

BOURNEMOUTH, CHRISTCHURCH AND POOLE COUNCIL
LICENSING SUB-COMMITTEE

Minutes of the Meeting held on 24 November 2022 at 10.00 am

Present: Cllr J J Butt, Cllr T Johnson and Cllr D Kelsey

86. Election of Chair

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

Voting: Unanimous

87. Apologies

There were no apologies.

The Chair thanked Cllr L Williams for attending as reserve member in case he was required.

88. Declarations of Interests

In respect of the DYMK application Cllr D Kelsey declared that he had in the past frequented the property and was aware of the owners but this was not prejudicial to his views on the application.

89. Application for Premises Licence at MV Margarita moored at Elkin's Boatyard, Christchurch River

Present:

From BCP Council:

Tania Jardim– Licensing Officer

Linda Cole – Legal Advisor to the Sub-Committee

Jill Holyoake – Clerk to the Sub-Committee

Kieran Clarke – Democratic Services, observing for training purposes.

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 Sub Committee was asked to consider an application for a new premises licence for MV Margarita, moored at Elkin's Boatyard, Christchurch River, submitted by Mr Philip Day of Lacey's Solicitors LLP on behalf of Mr Lewis Malone, for the supply of alcohol on and of the premises,

Monday to Sunday 10:00 to 23:00. It was noted that the boatyard named in the application should have read 'Elkins' not 'Elgins'.

21 representations had been received from other persons objecting to the application on the grounds of all four licensing objectives. 100 representations had also been received. The Licensing Officer provided an update on her report and explained that a response to the representations received in objection had been submitted by Mr Philip Day. A copy of this response had been circulated as a supplement and appears as Appendix B to these minutes in the Minute Book.

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

Mr Philip Day*, Laceys Solicitors LLP – on behalf of the applicant
Mr Lewis Malone – applicant
Mr James White – objector
Cllr Avril Coulton, Christchurch Town Council – objector

*Mr Day was accompanied by a colleague, Mr Byron Sims, observing for training purposes.

The Sub Committee asked various questions of all parties present and were 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 having considered the application for a new premises licence for MV Margarita, usually moored at Elkins Boatyard, Christchurch, the Sub Committee has decided to grant the premises licence for the supply of alcohol on the premises, Monday to Sunday 10:00 to 23:00, and off the premises on up to 12 days a year Monday to Sunday 10:00 to 23:00, when the vessel is moored on the River Stour or the River Avon and a charitable or fund raising event is taking place in close proximity to where the vessel is moored.

In addition, the conditions as set out in section M of the operating schedule of the application, be added to the licence, subject to the following amendment to that set out in section M (a) as offered by the applicant:

Alcohol shall only be supplied to Customers who have booked a fishing trip or other pleasure trip(charter) on the vessel; bona fide friends or guests of the vessels owner(s); and /or if the vessel is moored, to persons boarding the vessel during any charity or other fund-raising event (“or handed to persons on board other vessels that pull alongside”- to be deleted)

Reason for Decision

The Sub-Committee considered all of the information which had been submitted before the hearing and contained in the report, appendices and supplement for Agenda Item 5. The Sub-Committee further considered the verbal submissions made at the hearing by all parties and noted the responses given to questions asked at the hearing.

The Sub-Committee was mindful that no representations had been received from any of the Responsible Authorities and there were 100 representations in support of the application.

The Sub-Committee acknowledged the concerns expressed in the 21 objections, many of which raised the issue of the effect of the grant of the licence on the natural environment. It was noted that this issue had been considered by BCP Council's Biodiversity Officer in consultation with Natural England and it was agreed that the application would not have a likely significant effect on features of the Solent and Dorset Coast Special Protection Area under the Habitat Regulations.

The Sub Committee noted that some of the concerns raised by those objecting did not fall within the provisions of the Licensing Act 2003 but would be subject to harbour, maritime and other regulations/permissions. In response to questions the Sub Committee noted that the applicant was currently going through the process of obtaining required permissions and was aware that other requirements may be necessary before he could operate, including the need for the vessel to be fully coded before use. The issues regarding access to and health and safety within Elkin's Boatyard were not relevant to the Sub Committee's consideration of the licensing objectives.

The Sub Committee agreed that there appeared to be a degree of misunderstanding and uncertainty in the representations as to the nature of the licence applied for and its anticipated negative impact on the licensing objectives. It was noted that the MV Margarita was a small vessel with a maximum capacity of 12 passengers and 2 crew and that the supply of alcohol was ancillary to its main purpose as a pleasure boat for fishing trips and/or charter and that food would form part of the offer for customers. Alcohol would only be served to passengers on board and not to other users of the water, as appeared to be the concern of many objectors. Mr Day representing the applicant, made it clear to the sub-committee that there was no plan for the vessel to be used as a 'party boat' or floating off licence.

The sub-committee were advised that the crew would aim for any day trip to be completed before dark, but timings were dependant on the tides. This together with the fact the vessel was limited by its size reassured the sub-committee that there was less risk for members of the public to be disturbed by noise nuisance.

It was also noted that off sales would be restricted to a maximum of 12 days per year and would only be permitted when activities relating to a charitable or other fund-raising event is taking place near to where the vessel is moored, with a requirement that the applicant give at least a week's written notice to the Police and Licensing Authority prior to each occasion.

The Sub-Committee was satisfied that if the applicant operated the premises responsibly and in accordance with the conditions on the premises licence, then 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 may undermine the licensing objectives.

In making this decision the Sub-Committee have had regard to the Bournemouth, Christchurch and Poole Council Licensing Policy, the revised guidance, as set out by the Secretary of State and the licensing objectives, as set out in the 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.

Voting: Unanimous

90. Application to Vary Premises Licence at DYMK, 31 Poole Hill, Bournemouth, BH2 5PW

Present:

From BCP Council:

Tania Jardim – Licensing Officer

Linda Cole – Legal Advisor to the Sub-Committee

Jill Holyoake – Clerk to the Sub-Committee

Kieran Clarke – Democratic Services, observing for training purposes.

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 C to these minutes in the Minute Book.

The Sub Committee was asked to consider an application to vary the premises licence for DYMK, 31 Poole Hill, Bournemouth BH2 5PW, submitted by TLT Solicitors on behalf of Greene King Retailing Limited, as follows: to extend the hours for supply of alcohol, films, live music, recorded music, anything of a similar description and late-night refreshment on

Wednesdays and Thursdays until 03:00. In addition, the application sought to extend the premises opening hours until 04:00 on Wednesday and Thursday and on all non-standard timings, with all other days and times to remain unaltered. In addition to the extension of hours, the applicant had applied to vary the layout and design of the premises in accordance with plan submitted with the application and to update the current licence conditions by way of additional conditions and the removal of others.

Six representations had been received from other persons objecting to the application on the grounds that granting the variation would undermine the prevention of public nuisance licensing objectives. BCP Council's Environmental Health had also objected on ground of public nuisance.

Following the publication of the Licensing Officer's report, a witness statement from Mr Shaun Mitchell, operator of the premises, and supporting appendices, had been submitted by Mr Piers Warne, TLT Solicitors, on behalf of the applicant. A copy of these documents had been circulated as a supplement and appear as Appendix D to these minutes in the Minute Book. The statement included a partial amendment to the variation application in response to the resident concerns, to reduce the extension of hours for the licensing activities specified to 02:00 on Wednesdays and Thursdays and to reduce the extension of the premises opening hours to 03:00 on Wednesdays and Thursdays.

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

- Mr Piers Warne, TLT Solicitors – representing the applicant, Greene King Retailing Limited
- Mr Shaun Mitchell – Operator
- Mr Andrew Hill, BCP Council Environmental Health, objector
- Ms Mary Allen, objector
- Mr Chris Blackburn, objector
- Ms Hannah Cole, objector

The Sub Committee asked various questions of all parties present and were 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 having considered the application to vary the premises licence for DYMK, 31 Poole Hill, Bournemouth BH2 5PW, to extend the hours for supply of alcohol, films, live music, recorded music, anything of a similar description and late-night refreshment on Wednesdays and Thursdays until 02:00 (amended from 3:00 by the applicant prior to the hearing); to extend the premises opening hours on Wednesday and Thursday until 03:00 (amended from 04:00 by the applicant prior to the hearing) and on all non-standard timings, with all other days and times to remain unaltered; to vary the layout and design of the premises in accordance with plan submitted with the

application; and to update the current licence conditions by way of additional conditions and the removal of others, the Sub Committee has decided to GRANT the variation subject to the following additional/replacement conditions agreed by the Sub Committee:

- The premises opening hours on Wednesday and Thursday shall be until 02:30.
- A noise limiter shall be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service, so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of officers from the Environmental Health Service and access shall only be by persons authorised by the Premises Licence holder. The limiter shall not be altered without prior agreement with the Environmental Health Service. No alteration or modification to any existing sound system(s) should be affected without prior knowledge of an authorised Officer of the Environmental Health Service. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.
- No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
- The lobbied entrance (that is two sets of doors that are set so that one is closed when the other one is open) shall be utilised at all times at the premises when music is being played.

Conditions offered by the applicant and revised by Sub Committee:

- After 22:00 Patrons will only be permitted to use the outside area for temporary purposes e.g. to smoke.
- No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 22:00 and 08:00 on the following day.
- A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be monitored and made available to residents and businesses in the vicinity.

Condition agreed following mediation between Dorset Police and the applicant and revised by Sub Committee:

- At least 2 SIA licensed door supervisors shall be employed at the premises from 21:00 hours every Friday, Saturday and every Sunday of a bank holiday weekend and from 22:00 hours on any

other night the premises operates beyond 01:00 hours until the premises has closed, and the last customer has left the building

Condition agreed following mediation between Dorset Police and the applicant:

- Bottle bins shall be provided at the exit doors. No open vessels to be removed from the premises.

In addition, the following conditions offered in Part 3 of the Variation Application will be added to the Licence

- All staff involved in the sale of alcohol shall receive training on the law relating to prohibited sales, the age verification policy adopted by the premises and the conditions attaching to the premises licence. Refresher training shall be provided at least once every 6 months. A record shall be maintained of all staff training and that record shall be signed by the person receiving the training and the trainer. The records shall be kept for a minimum of 12 months and made available for inspection by police, licensing or other authorised officers.
- The premises shall prominently display signage at all entrances informing customers: -
'All persons entering this premise are liable to be searched. Agreement to search is a condition of entry. If persons do not consent, entry will be refused. Police may be called if drugs or weapons are found.'
CCTV is in operation throughout this premises and is made available to the police.
Any person found carrying weapons or illegal drugs will be permanently excluded and the police will be informed.
'Management reserve the right to refuse entry'
- Risk assessment to be carried out in relation to the requirement of additional SIA trained staff for special events and anticipated busy periods
- A copy of the risk assessment should be made available to an authorised officer of the Licensing Authority or Dorset Police upon request and for a period of up to 6 months.
- All staff engaged outside the entrance to the premises, or supervising or controlling queues, shall wear high visibility yellow jackets or vests.
- The Daily Record Register will contain consecutively numbered pages, the full

name and registration number of each person on duty, the employer of that person and the date and time he/she commenced duty and finished duty (verified by the individual's signature).

- The Daily Record Register will be retained on the premises for a period of twelve months from the date of the last entry and made available to an authorised officer from the Licensing Authority or Police on request.
- The premises shall install and maintain a comprehensive CCTV system, all entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31-day period. The CCTV system should be updated and maintained according to police recommendations.
- An incident log shall be kept at the premises. The log should include the date and time of the incident and the name of the member of staff involved. The log to be made available on request to an authorised officer of the Council or the Police, which will record the following:
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received
 - (d) any incidents of disorder
 - (e) all seizures of drugs or offensive weapons
 - (f) any faults in the CCTV system or searching equipment or scanning equipment
 - (g) any refusal of the sale of alcohol
 - (h) any visit by a relevant authority or emergency service.
- Challenge 25, shall be operated at the premises where the only acceptable forms of identification are (recognised photographic identification cards, such as a driving licence or passport I Holographically marked PASS scheme identification cards). Appropriate signage advising customers of the policy shall prominently displayed in the premises.
- A currently qualified first aider must be employed on the premises at all times that the premises are open to the public. The venue will also provide first aid facilities commensurate with the type of event and customers expected.
- The PLH/DPS will operate to a written dispersal policy which ensures the safe and

gradual dispersal of customers from the premises. The policy will be agreed with Dorset Police. The PLH/DPS will ensure that staff receive training on the policy and a record of training shall be kept/made available to an authorised officer upon request.

The following conditions were removed from the licence:

2.1, 2.3, 2.5, 2.7, 2.8, 2.9, 2.10, 2.15, 2.17, 2.18

Reason 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, appendices and supplement for Agenda Item 6. The Sub-Committee further considered the verbal submissions made at the hearing by all parties. The Sub-Committee also noted the responses given to questions asked at the hearing.

The Sub-Committee was mindful that a representation had been received from one of the Responsible Authorities as well as 6 Other Persons regarding the proposed extension of hours. The Sub Committee acknowledged the concerns expressed by BCP Council's Environmental Health Officer and local residents/landlords regarding excessive noise and disturbance in the area of the premises. It was noted that there were a number of licensed premises in close proximity with varying hours of operation and conditions, all of which had on occasion caused noise nuisance resulting in complaints. This included DYMK which had been served with a noise abatement notice in 2019.

While in no way diminishing the validity of the points raised regarding noise and disturbance or the detrimental impact this had on local residents, the Sub Committee felt that there was a degree of uncertainty as to whether this could be directly attributed to DYMK, based on the evidence presented before and at the hearing. It was noted that there had been no recent complaints to the Council about the premises, although it was acknowledged that the representations were now raising a number of concerns, including frustration that the premises did not respond when contacted.

The Sub Committee acknowledged that some of the conditions to prevent public nuisance on the licence issued in 2005 were now too general and should be replaced to reflect the current operation of the premises and the concerns raised. The Sub Committee agreed that the additional/replacement conditions were a proportionate response to ensure compliance with the licensing objectives. It was noted that some of these conditions had been offered by the applicant voluntarily or through mediation. There appeared to have been some confusion regarding who residents should contact at the premises, with any concerns. This was clarified at the hearing to be the Operator Mr Shaun Mitchell. The applicant's commitment to engage with local residents/landlords was welcomed. The Sub Committee was also grateful to the Environmental Health Officer for his offer to work with the premises to ensure that its

operation did not adversely affect residents and there is an expectation that the Operator does this.

The Sub-Committee was satisfied that if the premises operated in accordance with the conditions on the premises licence, then 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 may undermine the licensing objectives.

In making this decision the Sub-Committee have had regard to the Bournemouth, Christchurch and Poole Council Licensing Policy, the revised guidance, as set out by the Secretary of State and the licensing objectives, as set out in the 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

Voting: Unanimous

The meeting ended at 1.49 pm

CHAIRMAN