

BOURNEMOUTH, CHRISTCHURCH AND POOLE COUNCIL
LICENSING SUB-COMMITTEE

Minutes of the Meeting held on 11 April 2024 at 10.00 am

Present: Cllr B Castle, Cllr D A Flagg and Cllr L Williams

1. Election of Chair

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

Voting: Unanimous

2. Apologies

Apologies for absence were received from Councillor Dower and Councillor Moore replaced her as a reserve member.

3. Declarations of Interests

There were no declarations of interest.

4. Protocol for Public Speaking at Licensing Hearings

The protocol for public speaking was noted.

5. Asda Express PFS Bath Road, 23 Bath Road, Bournemouth, BH1 2NJ

Attendance:

BCP Council:

Tania Jardim – Licensing Officer

Linda Cole - Legal Advisor to the Sub-Committee

Sinead O'Callaghan - 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 for a new premises licence, for the premises known as 'Asda Express PFS Bath Road' 23 Bath Road, Bournemouth, BH1 2NJ to permit late night refreshment Monday to Sunday 23:00 to 05:00 and the Supply of Alcohol (Off Sales only) 24 hours, 7 days per week.

The Licensing Authority received 6 representations on the grounds that to grant the application would undermine the prevention of crime and disorder, prevention of public nuisance, public safety and the protection of children from harm licensing objectives.

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

Richard Taylor – Solicitor for the applicant

Lucy Johnston – Asda General Manager

Mr Andre and Mrs Joan Martin – Objectors

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 Legal Advisor advised all parties of the right of appeal.

RESOLVED that the application dated 26 January 2024 by Euro Garages Ltd for a new premises licence in respect of the premises known as ‘Asda Express’, Petrol Filling Station, 23 Bath Road, Bournemouth, BH1 2NJ, to permit late night refreshment 23:00 to 05:00 hours, 7 days per week and the Supply of Alcohol (Off Sales only) amended whilst in mediation with Dorset Police to 06:00 hours to 00:00 hours, 7 days per week be GRANTED subject to the addition of the following conditions:

These conditions were proposed by Dorset Police when in mediation prior to the hearing on 11th April 2024 and confirmed as agreed both prior and during the hearing by the Applicant.

- *There shall be no sale of beer, lager or cider with an ABV of above 6.5% sold at the premises, other than artisan/ craft beer, lager or cider.*
- *There will be no sale of beer, lager or cider in single cans. For the avoidance of doubt this condition will not apply to artisan/ craft beer, lager or cider sold in single units.*
- *Spirits to be sold in 70cl / 1 litre bottles only.*
- *Night hatch in operation between the hours of 22.00 – 06.00.*

All steps set out in section 18 of the application will be added as conditions to the Licence.

Reason 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 verbal submissions made at the hearing by Mr Richard Taylor, of Gosschalks LLP the applicant’s solicitor, and by Mr Martin, who had submitted a written objection.

During the hearing Mr Martin produced a map showing the proximity of the premises to Amberley Court and a photograph on his mobile phone of an empty wine bottle that had been discarded in the communal garden. Mr Taylor agreed that although late this supplementary information could be included in the hearing.

The Sub-Committee noted the applicant was agreeable to the amendments proposed by Dorset Police and was mindful that due to this successful mediation, Dorset Police did not make a representation regarding this application.

It was noted that there had been no representations made by any other responsible authorities such as Environmental Health and that there was no substantial evidence before the sub-committee of crime and disorder, public nuisance or public safety issues associated with the premises.

The Sub-Committee also considered the six written representations made by 'other persons' all residents of Amberley Court and determined that the concerns raised were a fear of what may happen should the licence be granted. The Sub-Committee noted the issues of anti-social behaviour being experienced and were sympathetic to the points raised and the residents concern that the licence if granted would exacerbate the problems. However, in determining this application, the Sub Committee is only able to consider the licensing objectives and whether the proposed premises licence would undermine those objectives. No substantial evidence had been provided that the premises, if licensed would lead to increased crime and disorder or public nuisance in the local area 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.

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.

The applicant operates nationwide, and the Sub-Committee were reassured that the Applicant has robust policies and procedures in place to deal with sale of alcohol and staff training. They are of the view that the applicant is a responsible operator and noted their willingness to accept conditions in mediation with Dorset Police to deter 'street drinking'. They would expect they would continue to work closely with Dorset Police to deal with any issues should they arise going forward.

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.

The meeting ended at 10.43 am

CHAIRMAN