

BOURNEMOUTH, CHRISTCHURCH AND POOLE COUNCIL
LICENSING SUB-COMMITTEE

Minutes of the Meeting held on 06 December 2023 at 10.00 am

Present:-

– Chairman

– Vice-Chairman

Present: Cllr A Chapmanlaw, Cllr M Dower and Cllr S Moore

56. Election of Chair

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

Voting: Unanimous

57. Apologies

There were no apologies for absence.

58. Declarations of Interests

There were no declarations of interest.

59. Gaja, 360 Charminster Road, Bournemouth, BH8 9RX

Attendance:

From BCP Council:

Tania Jardim – Licensing Officer

Linda Cole – Legal Adviser to the Sub-Committee

Michelle Cutler – Clerk to the Sub-Committee

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 has 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 the premises known as 'Gaja', 360 Charminster Road, Bournemouth, BH8 9RX to permit the Supply of alcohol (On & Off Sales) Monday to Sunday 12:00 to 22:30.

The Licensing Authority had received three representations on the grounds that to grant the application would undermine the prevention of crime and disorder and prevention of public nuisance licensing objectives.

The Sub-Committee noted that the application for regulated entertainment had been removed.

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

Ms Kasia Wozniak – Applicant

Mr Thavenasen Naidoo – Designated Premises Supervisor

Mr Nertil Bala - Objector

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

The Sub-Committee heard from Mr Bala, who had objected on the grounds of the prevention of public nuisance licensing objective, mainly regarding the premises original proposed closing time of 02:00. Given that the premises had offered to close at 23:00 hours each day, Mr Bala confirmed that he wished to withdraw his representation.

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 the application for a new premises licence for the premises known as ‘Gaga’, 360 Charminster Road, Bournemouth, BH8 9RX to permit the following activities be GRANTED.

Supply of alcohol (On & Off Sales)
Monday to Sunday 12:00 to 22:30

Subject to the following conditions agreed with Trading Standards being attached to the Licence:

- 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 / Holographically marked PASS scheme identification cards.
- Appropriate signage advising customers of the policy shall be prominently displayed in the premises.
- 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 attached 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.

And, subject to the following conditions agreed with Dorset Police being attached to the licence:

- Alcohol shall be accompanied by food prepared and served on the premises.
- A CCTV system shall be installed to cover all entry and exit points enabling frontal identification of every person entering in any light condition.
- Appropriate signage advising customers of CCTV being in operation shall be prominently displayed in the premises.
- The CCTV system shall continually record and cover areas where alcohol is kept for selection and purchase by the public, whilst the premises is open for licensable activities. It shall operate during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with correct date and time stamping. Recordings shall be made available /or downloaded upon the request of Police or any authorised officer of the council throughout the preceding 31-day period and in line with data protection regulations.
- The CCTV system shall be updated and maintained according to police recommendations.
- A documented check of the CCTV shall be completed weekly to ensure all cameras remain operational and the 31 days storage for recordings is being maintained.
- A staff member from the premises who is conversant with the operation of the CCTV system shall be always on the premises when the premises are open to the public. This staff member must be able to show a Police or authorised council officer recent data or footage with the absolute minimum of delay when requested.
- The premises shall maintain a written Refusals Register to record any occasion on which the sale of supply of alcohol is refused and the reason for the refusal. The record shall be made available for inspection by police and other authorised officers on request.
- The Refusals Register shall be checked by the DPS or his/her deputy at least once a week and signed to that effect.
- The premises will operate a "Challenge 25" policy and display signage to that effect.
- All staff involved in the sale of alcohol that do not themselves hold a personal licence will receive training on the terms and conditions of the licence and on restricted sales.
- A written record of all staff training shall be maintained on the premises and made available for inspection by authorised officers on request.

And subject to all additional conditions set out in section M of the application.

Reasons for Decision

The Sub-Committee considered all of the information which had been submitted before the Hearing and contained in the report for Agenda Item 6, and the verbal submissions made at the Hearing by all parties. The written submissions included letters and emails the applicant had sent to those who had made representations and the responses received.

The Sub-Committee noted that as a result of the mediation, the Applicant had agreed to close the premises at 23:00 hours Monday to Sunday and consequently reduced the hours for recorded music to 23:00 hours. The application for regulated entertainment had been removed altogether but it was noted that any entertainment in the form of live or recorded music before 23:00 is permitted by way of a deregulation provided by the Live Music Act 2012 at venues which are licensed for alcohol, during their licensable hours. The Applicant had also agreed after mediation with Dorset Police not to supply alcohol after 22:30 hours on all days.

The Sub-Committee heard from the Applicant that she had no intention of running the premises as a drinking establishment and that she was in the process of submitting a Planning Application to install an extractor fan. They plan to open a kitchen and operate as a fine dining restaurant and a condition agreed with Dorset Police is alcohol will only be served with food prepared and served on the premises. The Applicant also confirmed there was no intention to host live bands as the premises was not large enough to accommodate this, rather they planned to provide atmospheric background music for customers to enjoy while they were dining. Any live music provided would be in the form of a solo artist playing a guitar or saxophone or such like. The Applicant also advised there would be no outdoor seating.

The Sub-Committee was satisfied that both the Applicant and the DPS appeared confident in running the premises, having experience of operating licensed premises previously in London. They demonstrated by their response to the representations, amendments they were willing to make to the application and the conditions which had been agreed, that they were aware and had taken note of the concerns of the community and wanted to operate the premises responsibly without a negative effect on their neighbours.

The Sub-Committee heard from Mr Bala, who had objected on the grounds of the prevention of public nuisance licensing objective, mainly regarding the premises original proposed closing time of 02:00. Given that the premises had offered to close at 23:00 hours each day, Mr Bala confirmed that he wished to withdraw his representation.

The Sub-Committee was satisfied that if the premises operated in accordance with the conditions, as set out above, that the premises should not undermine the licensing objectives, particularly the prevention of crime and disorder and the prevention of public nuisance.

In making this decision the Sub-Committee has had regard to the Bournemouth, Christchurch and Poole Council Licensing Policy and the revised section 182 Guidance, published 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.

60. Protocol for Public Speaking at Meetings

The protocol was noted.

61. 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.

62. Consideration of the suitability of an individual to remain a Hackney Carriage and/or Private Hire Driver

This item was restricted by virtue of paragraphs 1 and 2 of Schedule 12A of the Local Government Act 1972.

Exempt information – Categories 1 (information relating to any individual) and 2 (information which is likely to reveal the identity of an individual).

Attendance:

From BCP Council:

Nananka Randle – Licensing Manager
Trudi Barlow – Licensing Officer
Linda Cole – Legal Advisor to the Sub-Committee
Michelle Cutler – Clerk to the Sub-Committee

The Applicant was present with a friend.

The Chair made introductions and explained the procedure to be followed in considering this item, which was agreed by all participating 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 'B' to these Minutes in the Minute Book, together with supplementary information provided by the applicant, a copy of which appears as Appendix 'C' to these Minutes in the Minute Book.

The Sub-Committee was asked to consider whether the Applicant was deemed to be a 'fit and proper' person to continue to hold a hackney carriage/private hire drivers licence in light of the issues raised in the report.

The Applicant addressed the Sub-Committee to present their case.

The Sub-Committee asked various questions of all parties present and was 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 Council's Legal Advisor advised all parties of the right of appeal.

RESOLVED that: the driver remains a 'fit and proper' person to continue to hold a Hackney Carriage/Private Hire Driver's Licence, however, it is the Sub-Committee's decision that the driver receives a written caution which will remain on his file.

Reasons for Decision:

The Sub-Committee considered all the information which had been submitted before the Hearing and contained in the Licensing Officer's report for Agenda Item 8, as well as the verbal submissions made at the Hearing by all parties.

In considering the test of a 'fit and proper person', the Sub-Committee had regard to the BCP Council's Hackney Carriage and Private Hire Driver Policy 2021 - 2025, the provisions of the Local Government (Miscellaneous Provisions) Act 1976, the Institute of Licensing (IOL) Guidance on determining the suitability of applicants and licensees in the Hackney and Private Hire Trades (2018) and the guidance within the Department of Transport Statutory Taxi and Private Hire Vehicle Standards (updated November 2022).

In considering the BCP Criminal Convictions Guidelines as set out in the Hackney Carriage and Private Hire Policy, the Sub-Committee noted that anyone having this type of conviction would normally be refused a Hackney Carriage and Private Hire Driver's licence until a period of 5 years have passed since the reinstatement of their DVLA driver's licence. They were mindful that their main consideration was public safety, and the Sub-Committee was confident that the driver would not be a risk to the travelling public if he retained his licence.

In view of this the Sub-Committee determined he remained a 'fit and proper person' and was prepared to depart from the guidance set out in section 11 of Appendix C of BCP Council's Hackney Carriage and Private Hire Driver Policy.

63. Consideration of the suitability of an individual to remain a Hackney Carriage and/or Private Hire Driver

This item was restricted by virtue of paragraphs 1 and 2 of Schedule 12A of the Local Government Act 1972.

Exempt information – Categories 1 (information relating to any individual) and 2 (information which is likely to reveal the identity of an individual).

Attendance:

From BCP Council:

Nananka Randle – Licensing Manager
Trudi Barlow – Licensing Officer
Linda Cole – Legal Advisor to the Sub-Committee
Michelle Cutler – Clerk to the Sub-Committee

The Applicant was also present.

The Chair made introductions and explained the procedure to be followed in considering this item, which was agreed by all participating 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 'B' to these Minutes in the Minute Book, together with supplementary information provided by the Applicant, a copy of which appears as Appendix 'C' to these Minutes in the Minute Book.

The Sub-Committee was asked to consider whether the Applicant was deemed to be a 'fit and proper' person to continue to hold a hackney carriage/private hire drivers licence in light of the issues raised in the report.

The Applicant addressed the Sub-Committee to present their case.

The Sub-Committee asked various questions of all parties present and was 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 Council's Legal Advisor advised all parties of the right of appeal.

The Sub-Committee RESOLVED that: the driver was not a 'fit and proper person' and there is reasonable cause to revoke the drivers Public Carriage Driver's Licence with immediate effect in accordance with section 61(2B) Local Government (Miscellaneous Provisions) Act 1976 in the interests of public safety.

Reasons for Decision:

The Sub-Committee considered all of the information which had been submitted before the Hearing and contained in the Licensing Officer's report

for Agenda Item 9, as well as the verbal submissions made at the Hearing by the driver.

In considering the test of a ‘fit and proper person’, the Sub-Committee also had regard to the BCP Council’s Hackney Carriage and Private Hire Driver Policy 2021 - 2025, the provisions of Part II the Local Government (Miscellaneous Provisions) Act 1976, the Institute of Licensing (IOL) Guidance on determining the suitability of applicants and licensees in the Hackney and Private Hire Trades (2018) and the guidance within the Department of Transport Statutory Taxi and Private Hire Vehicle Standards (July 2020).

The Sub-Committee found no reason to depart from its own Hackney Carriage and Private Hire Driver Policy which sets out in section 11 of Appendix C of the Policy, that anyone having a drinking conviction would normally be refused a Hackney Carriage and Private Hire Driver’s licence until a period of 5 years have passed since the reinstatement of their DVLA driver’s licence.

In addition, they noted the Institute of Licensing guidance, at paragraph 4.40, states that with regard to drink driving ‘*Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence or driving ban imposed.*’

Having considered the circumstances of the case, the Sub-Committee concluded that the driver was no longer a ‘fit and proper person’ to hold a Hackney Carriage/Private Hire Driver’s Licence and his licence should be revoked immediately in the interests of public safety.

Anyone aggrieved by this decision has the right of appeal to the Magistrates’ Court within a period of 21 days beginning with the day that the applicant is notified, in writing, of the decision.

The meeting ended at 1.30 pm

CHAIRMAN