

BOURNEMOUTH, CHRISTCHURCH AND POOLE COUNCIL
LICENSING SUB-COMMITTEE

Minutes of the Meeting held on 02 July 2025 at 10.15 am

Present:-

– Chairman

– Vice-Chairman

Present: Cllr A Chapmanlaw, Cllr D A Flagg, and Cllr P Sidaway

26. Election of Chair

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

Voting: Unanimous

27. Apologies

Apologies were received from Cllr George Farquhar.

28. Declarations of Interests

There were no declarations of interest.

29. Protocol for Public Speaking at Licensing Hearings

The protocol for public speaking was noted.

30. Application to vary the Premises Licence at Chicken Cottage, 196- 198 Alma Road, Bournemouth, BH9 1AJ

Ellie King – Licensing Officer
Linda Cole – Legal Advisor to the Sub-Committee
Sinead O’Callaghan – Clerk to the Sub-Committee
Andy McDiarmid – Legal Advisor, observing
Cllr A Keddie - Observing

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 had been circulated and a copy of which appears as Appendix ‘A’ to these minutes in the Minute Book. The Licensing Sub-Committee was asked to consider an application made by Chicken Cottage to vary the premises licence to extend the licensable hours for the provision of late-night refreshment.

The application received 2 representations, 1 from BCP Councils' Environmental Health team and the other from a local resident, on the grounds that to grant the application would undermine the prevention of public nuisance licensing objective.

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

For the Applicant:

Garip Ozcan – Premises Licence Holder
Dhruti Thakkar

Objectors:

Paul Barker – Environmental Health
Mark Montgomery -Objector

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 the application to vary the Premises Licence for the premises known as 'Chicken Cottage', 196- 198 Alma Road, Bournemouth, BH9 1AJ, to extend the licensable hours for the provision of late-night refreshment, be REFUSED.

Reasons for Decision:

The Sub-Committee gave detailed consideration to all of the information which had been submitted before the Hearing as contained in the Licensing Officer's report for Agenda Item 5, including the details provided by the applicant in their application and the written representations made in objection to the application from Environmental Health and one other person on the grounds that to grant the application will undermine the licensing objective of the prevention of public nuisance.

The Sub-Committee also considered the verbal submissions presented at the Hearing by those in attendance, including Ms Ellie King, the Licensing Officer, Mr Garip Ozcan, the applicant, Ms Dhruti Thakkar, who attended in support of the applicant, Mr Paul Barker, Environmental Health Officer, and Mr Mark Montgomery, a neighbouring resident. Both Mr Barker and Mr Montgomery had submitted objections to the application.

The Sub-Committee noted that the application was prompted by a complaint that the premises had been operating beyond their permitted hours. A visit was made by the Licensing Authority on 8 May 2025 to investigate and provide guidance on the process to vary a licence. During the visit, Mr Ozcan was informed that Environmental Health continued to

receive complaints about noise from the premises beyond the licensable hours of 12.30am. Mr Ozcan maintained that the premises closed by 12:30am each night.

The Sub Committee was mindful that Environmental Health was the responsible authority which provided professional advice in relation to the prevention of public nuisance licensing objective. It was noted that Environmental Health considered this objective is being undermined in these premises due to ongoing concerns regarding noise nuisance. Mr Barker advised the Sub-Committee that although Mr Ozcan claimed the extractor fan causing the noise had been fixed, recent monitoring of the premises showed the noise was still ongoing and remained above acceptable levels, preventing him from supporting the application to vary the premises licence.

The Sub-Committee had regard to the concerns raised by Mr Montgomery in relation to the prevention of public nuisance licensing objective. As a resident of the flat above the premises, Mr Montgomery felt that the extended operating hours would only exacerbate several noise issues he had already raised prior to the application.

The Sub-Committee gave weight to Mr Montgomery's representation, in which he described the impact of noise disturbance on his quality of life. He explained that over the past year, he had been unable to sleep due to persistent noise, particularly from equipment such as the extractor fan. He stated that if the noise issues were resolved, he would have no objection to the licence being extended until 2:00am. While he acknowledged the presence of cars and mopeds parking on the pavement and near the bins late at night to collect deliveries, he clarified that these were not his primary concern. His main issue was the ongoing disruption caused by the extractor fan at night, which had significantly affected his ability to sleep. He knew Environmental Health had asked that it be repaired and could not understand why it was continuing to cause such a nuisance.

The Sub-Committee considered the applicant's justification for the extended hours. Mr Ozcan explained that the previous owner had operated until 2:00 AM and that the business had declined since earlier closing times were introduced. He said the late-night period was particularly busy and that reduced hours had made it difficult to cover essential costs. He also stated that he had no issues with neighbours and aimed to maintain good relationships within the community.

The Sub-Committee were advised that there had been no change to the licensable hours on the premises licence. The premises had never been licensed to 2am, but it appeared that Mr Ozcan had been operating the premises beyond 2am and this only became apparent when noise complaints regarding the extractor fan were made and investigated. He did state that he had been closing at 12.30am for the last couple of months

The Sub-Committee noted Mr Ozcan's explanation regarding the reported noise nuisance but found his claim that the equipment had now been fixed

not to be true. Mr Barker advised that noise monitoring equipment had been installed into Mr Montgomery's flat and considering the evidence from Mr Barker and Mr Montgomery, both of whom confirmed that the noise issues persisted at the time of the hearing, it was clear that any repairs already done were not adequate. Mr Barker advised that Mr Ozcan kept promising to have the fan repaired but he does not do it to a satisfactory standard. He advised that an Abatement Notice had also been issued to Mr Ozcan as it is considered the noise being emitted is a statutory nuisance.

The Sub-Committee acknowledged the applicant's financial concerns but concluded it could not be satisfied that the premises did not undermine the prevention of public nuisance licensing objective currently, without exacerbating the situation by allowing later hours. They were both disappointed that the applicant was not already taking responsibility to resolve the noise nuisance and surprised that Environmental Health had not already made an application to review the premises. As such the Sub-Committee determined that application to vary the premiss licence should be refused.

In making this decision, the Sub-Committee have had regard to the Bournemouth, Christchurch and Poole Council Licensing Policy, the licensing objectives, as set out in the Licensing Act 2003 and the revised Home Office section 183 guidance issued under Licensing Act 2003.

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.

31. 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.

32. Consideration of suitability for a new Hackney Carriage/ Private Hire Driver Applicant

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).

Present:

From BCP Council:
Wesley Freeman – Licensing Officer
Linda Cole – Legal Advisor to the Sub-Committee
Sinead O'Callaghan – Clerk to the Sub-Committee

Andy McDiarmid – Legal Advisor, observing
Cllr Alasdair Keddie - Observing

The applicant driver was in attendance.

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

The Licensing Officer 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 whether the applicant was deemed to be a 'fit and proper' person to allow them to continue with their application to hold a Public Carriage Drivers Licence for BCP Council.

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.

The Sub-Committee RESOLVED that the applicant driver is a 'fit and proper person' to continue with his application to hold a Hackney Carriage or Private Hire Driver's Licence.

Reason for the decision

The Sub-Committee considered all the information which had been submitted before the Hearing and contained in the report for Agenda Item 6, along with the verbal submissions made at the Hearing by the applicant driver and the Licensing Officer.

In considering the test of a 'fit and proper person', the Sub-Committee also had regard to section 8 of BCP Council's Hackney Carriage and Private Hire Driver Policy 2021 - 2025, the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976, the Institute of Licensing (IOL) Guidance on determining the suitability of applicants and licensees in the Hackney and Private Hire Trades (2018) and paragraph 3 of the Department of Transport Statutory Taxi and Private Hire Vehicle Standards (updated November 2022).

The Sub-Committee noted that the applicant driver had previously had a licence revoked in 2021, but that no further action had been taken by the police regarding the incident brought to the Licensing Authority's attention, and that the complainant had withdrawn from the process. The applicant driver stated that he had not been contacted by the police and had not been subject to any further investigation or charges.

The Sub-Committee found the applicant driver to be open and reflective during the hearing. He explained that he had learned from past experiences and that the situation had provided him with important life lessons. He is aware he should not become overly friendly with customers and now would solely focus on his family and his work. He expressed remorse and a commitment to moving forward positively.

The applicant driver also explained his personal circumstances, including his health issues and family responsibilities, as well as his desire to work in a profession that supports his wellbeing and allows him to contribute more to his household. While the Sub-Committee acknowledged that personal circumstances are not a determining factor in the test of a 'fit and proper person', they noted his sincerity and motivation to work responsibly, and his role as a trustee of a charity, which they considered to be a positive reflection of his character and community involvement.

The Sub-Committee found the applicant driver to be remorseful for his previous actions, truthful and transparent and gave no indication that such previous inappropriate behaviour will occur again. The Sub-Committee found on the balance of probability that the applicant driver is a 'fit and proper person' and should be allowed to continue with his application for a Public Carriage Driver's Licence.

The meeting ended at 11.30 am

CHAIRMAN