

Licensing Board, 2 August 2012

**LICENSING BOARD
2 August 2012**

PRESENT: Councillor Andrew Morgan - Chairman, Councillor David Kelsey - Vice-Chairman; Councillors John Adams, Linda Bailey, Stephen Chappell, Anniina Davie, Susan Phillips, Anne Rey, John Trickett and Chris Wakefield.

Councillor Bob Chapman attended for Minute 141 in his capacity as Central Ward Councillor.

The meeting commenced at 09:50 am.

SECTION I - BUSINESS RECOMMENDED TO THE COUNCIL

No Items

SECTION II - BUSINESS DECIDED UNDER DELEGATED POWERS

138. APOLOGIES

Apologies for absence were received from Councillor Theo Stratton.

139. DECLARATIONS OF INTEREST

There were none.

140. DEPUTATIONS

There were none.

**141. APPLICATION FOR REVIEW OF PREMISES LICENCE - ALIKA, 6A
CHRISTCHURCH ROAD**

The Board considered an application from Central Ward Councillor Bob Chapman to review the premises licence for Alika, 6a Christchurch Road, on the grounds that he believed the premises were not achieving the prevention of crime and disorder and prevention of public nuisance licensing objectives.

The review application brought by Councillor Chapman was supported by representations from Dorset Police under the prevention of crime and disorder licensing objective and the Council's Pollution Control department under the prevention of public nuisance licensing objective.

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Prior to the introduction of the application by the Licensing Officer, a short adjournment was held to enable those present to read the late evidence submitted. In relation to this late evidence, the Legal Officer gave advice to the meeting relating to the matter of a Noise Abatement Notice that had recently been served on the premises by Pollution Control, but not agreed to be valid by all parties. The Legal Officer advised that the Board should not consider the validity or otherwise of the Noise Abatement Notice, but place more weight on the circumstances that had led to this notice being served. The Legal Officer also gave advice to the Board on the relevance of evidence throughout the hearing.

The Senior Licensing Officer summarised the application as set out in Report 'A' highlighting an amendment to section 5.0 of the report to confirm that representations had been made on the application under both the prevention of public nuisance and the prevention of crime and disorder licensing objectives. The basis of the application related to the impact on local residents of noise and disturbance emanating from the premises on a regular basis. Dorset Police had submitted evidence relating to a number of incidents of crime and disorder associated with the premises within the last 12 months. Further to this, conditions had been negotiated between Dorset Police and the premises which representatives of Dorset Police confirmed satisfied their concerns and as such they no longer had any representation to make on the review application. In addition Pollution Control had provided details of complaints made by local residents and details of visits by officers to the premises over the last 12 months.

In addition to Report A and its appendices the Board had subsequently received the following information -

- Letter to the Council's Licensing Department, dated 21 May 2012, on behalf of several residents of Lansdowne House from the Senior Property Manager, House and Son Property Consultants
- Agreed Conditions with the Police dated 30 July 2012
- Email from Pollution Control dated 31 July 2012 regarding the service of a Noise Abatement notice and a requested condition requiring the submission and approval of a noise report, copy of a Noise Abatement notice, and witness statements from Pollution Control staff Zara Fulmer and Matthew Hulbert.
- Email from Pollution Control dated 27 July 2012 listing details of officer visits to monitor the premises throughout July 2012.
- Email correspondence dated 1 August 2012 between the representative of the premises, Mr Philip Day, and Head of Regulatory Services, Rob White, relating to the service of a Noise Abatement Notice.
- Copies of a newspaper article and letter to local residents regarding Alika, submitted prior to the meeting by Mr Philip Day.

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The following persons attended the Board hearing and gave verbal evidence based on their written submissions:

- Councillor Bob Chapman, Central Ward Councillor representing local residents.
- Mr Brian Jenner and a female resident who wished to remain unnamed but had submitted a written representation. These residents explained details of the noise nuisance they had experienced as a result of living opposite the premises.
- PC Darren Harris representing Dorset Police.
- Mr Rob White and Mrs Zara Fulmer representing the Council's Pollution Control Department.
- Mr Philip Day representing the premises, the Designated Premises Supervisor, Mr Raymond Kidd, and the manager of the premises Mr Lewis Younger.

Members asked various questions to the different parties during the hearing. All parties were given the opportunity to ask questions of each other and to sum up before the Board retired to make its decision.

DECISION MADE:

That the premises licence for Alike, 6a Christchurch Road, be amended to include the following conditions:

Conditions agreed with Dorset Police:

1. Whenever the premises are either hired or booked by a private promoter or a guest Disc Jockey (as opposed to the Premises' regular DJ) is scheduled to perform, a risk assessment will be undertaken to determine whether any additional security or safety measures should be put in place. These might include the deployment of additional door staff. A copy of the risk assessment shall be supplied to Dorset Police Licensing officers at least 14 days before the event is scheduled to take place.
2. Whenever the premises are open for licensable activities door supervisors shall be instructed to undertake random searching of all customers to ensure that at least 1 in 10 customers is searched before being admitted to the premises. The search procedure will include the use of a hand held metal detector. Any person refusing to be searched shall be denied entry and notices to that effect shall be prominently posted at the entrance to the premises. The number of persons admitted and searched on each occasion will be recorded together with full details of any offending article (including suspected drugs and weapons) found during such a search. Such items are, whenever possible, to be confiscated and stored in a safe of a type

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approved by the police until such time as the same are collected by or delivered to the police.

3. Whenever the premises are open for licensable activities either to the public or for a private booking, staff will be instructed to undertake floor walks of the premises at least once every 20 minutes to identify customers who may be intoxicated. Such customers will be identified to the duty manager who will ensure that the individual(s) concerned are not served further alcoholic beverages. A written record will be made of all floor walks and a refusal register maintained.
4. At the beginning of each shift, all staff will be reminded of their legal obligations not to serve alcohol to persons who appear to be under the age of 21 who have been unable to produce appropriate photographic proof of age and persons who are or appear to be drunk. All staff involved in the sale of supply of alcohol shall be trained in accordance with the "SWERCOTS" or such other scheme as may be approved by the police or trading standards from time to time. Staff training records to be kept for a period of 12 months and made available for inspection when requested by an authorised officer.
5. Whenever regulated entertainment in the form of live or recorded music is taking place, door staff will be instructed to ensure that one set of doors in the entrance lobby is kept closed at all times, save in the event of an emergency.
6. Only safety/ toughened glassware (or plastic or polycarbonate) is to be used throughout the premises. All glass bottles will be decanted into safety/ toughened glassware (or plastic or polycarbonate) except for bottles of spirits or wines supplied to customers seated in the VIP areas and then only subject to the following conditions:-
 - 6.1 All such bottles will be delivered to the VIP area(s) by waiting staff;
 - 6.2 No such bottles will be delivered unless the area in question is directly supervised by an SIA registered door supervisor
 - 6.3 Customers shall not be permitted to leave the VIP areas with any glass bottles and
 - 6.4 Notices shall be placed at the exit from each VIP area to the effect that bottles are not permitted beyond that point.
7. Door supervisors will be instructed to maintain orderly queuing outside the premises and to monitor the queue for disorderly persons attempting to enter the premises. Any such persons will be prevented from entering the premises.

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8. There shall be a written dispersal policy to include Door Staff in high visibility clothing.

In addition to the above new conditions the following amendment to an existing condition was agreed between Dorset Police and the Premises:

- 2.6 A minimum of 2 door staff shall be on duty whenever the premises is open beyond 21:00 and 6 door staff from 23:00 until 20 minutes after the premises close or all customers have dispersed, whichever is later.

Conditions agreed with Pollution Control:

Amendments to existing condition 2.1:

- 2.1 Prior to music and entertainment taking place a noise report (or acoustic report) must be commissioned by the licensee for submission to Environmental Health and approval by a senior qualified Environmental Health Officer (EHO). The purpose of the assessment is to ensure nearby residents in residential properties are not disturbed when music and entertainment is provided at the premises and to prevent noise breakout. Thereafter any recommendations made by the assessment and approved by the EHO shall be carried out and maintained at all times. The report must be commissioned within 21 days and submitted as soon as possible.

Condition offered by the premises:

9. A dedicated telephone number will be made available to local residents for their use in contacting the premises during opening hours should they have cause to raise concerns relating to noise breakout.

REASONS FOR DECISION:

The Chairman explained that the Board had taken account of the written evidence that had been submitted before the meeting, including late evidence, along with the verbal submissions made by all parties at the meeting.

The Board, in making its decision, had noted the good partnership working that had taken place between Dorset Police and the premises to agree a set of conditions for attachment to the licence. The full apology offered by Mr Day on behalf of the premises to the residents disturbed by noise from the premises had also been noted.

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The Board had noted with regret that the problems at the premises had not been dealt with sooner by Pollution Control.

On consideration of the Licensing Objectives the Board felt that the attachment of conditions to the licence would be sufficient to address the problems identified at the premises.

The condition offering a dedicated telephone number for residents to use to contact the premises in the case of any noise complaint was welcomed by the Board, and Councillors expected that this be taken seriously by the premises and communications with local residents to be improved.

The Board also expected communications within the club management structure to improve, and hoped that better management and tighter conditions would result in the resolution of problems identified going forward.

The Board directed a qualified Pollution Control Officer to visit the premises as soon as possible in order to review the noise limiter to ensure noise levels were reasonable. As a guide to the definition of reasonable, the Board expected that noise from the premises should not be audible on the opposite side of the road. Prior to the visit from Pollution Control Officers, the premises were expected to turn down the noise levels to avoid causing a disturbance to local residents.

The Board was mindful of the offer made by the premises to alter the lobby area of the venue in order to offer further soundproofing and the Chairman explained that this would be addressed under the amended condition 2.1 if deemed necessary by Environmental Health Officers as a result of the acoustic report. In the meantime, the premises were expected to closely monitor the entrance door, to keep it shut wherever possible and never use a wedge so that it remained open.

The Board expected Pollution Control Officers to monitor the venue regularly to ensure there was no noise nuisance in the future. The representatives of the premises were reminded that the licence may be reviewed again in future if problems were to continue at the premises, and that more serious sanctions were available for the Board to impose if they felt this was necessary.

Thanks were given to the complainants who attended the Board meeting and gave such an open and frank account of their experiences in order to assist the Board.

The Senior Solicitor advised that any persons aggrieved by the decision would have the right of appeal to the Magistrates Court, and any such appeal should be lodged within 21 days of receiving the decision letter.

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142. APPLICATION FOR REVIEW OF PREMISES LICENCE - ISBIR (UK) 2, 188 OLD CHRISTCHURCH ROAD

The Board considered an application from the Council's Trading Standards Department to review the premises licence for Isbir (UK) 2, 188 Old Christchurch Road, on the grounds that they believed the premises were not achieving the prevention of crime and disorder and protection of children from harm licensing objectives.

The review application brought by Trading Standards had not produced any further comments from any other responsible authority or any other persons.

The Senior Licensing Officer summarised the application as set out in Report 'B'. The basis of the application related to the sale of counterfeit alcoholic products off the premises and the supply of illegal vodka to another trader, and to the sale of alcohol to an underage volunteer as part of a test purchase operation. The application was supported by detailed evidence relating to these offences.

The Licensing Officer highlighted that, since the review application being lodged, the licence holder had been changed to Bournemouth Convenience Store Ltd with Mr Gokhan Cahir listed as the Designated Premises Supervisor for the premises.

To offer guidance to the Board, the Chairman highlighted section 11.28 of the April 2012 Home Office Guidance relating to offences committed on licensed premises.

The following persons attended the Board hearing and gave verbal evidence based on their written submissions:

- Mrs Lynn Barr and Mrs Zara Fulmer representing the Council's Trading Standards Department
- Mr Dick Hudson on behalf of Dorset Licensing representing the Premises Licence Holder; Mr Salmon Isbir and Mr Hakan Setin, a cousin of Mr Isbir, present for translation purposes.

Members asked various questions to the different parties during the hearing. All parties were given the opportunity to ask questions of each other and to sum up before the Board retired to make its decision.

DECISION MADE:

That the premises licence for the premises at 188 Old Christchurch Road be revoked.

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REASONS FOR DECISION:

The Chairman explained that the Board had taken account of the written evidence that had been submitted before the meeting along with the verbal submissions made by all parties at the meeting.

The Board was concerned that the ownership and responsibilities of Isbir UK Ltd and Bournemouth Convenience Store Ltd were not clear and that there was close ongoing association between the two. Although the licence for 188 Old Christchurch Road had since been transferred to Bournemouth Convenience Store Ltd the previous holder, Isbir UK Ltd, had been associated with activities undermining the licensing objectives, namely the sale of alcohol to a child and the sale of counterfeit alcohol.

The Board noted the serious prosecutions that were pending relating to the business and the premises' association with crime. The Board noted the references to lack of or counterfeit duty paid labels on products, lack of invoices to identify stock, and the finding of counterfeit goods on three occasions at the premises.

The clear inability of the Designated Premises Supervisor to train staff in the sale of alcohol was noted, this having resulted in the sale of alcohol to a child.

Despite numerous letters from the Council relating to the issues identified at the premises, management had made no effort to communicate with the Council in these matters.

As a result of these activities, and the close association between the two businesses, the Licensing Board had no confidence in the way the premises had been managed and would be managed in the future. Accordingly, the Board felt that the only step available to them to ensure that the licensing objectives would be upheld was revocation of the premises licence.

The Senior Solicitor advised that any persons aggrieved by the decision would have the right of appeal to the Magistrates Court, and any such appeal should be lodged within 21 days of receiving the decision letter.

143. APPLICATION FOR NEW PREMISES LICENCE - REVOLUTION, 163 - 167 CHRISTCHURCH ROAD

The Chairman informed the Board that all parties involved in this application had successfully negotiated an agreement and as such the Board was no longer required to hear the application.

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144. APPLICATION FOR NEW PREMISES LICENCE - MACE, 25 PALMERSTON ROAD

The Board was asked to open a hearing for this application and adjourn to 16 August 2012, in order that the application was compliant with regulations.

DECISION MADE:

That the application for a new premises licence for Mace, 25 Palmerston Road be adjourned until the next meeting of the Licensing Board on 16 August 2012.

145. UPDATE ON APPEALS

DECISION MADE:

The Board deferred any update on appeals to a future meeting date.

146. ITEMS OF ANY OTHER BUSINESS

- **ORDER OF BUSINESS 16 AUGUST 2012**

The Board confirmed the proposed order of business for the next meeting date.

- **STATEMENT OF GAMBLING POLICY**

On behalf of the Board, the Chairman gave thanks to Councillor Trickett for his work on the consultation process relating to the revised Statement of Gambling Policy.

The meeting adjourned between 10:05am and 10:18am, 11:45am and 12:00pm, 12:44pm and 1:45pm.

Councillors Linda Bailey, David Kelsey and Susan Phillips left the meeting at 2:30pm.

The meeting closed at 4:00pm.

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