

**LICENSING SUB-COMMITTEE  
13 November 2018**

**PRESENT:** Councillor Andrew Morgan Chairman, Councillor David Kelsey - Vice-Chairman, Councillor Mark Battistini and Councillor Susan Phillips (reserve member).

The meeting commenced at 9.58 am.

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

No items

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

**71. APOLOGIES**

Apologies were received from Councillor David Kelsey at clause 77.

**72. DECLARATIONS OF INTERESTS**

There were no declarations of any disclosable pecuniary interests.

For Transparency Councillor Mark Battistini informed the sub-committee that a company he sold previously supplied The Buffalo with coffee, since the sale of the company he'd had no contact with the applicant.

For Transparency Councillor Andrew Morgan informed the sub-committee that The Buffalo was in his ward.

**73. PUBLIC ITEMS**

There were no public questions or deputations received.

**74. 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.

**75. REVIEW OF A PUBLIC CARRIAGE DRIVERS LICENSE**

The Chairman made introductions and explained the procedure for the hearing which was agreed by all parties. The Sub-Committee considered a non-public report marked '4' which gave details of the actions and behaviour of the named public carriage driver whose license the sub-committee were to review.

The Licensing Officer provided an overview of the actions and behaviour of the named driver and the events that lead to the hearing. The Licensing Office had received notification from Southcote Road MOT Centre that the vehicle of the named driver had travelled 619 miles while on a stop notice. This was in breach of the license conditions and could invalidate the vehicles insurance. The stop notice was issued to the driver due to defects that rendered the vehicle unfit and unsafe for carrying members of the public. The vehicle did have a valid MOT and could be driven privately but should not have carried members of the public.

The Licensing Officer had obtained the booking record for the vehicle from the taxi operator. The record confirmed that the vehicle had carried passengers between the 26<sup>th</sup> September and the 2<sup>nd</sup> October 2018, whilst the vehicle was on a stop notice. In his statement the named driver explained that he thought there was a 28-day period to fix the problems with the vehicle, he did not realise he couldn't work on a stop notice. Once he had understood from another driver that he shouldn't be driving, he promptly stopped. This was reflected in the booking record, with the last journey taking place at 2.15am on 30<sup>th</sup> September 2018. Prior to the hearing Southcote Road had agreed to inform the licensing office when a stop notice was issued, and the licensing office would then inform the taxi operator of the notice, to avoid misunderstandings in the future. These procedural improvements had come into effect after the named drivers stop notice was issued.

The named driver attended the hearing and gave a verbal statement in his defence. It was explained that a conversation with a taxi driver prompted him to check the paperwork that he was issued by Southcote Road. Once he realised he shouldn't be driving he promptly stopped. The named driver was embarrassed by the situation and was sorry for his actions. He explained that it was a mistake that wouldn't happen again. The license was very important to him and he wouldn't intentionally put it at risk.

Members of the sub-committee and the Legal Officer asked various questions during the hearing. The questions that were posed related to the process at Southcote road and the named drivers understanding of the stop notice.

As the procedure for issuing a stop notice had recently been improved by Southcote Road sub-committee members suggested amendments to the Public Carriage Conditions, Bylaws and Guidance. Members asked the Licensing Officer to include driving while under a stop notice under the examples of licensing breaches of conduct that were likely to receive suspension for a defined period or revocation of license, found on page 41. A point was raised that taxi operators who knowingly allow a driver on a stop notice to work should have their license called into question.

**DECISION MADE:**

That the public carriage driver named in report '4' receive a written caution for driving while on a stop notice.

**REASONS FOR DECISION:**

The Committee carefully considered the written and verbal evidence presented at the hearing and concluded that despite it being very clear on the stop notice that the vehicle should not be used for hiring or reward before the repairs were carried out and the vehicle retested, the public carriage driver was a fit and proper person to hold a public carriage driver's licence. It was noted that the driver had no previous comments or complaints on his record and his apologies for his misunderstanding were sincere.

**THE MEETING RESUMED IN PUBLIC SESSION****76. APPLICATION FOR VARIATION TO PREMISES LICENCE - THE BUFFALO, 303-305 WIMBOURNE ROAD.**

The Chairman made introductions and explained the procedure for the hearing which was agreed by all parties. The application was submitted by Mr Philip Day of Lacey's Solicitors on behalf of Russell Restaurants Bournemouth Limited. The Sub-Committee considered the variation to the premises licence, that requested the extension of the hours for the supply of alcohol and the provision of regulated entertainment Sunday to Thursday 11am to 1am and Friday to Saturday 11am to 2am with non-standard timings on bank holiday Sundays and Christmas eve until 2am and New Year's Eve from 11am to 5am on 1<sup>st</sup> January. The application also sought to extend the opening hours of late-night refreshment Sunday to Thursday 11pm to 1:30am and Friday to Saturday 11pm to 2:30am with the terminal hours on Sunday to Thursday becoming 11am to 1:30am and Friday to Saturday 11am to 2:30am.

The Licensing Officer summarised the detail of the application as set out in Report '5'. The application had resulted in the receipt of objection notices from Environmental Health, Councillor Simon Bull and 14 interested parties under the prevention of public nuisance and the prevention of crime and disorder licensing objectives. The application also received 13 letters of support following the applicant's encouragement on a social media site. Two common themes were highlighted in the letters of support, this included disappointment in the closure of the old premises and a recognition of the value it added as a 'social hub' and the need for a live music venue in the Winton area that meant patrons did not have to travel to the town centre. An agreement was subsequently reached between Environmental Health and the applicant on 7<sup>th</sup> November subject to the conditions supplied to members as additional information. The sub-committee were required to consider the matter and to decide whether to grant or refuse the application or grant the application subject to additional conditions.

In advance of the hearing the following additional information was submitted for consideration:

- Mr Philip Day - Lacey's Solicitors, representing Russell Restaurants Bournemouth Limited supplied representations in support of the application, photographs of the previous and current premises and a written copy of the conditions agreed by Environmental Health

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

- Councillor Simon Bull
- Mr Mal Page - Interested party
- Mrs Dianne Rees - Interested Party
- Mr Kevin Young - Interested Party
- Ms Karen Seeor - Interested Party
- Mr Thomas Russell - Applicant - Russell Restaurants Bournemouth Limited
- Mr Philip Day -Lacey's Solicitors- representing Russell Restaurants Bournemouth Limited

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

#### **DECISION MADE:**

That the application for a variation to premises licence for The Buffalo, 303-305 Wimborne Road be refused Sunday to Thursday. That the application to vary the premises license on Fridays and Saturdays be approved as follows;

- Alcohol, regulated entertainment, live recorded music - 11:00 to 2:00 following morning
- Late night refreshment 23:00 to 02:30 following morning
- Hours open to the public 23:00 to 02:30 following morning

Non-standard timings as above for the Sundays before bank holidays, and Christmas Eve and to 5am on the day following New Year's Eve. Approval subject to the conditions outlined in the report and the additional conditions agreed by Environmental Health and the applicant as detailed below;

- No noise generated on the premises by regulated entertainment, plant, machinery, associated equipment and customers shall emanate from the premises or cause vibration to be transmitted through the structure of the building so as to cause a public nuisance.
- Save when live and recorded music entertainment is provided pursuant to the Live Music Act as amended, all amplified music shall be routed through the premises' own sound amplification system, control of the volumes shall be by staff only and not performers and no drum kits shall be permitted. Staff will also

monitor noise levels outside the premises at least once every 30 minutes to ensure that no public nuisance is being caused

- Patrons wishing to smoke shall be directed to the rear smoking area until the same is closed no later than 11p.m. and thereafter, persons smoking at the front of the premises shall be supervised by SIA registered door staff whenever the same are on duty.

#### **REASON FOR DECISION:**

The sub-committee gave detailed consideration to the written evidence that had been submitted before the meeting, along with the verbal submissions given at the meeting by all parties present. The sub-committee agreed that the location of the premises was largely residential with a large number of properties being located in the area. They also considered the concerns regarding school days and standard working hours. This led the sub-committee to refuse the application to vary the premises license Sunday to Thursday.

The sub-committee also recognised that the police had not raised an objection to the application and Environmental Health had withdrawn their objection, subject to conditions. This led the sub-committee to grant the variation subject to the additional conditions agreed by Environmental Health and the applicant for Friday-Saturday.

The sub-committee considered the applicant to have a proven record of responsible behaviour, they reminded him of his responsibility to provide an efficient dispersal policy and to ensure alcohol was not served to patrons that were already inebriated.

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

#### **77. APPLICATION FOR A NEW PREMISES LICENCE - GDK, 185-187 OLD CHRISTCHURCH ROAD**

Note: Councillor Susan Phillips replaced Councillor David Kelsey for this item

The Chairman made introductions and explained the procedure for the hearing which was agreed by all parties.

The sub-committee considered an application for a new premises licence for German Doner Kebab (GDK), 185 -187 Old Christchurch Road, submitted by Mr Brooks of MBI Surveyors, representing HY Guildford Limited. The application was to allow late night refreshment between 23:00 to 03:00 hours Monday to Sunday. During the consultation period conditions were agreed between the applicant, Dorset Police and Environmental Health, these were available for the sub-committee members to view at appendix C.

The Licensing Officer summarised the details of the application as set out in report '6'. The application had received a representation from Mr R Catling an interested party under the prevention of public nuisance licensing objective.

In advance of the hearing the following additional information was submitted for consideration:

- Mr Richard G Catling - interested party and landlord of flats above the applicant's premises provided a written statement in objection to the premises and a photograph.

Late information was also received by the sub-committee at the meeting. The sub-committee adjourned between 12:03-12:12 to consider the information which included;

- Mr Brooks of MBI Surveyors Limited, representing HY Guildford Limited provided GDK Information pack, correspondence detailing an attempt to mediate with Mr Catling, property particulars used for marketing purposes and a plan for a reduced trading area from midnight.

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

- Mr R G Catling, interested party

Members of the Sub Committee asked various questions of Mr Catling during the hearing. The applicant and their representation did not attend the meeting so only their written submissions could be considered. Mr Catling was given the opportunity to sum up, before the Sub Committee retired to make its decision.

#### **DECISION MADE:**

That the application for a new premises licence for GDK, 185-187 Old Christchurch Road be refused.

#### **REASON FOR DECISION:**

The sub-committee gave detailed consideration to the written evidence that had been submitted before the meeting, along with the verbal submissions and responses given at the meeting by Mr Catling, the landlord of flats above the applicant's premises. The Sub-Committee were concerned that the applicant had not considered the cumulative impact area and the potential for public nuisance outlined by the interested party at the meeting. As the applicant did not attend the hearing there was limited information which could be considered.


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

#### **78. ANY OTHER BUSINESS**

No other business was discussed at this meeting.

The meeting closed at 12:38pm

Contact: Samineh Richardson, Senior Democratic and Overview & Scrutiny Officer

 01202 454713

 [samineh.richardson@bournemouth.gov.uk](mailto:samineh.richardson@bournemouth.gov.uk)

Website: [www.bournemouth.gov.uk](http://www.bournemouth.gov.uk)