

Licensing Board, 5 March 2014

**LICENSING BOARD  
5 March 2015**

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

The meeting commenced at 9.48 am.

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

No items

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

**11. APOLOGIES**

Apologies were received from Councillors Stephen Chappell and Chris Wakefield.

**12. DECLARATIONS OF INTERESTS**

There were no declarations of any disclosable pecuniary interests by Members.

**13. PUBLIC ITEMS**

There were no public questions or deputation requests for this meeting.

**14. EXCLUSION OF PRESS AND PUBLIC**

**DECISION MADE:**

That the press and public be excluded for this item under Section 100(A)(4) of the Local Government Act 1972 as it involves the likely disclosure of exempt information as defined in paragraphs 1 and 2 in Part 1 of Schedule 12A of the Act, and the public interest in withholding the information outweighs the public interest in disclosure in order to protect the individual concerned.'

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**15. APPLICATION FOR PUBLIC CARRIAGE DRIVER'S LICENCE**

The Board considered an application for a public carriage driver's licence from the driver named in report '4'.

The Licensing Officer introduced the report and explained that the Board had refused a previous application in March 2012 having considered the driver's criminal record disclosure. Although Bournemouth Magistrates Court had subsequently upheld the driver's appeal against this decision, the Council had appealed this to the Crown Court and in November 2012 the appeal decision was upheld.

In accordance with Council policy the driver was now eligible to reapply for a licence as the period of two years following the appeal outcome had elapsed. The Board was asked to consider whether he could now be considered a 'fit and proper person' to hold a public carriage driver's licence.

The Board heard verbal evidence from the named driver and his legal representative in mitigation of his previous actions, and in support of obtaining his licence taking into account his current circumstances. Members asked a number of questions of the driver, his legal representative and the Licensing Officer.

The Board retired to make its decision.

**DECISION MADE:**

That the application for a public carriage driver's licence for the named driver be granted, as he is considered to be a fit and proper person to hold a licence issued by the Council. This decision is subject to the successful completion of the Council's licence application process, which includes the submission of a current DBS check to the satisfaction of the Licensing Officer.

The Chairman on behalf of the Board emphasised the responsibilities involved in holding a public carriage driver's licence. He explained that it would be regrettable if the driver appeared before the Board again, and wished him every success in his work.

Note: Councillor Trickett asked to be recorded as voting against the above decision.

**- The meeting continued in public session -**

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**16. APPLICATION TO VARY PREMISES LICENCE - ALIBABA'S TAKEAWAY,  
144 COMMERCIAL ROAD**

The Board was advised that the applicant had agreed conditions with Dorset Police prior to the hearing. As a result the application had been withdrawn from the agenda and dealt with by officers under delegated powers.

**17. APPLICATION TO VARY PREMISES LICENCE TO SPECIFY AN  
INDIVIDUAL AS DESIGNATED PREMISES SUPERVISOR AND TRANSFER  
OF PREMISES LICENCE - GOOD CHOICE, 268 OLD CHRISTCHURCH  
ROAD**

The Board considered an application to vary the premises licence for Good Choice, 268 Old Christchurch Road, to specify Mr Thineskaran Krishnapillai as the designated premises supervisor (DPS) and to transfer the premises licence into his name.

The Senior Licensing Officer introduced report '6' and explained that the application had resulted in objection notices from Dorset Police under Sections 37(5) and 42(6) of the Licensing Act 2003, on the grounds that there are exceptional circumstances whereby to grant the applications would undermine the crime prevention licensing objective.

Having received the Senior Licensing Officer's report the Board was advised that the next stage of the hearing was likely to involve the disclosure of exempt information as defined by law.

**DECISION MADE:**

That the press and public be excluded for this item under Section 100(A)(4) of the Local Government Act 1972 as it involves the likely disclosure of exempt information as defined in paragraphs 1 and 2 in Part 1 of Schedule 12A of the Act, and the public interest in withholding the information outweighs the public interest in disclosure in order to protect the individual concerned.

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

- On behalf of the applicant -
  - Mr Philip Day, Licensing Solicitor
  - Mr Thineskaran Krishnapillai, the applicant
  - Mr Thillairuban Thillaiyampalam and Mrs Thishanthini Thillairuban, premises licence holders (at time of application)
- On behalf of Dorset Police -
  - PC Darren Harris

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

**DECISION MADE:**

That the application to vary the premises licence for Good Choice, 268 Old Christchurch Road, to specify Mr Thineskaran Krishnapillai as the designated premises supervisor (DPS) and to transfer the premises licence into his name be rejected in accordance with Sections 37(5) and 42(6) of the Licensing Act 2003 in that there are exceptional circumstances whereby granting the applications would undermine the crime prevention objective.

**REASONS 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 all parties and the CCTV footage presented by Dorset Police. The Board was grateful for the opportunity for questions to be put to all parties to enable a reasoned decision to be made.

When questioned by the Board, the applicant had been unable to assert in a convincing manner how he would now act differently with a customer if the same situation arose at the premises as did in October 2013. On that occasion the Licensing Board believed that a customer had been locked in the shop and that the applicant had turned off the CCTV and by his own admission the applicant had struck a customer more than once with a metal implement, although the extent of the injuries caused to the customer could not be confirmed. While the Board acknowledged the difficulties faced in running a licensed premises this conduct was totally unacceptable for a licence holder and designated premises supervisor regardless of provocation and provided exceptional circumstances of why both applications should be rejected. Despite since having some training in conflict management the Board were not sufficiently assured by the applicant that similar conduct would not happen again and that the crime prevention licensing objective would not be undermined.

Going forward the Board had no confidence in the applicant's ability to carry out the roles of premises licence holder and designated premises supervisor effectively. It is accepted that he may work in the shop but he does not have the responsibility of these roles. The Board was concerned to hear that thefts of alcohol from the premises, in an area where street drinking and related anti social behaviour was a recognised problem, had not been reported to Dorset Police, as by not reporting these incidents the

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Police were unable to investigate and identify a pattern of criminal behaviour and make suggestions of how theft of alcohol may be minimised.

The Senior Solicitor 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.

Note: Councillor Bailey asked to be recorded as voting against the above decision.



- The meeting continued in public session -

### 18. ANY OTHER BUSINESS - Taxi issues at Horseshoe Common

The Chairman reported that a letter had been drafted by the Licensing Authority to send to drivers found to be continually flouting the traffic regulation order to pick up customers in the area of Horseshoe Common. If drivers persisted in this behaviour their status as a fit and proper person to hold a licence may be subject to review by the Licensing Board.

The meeting was adjourned from 10.11am to 10.20am, and from 11.42am to 12.08pm

The meeting closed at 12.16pm

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