

BOURNEMOUTH, CHRISTCHURCH AND POOLE COUNCIL

LICENSING SUB-COMMITTEE

Minutes of the Meeting held on 20 August 2019 at 10.00 am

Present:-

Present: Cllr S Baron, Cllr B Dunlop and Cllr G Farquhar

Also in attendance: Cllr D Butler, Cllr D Kelsey, Cllr P Parrish

Officers in attendance: Trudi Barlow (Licensing Technician), Michelle Fletcher (Licensing Technician), Wesley Freeman (Consumer Protection Officer (Licensing)), Sarah Rogers (Senior Licensing Officer), Sunyana Sharma (Barrister) and Frank Wenzel (Licensing Team Manager)

34. Election of Chairman

RESOLVED that:-

Cllr G Farquhar be elected Chairman of the Sub-Committee for the duration of the meeting.

35. Apologies

Apologies for absence were received from Cllr N Decent.

36. Declarations of Interests

There were no declarations of interest made at this meeting.

37. Application for Variation of Premises Licence - The Buffalo - 303-305 Wimborne Road, BH9 2AA

The Chairman initiated introductions and explained the procedure for the hearing, to which all parties agreed.

The Sub-Committee was asked to consider an application made by Lacey's Solicitors representing Russell Restaurants Bournemouth Limited for a variation to the premises licence for The Buffalo, 303-305 Wimborne Road BH9 2AA. The variation applied for was to extend the hours for the sale of alcohol and the provision of regulated entertainment to commence at 10:00 hours on all days and to end at 01:00 on Sundays to Thursdays with a further 30 minutes for late night refreshment and opening (01:30 hours).

The Senior Licensing Officer summarised the details of the application, as set out in report '5', a copy of which had been circulated and a copy of which appears as Appendix 'A' to these Minutes in the Minute Book. The application prompted representations from two other persons on the grounds that the application, if granted, would undermine three of the licensing objectives. These being: public safety, the prevention of crime and disorder and the prevention of public nuisance.

All parties at the Sub-Committee meeting had received additional documentation prior to the hearing. These included:

- Written statement from Lacey's Solicitors on behalf of the applicant
- Photographs of the premises
- Correspondence between the applicant and the Licensing Authority, including a copy of a public objection.
- Letter and email of support from Councillor Chris Rigby.

The following persons attended the Sub Committee and gave verbal evidence based on their written submissions:

Other persons in objection:

- Cllr S Bull – Ward Councillor
- Ms D Rees – Local resident

On behalf of the Applicant:

- Tom Russell – Applicant
- Philip Day – Solicitor representing the applicant

Members of the Sub Committee asked various questions of all parties present at the hearing. All parties were given the opportunity to ask questions of one another. All parties were then able to sum up before the Sub-Committee retired to make its decision.

RESOLVED that: -

The application for variation of the premises licence for The Buffalo, 303 – 305 Wimborne Road, BH9 2AA be **GRANTED IN PART**, to extend the hours for the sale of alcohol and the provision of regulated entertainment to commence at 10.00 on all days.

The application to extend the hours for the sale of alcohol and the provision of regulated entertainment to end at 01.00 on Sundays to Thursdays with a further 30 minutes for late night refreshment and opening (01.30) be **REFUSED**.

Reasons for Decision:

The Sub-Committee gave detailed consideration to the written evidence that had been submitted before the hearing, along with the verbal submissions made at the hearing by all parties. In making its decision the Sub Committee considered the representations made by the other persons,

the submissions made by and on behalf of the applicant, the relevant licensing objective, the Licensing Act 2003, Regulations, Guidance and the Council's Statement of Licensing Policy.

As the premises is in close proximity of a highly, densely populated residential area, the Sub-Committee agreed that the extension of the licensable activities to 01.00 from Sunday to Thursday, and the late-night refreshment opening for the further 30 minutes, would be contrary to the licensing objective for the prevention of public nuisance. The Sub-Committee did not have this concern with the earlier opening hours, from 10.00.

The Licensing Officer advised all parties that any persons aggrieved by the decision would have the right of appeal to the Magistrates Court, and any such appeal should be lodged within 21 days of receiving the decision letter.

38. 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.

39. Review of a Public Carriage Driver licence

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

The Licensing Officer introduced a non-public report marked '6', a copy of which had been circulated, concerning an application for a licence to drive a Hackney Carriage and/or Private Hire vehicle in the Bournemouth Zone. It was heard that the named applicant in the report had previously held a licence issued by Bournemouth Borough Council and that during the period of the licence, the named applicant had received two criminal convictions for battery and had failed to notify the Licensing Authority of the conviction within seven days. Members were informed that this was a contravention of the conditions of the licence, as set out in the Public Carriage Conditions,

Bylaws and Guidance known as the 'Blue Book' issued to all drivers. The criminal convictions only came to light when the applicant submitted an up to date DBS enhanced certificate as part of his new application. The Sub Committee was asked to consider whether the applicant met the fit and proper person criteria for holding a Hackney Carriage and/or Private Hire vehicle licence.

The named applicant attended the hearing and made verbal representations in support of his application. All parties present at the meeting had the opportunity to ask questions.

RESOLVED that:-

The application for a licence to drive a Hackney Carriage and/or Private Hire vehicle in the Bournemouth Zone be refused.

Reasons for Decision:

Having carefully considered the written evidence and the verbal evidence presented at the hearing, the Sub Committee agreed that the named applicant was not a fit and proper person to hold a licence to drive a Hackney Carriage and/or Private Hire vehicle in accordance with Section 51(a) and Section 59 (a) of the Local Government Miscellaneous Provisions Act 1976.

The Sub Committee reached this decision due to the nature of the two criminal convictions for battery, with reference to paragraph 6.6 of the Council's Convictions Policy, and the failure to notify the Licensing Authority of said convictions within the required timeframe whilst in possession of his previous licence, contrary to the conditions of his licence as set out in the Public Carriage Conditions, Bylaws and Guidance known as the Blue Book.

The named driver was informed of his right to appeal to the Magistrates' Court within 21 days of receiving the decision letter.

40. Review of a Public Carriage Driver licence

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

The Licensing Officer introduced a non-public report, marked '7', a copy of which had been circulated concerning a review of a licence to drive a Hackney Carriage and/or Private Hire vehicle in the Bournemouth Zone. Members were told that the named driver in the report had failed to notify the Licensing Authority of a criminal conviction for battery within seven days. Members were informed that this was a contravention of the conditions of the licence, as set out in the Public Carriage Conditions, Bylaws and Guidance known as the 'Blue Book' issued to all drivers. The criminal conviction only came to light when information of the named driver's convictions were published by a third party media source.

In addition to the written evidence presented in the report, the Licensing Sub Committee also considered the following additional information submitted before the hearing:

- A list of complaints, received by the Licensing Authority, relating to the named driver.
- Video footage of the named driver during one of the listed complaints.
- A response from the named driver relating to the video footage.

Video footage of the incident referred to in the list of complaints relating to the named driver was shown to the Licensing Sub Committee with the consent of all parties.

The Sub Committee was asked to consider whether the applicant met the fit and proper person criteria for holding a Hackney Carriage and/or Private Hire vehicle licence.

The named applicant attended the hearing and made verbal representations in support of his application. All parties present at the meeting had the opportunity to ask questions.

RESOLVED that:-

The licence of the named driver to drive a Hackney Carriage and/or Private Hire vehicle in the Bournemouth Zone be revoked with immediate effect in the interests of public safety.

Reasons for Decision:-

Having carefully considered the written evidence and the verbal and visual evidence presented at the hearing, the Sub Committee agreed that the named applicant was not a fit and proper person to hold a licence to drive a Hackney Carriage and/or Private Hire vehicle in accordance with Section 61 of the Local Government Miscellaneous Provisions Act 1976.

The Sub Committee reached this decision due to the nature of the criminal conviction for battery, with reference to paragraph 6.6 of the Council's Convictions Policy, and the failure to notify the Licencing Authority of said conviction within the required timeframe contrary to the conditions of his licence as set out in the Public Carriage Conditions, Bylaws and Guidance known as the 'Blue Book'.

Furthermore, Members agreed that, though disputed by the named driver, on the balance of probability the list of formal complaints against the named driver demonstrated an emerging pattern of aggressive behaviour.

The named driver was informed of his right to appeal to the Magistrates' court within 21 days.

41. Review of Hackney Carriage and Private Hire Driver's Licence

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

The Licensing Manager introduced a non-public report, marked '8', a copy of which had been circulated concerning a review of the named applicant's personal licence to drive a Hackney Carriage and Private Hire vehicle in the Poole Zone. Members heard that the Licensing Authority had received a complaint in relation to the named driver regarding a Blue Badge abuse incident as well as an alleged assault on the traffic warden at the scene.

The Licensing Sub-Committee was asked to consider whether the applicant met the fit and proper person criteria for holding a Hackney Carriage and Private Hire vehicle licence.

The named driver attended the hearing and made verbal representations regarding the incident. All parties present at the meeting had the opportunity to ask questions.

RESOLVED that:-

The licence of the named driver to drive a Hackney Carriage and/or Private Hire vehicle in the Poole Zone be **REVOKED**. Members agreed that the named driver was not of 'fit and proper character' to hold a licence in accordance with Section 61 of the Local Government Miscellaneous Provisions Act 1976.

Reasons for Decision:

The Sub-Committee decided that on the balance of probabilities, the named driver had knowingly misused the Blue Badge on the date that the complaint was made.

In addition, the named driver had confirmed that he had incorrectly used the Blue Badge on a number of previous occasions, which the Sub-Committee felt, on the balance of probabilities, he had done so knowingly. Finally, regarding the allegations of assault, the Sub-Committee concluded that on the balance of probabilities, the named driver had assaulted the traffic warden,

This, in addition to the Blue Badge abuse, rendered him not of 'fit and proper character' to hold a personal licence to drive either a Private Hire vehicle in accordance with Section 61 of the Local Government Miscellaneous Provisions Act 1976.

The named driver was informed of his right to appeal to the Magistrates' court within 21 days of receiving the decision letter.

The meeting started at 10.00.

The meeting was adjourned between the following times:

11:35 – 12:47

13:10 – 13:37

14:20 – 15:05

15:10 – 15:25

16:35 – 18:05

The meeting ended at 18:10

CHAIRMAN