

Licensing Board, 8 January 2013

**LICENSING BOARD  
8 January 2013**

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

Councillor David Smith, Central Ward Councillor attended for clause 5 below.

The meeting commenced at 09.52 am.

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

No items.

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

**1. DECLARATIONS OF INTEREST**

Councillor Anne Rey informed all parties present that in respect of clause 4, she knew the applicant by way of being assisted by her with fundraising for the British Legion Poppy Appeal. This was not a disclosable pecuniary interest and in no way prejudiced her consideration of the application.

**2. DEPUTATIONS**

The Democratic Services Officer reported that there were no deputation requests received under Procedure Rule 37.

**3. APPLICATION FOR VARIATION OF PREMISES LICENCE - PEPPINOS,  
27-37 CHARMINSTER ROAD**

The Board considered an application made by Mr. D. Ramsay of David Ramsay Licensing Consultants, on behalf of Harbourfield Ltd to vary the premises licence for the premises known as Peppinos at 27-37 Charminster Road. The application was for the following variation:-

- Supply of Alcohol
  - To increase the terminal hour for the sale of alcohol to 03.00 hours on Friday and Saturday. (Current Licence - 10.00 to 01.00 hours Monday to Sunday).

## Licensing Board, 8 January 2013

- Late Night Refreshment
  - To increase the terminal hour for the provision of hot food and drink to 03.00 hours on Friday and Saturday. (Current Licence - 10.00 to 01.30 hours Monday to Sunday).
- Opening Hours
  - To increase the trading hours to 03.30 hours on Friday and Saturday. (Current Licence - 10.00 to 01.30 hours Monday to Sunday).

It was clarified that no extension to regulated entertainment was applied for.

The Senior Licensing Officer summarised the detail of the application as set out in Report 'A'. Consultation on the application led to the following agreed conditions with responsible authorities:-

- Dorset Police
  - At all times the premises is open to the public, there will be a minimum of 70 covers available for dining.
  - All staff employed front of house at the premises will be trained to at least Level 2 Award in Conflict Management.
- Pollution Control
  - The outside area will not be used beyond the hours already in place except for customers wishing to smoke.
  - The provision for regulated entertainment will not be provided beyond the hours already permitted to do so.
- Trading Standards
  - Alcohol can only be sold/supplied for consumption 'off' the premises when accompanied by a substantial main meal (not side orders).
  - All deliveries of alcohol will be made by a member of staff holding a Level 2 Award for personal licence holders.
  - No persons under the age of 18 will be permitted on the premises after 01.00 hours on Friday and Saturday.

In addition, consultation on the application had resulted in a representation made by an interested party under the prevention of public nuisance licensing objective. No further representations were received by any responsible authority.

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

- The applicant - Harbourfield Limited - represented by Mr. D. Ramsay of David Ramsay Licensing Consultants and Ms. G. Nami-Jahromi - General Manager of Peppinos.

## Licensing Board, 8 January 2013

The Board noted that the interested party, Mr. P. Jackson was a local resident of Charminster and had declared that he did not have time to meet with the applicant and was not able to attend any hearing date.

Members of the Board asked various questions to the applicant during the hearing. The applicant was then given the opportunity to sum up before the Board retired to make its decision.

### DECISION MADE:

That the application for a variation to the premises licence for Peppinos, 27-37 Charminster Road, be granted, subject to the following minor amendments to agreed conditions:-

- Door supervision will be provided on Fridays and Saturdays, as required by Dorset Police.
- At all times the premises is open to the public, there will be a minimum of 70 covers for dining.

Note: Councillor Linda Bailey requested that her dissent from this decision be recorded.

### 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 the applicant at the meeting.

The Board felt that the applicant had demonstrated a good example of partnership working with responsible authorities, to agree appropriate conditions on the licence during the consultation period on the application.

Furthermore, the Board was convinced that the management at the premises had every ability to uphold the prevention of public nuisance licensing objective and had alleviated the concerns expressed in the representation made by an interested party. The Chairman encouraged the applicant to work with the local community and be mindful of their responsibilities with regard to noise nuisance.

The Chairman wished the applicant every success in running a responsible business in the Charminster area.

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.

Licensing Board, 8 January 2013

**4. APPLICATION FOR NEW PREMISES LICENCE - G, 109 COMMERCIAL ROAD**

The Board considered an application made by Mr. P. Day of Horsey Lightly Fynn, on behalf of Mr. G. A. Withers-Lancashire and Mrs. L. A. Withers-Lancashire for a new premises licence for G, 109 Commercial Road. The original application was for the following:-

- Regulated entertainment
  - Films, live music, recorded music, performances of dance and anything similar to that falling within the above
    - Sunday to Thursday, 12.00 to 02.00 hours the following day.
    - Friday and Saturday, 12.00 to 03.00 hours the following day.
    - An additional hour on the occasion that British Summer Time commences.
    - A terminal hour of 03.00 hours the following day on any Sunday night immediately preceding a Bank Holiday Monday.
    - On New Year's Eve until the end of permitted hours on 1 January the following morning.
- Late night refreshment
  - Sunday to Thursday, 12.00 to 02.30 hours the following day.
  - Friday and Saturday, 12.00 to 03.30 hours the following day.
  - An additional hour on the occasion that British Summer Time commences.
  - A terminal hour of 03.00 hours the following day on any Sunday night immediately preceding a Bank Holiday Monday.
  - On New Year's Eve until the end of permitted hours on 1 January the following morning.
- Supply of alcohol (on the premises)
  - Sunday to Thursday, 12.00 to 02.00 hours the following day.
  - Friday and Saturday, 12.00 to 03.00 hours the following day.
  - An additional hour on the occasion that British Summer Time commences.
  - A terminal hour of 03.00 hours the following day on any Sunday night immediately preceding a Bank Holiday Monday.
  - On New Year's Eve until the end of permitted hours on 1 January the following morning.
- Hours premises are open to the public

Licensing Board, 8 January 2013

- Sunday to Thursday, 12.00 to 02.30 hours the following day.
- Friday and Saturday, 12.00 to 03.30 hours the following day.
- An additional hour on the occasion that British Summer Time commences.
- A terminal hour of 03.30 hours the following day on any Sunday night immediately preceding a Bank Holiday Monday.
- On New Year's Eve until the end of permitted hours on 1 January the following morning.
- The premises were proposed to be operated as an exclusive members only club.

The Senior Licensing Officer summarised the detail of the application as set out in Report 'B'. Consultation on the application led to the following agreed conditions with the responsible authority, Pollution Control:-

- To amend the hours for live music performances so that these end at 23.00 hours each day of the week.
- To include the following additional conditions onto the proposed operating schedule:-
  - The inner door leading to the basement rear fire exit shall be fitted with a self closing device and maintained for the duration of the licence.
  - Live music shall cease at 23.00 hours at all times.
  - There shall be no performance by any disk jockey in the premises at any time.
  - A sign shall be prominently displayed at or near the basement rear fire exit stating that the outside area shall be only used by patrons wishing to smoke and that there shall be no consumption of food and/or drink outside after 23.00 hours.

In addition, consultation on the application had resulted in two representations being received. Dorset Police, as a responsible authority, made representations on the grounds of the prevention of crime and disorder licensing objective, as the premises was situated within the Cumulative Impact Area for the town centre. An interested party also made representations on the prevention of crime and disorder licensing objective.

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

- Applicant - G, 109 Commercial Road - represented by Mr. P. Day of Horsey Lightly Fynn and Mrs. L. A. Withers-Lancashire - Designated Premises Supervisor.
- Responsible Authority - Dorset Police - represented by Ins. D. Osborne, Sgt. D. Harris and Mrs. G. Wade - Licensing Officer.

**Licensing Board, 8 January 2013**

The Board noted that the interested party, Mr. S. Mitchell, was a local licensee and was not in attendance.

Members asked various questions to all of the parties present 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 G, 109 Commercial Road, be refused.

Notes: Councillors Andrew Morgan, Theo Stratton and Christopher Wakefield requested that their dissent from this decision be recorded.  
Councillor David Kelsey left the meeting before deliberations commenced on this application.

**REASONS FOR DECISION:**

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

On balance, the Board felt that the applicant was not able to rebut the presumption of refusal of applications made within the Cumulative Impact Area, as they felt that the premises would add to the crime and disorder already experienced in this stress area.

Furthermore, the Board did not feel that the application was sufficiently different from other premises in the locality to depart from the Council's Cumulative Impact Policy on the grounds that the grant of the application would enhance the character of the area and widen the choice of venues.

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.

**5. APPLICATION FOR REVIEW OF PREMISES LICENCE - CENTRO PIZZA, 1 LANSDOWNE CRESCENT**

The Board considered an application made by Environmental Health and Consumer Services - Trading Standards for the review of the premises licence for Centro Pizza, 1 Lansdowne Crescent, on the grounds that they believed the premises were not achieving the protection of children from harm licensing objective. The review was submitted following an incident on 23 August 2012, where Trading Standards carried out a test purchasing

## Licensing Board, 8 January 2013

exercise from an apartment in Bournemouth. The exercise was to test takeaway premises who delivered alcohol and to take appropriate enforcement action where offences and breaches were revealed. Two volunteers, both fourteen years of age, ordered pizza and four cans of Carlsberg lager from Centro Pizza, which were delivered by Mr. M. Cater, owner and designated premises supervisor, without a request for age verification or identification.

The Senior Licensing Officer summarised the detail of the application as set out in Report 'C'. The application by Environmental Health and Consumer Services - Trading Standards produced representations in support from Bournemouth Children's Social Care as a responsible authority; and Councillors David Smith, Bob Chapman and Mike Greene as Local Ward Councillors.

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

- The applicant and responsible authority - Environmental Health and Consumer Services - Trading Standards - represented by Mr. A. Sherriff - Principal Officer and Mrs. Z. Fulmer - Senior Technical Officer.
- The premises licence holder and designated premises supervisor - Mr. M. Cater - represented by Mr. P. Day of Horsey Lightly Fynn.
- Responsible authority - Bournemouth Children's Social Care - represented by Mr. M. Darbyshire - Customer Services Officer.
- Local Ward Councillor - Councillor David Smith.

Members asked various questions to all of the parties present 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 Mr. M. Cater be removed as the designated premises supervisor for Centro Pizza, 1 Lansdowne Crescent.
- b. That the following condition within the operating schedule be added to the premises licence for Centro Pizza, 1 Lansdowne Crescent:-
  - That all home deliveries of alcohol be made in a bag with a large '25' printed on the side.

### REASONS FOR DECISION:

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

## Licensing Board, 8 January 2013

The Chairman expressed severe disappointment that the owner and designated premises supervisor had delivered alcohol to two children. He highlighted the Board's dim view of the supply of alcohol to children and commended the Trading Standards department on a successful test purchasing exercise.

The Board accepted the view of Trading Standards that Mr. M. Cater was the controlling mind of the business and therefore felt it necessary and proportionate to remove Mr. M. Cater as the designated premises supervisor.

Furthermore, the steps recently put in place at the premises such as new systems and the use of a Challenge '25' bag for all deliveries of alcohol were welcomed by the Board and considered necessary to be included as a condition on the premises licence.

The Chairman reiterated that the Board found the sale of alcohol to children unacceptable, and in line with the national guidelines for persistent offenders, should the premises fail a test purchase twice in a three month period, they would face the risk of the removal of the sale of alcohol on their 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.

Note: Councillors John Adams, Stephen Chappell and Linda Bailey left the meeting before deliberations commenced on this item.

Councillor David Kelsey left the meeting at 12.40 pm.

Councillors John Adams and Stephen Chappell left the meeting at 1.35 pm.

Councillor Linda Bailey left the meeting at 2.10 pm.

The meeting adjourned between 10.30 - 10.35 am, 10.44 - 10.56 am, 12.20 - 12.40 pm and 1.25 - 1.30 pm.

The meeting closed at 3.18 pm.

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