the Premises regarding late night noise and people drinking on the roof to no effect. The Sub-Committee noted that the applicant company has experience of running hotels in the local area and Mr Malik representing the Applicant appeared proactive and keen to work with residents. The Sub-Committee felt it was proportionate to add a condition to the licence that relevant contact details for the hotel manager and DPS be displayed in the hotel reception area and made available to residents of Coast Development so that should a problem occur, the manager or DPS can be made aware immediately and that any incidents of public nuisance or crime and disorder be reported to the Police as appropriate.

The Sub-Committee noted all the conditions offered within the operating schedule and appreciated that the Applicant had endeavoured to bring the Licence up to date and include the array of conditions that the Licensing Authority expects in order to promote the Licensing Objectives.

The Sub-Committee was mindful of the spirit of the Licensing Act 2003 and the presumption to grant and the case of *Thwaites PLC v Wirral Borough Magistrates' Court* 2008.

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.

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

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.

25. Review of Premises Licence - Pirata, 125 Charminster Road, Bournemouth

Present:

BCP Council:

Sarah Rogers – Licensing Officer

Linda Cole – Legal Advisor to the Sub-Committee

Louise Smith – Clerk to the Sub-Committee

Michelle Cutler – Democratic Support

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 B to these minutes in the Minute Book.

RESOLVED that under Section 14 (2) of the Licensing Act 2003 (Hearings) Regulations 2005, and with regard to Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following item of business on the grounds that the public interest in withholding the information outweighs such interest in disclosing the information and that it involves the likely disclosure of exempt information as defined in Paragraphs 1, 2 and 7 in Part I of Schedule 12A of the Act.

This item was restricted by virtue of paragraphs 1, 2 and 7 of Schedule 12A of the Local Government Act 1972.

Exempt information – Categories 1 (information relating to any individual), 2 (information which is likely to reveal the identity of an individual) and 7 (information relating to the financial or business affairs of any particular person (other than the authority)).

The Sub-Committee was asked to consider the application for review of the premises licence, under Section 51 of the Licensing Act 2003. The review request from Dorset Police was received on 15 May 2024.

Dorset Police believed that the premises had undermined all four licensing objectives - the prevention of crime and disorder, prevention of public nuisance, public safety and the protection of children from harm licensing objectives with full details of the review appended to the Officer Report. In addition to the review application, the Police submitted some supplementary information and showed the Committee two CCTV videos to support their review request.

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

Applicant:

Vanessa Rosales - Dorset Police

Louise Busfield – Dorset Police

License Holder:

Mr Enrico Guadagno – Premises Licence Holder

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.

Decision:

RESOLVED that having considered the application to review the premises licence for the premises known as ‘Pirata’, 125 Charminster Road, Bournemouth, BH8 8UH, the Sub-Committee has decided to revoke the premises license on the grounds that the premises are not upholding the prevention of crime and disorder, public safety, and the protection of children from harm licensing objectives.

Reasons for Decision:

The Sub-Committee considered all the information which had been submitted before the hearing and contained in the report for Agenda Item 6, the written evidence provided by Dorset Police in support of the application for review and the verbal submissions made at the hearing by Louise Busfield and Vanessa Rosales on behalf of Dorset Police, and by Mr Enrico Guadagno, both Premises Licence Holder and DPS.

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 consider matters directly relevant to the licensing objectives in respect of the operation of the premises licence.

The Sub-Committee noted that the premises had failed to engage with Dorset Police despite repeated attempts by the Police to address issues that had arisen at the premises. The Sub-Committee noted that this was a small business being run solely by the Premises Licence Holder/DPS and they had no confidence after considering the evidence before them and hearing from the parties that the premises would not continue to undermine the licensing objectives of the prevention of crime and disorder, public safety and the prevention of children from harm.

The Sub-Committee shared the view of Dorset Police that none of the other available options would address the reasons for the review and that these options would not be appropriate in upholding the Licensing Objectives

The Sub-Committee accepted that Dorset Police had identified and continued to receive reports of concerns associated with this premises and that no further engagement tools were available to Dorset Police that would support the management of this premises to improve their operating practices to enable compliance.

In making this decision the Sub-Committee have had regard to the Bournemouth, Christchurch and Poole Council Licensing Policy, paragraphs 11.27 and 11.28 of the section 182 revised statutory guidance, as set out by the Secretary of State and the licensing objectives, as set out

in the Licensing Act 2003 and agreed that revocation of the Licence was a proportionate response to the issues raised in the review.

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.

The meeting ended at 2.10pm.

CHAIRMAN