

BOURNEMOUTH, CHRISTCHURCH AND POOLE COUNCIL
LICENSING SUB-COMMITTEE

Minutes of the Meeting held on 15 October 2019 at 10.00 am

Present:-

Cllr D A Flagg – Chairman

Present: Cllr S Baron and Cllr R Burton

Also in attendance: Cllr D Butler (observing) and Cllr P Parrish (observing)

46. Election of Chairman

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

47. Apologies

There were no apologies.

48. Declarations of Interests

There were no declarations of interest from councillors.

49. Application for a New Premises Licence - Whitley Court - West Cliff Gardens, Bournemouth, BH2 5HL

The Sub Committee was advised that this application had been withdrawn by the applicant.

50. 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.

51. Application for a Personal Licence

The Chairman made introductions and explained the procedure to be followed which was agreed by all parties.

The Sub Committee considered an application for a Personal Licence for the person named in the non-public report for agenda item 6, a copy of

which had been circulated to members of the Sub-Committee and a copy of which appears as Appendix A to these minutes in the Minute Book. A copy of the application form was provided at Appendix A of the report.

The Licensing Manager presented the report and explained that an objection notice had been received from Dorset Police on the grounds that granting the application would undermine the prevention of crime and disorder licensing objective. A copy of the objection notice and statement was provided at Appendix B of the report. Following the receipt of the objection the application was brought before the Sub Committee for determination, as required under the Licensing Act 2003.

The following persons attending the hearing and spoke in support of the application:

- The legal representative of the applicant's employer company
- The applicant's store manager
- The applicant

The persons attending asked the Sub Committee to grant the application on the basis that doing so would not undermine the crime prevention objective, and that the offences committed by the applicant took place so long ago and that the applicant no longer had the propensity to reoffend. The Sub Committee was advised of the nature of the applicant's convictions, and her employer's full support of the applicant's honest disclosure about her past conduct, and her efforts in making a fresh start and a new career for herself. The persons attending responded to questions from the Sub-Committee on the circumstances of the case prior to summing up. The Sub Committee then retired to make its decision.

Note: At the hearing the legal representative requested a copy of the Police statement which the Chairman offered him time to read before proceeding with his agreement.

RESOLVED that, having considered the objection from Dorset Police and the representations on behalf of the applicant, and having heard from the applicant's store manager who wholly supports the application, and having reference to Section 7.1.6 of the Local Authority's Statement of Licensing Policy (Poole Zone) and Section 4.24 of the Home Office Revised Guidance, the Sub Committee grants the application for a Personal Licence, on the basis that doing so will not undermine the prevention of crime and disorder licensing objective.

52. Review of Existing Private Hire Drivers Licence

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

The Sub Committee considered an existing Private Hire Drivers Licence for the licence holder named in the non-public report for agenda item 7, a copy

of which had been circulated to members of the Sub Committee and a copy of which appears as Appendix B to these minutes in the Minute Book..

The Public Health and Protection Manager presented the report and explained that the Licensing Authority was able to consider whether a driver remained a fit and proper person if there were circumstances which raised a concern during the course of an existing licence. He outlined the test of a fit and proper person and the options available to the Sub Committee in determining the case, as detailed in the report.

The Sub Committee was advised that the licence holder named in the report had disclosed a conviction to the Licensing Authority in August 2019, for which he had received a conditional discharge. The conviction related to a breach of a Family Court Order previously issued in August 2018 of which the Licensing Authority was not aware. The Sub Committee was asked to consider whether the licence holder remained a fit and proper person in light of the order and the conviction for breaching the order and the failure to notify the Council of the order and the conviction in accordance with the requirements of Condition 3.1 of the Council's Policies and Conditions Booklet (Christchurch Zone).

The licence holder attended the hearing and addressed the Sub Committee. He provided more detail about the circumstances leading up to the court order and the conviction. In addition he explained that he had not realised that he needed to notify the Council of an order of this nature, he thought this only applied to convictions. He disputed that he had not reported his conviction within the required timescale and explained that he had notified the Council of this by contacting its customer services team and following this up with email correspondence. He asked the Sub Committee to take these matters into account when determining his case.

The Sub Committee retired to make its decision. During its deliberations the Sub Committee asked to seek clarification from the Public Health and Protection Manager on when the licence holder had informed the Council of the conviction. The hearing was resumed briefly to enable the Public Health and Protection Manager to confirm that he did not dispute the licence holder's account.

RESOLVED that, having regard to the order and conviction for breaching the order, and having heard representations relating to the circumstances of these, the Sub Committee decided that the holder of the private hire driver licence named in the report remains a fit and proper person.

The Chairman explained that this had been a difficult case for the Sub Committee to determine. The Sub Committee was mindful of the requirement to notify the Council of matters set out in condition 3.1 of the relevant policy and conditions booklet but had accepted the licence holder's explanation. The licence holder was reminded of the requirement to notify the Council of any such matters should they arise during the remaining course of his existing licence. He was asked to note that should he have

cause to appear before a Sub Committee again it may not result in the same outcome.

53. Private Hire Drivers Licence Application

The Sub Committee was asked to consider an application for a private hire driver licence, as set out in the non-public report for agenda item 8, a copy of which had been circulated to members of the Sub Committee, and a copy of which appears as Appendix C to these minutes in the Minute Book.

The Public Health and Protection Manager presented the report and explained that Section 7 (3) of the Rehabilitation of Offenders Act 1974 permitted spent convictions to be admitted in considering an application for a private hire drivers licence where it is considered that justice cannot be done in the case except by admitting or requiring evidence relating to the spent convictions. He outlined the case law and how to use spent convictions and the test of a fit and proper person, as detailed in the report.

The Sub Committee was referred to the conviction disclosed in the applicant's DBS check. This was considered capable of being relevant to the application due to the offence being committed in adult years and the offence being relevant to the role of a private hire driver.

The Sub Committee was asked to consider whether it required more information of the conviction to be presented in a licensing hearing to enable justice to be done to the application, or whether to allow officers to issue the licence without the need to hear further details of the conviction. The Public Health and Protection Manager responded to questions of clarification from the Sub Committee. In making its decision the Sub Committee had regard to the class of the offence, the age of the offence and in broad terms the seriousness of the offence.

RESOLVED that officers be allowed to issue the licence without the need to hear further details of the conviction.

54. Hackney Carriage Drivers Licence Application

The Sub Committee was asked to consider an application for a hackney carriage driver licence, as set out in the non-public report for agenda item 9, a copy of which had been circulated to members of the Sub Committee and a copy of which appears as Appendix D to these minutes in the Minute Book.

The Public Health and Protection Manager presented the report and explained that Section 7 (3) of the Rehabilitation of Offenders Act 1974 permitted spent convictions to be admitted in considering an application for a hackney carriage drivers licence where it is considered that justice cannot be done in the case except by admitting or requiring evidence relating to the spent convictions. He outlined the case law and how to use spent convictions and the test of a fit and proper person, as detailed in the report.

The Sub Committee was referred to two convictions disclosed in the applicant's DBS check. These were considered capable of being relevant to the application due to the offences being committed in adult years and the offences being relevant to the role of a hackney carriage driver.

The Sub Committee was asked to consider whether it required more information of the convictions to be presented in a licensing hearing to enable justice to be done to the application, or whether to allow officers to issue the licence without the need to hear further details of the convictions. In making its decision the Sub Committee had regard to the class of the offence, the age of the offence and in broad terms the seriousness of the offence.

RESOLVED that more information of the convictions is required to be presented in a licensing hearing to enable justice to be done to the application.

55. Private Hire Drivers Licence Application and Private Hire Operators Licence Application

The Sub Committee was asked to consider an application for a private hire drivers licence and a private hire operator's licence, as set out in the non-public report for agenda item 10, a copy of which had been circulated to members of the Sub Committee and a copy of which appears as Appendix E to these minutes in the Minute Book..

The Public Health and Protection Manager presented the report and explained that Section 7 (3) of the Rehabilitation of Offenders Act 1974 permitted spent convictions to be admitted in considering such applications where it is considered that justice cannot be done in the case except by admitting or requiring evidence relating to the spent convictions. He outlined the case law and how to use spent convictions and the test of a fit and proper person, as detailed in the report.

The Sub Committee was referred to the caution disclosed in the applicant's DBS check. This was considered capable of being relevant to the application due to the offence being committed in adult years and the offence being one of violence which is a relevant issue to the role of a private hire driver and private hire operator.

The Sub Committee was asked to consider whether it required more information of the conviction to be presented in a licensing hearing to enable justice to be done to the application, or whether to allow officers to issue the licence without the need to hear further details of the conviction. The Public Health and Protection Manager responded to questions of clarification from the Sub Committee. In making its decision the Sub Committee had regard to the class of the offence, the age of the offence and in broad terms the seriousness of the offence.

RESOLVED that more information of the conviction is required to be presented in a licensing hearing to enable justice to be done to the application.

56. Hackney Carriage Drivers Licence Application

The Sub Committee was asked to consider an application for a hackney carriage driver licence, as set out in the non-public report for agenda item 11, a copy of which had been circulated to members of the Sub Committee and a copy of which appears as Appendix F to these minutes in the Minute Book.

The Public Health and Protection Manager presented the report and explained that Section 7 (3) of the Rehabilitation of Offenders Act 1974 permitted spent convictions to be admitted in considering an application for a hackney carriage drivers licence where it is considered that justice cannot be done in the case except by admitting or requiring evidence relating to the spent convictions. He outlined the case law and how to use spent convictions and the test of a fit and proper person, as detailed in the report.

The Sub Committee was referred to three convictions disclosed in the applicant's DBS check. These were considered capable of being relevant to the application due to the offences being committed in adult years and the offences being relevant to the role of a hackney carriage driver.

The Sub Committee was asked to consider whether it required more information of the convictions to be presented in a licensing hearing to enable justice to be done to the application, or whether to allow officers to issue the licence without the need to hear further details of the convictions. In making its decision the Sub Committee had regard to the class of the offence, the age of the offence and in broad terms the seriousness of the offence.

RESOLVED that more information of the convictions is required to be presented in a licensing hearing to enable justice to be done to the application.

The meeting ended at 11.55 am

CHAIRMAN