

Licensing Board, 16 July 2013

**LICENSING BOARD
16 July 2013**

PRESENT: Councillor Andrew Morgan - Chair; Councillor David Kelsey - Vice-Chair; Councillors Linda Bailey, Mark Battistini, Stephen Chappell, Susan Philips, Theo Stratton and Chris Wakefield.

The meeting commenced at 9.45am.

SECTION I - BUSINESS RECOMMENDED TO THE COUNCIL

No items.

SECTION II - BUSINESS DECIDED UNDER DELEGATED POWERS

104. APOLOGIES

Apologies for absence were received from Councillors Anne Rey and John Trickett.

105. DECLARATIONS OF INTEREST

There were no declarations by members of any disclosable pecuniary interests. Councillor Battistini reported that the applicant for Lansdowne Central, 6 Christchurch Road was known to him as a family friend. For the purposes of transparency and to avoid any conflict of Interest Councillor Battistini did not take part in the debate or vote and withdrew from the meeting for the whole of this item.

106. DEPUTATIONS

There were no requests for deputations.

107. EARLY MORNING RESTRICTION ORDERS (EMROs)

The Chairman informed the Board of the recent statement made by the Executive Director, Environment and Economy that confirmed that at the present time the Council would be taking no further action with regards to EMROs and would be instructing officers to focus on implementing the recommendations from the Ferrier Urbanism report to improve the night time economy for all.

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DECISION MADE:

That statement from the Executive Director, Environment and Economy regarding EMROs be noted.

108. 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 Paragraphs 1 and 2 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.

109. CONSIDERATION OF A PUBLIC CARRIAGE DRIVERS LICENCE

The Board considered an information note presented by the Council's Legal Officer regarding a recent legal judgement made by Mr Justice Singh which was relevant to the Board's consideration of the Public carriage Drivers Licence. The Board was advised that the judgement established case law which means that action taken by a Licensing Authority on receiving information which causes concern over whether a taxi driver is a fit and proper person can no longer be an interim step but must be approached as a final determination. It was noted that due to this judgement further consideration would need to be given to the Council's current procedures.

The Licensing Officer went on to introduce his report by stating that on 8 July a report had been received from Dorset Police that a private hire driver had received a conditional caution on 27 June. The Officer advised that the driver had not reported this to the Council as required under the guidance issues to driver. In the light of the information provided by Dorset Police, the Board was asked to consider what action to take and whether the named driver was a 'fit and proper person' to continue to hold a Public Carriage Driver's Licence granted by the Council.

The driver named in report 'A' attended the meeting but requested that the hearing be adjourned until he had the opportunity to arrange legal representation. Members asked a number of questions to both the Licensing Officer and Driver before retiring to decide whether an adjournment was appropriate.

DECISION MADE:

That further consideration of the item be adjourned until the meeting scheduled on 1 August 2013 to allow further information from the police to be received and for the driver to arrange legal representation.

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The Chairman advised that the Board carefully considered the situation and the necessity of having all relevant information available and therefore decided that it was appropriate to adjourn the hearing in this particular case.

110. APPLICATION FOR A REVIEW OF A PREMISES LICENCE - CANFORD CONVENIENCE STORE, 107-109 CANFORD AVENUE,

The Board considered an application made by Bournemouth Trading Standards for a review of the premises licence for Canford Convenience Store, 107-109 Canford Avenue on the grounds that they believed the premises were not achieving the protection of children from harm licensing objective. The review was submitted following a test purchase for underage sale of alcohol by a 14 year old volunteer on 7 February 2013. The Board was advised by the Trading Standards Office that there was a delay in submitting the request for a review due to issues confirming the address of the Premises Licence Holder and owners.

The Senior Licensing Officer summarised the detail of the application as set out in Report 'B'. The following persons attended the Board hearing and gave verbal evidence based on their written submissions:

- The applicant - Bournemouth Trading Standards Service - represented by Ms Zara Fulmer.

For the premises:

- The premises licence holder, Mr Babu;
- The Designated Premises Supervisor, Mr Abilash;
- The part owner of the premises, Mr Raviendra;
- The member of staff serving during the test purchase, Mrs Raviendra;
- Licensing Consultant, Mr Hudson

Members asked various questions to all of the parties present during the hearing. All parties were given the opportunity to sum up before the Board retired to make its decision.

DECISION MADE:

1. That the Licence be suspended for a period of four weeks. During which time thorough training for all staff should be carried out, as offered, by Mr Hudson with appropriate records kept and signed-off.
2. That a condition be added to the Premises Licence to require that there must be at least one member of staff, who has an appropriate level of English, available on the premises whenever alcohol can be served.

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REASON FOR DECISION:

The Chairman explained that the Board had taken into account all the written evidence that had been submitted before and at the meeting, along with the verbal submissions made at the meeting by the applicant and the representatives of the premises.

The Board noted that the change in the Designated Premises Supervisor which took place on 10 July was a positive step and that Mr Abilash had a good grasp of the licensing objectives. However the Board was concerned that whilst Mr Babu also understood the licensing objectives, he had made assurances previously to the Licensing Board that licensing training for staff members would take place and it appeared to the Board that this did not happen to an appropriate standard. The Board felt that in this instance suspension was appropriate and that four weeks was the right length of time to allow for sufficient and thorough training including role play elements for all staff members. The Licensing Board was confident that further training would be effective if Mr Hudson was involved in the training as he had suggested during the hearing and that the training was signed-off appropriately once completed it would be.

The Board considered that an additional condition regarding the availability of a staff Member with an appropriate level of English was necessary due to some of the communication difficulties which had taken place during the test purchase and was also evident at the hearing and in the completion of the refusals register. The condition was offered by the Designated Premises Supervisor and the Board felt that this was an appropriate measure in this instance.

The Legal Advisor to the Licensing Board advised all parties 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.

111. APPLICATION FOR A PREMISES LICENCE - LANSDOWNE CENTRAL, 6 CHRISTCHURCH ROAD

The Board considered an application made by Mr Salman Kaydul and submitted on his behalf by Mr David Ramsey, for a premises licence for Lansdowne Central, 6 Christchurch Road. The application was to permit the sale of alcohol on the premises between the hours of 10.00am and 11.00pm. The Senior Licensing Officer summarised the detail of the application as set out in Report 'C'. Consultation on the application had resulted in one representation being received from Dorset Police under the prevention of crime and disorder licensing objectives. The application was for a premises in a Cumulative Impact Area.

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The applicant stated that he was willing to amend the finish time to 9.00pm if the Board considered this necessary.

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

For the applicants -

- Mr Salman Kaydul - Premises owner
- Mr David Ramsey - Licensing Consultant

Representations -

- Dorset Police - Represented by Licensing Officer, Caroline Wateridge and Police Community Support Officer for the Lansdowne Area, Nick Hector.

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 premises licence to permit the sale of alcohol on the premises be refused.

REASON FOR DECISION

The Chairman explained that the Board had taken into account all the written evidence that had been submitted before and at the meeting, along with the verbal submissions made at the meeting by the applicants and their representative and by Dorset Police.

The Board heard from Dorset Police regarding crime and disorder and took note of the change in closing time which was offered by the applicant. The Board also noted that the applicant was currently running a successful unlicensed cafe on the premises and had a good knowledge of the difficulties in the area associated with alcohol consumption. Despite this and having heard from all parties at the meeting the Board was not satisfied that the applicants had rebutted the presumption that this premises if licensed to sell alcohol would not add to crime and disorder in the stress area, as set out in paragraphs 15.12 and 15.13 of the Council's Statement of Licensing Policy in respect of cumulative impact and that the licensing objective of prevention of crime and disorder would not be undermined

The Board did not consider that the premises provided a unique offer as there were several similar premises in the area or did not feel that the premises would particularly enhance the character of the area in such a way that would cause it to depart from its policy. It was considered that the premises if licensed to sell alcohol would have a detrimental impact on

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crime and disorder in the area it was situated. The Board reached this decision based upon the evidence presented by the Dorset Police, dated May 2013 which identified the Lansdowne area as a known problem area for anti-social behaviour and vagrants. The area was also a designated Section 30 Dispersal area under the Anti-Social Behaviour Act 2003. The Board was of the view that another premises in the heart of the Cumulative Impact Area would make the street drinking in the area worse even taking into account any ability Mr Kaydul may have had in refusing sales

The Legal Advisor to the Licensing Board advised all parties 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.

112. 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.

113. ANY OTHER BUSINESS

Suspension of Taxi Drivers' Licences

Following the report from the Legal Officer with regards to the recent legal judgement of Mr Justice Singh as outlined to the Board the meeting. The main outcome of the judgement required that any decision taken by the Licensing Authority was final. Under the provision for urgency the Board considered the best way to now address the issue as officers did not currently have delegated authority to revoke a licence and as no further action could be taken this may leave persons whose suitability as a fit and proper person was called into question with the ability to continue operating. The Board considered what options were available to ensure public safety and it was proposed by the Chairman to delegate the consideration of taxi signage to officers, in consultation with the Chairman or Vice-Chairman of the Licensing Board.

The proposed change required an amendment to the Public Carriage, Conditions Bylaws and Guidance document and therefore the requisite change to the Licensing Board's Scheme of Delegation to officers.

DECISION MADE: That the following amendment be made to the appropriate policy and scheme of delegation under the 'At Officer Level Section':

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'Where appropriate and in consultation with the Chair or Vice-Chair of Licensing Board officer may revoke a licence if necessary to ensure the protection of the public'.

Award for Long Service

The Licensing Officer reported that it had now been confirmed that the award would be presented at the Full Council Meeting on 17 September 2013.

Licensing Training



The Senior Licensing Officer advised that training was available for Licensing Board Members from the Institute of Licensing and could be tailored to meet the needs of the local authority. The Legal Officer advised that member training was due in November 2013.

DECISION MADE

That the training offer from the Institute from Licensing be considered and refresher training be arranged for November.

The meeting was adjourned between 10.31am and 10.45am, 11.41am to 12.00pm and 12.38pm to 1.11pm.

The meeting closed at 1.24pm.

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