

BOURNEMOUTH, CHRISTCHURCH AND POOLE COUNCIL
LICENSING SUB-COMMITTEE

Minutes of the Meeting held on 26 November 2024 at 10.00 am

Present:-

– Chairman

– Vice-Chairman

Present: Cllr D A Flagg, Cllr P Hilliard and Cllr J Richardson

62. Election of Chair

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

Voting: Unanimous

63. Apologies

No apologies for absence were received.

64. Declarations of Interests

No declarations of interest were received.

65. Protocol for Public Speaking at Licensing Hearings

The protocol for public speaking at licensing hearings was noted.

66. Havana, 61 Charminster Road, Bournemouth

Present:

From BCP Council:

Sarah Rogers – 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 to 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 submitted by Dorset Police for the review of the premises licence for the premises known

as 'Havana', 61 Charminster Road, Bournemouth. Dorset Police believed there was evidence that the premises was associated with significant crime and disorder. Ten representations had been received in support of the review application and one letter had been received in support of the premises.

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

Sergeant Gareth Gosling – Dorset Police, the Applicant
Louise Busfield – Dorset Police Licensing

Cllr Sharon Carr- Brown – Ward Councillor for Queens Park and Charminster
Cllr Alistair Keddle – Ward Councillor for Queens Park and Charminster

Philip Day – Solicitor on behalf of the Premises Licence Holder
Tarek Halabi – Premise Licence Holder and Designated Premises Supervisor

Jackson Waren – Lacey's Solicitors – Observing for training purposes
Cllrs M Dower, A Filer and G Farquhar – Members of the Licensing Committee, observing for training purposes.

The Sub Committee went into exempt session and passed the following exemption:

RESOLVED that under Section 14 (2) of the Licensing Act 2003 (Hearings) Regulations 2005, and with regard to Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following item of business on the grounds that the public interest in withholding the information outweighs such interest in disclosing the information and that it involves the likely disclosure of exempt information as defined in Paragraphs 1, 2 and 7 in Part I of Schedule 12A of the Act."

Whilst in exempt session the Sub Committee viewed 3 clips of CCTV footage submitted by Dorset Police as part of their application. The Sub Committee also viewed 4 clips of video footage provided by residents and submitted by Cllr Keddle in support of the application.

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.

The Licensing Sub-Committee went back into public session.

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, as appropriate.

RESOLVED that having considered the application dated 26 September 2024 made by Dorset Police to review the premises licence

for the premises known as ‘Havana’, 61 Charminster Road, Bournemouth, the Sub-Committee has decided that it is appropriate to modify conditions and reduce the times when licensable activities are authorised on the premises licence on the grounds that the premises are not upholding the prevention of crime and disorder and prevention of public nuisance licensing objectives and that the imposition of these modifications will promote these objectives.

The Sub Committee gave detailed consideration to all of the information which had been submitted before the hearing and contained in the report for Agenda Item 5, presented by Sarah Rogers, Senior Licensing Officer, in particular the written and oral evidence provided by Sergeant Gosling of Dorset Police, as well as the verbal submissions made at the hearing by Louise Busfield on behalf of Dorset Police Licensing, Ward Councillors for Queens Park and Charminster; Councillor Sharon Carr-Brown and Councillor Alasdair Keddie, and the written representations of local residents, all in support of the Application. It has also considered carefully the written and oral evidence provided by Mr Philip Day, Lacey’s Solicitors, representing the Premise Licence Holder and the verbal submissions of Mr Tarek Halabi, the Premises Licence Holder and DPS, together with the one representation in support of the premises and the videos provided by Dorset Police, local residents and the premises that were played during the hearing.

In determining the review, the Sub Committee considered the options available as set out in the recommendations of the report and the Licensing Act 2003 as well as the Guidance by the Secretary of State made under section 182 of that Act as well as the Statement of Licensing Policy.

The Sub-Committee’s decision is based upon consideration of the promotion of the four Licensing Objectives: the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm. The Sub-Committee acknowledged that it was only able to consider matters directly relevant to the licensing objectives raised in the application and representations received.

The Sub-Committee concluded that the premises had failed to uphold the prevention of crime and disorder and the prevention of public nuisance licensing objectives.

The Sub-Committee concluded that revocation of the Licence was not an appropriate response to the issues raised in the review when considering the evidence currently available to it. However, determined that it is appropriate and proportionate on consideration of that same evidence to modify the current conditions and reduce the times of authority for carrying out licensable activities contained on the licence, to promote the licencing objectives.

Reasons for decision

Members of the Sub-Committee in determining the application for review must consider the following options: -

- a) Modify the conditions of the licence; and/or
- b) Exclude a licensable activity from the scope of the license; and / or
- c) Remove the Designated Premises Supervisor; and/or
- d) Suspend the licence for a period not exceeding three months; and/or
- e) Revoke the licence; or
- f) Leave the licence in its current state.

a) Modify the conditions of the licence; and/or

The Sub-Committee agreed that it was appropriate to modify the conditions to promote the licencing objectives and to reduce the public nuisance suffered by residents in the vicinity.

The Sub-Committee decided that it was appropriate to amend the following conditions.

- (i) *Condition 2.2 to read 'minimum of 1 SIA registered door staff shall be deployed on Friday and Saturday nights (and any Sunday falling on a Bank Holiday weekend, and on Christmas Eve and New Years Eve) from 22:00 hours, 2 from 23:00 hours and 3 from 01:00 hours the following morning until at least 15 minutes after the premises close and all customers have departed from the front of the premises.*
- (ii) *Condition 2.3 to read Customers shall not be admitted or re-admitted to the premises after 02:30 hours on any day of the week, save for customers who have temporarily left the premises to smoke, make a telephone call or for some other legitimate reason.*

The Sub-Committee decided that it was appropriate to add the following conditions

- (iii) *A Personal Licence Holder to be always present at the premises when licensable activities are taking place until at least 15 minutes after the premises close and all customers have departed from the front of the premises.*
- (iv) *One member of the SIA staff that are employed on a Friday or Saturday (and any Sunday falling on a Bank Holiday weekend, and on Christmas Eve and New Years Eve) to focus on ensuring that they reduce the noise impact of this premises on residents living nearby and diffuse confrontation emanating from the premises by locating themselves by the door of the premises or outside the premises as customers disperse.*
- (v) *that an appointment is made with Environmental Health, for an EHO to visit the Premises to check that the noise limiter is set at the correct setting to ensure any music is being played at appropriate noise levels and to give any other advice of how the premises can*

reduce the noise impact of the premises on residents living nearby.

- (vi) to consult with Building Control and Dorset Fire and Rescue Service (DFRS) to establish if a double door airlock system can be installed in the premises to prevent the escape of noise when persons enter and leave the premises. If this can be achieved in line with a DFRS risk assessment, then it must be implemented.*

The Licensing Sub Committee consider the above conditions to be appropriate to promote the four licensing objectives, particularly the prevention of crime and disorder and the prevention of public nuisance.

The Sub-Committee are satisfied that particularly in the early hours of Saturday and Sunday mornings that there is public nuisance, anti-social behaviour and crime and disorder caused by members of the public gathering in the vicinity of the premises and customers as they enter and leave the premises. The Sub-Committee accept that crime and disorder and public nuisance occurring in the vicinity of the premises in the early hours may not only be caused by this premises, but are of the view that the later terminal hour on Fridays and Saturdays encourages those leaving premises with an earlier terminal hour to migrate to these premises and so extending the period of noise nuisance and likelihood of crime and disorder occurring in the vicinity of the premises. Earlier times of final admittance or readmittance and an earlier closing time of 03:30hrs on Fridays and Saturdays will bring the premises in line with other late night drinking establishments in the neighbourhood and prevent that extension of public nuisance.

The Sub Committee hope that the addition of an extra SIA registered staff member positioned close to the door or outside of the premises focused on ensuring the noise impact of this premises on residents living nearby is reduced, will assist in deterring people from engaging in nuisance, criminal or disorderly behaviour outside and close to the premises.

The Sub Committee wish for the premises to do all that is possible to ensure that noise emission is reduced to a reasonable level to protect local residents and to prevent disturbance in the neighbourhood and is confident that this can be achieved by Mr Halabi engaging with Environmental Health Officers, Building Control and the DFRS to explore and agree what measures can be legally put in place in order to achieve this.

(b) Exclude a licensable activity from the scope of the licence:

The Sub-Committee did consider whether to exclude Live and Recorded Music from the premises licence but noted that this was an essential element of the business and did not deem an exclusion of any licensable activity from the license to be an appropriate or proportionate response. They did however determine it was appropriate to reduce the authorised hours for the licensable activities.

- (i) that the terminal hour for all licensable activities be reduced to 03:00hrs on Fridays and Saturdays and 02:30hrs on all other days of the week.
- (ii) that the closing times of the premises be brought forward to 03:30hrs on Fridays and Saturdays.

The Sub Committee consider that by reducing the authorised hours of the licensable activities to give quiet drinking up time Sunday to Thursday and more of such time Fridays and Saturdays, will likely reduce the adverse impact of this premises on local residents as customers will be leaving when the music has already been switched off, so preventing the noise escaping as the door is open and shut and customers will have had adequate time to calmly finish a last drink before needing to exit the premises.

(c) The removal of the Designated Premises Supervisor from the licence:

The Sub Committee noted that the Premises Licence Holder was also the Designated Premises Supervisor and considered that the removal of the DPS is not appropriate or proportionate at present. They were encouraged that Mr Halabi engaged with Dorset Police and Pub Watch but noted that whilst the licence contained robust conditions, they were not of the view that they were being strictly adhered to at all times and it was for Mr Halabi as PLH and the DPS to ensure that he and his staff managed and run the premises responsibly and strictly in accordance with the licence conditions.

(d) Suspension of the Licence:

The Sub-Committee feel that a temporary suspension of this Premises Licence is unlikely to result in any substantial improvement to the issues raised in the Application for Review.

(e) Revocation of the Licence:

The Sub-Committee considered that revocation at this point would be disproportionate.

(f) Leave the licence in its current state:

In considering the information contained in the agenda report, the representations, the videos shown and verbal submissions made during the hearing, the Licensing Sub-Committee agreed that taking no action would not be a sufficient response to the concerns identified by Dorset Police in bringing this review and those highlighted by residents and the Ward Councillors for Queen's Park.

The Sub-Committee decided that to uphold the licensing objectives, it was appropriate and necessary to modify the licence conditions, reduce the

authorised times for licensable activities and for the premises to close earlier on Saturday and Sunday mornings.

The Sub-Committee concluded that none of the other available options are appropriate at this time.

However, the Sub-Committee warned Mr Halabi that he must ensure the premises is run strictly in accordance with the licence conditions and that he does all that he can to reduce noise break out. He must also ensure the SIA door staff, and all staff employed are managed effectively to uphold the licensing objectives to reduce the negative impact of the premises on the local neighbourhood and of any of his customers involvement in crime and disorder on leaving the premises. They were of the view if the premises were further reviewed in similar circumstances, the Sub-Committee would be left with little option than to consider revocation of the License, as all other options would be unlikely to be appropriate.

Right of appeal

An appeal against the review decision may be made to a Magistrates' Court within 21 days of the appellant being notified of the Licensing Authority's determination on the review. An appeal may be made by the premises licence holder, the Chief Officer of Police and/or any interested person who made relevant representations

The meeting ended at 1.25 pm

CHAIRMAN