

BOURNEMOUTH, CHRISTCHURCH AND POOLE COUNCIL
LICENSING SUB-COMMITTEE

Minutes of the Meeting held on 19 February 2025 at 10.15 am

Present:-

Cllr A Keddie – Chair

Present: Cllr A Chapmanlaw and Cllr E Harman

87. Election of Chair

RESOLVED that Councillor Alasdair Keddie be elected Chair of the Sub-Committee for the duration of the meeting.

Voting: Unanimous

88. Apologies

There were no apologies.

The reserve members, Cllr A Filer and Cllr M Dower, were in attendance at the start of the meeting but were not required.

89. Declarations of Interests

There were no declarations of interest.

90. Protocol for Public Speaking at Licensing Hearings

The protocol for public speaking at licensing hearings was noted.

91. Papa John's, 176-178 Barrack Road, Christchurch, BH23 2BE

Present:

From BCP Council:

Sarah Rogers – Principal Licensing Officer
Linda Cole – Legal Advisor to the Sub Committee
Jill Holyoake – Clerk to the Sub Committee

The Chair made introductions and explained the procedure for the hearing which was agreed by all parties.

The Principal 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 the premises known as 'Papa John's', 176-178 Barrack

Road, Christchurch, BH23 2BE, to permit late night refreshment between the hours of 23:00 to 03:00 Sunday to Thursday and 23:00 to 05:00 Friday and Saturday. The Licensing Authority had received one representation from BCP Council's Environmental Health Department and one representation from one other person on the grounds of the prevention of public nuisance licensing objective. A representation from one other person in support of the application had also been received.

The Sub Committee was advised that the applicant had indicated that they would not be attending the hearing but wished the matter to be dealt with in their absence. The other person who had made a representation in support of the application had been given the opportunity to attend remotely but was not present.

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

- Paul Barker – BCP Environmental Health
- Mr Fairbrass – other person, objecting

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

All parties were invited to sum up before the Sub Committee retired to make its decision.

RESOLVED that the application for a new premises licence for the premises known as 'Papa John's', 176-178 Barrack Road, Christchurch, BH23 2BE, to permit Late Night Refreshment between the hours of 23:00 to 03:00 Sunday to Thursday and 23:00 to 05:00 Friday and Saturday, be REFUSED.

Reasons for Decision:

The Sub-Committee gave detailed consideration to all of the information which had been submitted before the hearing as contained in the Licensing Officer's report for Agenda Item 5, including the details provided by the applicant in their application, the representation in support of the application from one other person, Ms Deborah Moore and the representations made in respect of the application on the grounds of the prevention of public nuisance by Mr Andrew Wemyss, Environmental Health, and one other person, Mr Fairbrass.

The Sub Committee also considered the verbal submissions made at the hearing by those in attendance, Mrs Sarah Rogers, Principal Licensing Officer, Mr Paul Barker, Environmental Health Officer on behalf of Mr Wemyss, and Mr Fairbrass. It was noted that the applicant had indicated that they would not be attending but wished the matter to be dealt with in their absence. Ms Moore had been provided with the opportunity to attend remotely but was not present.

The Sub Committee was mindful that Environmental Health was the responsible authority which provided professional advice in relation to the prevention of public nuisance licensing objective and noted that Environmental Health considered that this licensing objective would be undermined in this case, due to the specific location of the premises being incompatible with what was being applied for. There was a residential flat directly above the premises and other residential accommodation close by and immediately adjacent. The premises wished to operate through to 0300 hours Sunday to Thursday and 0500 hours Friday and Saturday when the area was quiet, and the majority of residents would be trying to sleep. Noise associated with the arrival, parking, and departure of both customers and delivery vehicles would inevitably cause noise that would be impossible to control to any real extent.

The Sub Committee had regard to the concerns raised by Mr Fairbrass in relation to the prevention of public nuisance licensing objective. As a resident and now landlord of the residential flat above the premises, Mr Fairbrass felt that the extended operating hours would only exacerbate several noise issues which were already being tolerated by local residents.

Mr Fairbrass described his experience of living in the flat above the premises and the noise that can be clearly heard from doors slamming as customers and delivery drivers enter and exit the premises, from staff and customers talking and the telephone ringing. Externally he advised there was noise and vibration from the air conditioning units at the rear of the property, from staff outside talking and smoking whilst on breaks and customers waiting outside the premises for orders which when late at night, often created excessive noise in the vicinity of the shop, particularly if individuals or groups are intoxicated.

The Sub-Committee noted noise from within the premises would be very likely to be heard through the structure in the flat above and if later opening hours were granted this could further disturb the occupants of the flat.

The Sub Committee noted the latest position regarding noise complaints submitted to Environmental Health, these being two incidents in October 2024 involving deliveries to the premises at 5.30am. There had been previous reports of rodent problems, as mentioned by Mr Fairbrass, but nothing since 2022

The Sub Committee also had regard to the reasons provided by Ms Moore in her written representation as to why she felt the application should be granted, including that it was in safe location and would support those working unsociable hours and clubbers and that 24-hour opening was helpful for disabled and vulnerable people.

The Sub Committee considered the steps proposed by the applicant to promote the licensing objectives as detailed in section M of the operating schedule. At the hearing, the Sub Committee had sought the views of Environmental Health on whether the steps proposed by the applicant

would address the concerns raised and/or whether there were any further measures which could mitigate the impact caused by the premises operating beyond its existing hours. The Sub Committee noted that a noise impact assessment could result in recommendations for the applicant to consider in relation to noise mitigation/attenuation measures for the internal structure of the building, however this was a business decision for the applicant to pursue should they wish to. Regarding the external noise issues, it was difficult to see how any measures would significantly reduce the risk of nuisance being caused to residents if the business were to operate to the hours applied for. The core business is customers contacting or entering the premises to make an order and then a customer or delivery driver entering the shop to collect it. All of which may cause nuisance to local residents in the early hours of the morning.

Members noted that there were other licensed premises along Barrack Road itself. However, these varied in terms of licensable activities and closing hours, the latest being 01.00hours. At the conclusion of the hearing and prior to the decision being made, it was clarified that the hours applied for Sunday to Thursday were 0300 hours as set out in the report and not midnight as what was said by the Licensing Officer when presenting the report.

The Sub Committee concluded that it could not be satisfied that the premises would not undermine the prevention of public nuisance licensing objective and as such the application should be refused. The Sub Committee agreed that the specific location of the premises in being surrounded by residential accommodation would result in unacceptable noise disturbance to local residents in the immediate vicinity which it would not be possible to mitigate however well intended the applicant was.

It was noted that Mr Fairbrass had said that the operation of the premises had improved under the current franchisee and seemed more co-operative. Members felt there had been a missed opportunity for the applicant to engage with Environmental Health and the objector to discuss the concerns raised and encouraged the applicant to still engage in relation to some of the issues raised in relation to the current operation of the premises.

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 10.56 am

CHAIR