

Licensing Board, 4 September 2012

**LICENSING BOARD  
4 September 2012**

**PRESENT:** Councillor Andrew Morgan - Chairman, Councillor David Kelsey - Vice-Chairman; Councillors John Adams, Linda Bailey, Stephen Chappell, Anne Rey, Theo Stratton and John Trickett.

The meeting commenced at 09:49am.

**SECTION I - BUSINESS RECOMMENDED TO THE COUNCIL**

No items.

**SECTION II - BUSINESS DECIDED UNDER DELEGATED POWERS**

**169. APOLOGIES**

Apologies for absence were received from Councillors Anniina Davie, Susan Phillips and Christopher Wakefield.

**170. DECLARATIONS OF INTEREST**

There were no declarations by members of any disclosable pecuniary interests under the Code of Conduct.

**171. DEPUTATIONS**

The Service Director for Law and Governance reported that, in line with Procedure Rule 22, no deputation requests had been received.

**172. APPLICATION FOR A PREMISES LICENCE - BOURNEMOUTH  
CONVENIENCE STORE, 693 WIMBORNE ROAD**

The Board considered an application made by Dorset Licensing on behalf of Mrs Elif Gunduz for a new premises licence for Bournemouth Convenience Store, 693 Wimborne Road. The application was made for the following licensable activities:

- **Supply of alcohol**  
Monday to Sunday - 00.01 to 00.00 hours.

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The Senior Licensing Officer summarised the application as set out in Report 'A'. The application was made following the owners of the premises, Isbir UK Ltd, going into liquidation which resulted in the lapse of the premises licence. The application was like for like of the original licence.

Consultation on the application had resulted in two representations, from Dorset Police and Environmental Health and Consumer Services, Trading Standards, respectively. Dorset Police, as a responsible authority, had made representations on the grounds that to grant the application would undermine the prevention of crime and disorder licensing objective as the premises were situated within the cumulative impact area. The representations from Environmental Health and Consumer Services, Trading Standards, were made on the protection of children from harm licensing objective.

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

- Applicant - Dorset Licensing - represented by Mr D Hudson on behalf of Mrs E Gunduz
- Responsible authority - Dorset Police - represented by Acting Sgt D Harris and Mrs G Wade
- Responsible authority - Environmental Health and Consumer Services, Trading Standards - represented by Mrs Z Fulmer

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 application for a new premises licence for Bournemouth Convenience Store, 693 Wimborne Road, be refused.

### **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 felt that the ownership status of the premises had not been made clear, and the evidence provided by Dorset Police and Environmental Health and Consumer Services, Trading Standards suggested that an individual involved in previous criminal activity relating to the sale of counterfeit goods, was still heavily linked to the premises.

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The Board concluded that the applicant had not sufficiently demonstrated that to grant the premises licence would not add to the cumulative impact of crime and disorder in the local area, and therefore the presumption of refusal had not been rebutted.

Furthermore, the Board did not have any faith in the proposed management of the premises to run a responsible business and uphold the licensing objectives.

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.

**173. APPLICATION TO TRANSFER PREMISES LICENCE AND VARY AN INDIVIDUAL AS DESIGNATED PREMISES SUPERVISOR**

The Board considered an application made by Oakfield Solicitors on behalf of Mr Sukru Alkan for the transfer of premises licence into his sole name and to vary the designated premises supervisor to Mr Aziz Kinay at the premises known as Crescent Food Hall, 493-495 Christchurch Road.

The Senior Licensing Officer summarised the application as set out in Report 'B'. Consultation on the application had resulted in representations being made by Dorset Police. In accordance with Section 42(6) of the Licensing Act 2003, Dorset Police, as the responsible authority, felt that due to the exceptional circumstances of the case, to grant the application would undermine the crime prevention licensing objective.

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

- Applicant - Oakfield Solicitors - represented by Mr F Kodagoda on behalf of Mr S Alkan and Mr A Kinay
- Responsible authority - Dorset Police - represented by Acting Sgt D Harris and Mrs G Wade

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:**

- a. That the application for the transfer of the premises licence into the sole name of Mr Sukru Alkan, be granted.
- b. That the application to vary the designated premises supervisor to Mr Aziz Kinay, be granted.

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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, without prejudice to their decision on 26 June 2012 to revoke the premises licence for Crescent Food Hall, 493-495 Christchurch Road, concluded that, as the application was in effect for the removal of Mr Bulent Bulbul as the joint premises licence holder, this was a necessary step to promote the crime prevention licensing objective.

However, the Chairman stressed that this was not an endorsement of Mr Sukru Alkan's ability to run the business responsibly. Furthermore, the Board were appalled to find that Mr Alkan was unable to name the four licensing objectives.

In respect of the application to vary the designated premises supervisor, the Board were prepared for Mr Aziz Kinay to be the replacement for Mr Bulent Bulbul. The Chairman explained that, on balance, there were no exceptional circumstances to refuse the application for this change.

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.

**Notes:** In respect of a. Councillor David Kelsey requested that his dissent from this decision be recorded.

In respect of b. Councillors David Kelsey and John Adams requested that their dissent from this decision be recorded.

**174. TO CONSIDER THE LAW COMMISSION CONSULTATION DOCUMENT - REFORMING THE LAW OF TAXI AND PRIVATE HIRE SERVICES**

The Board considered a report by the Licensing Officer circulated at 'C', which set out a final response to the Law Commission's consultation on reforming the law of taxi and private hire services. The Licensing Officer reminded members of the consultation deadline of 10 September 2012.

At its meeting of 16 August 2012, the Board welcomed representatives from the Law Commission for a question and answer session about the consultation, to assist Members in finalising the Board's response.

At its meeting of 28 August 2012, the Board further considered a draft response to the consultation and comments had been collated and tabled at 'Appendix A'.

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Representatives from the taxi trade attended the Board meeting to provide further representations for inclusion in the Council's consultation response.

Councillor Stephen Chappell proposed two further amendments to the consultation response as follows:-

Question 28

To replace the drafted response with:-

In a two-tier system, the public should be protected by the ability of the local licensing authority to set standards and conditions for private hire services in recognition of local circumstances. This ability is not limited to local signage (which should clearly distinguish between taxis and private hire vehicles), but should cover also advertising, vehicle age, maintenance periods and inspection, and also fare regulation (see our response to Provisional Proposal 43).

Provisional Proposal 43

To add the following to the end of the drafted response:-

The reason for this is that the reality of the situation is that in many cases the customer does not negotiate a price with the operator of the private hire vehicle, but assumes, on entering the hired vehicle, that the fare will not exceed that stated on the meter. We therefore consider that the local licensing authority, having regard to its local circumstances, and in order to give the customer additional protection, should have the ability to impose a condition requiring any fare that is not negotiated in advance with the operator to be no more than that shown on the meter (if fitted). This would in effect require most private hire vehicles to be metered.

**DECISION MADE:**

That the consultation response, as amended, be approved for submission to the Law Commission.

**175. EXCLUSION OF THE PRESS AND PUBLIC**

**DECISION MADE:**

That under 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 it involves the likely disclosure of exempt information as defined in Paragraph 5 in Part I of Schedule 12A of the Act and that the public interest in withholding the information outweighs such interest in disclosing the information.

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**176. UPDATE ON APPEALS**

The Board received an update from the Senior Solicitor on appeals to the magistrate court.


**DECISION MADE:**

That the update be noted.

Meeting adjourned between 10:03am and 10:11am.

The meeting closed at 1:07pm.

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