

BOURNEMOUTH, CHRISTCHURCH AND POOLE COUNCIL
LICENSING SUB-COMMITTEE

Minutes of the Meeting held on 09 June 2021 at 10.00 am

Present: Cllr J Butt, Cllr N Decent and Cllr B Dion

5. Election of Chairman

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

Voting: Unanimous

6. Apologies

No apologies for absence were received.

7. Declarations of Interests

No declarations of interest were received.

8. Application for a Variation of a Premises Licence, More the Merrier, 68 Kimberley Road

Attendance:

From BCP Council:

Linda Cole, Legal Advisor to the Sub-Committee
Sarah Rogers, Senior Licensing Officer
Michelle Cutler, Clerk to the Sub-Committee

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

The Senior 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 an application for a variation of the premises licence in respect of the the premise known as 'More the Merrier', 68 Kimberley Road, Bournemouth, BH6 5BY. The Application had been made by David Ramsey, Licensing Consultant, on behalf of the

premises licence holder Esra Oksuz, to remove condition 2.11 imposed on the licence which stated that “Muzaffer Oksuz shall not be responsible for, or authorise, any sale of alcohol at the premises.”

The Sub-Committee was advised that a representation had been received from Dorset Police objecting to the removal of this condition as they remained concerned that Mr Oksuz was unable to commit to the promotion of the licensing objectives and would therefore undermine them.

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

David Ramsey, Licensing Consultant, representing the Applicant
Esra Oksuz, Applicant and current Premises Licence Holder and DPS of the premises
Azra Oksuz, Owner of the Premises
Louise Busfield, Licensing Officer, Dorset Police

The Chairman noted that Azra Oksuz did not speak fluent English, however, his daughter, Esra Oksuz, and David Ramsey, Licensing Consultant would be speaking on his behalf. Azra Oksuz confirmed that he had a good understanding of the English language.

The Sub-Committee asked various questions of all parties present and were 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.

It was RESOLVED that the application to vary the premises licence of the premises known as ‘More the Merrier’, 68 Kimberley Road, Bournemouth, BH6 5BY, to remove condition 2.11 imposed on the licence which states:- “Muzaffer Oksuz shall not be responsible for, or authorise, any sale of alcohol at the premises.” be GRANTED.

Reasons for the Decision

The Sub-Committee gave detailed consideration to all the information that had been submitted before the meeting and contained in Agenda Item 5’, in particular the written and verbal representations made by Dorset Police, objecting to the application as a Responsible Authority. The Sub-Committee also considered the verbal representations of Sarah Rogers, Senior Licensing Officer, BCP Council; David Ramsey, Licensing Consultant, on behalf of the Applicant; Esra Oksuz the Applicant and current Premises Licence Holder and DPS of the premises and Muzaffer Oksuz, the owner of the premises.

The Sub-Committee acknowledged the concerns raised both in the written representation and verbal submissions of Dorset Police over Mr Oksuz’s commitment to promoting and upholding the licensing objectives, as he had not been wearing a face covering as required under *The Health Protection (Coronavirus, Wearing of Face Coverings*

in a Relevant Place) (England) Regulations 2020, when Dorset Police had conducted a visit to the premises on 16 March 2021. The written representation made by Dorset Police stated that this visit had been conducted because of reports regarding the lack of enforcement of wearing of face masks at the premises, but Ms Busfield, at the hearing confirmed that it was primarily a curtesy visit made to discuss the variation application.

Ms Busfield confirmed that Dorset Police had no recent concerns prior to this visit about any breach of licence condition or that the licensing objectives were being undermined, but they were not confident that Muzaffer Oksuz would not disregard licensing law should the condition be removed and he was once again able to authorise and take responsibility for the sale of alcohol at the premises.

The Sub-Committee was disappointed that during this visit, Mr Oksuz had been advised twice by Ms Busfield about wearing a face mask, but he still did not put one on, despite a customer entering the shop. The Sub-Committee was very clear that the issue of wearing a face covering and complying with the current Covid regulations was not a matter to be taken lightly and would not expect those working within licenced premises to disregard Covid regulations.

The Sub-Committee noted that there had been an assessment of the premises by Mr Ramsey who advised them that the conditions now attached to the licence had been described by Dorset Police as robust. 18 months had elapsed from the review of the premises, which took place in November 2019, with no breach of these conditions having been reported. Mr Ramsey also reported that Mr Oksuz had recently resat his APLH and had been granted a personal licence by BCP Council.

The Sub-Committee was of the view that sufficient time had passed for condition 2.11 to be removed from the licence and was satisfied that if the premises continued to operate in accordance with the remaining conditions on the licence, this variation to the premises licence should not lead to the licensing objectives being undermined at the premises. Despite being concerned about Mr Oksuz's lack of compliance with the Covid regulations, the Sub-Committee was of the view that it would not be a proportionate reason to refuse the variation application.

The Sub-Committee noted that no other persons or other Responsible Authorities had objected to the application to vary the licence.

In reaching its decision the Sub-Committee did not take into consideration the financial hardship outlined to them during the hearing that was said to have been suffered by Mr Oksuz and his family as a result of condition 2.11 being imposed on the premises licence, as this was not within the remit of the Sub-Committee.

The Sub-Committee wished to remind both the Premises Licence Holder and DPS, Esra Oksuz and Muzaffer Oksuz of their responsibility to manage the premises responsibly, in order to promote all of the licensing objectives and they expect the premises to be kept under scrutiny by the Licensing Section and be subject to enforcement visits from the Council or Dorset Police as necessary.

It was noted that a further 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.

Right of Appeal

All parties to the application have the right to Appeal to the Magistrates Court within the period of 21 days beginning with the day on which the Applicant is notified by the Licensing Authority of this decision in writing.

9. Application for a New Premises Licence for Chunkzz Fried Chicken & Pizza, 683 Christchurch Road, BH7 6AA

Attendance:

From BCP Council:

Linda Cole, Legal Advisor to the Sub-Committee
Tania Jardim, Licensing Officer
Michelle Cutler, Clerk to the Sub-Committee

The Chairman 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 to each Member and a copy of which appears as Appendix 'A' to these Minutes in the Minute Book. The Licensing Officer drew attention to an error in the report on page 32 and advised that paragraph 5, line 5, in relation to home deliveries, should have been deleted.

The Sub-Committee was asked to consider an application for a variation of the premises licence in respect of the premise known as 'Chunkzz Fried Chicken and Pizza', 683 Christchurch Road, BH7 6AA. The Application had been made by David Ramsey, Licensing Consultant, on behalf of the premises licence holder, Mr Chicken Club Limited, for a new restaurant and takeaway to provide Late Night Refreshment between the hours of 23:00 to 04:00 Monday to Sunday (indoors and outdoors) and on and off sales of alcohol, between the hours of 12:00 and 04:00 Monday to Sunday. The applicant had explained that although the terminal hour requested was 04:00, the premises would close its doors to the public at 00:00 Sunday to Thursday and 02:00 on Friday and Saturday. Only home deliveries will take place between 00:00 and 04:00 on Sunday to Thursday and 02:00 to 04:00 on Friday and Saturday.

The Licensing Sub-Committee was advised that one representation had been received from 1 other person on the grounds that 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:

David Ramsey, Licensing Consultant, representing the Applicant
George Mgeladze – Company Director, Chicken Club Limited
Abdullah Ebrahim – proposed Designated Supervisor, Chicken Club Limited
Mr Raufi – Objector

The Sub-Committee asked various questions of all parties present and were grateful for the responses received.

The Licensing Sub-Committee adjourned for a period of ten minutes for Mr Ramsey to confer in private with his client. On returning, Mr Ramsey advised that his client was willing to limit alcohol sales after 23:00hrs to home deliveries only.

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.

It was RESOLVED that the application for a new premises licence for the premises known as 'Chunkzz Fried Chicken & Pizza', 683 Christchurch Road, BH7 6AA, be GRANTED for:

Supply of alcohol both on and off the premises to include home deliveries 12:00 hours to 23:00 hours each day of the week,

Supply of alcohol off the premises for home delivery only 23:00 hours to 01:00 hours Sunday to Thursday and 23:00 hours to 02:00 hours Friday and Saturday; and

Late Night Refreshment 23:00 hours to 01:00 hours Sunday to Thursday and 23:00 hours to 02:00 hours Friday and Saturday

This premises licence is granted subject to the reduction in hours for home delivery and the inclusion of the conditions proposed by Environmental Health and agreed with the Applicant in advance of the hearing; all of the conditions offered in the Operating Schedule at section 18 of the application and additional conditions offered further to discussion at the hearing, to enable:

- **A reduction to the terminal hour for home delivery to 01:00 Sunday to Thursday and 02:00 Friday and Saturday.**
- **The closing time of the premises to the public is to remain 00:00 Sunday to Thursday and 02:00 on Friday and Saturday but the sale of alcohol will be limited to home deliver only from 23:00hrs each day.**
- **At New Year the times are from the start of permitted hours on 31st December to the end of permitted hours on 1st January.**

- Staff will encourage customers and delivery drivers to leave quietly, not loiter outside or in the vicinity of the premises and always have regard for residents.
- All staff including delivery drivers will be trained (and the training signed by employees) making them aware that they must be considerate of neighbouring premises; a sign requiring this will also be placed on the back door at all times.
- The contact details of the director of Chicken Club Limited and the DPS will be displayed prominently within the premises and given to the occupier of the flat above the premises so that they can be contacted by neighbouring residents should any issues arise in connection with the management of the business which undermine the licensing objectives.

Reasons for the Decision

The Sub-Committee gave detailed consideration to the report presented by Tanja Jardim, Licensing Officer, BCP Council, all the information that had been submitted before the meeting and contained in Agenda Item 6, including the written and verbal Representation made by the 1 'other person', Mr Raufi.

The Sub-Committee noted the reduction in trading hours and the 2 conditions that had been agreed between the Applicant and Environmental Health and that no other Responsible Authorities had made a representation.

The Sub-Committee also considered the verbal representations of David Ramsey, Licensing Consultant, on behalf of the Applicant and George Mgeladze, the Applicant and Company Director of Chicken Club Ltd and the answers to all questions posed.

The Sub-Committee acknowledged the concerns raised in the written and verbal representations of Mr Raufi, who lived above this premises; in respect of potential noise and disturbance that would affect his family; regarding fights and anti-social behaviour which occurred on Christchurch Road, close to where this premises is situated and his particular concern about the sale of alcohol directly to customers from the premises after 23:00 hours, which would encourage trade from customers leaving nearby bars who may already be under the influence of alcohol.

During the hearing the Sub-Committee asked Mr Ramsey if he would like the opportunity to confer with his client, to consider if he was prepared to offer to only supply alcohol with home delivery after 23:00 hours, as Mr Mgeladze had already indicated at the hearing he had no desire to deal with drunk people and mainly wanted to deliver alcohol. The Sub-Committee welcomed the Applicant's offer to only offer the sale of alcohol with home deliveries after 23:00hrs each day.

They noted Mr George Mgeladze's varied experience in the industry and his understanding of the area in which the premises, is situated. They were confident in his ability and desire to manage the premises

responsibly, together with an experienced DPS, so as not to undermine the licensing objectives.

The Sub-Committee also considered the proposed conditions contained in the Operating Schedule at section 18 of the application; those agreed by Environmental Health and the Applicant and the agreed reduction in hours. They thought it was proportionate to add a further condition that contact details be displayed in the premises and given to the occupier of the flat above the premises to encourage any noise issues caused by delivery drivers and from within the premises to be dealt with swiftly. The Sub-Committee was satisfied that if the business operated in accordance with all of these conditions, then the premises should not undermine the licensing objectives.

The Sub-Committee did not consider that there were sufficient reasons to justify a refusal of the application. This premises is situated on a busy main road in an urban area, and the concerns raised by Mr Raufi were generally about the behaviour and noise of the general public in the street near to this premises and after leaving other licensed premises, which is outside of the control of these premises. His concerns appeared to be based on a fear of what may happen in the future should the licence be granted, and his representations did not provide any substantial evidence of public nuisance that could be taken into account when determining the application. Although sympathetic to his concerns, the Sub-Committee was mindful of the spirit of the Licensing Act 2003 and the case of *Thwaites PLC v Wirral Borough Magistrates' Court* 2008. They are hopeful that Mr Mgeladze will try and engage with Mr Raufi to minimise any noise nuisance within his control.

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.

Right of Appeal

All parties to the application have the right to Appeal to the Magistrates Court within the period of 21 days beginning with the day on which the Applicant is notified by the Licensing Authority of this decision in writing.

The meeting ended at 12.07 pm

CHAIRMAN