

DORSET COUNCIL - LICENSING SUB-COMMITTEE

MINUTES OF MEETING HELD ON THURSDAY 5 MARCH 2020

Present: Cllrs Jon Andrews, Emma Parker and Molly Rennie

Also present: Ms J McKenzie (item 66) and Mr L (item 68)

Officers present (for all or part of the meeting):

Kate Critchel (Senior Democratic Services Officer), Aileen Powell (Team Leader Licensing), Lara Altree (Legal Services Manager) and Philip Crowther (Senior Solicitor - Planning)

63. Election of Chairman and Statement for the Procedure of the Meeting

It was proposed by Cllr J Andrews and seconded by Cllr M Rennie.

Decision

That Cllr E Parker be elected the Chairman for the meeting.

Cllr E Parker took the Chair; welcomed all present and set out the procedure for the meeting.

64. Urgent items

There were no urgent items to report.

65. Declarations of Interest

No declarations of disclosable pecuniary interests were made at the meeting.

**66. Licensing Act 2003 Application to vary a premises licence McKenzies
45 Station Road Swanage BH19 1AD**

The Licensing Team Leader set out the application to vary a licence of the premises known as McKenzie's, 45 Station Road, Swanage BH19 1AD. The applicant was seeking to supply alcohol of consumption on the premises only daily from 12:00 to 22:30.

Members were advised that in response to a representation expressing concern about public nuisance, the applicant had amended the operating schedule from 23:00 to 22:30 each day and added additional conditions.

There were no further representations received and no comments made from any other responsible authorities.

The Licensing Team Leader advised the sub-committee that this was a small operation of a restaurant serving approximately 24 covers with only 1 sitting pre-evening.

The Chairman welcomed Julie McKenzie, the applicant. Ms McKenzie addressed the sub-committee and advised that this was a very small bistro/restaurant. It was proposed to be able to provide fine dining in the evenings as an alternative to eating in a public house and to be able to offer private function facilities. She indicated that signage would be installed to ask customers to leave quietly and she would be on the door to remind people to do so.

In response to a question, the applicant advised that most of the customer base were elderly people and most customers would have finished their meals by 9.30pm. The Friday and Saturday evening service had proved to be successful and this growth was important for the sustainability of this small business.

In response to further questions, members were advised that the people in the people above owned the property but the restaurant was on a 140 year lease with the previous owners. The current owners were aware of the situation prior to purchase. In respect of music, this would be background provision.

It was noted that the person who had made representations was not in attendance.

There were no other representations to be received.

The Licensing Team Leader and the applicant were given the opportunity to sum up their case.

The sub-committee adjourned to consider the application.

On returning, the Chairman advised that the Sub-committee considered carefully all of the documents presented to them and all of the oral and written representations made by all parties. They had regard to the four Licensing Objectives, the Home Office Statutory Guidance and the Dorset Council (Purbeck) Statement of Licensing Policy. The concerns of a local resident in respect of noise, disturbance and disruption to the vicinity were taken into account. However there was insufficient evidence to find that those concerns would be realised.

Decision

To grant the variation to the premises licence as set out in the amended operating schedule and as sought by the applicant with the proposed additional conditions.

The sub-committee agreed that the conditions were consistent with and tailored to the particular characteristics of the proposed business, as set out in

the operating schedule, and were appropriate for the promotion of the licensing objectives.

The Chairman advised that was the Sub-committee's decision, but if a responsible authority or any other person was concerned that one or more of the licensing objectives were being undermined they may apply to the authority for a review of the licence.

THE MEETING ADJOURNED FOR A SHORT COMFORT BREAK

On returning the Chairman took the opportunity to welcome the taxi driver licence holder and their supporter to the meeting.

The Chairman also explained the procedure and process for the meeting.

67. Exempt Business

It was proposed by Cllr J Andrews and seconded by Cllr M Rennie

Decision

That the press and the public be excluded for the following item(s) in view of the likely disclosure of exempt information within the meaning of paragraph 3 of schedule 12 A to the Local Government Act 1972 (as amended).

68. Consideration of a conviction for the holder of a Hackney Carriage and Private Hire Driver's Licence

The Licensing Team Leader presented a report on whether a driver licensed both to drive a hackney carriage and private hire vehicles continued to be a "fit & proper" person after consideration of a conviction since the licence was granted.

Members were advised that in making their decision they needed to bear in mind the policy for the West Dorset zone that stated that a period of three to five years should elapse between a relevant conviction (s) for dishonesty and the issuing of a licence.

This policy should only be departed from in exceptional circumstances.

The Chairman invited the taxi driver and his supporter to address the sub-committee. Members asked questions of both the Licensing Team Leader and the taxi driver.

Once they had gathered all the information required to make a decision and the driver and the Licensing team Leader had had an opportunity to sum-up their case the sub-committee adjourned to make their decision.

On returning

Decision

After careful consideration of all the evidence presented to them the sub-committee concluded that the driver's Hackney Carriage and Private Hire Driver's Licence should be revoked.

Reason for the Decision

The Sub-Committee carefully considered all of the evidence presented to it by the parties and concluded that Mr John Lee was not a fit and proper person to hold a Hackney Carriage Driver Licence or a Private Hire Driver Licence because:

1. The offence, which was recent, fell within the category of dishonesty identified in the West Dorset Zone Policy. The Policy stated that a period of three to five years should elapse between relevant convictions for dishonesty and the issue of a licence. In this case the conviction occurred in 2019 therefore the required time period had not elapsed.
2. The Sub-Committee took account of Mr L's explanation of the circumstances surrounding the offence however in considering its duties and responsibilities to protect the public, the Sub-Committee was not persuaded that there were exceptional reasons, in this instance, for it to depart from the terms of the West Dorset Zone Policy. The Sub-Committee considered that the responsibility to protect the public, could not be properly exercised by allowing Mr L to continue to hold a Hackney Carriage Licence or a Private Hire Driver's Licence.
3. The sub-committee took into account the fact that the schools contract department for whom the DBS check was originally carried has decided not to allow Mr L to continue to drive on their contracted routes.

Duration of meeting: 2.30 - 4.00 pm

Chairman

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