

BOURNEMOUTH, CHRISTCHURCH AND POOLE COUNCIL
LICENSING SUB-COMMITTEE

Minutes of the Meeting held on 08 December 2021 at 10.00 am

Present:-

Present: Cllr D Brown, Cllr R Burton and Cllr J J Butt

Officers in
attendance:

Also in
attendance:

7. Election of Chairman

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

Voting: Unanimous

8. Apologies

No apologies for absence were received.

9. Declarations of Interests

No declarations of interest were received.

10. Application for a New Premises Licence El Murrino 213 Ashley Road Poole BH14 9EG

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 the report at Agenda Item 5, a copy of which had been circulated to all parties prior to the meeting 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 made on 21st October 2021 for a new premises licence to allow the provision of on and off sales of alcohol from 11:00 to 22:30 Monday to Thursday, 11:00 to 23:00 Friday to Saturday and 11:00 to 22:00 on Sunday.

The Sub-Committee was advised at the Hearing by Mr Wright, representing the Applicant, that the Applicant wished to amend their application and remove the supply of alcohol for consumption on the premises.

The Licensing Authority had received a representation from 7 other persons on the grounds that to grant the application, would undermine the prevention of crime and disorder licensing objective, however, 3 representations were withdrawn as a result of the mediation achieved, 1 of which was withdrawn prior to the publication of the Agenda.

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

Mr Steve Wright, Licensing Consultant, APPL Solutions Ltd, representing the Applicant, El Murrino Ltd

Mrs Catherine El Murr – Owner of El Murrino, representing the Applicant, El Murrino Ltd

Mr El Murr – representing the Applicant, El Murrino Ltd

The Chairman noted that Mrs Jacqueline Roberts, objector to the Application, had indicated that she wished to attend the Hearing to make representations, however, she was not present. The Clerk confirmed that Mrs Roberts had been provided with the information required to join the virtual hearing and that her attendance was expected. Numerous efforts had been made to contact Mrs Roberts prior to the start of the Hearing, without success.

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

With the consent of all parties the Chair adjourned the meeting between 10:49 hrs and 10:55 hrs so that the Sub-Committee could consider the letter dated 20th November 2021, which had been sent from the El Murr family to all 'other persons' objecting. The letter showed the mediation being attempted between the parties in respect of the application, co-ordinated by Mr Wright, and resulting in 2 other persons withdrawing their representations.

Mrs Roberts joined the meeting at 11:19 hrs to put forward her representation. Mrs Roberts advised that many of the points of concern raised in her representation had been addressed by the Applicant's offer to remove the request of alcohol consumption on the premises.

At 11:30 hrs Tania Jardim, Licensing Officer, was substituted by Nananka Randle, Licensing Manager, due to being taken ill.

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 for a new Premises Licence dated 21 October 2021, for 'El Murrino', 213 Ashley Road Poole BH14 9EG, be **GRANTED** for the provision of off sales of alcohol from 11:00hrs to 22:30hrs Monday to Thursday, 11:00hrs to 23:00hrs Friday and Saturday and 11:00hrs to 22:00hrs on Sunday.

This Premises Licence is granted subject to the inclusion of the conditions offered by Mr Steve Wright, Licensing Consultant, on behalf of the Applicant El Murrino Ltd, during the Hearing, detailed below.

- **A bin is to be situated outside of the premises and emptied regularly**
- **The area outside of the premises to be checked and cleaned regularly of rubbish and debris**

and subject to all of the conditions offered in the operating schedule in part M of the application.

The Sub-Committee were advised at the Hearing by Mr Wright, representing the Applicant, that they wished to amend their application and remove the supply of alcohol for consumption on the premises.

Reasons for Decision

The Sub-Committee gave detailed consideration to all of the information which had been submitted before the Hearing and contained in the report at Agenda Item 5 and in particular the written representations made by 'other persons' and the verbal submissions made at the Hearing by Tania Jardim, Licensing Officer, BCP Council, Mr Steve Wright, Licensing Consultant, representing the Applicant, Mrs Catherine El Murr and Mr El Murr, the Applicants regarding El Murrino Ltd and Mrs Jacqueline Roberts 'other person'. The Sub-Committee also considered the written representations of 5 'other persons' objecting to the Application on the grounds that to grant the application would undermine the prevention of crime and disorder, public safety and prevention of public nuisance licensing objectives.

The Sub-Committee considered the letter dated 20th November 2021 which had been sent from the El Murr family to all 'other persons' objecting, which showed the mediation being attempted between the parties in respect of this application, co-ordinated by Mr Wright. The Sub-Committee noted that 3 representations were withdrawn as a result of the mediation achieved, 1 of which was withdrawn prior to the publication of the Agenda. The Sub-

Committee also considered the responses given to all of the questions asked at the Hearing by members of the Sub-Committee.

While the Sub-Committee acknowledged the concerns expressed in each of the representations, regarding the potential increase in anti-social behaviour and litter along the Ashley Road, these concerns appeared to be based on a fear of what may happen in the future should the licence be granted and did not provide any substantial evidence of public nuisance arising from the premises that could be considered when determining the application. 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.

The Sub-Committee noted that many of the points of concern raised by Mrs Jacqueline Roberts had been addressed by the Applicant's offer to remove the request of alcohol consumption on the premises. The concern expressed by Mrs Roberts regarding the premises causing a disturbance in the early hours of the morning, namely at 01:30 hrs and 04:30 hrs by people outside smoking, was explained by the Applicant as it being the occupants of the flat above the premises and their use of a shared entrance way. The premises closed at 23:00 hrs and therefore the persons causing a nuisance after this time could not be attributed to the premises.

The Sub-Committee did not consider that there were sufficient reasons to justify a refusal of the application. This premise is situated on a busy main road in an urban area and the concerns raised by Mrs Roberts were generally about the behaviour and noise of the general public in the street near to her home and after leaving other licensed premises, which is outside of the control of these premises.

The Sub-Committee was encouraged by the Applicants desire to engage and work with the local community to minimise any noise nuisance within its control and by the experience already gained by the Applicants running successful businesses in Bournemouth. Although more difficult to control, the amount of alcohol that may be delivered with food orders (as any order is made on a third-party platform such as Just Eat and Deliveroo) the Sub-Committee was reassured by the high price point of any alcohol that may be delivered, and the Applicant stating that customers would be contacted if large volumes of alcohol were being ordered with smaller orders of food, that they would be advised that such volumes would not be delivered. They were particularly encouraged by the Applicant's foresight to amend their application and remove the supply of alcohol on the premises because of concerns from local residents.

The Sub-Committee is satisfied that if the premises operate in accordance with both the conditions offered in the operating schedule of the application and as described at the Hearing, that the premises should not undermine the licensing objectives. 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 11.40 am

CHAIRMAN