

BOURNEMOUTH, CHRISTCHURCH AND POOLE COUNCIL
LICENSING SUB-COMMITTEE

Minutes of the Meeting held on 28 February 2024 at 10.15 am

Present:-

Present: Cllr G Farquhar, Cllr A Filer and Cllr E Harman

107. Election of Chair

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

Voting: Unanimous

108. Apologies

No apologies for absence were received.

109. Declarations of Interests

There were no declarations of interest.

110. Protocol for Public Speaking at Licensing Hearings

The protocol for public speaking was noted.

111. Application to Vary Premises Licence at 4 The Triangle, Bournemouth, BH2 5RY

Attendance:

BCP Council:

Ellie King – Licensing Officer

Linda Cole – Legal Advisor 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 the 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 to vary the premises licence for the premises known as 'The Vibe', 4 the Triangle, Bournemouth, BH2 5RY.

The application prompted a representation by Dorset Police under the Prevention of Crime and Disorder and Public Safety licensing objectives.

A supplementary pack of information had been submitted on behalf of Dorset Police after the report was published, a copy of which had been circulated and which appears as Appendix B to these minutes in the Minute Book.

A supplementary document had also been submitted by the Applicant after the report was published, a copy of which had been circulated and which appears as Appendix C 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 their written submissions:

David Crank, Agent, representing the applicant
William Mouhana, the applicant

Vanessa Rosales, Dorset Police, objecting
Louise Busfield – Dorset Police, objecting

The Sub-Committee asked various questions of all parties present and was grateful for the responses received. All parties had the opportunity to ask questions.

During the hearing, Mr Crank offered a reduction in the times sought. He advised that the applicant would be willing to stop all licensable activities at 04:00hrs and close the premises at 04:30hrs. He confirmed that if the request to vary the hours was granted, the last entry time to the premises would be amended to 03:00 hrs, one hour before the end of licensable activities.

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 to vary the premises licence in respect of the premises known as 'The Vibe' (to be rebranded to 'Diva'), 4 The Triangle, Bournemouth, BH2 5RY to increase the licensable hours for Live and Recorded Music, Performance of Dance and Supply of Alcohol (on sales only) to allow the premises to open later and to add the 'Provision of anything of a similar description to live music, recorded music or performances of dance' licensable activity and amend two conditions already included in the licence be GRANTED with the following amendments to timings:

- **The terminal hour for all licensable activities, including the supply of alcohol shall be 04:00 seven days a week.**

- **The premises shall close at 04:30 seven days a week.**
- **Last entry to the premises shall be 03:00hrs on any day.**

Condition 2.18 of Annex 2 – Conditions consistent with the operating schedule of the Premises Licence be amended as follows:

- **Management shall actively monitor the smoking area, which will be designated and enclosed by a temporary barrier, to the front of the premises. In order to reduce noise in this area only 10 customers will be permitted at any one time.**

Condition 3.10 of Annex 3 – Conditions attached after a hearing by the licensing authority, be amended as follow:

- **Polycarbonate drinking vessels shall be used throughout the premises. However, where the alcohol is provided in plastic bottles the drink may be served in the bottle. The only exception may be the service of Champagne which may be served by the bottle with glass champagne flutes.**

Reasons for Decision

The Sub-Committee considered all the information which had been submitted before the Hearing and contained in the report for Agenda Item 5, together with the additional information from both the Applicant and Dorset Police contained within the supplementary papers and the verbal submissions made at the hearing by Mr David Crank, the applicant's solicitor, Mr Mouhanna, the Manager and Designated Premises Supervisor (DPS) and Vanessa Rosales and Louise Busfield, Dorset Police.

The Sub-Committee noted that mediation had taken place between the applicant and Dorset Police and reduced hours had been offered, but Dorset Police were not prepared to accept a later terminal hour than 03:00hours. Dorset Police believe a closing time of 03:00hrs best fits the profile of Bournemouth Town Centre, given that their statistics show increased incidents of violent crime and disorder occurred between the hours of 03:00hrs and 06:00hrs.

During the hearing, Mr Crank offered a reduction in the times sought, which was welcomed by the Sub-Committee. Mr Crank advised that the applicant would be willing to stop all licensable activities at 04:00hrs and close the premises at 04:30hrs. He confirmed that if the request to vary the hours was granted, that the last entry time to the premises be amended to 03:00 hrs, one hour before the end of licensable activities.

At the hearing Dorset Police explained the areas of concern which led them to making a representation against the application on the grounds of the prevention of crime and disorder and public safety; namely that the

premises was in the Triangle area of Bournemouth and was on the periphery of an area which saw high levels of violent crime and disorder. The heat map provided by Dorset Police in their supplementary papers showed the violent crime and disorder hot spots between the hours of 03:00 – 06:00 from 29 July 2023 to currently and where the premises were situated in relation to it. They were concerned if the premises were open any later customers leaving other premises will be encouraged to walk up to this premise and this may impact the demand on Dorset Police dealing with crime and disorder in the hot spot area.

Dorset Police had also expressed concern that Mr Mouhanna had limited experience in running a nightclub and had not traded consistently throughout peak season. Dorset Police were not confident that Mr Mouhanna could handle the challenges presented by the nighttime economy when trading during the peak season.

The Sub-Committee noted that the premises was a small venue with a capacity of less than 250 patrons situated just outside the hot spots identified by Dorset Police. When asked, Dorset Police were unable to comment on whether levels of crime and disorder would increase in the area because of these small premises opening an extra hour at this time of the morning.

The Sub-Committee also noted that despite the concerns raised by Dorset Police, the Police had stated that they found Mr Mouhanna to be both compliant and co-operative in their dealings with him. Dorset Police had no concerns about how the premises were being managed or any incidents connected to the premises, their only concern would be customers leaving the premises at a later hour adding to numbers already in the area.

The Sub-Committee was impressed with Mr Mouhanna, particularly his understanding of the four licensing objectives and the way he appeared to strictly manage his premises. They agreed that he had demonstrated that the premises was currently run in an effective and responsible way. The premises was well monitored with ample CCTV and the SIA door staff were organised and worked in collaboration with each other and as such there had been no reported incidents at the premises. The Sub-Committee were impressed when advised the premises had a welfare room available if necessary and with Mr Mouhanna's determination to provide a safe environment for patrons.

The Sub-Committee was advised that there was a system in place for the SIA door staff to monitor the numbers of patrons using the smoking area and agreed that the process appeared to be well managed. No representations had been made with reference to increasing numbers using the smoking the area to 10 so there was an assumption there were no current concerns around noise nuisance and the amendment to condition 2.18 was agreed.

Dorset Police were concerned that the premises have only been open for a relatively short time and the applicant has yet to demonstrate over a 12-

month period including the peak summer season that they can consistently operate within the existing licensing conditions. The Sub-Committee noted the premises had opened on the 28 July 2023, so it was in operation during the late summer months and over Christmas and New Year when there would be more visitors to the town centre and had operated without incident.

Despite having limited experience in running nightclubs, the Sub-Committee had confidence that Mr Mouhanna would continue to abide by the conditions of the licence and that the licensing objectives would be upheld, particularly in relation to the prevention of crime and disorder and public safety even if the premises opened to a later hour.

The Sub-Committee considered that the representation made by Dorset Police lacked evidence and speculated what may happen in the future should the application be granted, and the Sub-Committee was unable to base its decision on such concerns. There is currently no Cumulative Impact Policy in place within the BCP Council area and the Statement of Licensing Policy is silent on the terminal hour of any operation.

In making its decision, the Sub-Committee has had regard to the case of ‘Thwaites PLC v Wirral Borough Magistrates’ Court 2008. There was no evidence before the Sub-Committee of actual crime and disorder or public nuisance occurring in the location of the premises that would show that granting the variation of the licence would give rise to negative impact on the licensing objectives. No other representations had been received from any other responsible authorities or residents. The Sub-Committee did not find any evidence to justify a refusal of the application.

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.

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.

Right of Appeal

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.

The meeting ended at 12.00 pm

CHAIRMAN