

## **DORSET COUNCIL - LICENSING SUB-COMMITTEE**

### **MINUTES OF MEETING HELD ON THURSDAY 30 MAY 2019**

**Present:** Cllrs P Brown, E Parker and M Rennie

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

Kate Critchel (Senior Democratic Services Officer), Roger Greene (Solicitor, Legal Services), Roy Keepax (Licensing Officer), Kathryn Miller (Acting Team Leader - Licensing), Samantha Spracklen (Licensing Officer), Steven Horsler (Environmental Health Officer) and Jane Williams

**1. Welcome, introductions and appointment of Chairman**

Cllr Parker was the Chairman of the Sub-Committee and she welcomed everyone and introduced her fellow Councillors.

She then outlined the procedure to be followed for the meeting establishing who was in attendance and who would want to address the councillors present.

**2. Declarations of Interest**

There were no declarations of interest to report.

The Chairman suggested that the licensing officer set out the details for all three applications at Bredy Farm, the sub-committee would then consider each application in turn and individually on their own merits.

**3. New Premises Licence Applications for Bredy Gate, the Parlour and an Application to Vary the Licence for the Cider Shed at Bredy Farm, Burton Bradstock, Dorset**

**Bredy Gate, Bredy Farm**

The Licensing Officer set out the report for a new premises licence application at "Bredy Gate" Bredy Farm, Burton Bradstock, Dorset. The new premises licence application proposed to allow the following licensable activities:

Sale by retail of alcohol on and off the premises 11.00 – 02.00 hrs Friday to Monday

Performance of live music outdoors 12.00 – 23.45 hrs Friday to Sunday

Playing of recorded music outdoors 12.00 – 23.45 hrs Friday to Sunday

Late night refreshments outdoors 23 – 01.00 hrs Friday to Monday.

There had been three relevant representations received in relation to the application under the licensing objective of “prevention of public nuisance”. Two representations from interested parties and one for the responsible authority – Environmental Health.

The Licensing Officer advised that none of the interested parties were in attendance at the meeting. However, mediation between Environment Health Officers and the applicant had resulted in Environmental Health withdrawing their objection, provided additional conditions can be added to the application (as attached at appendix 5 of the report). There were also several representations of support for the application.

### **The Parlour, Bredy Farm**

In respect of the Parlour, new premises licence application, the Licensing Officer confirmed that the application sought the following activities:-

Sale by retail of alcohol on and off the premises 08:00 – 23:59 hrs Monday to Sunday  
Performance of live music indoors and outdoors 23:00 – 23:45 hrs Friday to Sunday  
Playing of recorded music indoors and outdoors 23:00 – 02:00 hrs Monday to Sunday  
Late night refreshment indoors and outdoors 23:00 – 23:59 Monday to Sunday

Two representations of objection were received as set out within the report and several similar letters of support.

### **The Cider Shed, Bredy Farm**

The Licensing Officer set out the application for the “Cider Shed” requesting that the application be varied from its current licence to provide the following licensable activities.

Sale of retail of alcohol on and off the premises 08:00 – 02:00 hrs Monday to Sunday  
Performance of live music indoors and outdoors 23:00 – 23:45 hrs Friday to Sunday  
Playing of recorded music indoors and outdoors 23:00 – 02:00 Monday to Sunday.

The representations received were of a similar nature to those set out for the Parlour.

### **Representations from interested parties**

The Chairman invited the Environmental Health Officer to explain the proposed environmental health conditions on the application for Bredy Gate. He confirmed that the proposed conditions would also support the licensing objective of “prevention of public nuisance” in relation to the control of noise

on the site and the proposed conditions set out a number of steps to secure the process and that conditions are put in place accordingly.

The Environmental Health Officer acknowledged that the applicants had co-operated with the Council and had taken a number of measures to reduce the impact of noise in the neighbourhood. However it was noted that the weather conditions could have significant implications on noise travel.

In response to a question from the Panel, the Environmental Health Officer advised that a noise limiter had not been considered as it would rely on the applicant or representative to ensure that the management of noise at an acceptable level.

### **The Applicants**

The Chairman welcomed the applicants, Mr C Harris and Dr A Charlesworth. They confirmed that they had taken a number of measures, following previous events through Temporary Event Notices, in order to address noise concerns. These included creating a bail wall, earlier finish time reducing events, introducing a new sound system and tree planting to reduce noise travel. They also advised that they were monitoring sensitive areas and contacting neighbours and the parish council prior to an event.

They confirmed that they had not received direct complaints, only those via environmental health.

In respect of the proposed environmental health conditions, the applicants did express concern regarding condition 4 as set out in the environmental health officers email of 17 April 2019. They were concerned that this noise level would be unachievable or enforceable. They confirmed that the application was aimed at increasing the number in attendances, to make these events more viable but did not intend to increase the number of events.

In response to questions and concerns expressed by the sub-committee, the Environment Health Officer advised that that the condition in question related to the code of practice. He highlighted that the application would allow for the applicant to hold many more events on the site and appropriate measures should be put in place to safe guard the neighbourhood.

Responding to further questions from the Panel, the Environmental Health Team Leader indicated that following a recent event, further complaints had been received by the department; but no details were available to members at this stage.

The applicant confirmed that the camping facilities were used by people attending and also not attending the festivals. Each festival event was family friendly. The Chairman asked if there was any further comments to be made before the sub-committee decided to adjourn the meeting to consider the evidence provided and if further questioning was required regarding the environmental aspect of the application.

Adjournment 2.55pm  
Returned 3.25pm

Whilst in private session the sub-committee had sought clarification and advice from the Legal Representative. On returning to the meeting the sub-committee asked the Environmental Health Officer if removal of condition 4 would detrimentally impact the other proposed conditions. In response, he confirmed that it would, in his view, undermine the other conditions.

The sub-committee adjourned again at 3.26pm to consider their decision. On returning at 3.40pm the Legal Representative suggested the following amendment to condition 4.

“ the control limits set at the mixer position shall be adequate to ensure that the Music Noise Level (MNL) (as defined in the Code) shall not reasonably foreseeably at any noise sensitive premises exceed the background noise level (as determined in pursuit of compliance with condition 2) by more than 15dB(A) or at such other differential level that may be agreed in writing between the applicant and the Environmental Health Service of Dorset Council” over a 15 minute period throughout the duration of music events, rehearsals, or other checks”.

### **Grant the application**

All parties present accepted the amendment and therefore the Chairman advised that the sub-committee had decided to grant the application for the premises known as Bredy Gate, Bredy Farm on the basis of the operating schedule and as set out with the discretionary conditions proposed by the Environmental Health Officer, amended by the sub-committee and agreed by the applicant.

### **The Parlour, Bredy Farm**

The sub-committee then considered the application for the Parlour at Bredy Farm. The Chairman asked the Licensing Officer, the applicant and the sub-committee if they had anything further to add to the discussion prior to the sub-committee making its decision.

### **The Cider Shed, Bredy Farm**

Before the sub-committee adjourned from the meeting, the Chairman asked the Licensing Officer, applicant and the sub-committee if there was anything further to add in respect of the application to vary the licence at the Cider Shed, Bredy Farm. The sub-committee then adjourned at 3.45pm and returned with their decision at 3.50pm.

### **Grant the applications for a new premises licence and variation of a licence**

The Chairman confirmed that the new premises licence application for the Parlour and application to vary the licence for the Cider Shed was approved.

## Decision

- (a) It was decided to grant the application for the premises known as BREDY GATE at Bredy Farm, Bredy Lane at Burton Bradstock on the basis of the operating schedule as set out by the applicant.

The sub-committee listened to and read all the evidence presented to them and concluded that the application to grant the Premises Licence at BREDY GATE, Bredy Farm, Bredy Lane, Burton Bradstock should be allowed subject to the mandatory conditions as set out in the Licensing Act 2003 and the following conditions and as set out by the Environmental Health Officer in appendix 5 of the report and amended by the sub-committee at the meeting.

- (1) That within two months of the granting of the licence, a Noise Management Statement and Plan shall be produced by a suitably qualified acoustic consultant and submitted to the Licensing Authority for approval. The plan shall appropriately reflect the Guidelines in Sections 3.1,3.2, 3.3,3.4, 3.5,3.7, 3.8,3.9, 3.10, 4.2, 4.3, 4.7, 4.8 (\*see note), 4.9, 4.10, 4.11 and 4.12 of the Code of Practice on Environmental Noise at Concerts, as produced by the Noise Council (The Code). *\* In relation to Section 4.8, it is not expected that such sound tests should be performed before every event. However, such a test should be performed after any significant change to the sound system or attenuation measures, and at least once every year.*

In particular, but without prejudice to the generality of Condition 1, the following conditions shall apply. (Note that a suitably worded Noise Management Plan, as required by Condition 1, should include provisions to address these following points):

- (2) Within two months of the granting of the licence, the acoustic consultant shall identify appropriate sensitive receptors which may be affected by noise from the Licensed Premises. These will be sensitive premises likely to experience the largest increase in noise/highest noise level as a result of noise from the Licenced Premises. These shall be submitted to the Licensing Authority for approval. The acoustic consultant shall carry out a survey in calm meteorological conditions to determine the representative background noise levels (as defined by the Code of Practice on Environmental Noise Control at Concerts) at these receptor locations, or locations acoustically representative of them. The information obtained from this survey shall be made available to the Licensing Authority. This exercise shall be repeated annually.
- (3) Within two months of the granting of the licence, or as soon as a music event is being prepared (whichever comes sooner), a noise propagation test shall be undertaken in order to set

appropriate control limits at the sound mixer position. The sound system shall be configured and operated in a similar manner as intended for the actual music events. The sound source used for the test shall be similar in character to the music likely to be produced during the events. *It is not expected that such sound tests should be performed before every event. However, such a test should be performed after any significant change to the sound system or attenuation measures, and at least once every year.*

- (4) The control limits set at the mixer position shall be adequate to ensure that the Music Noise Level (MNL) (as defined in the Code) shall not reasonably foreseeably at any noise sensitive premises exceed the background noise level (as determined in pursuit of compliance with Condition 2) by more than 15dB(A), or at such other differential level that may be agreed in writing between the applicant and the Environmental Health Service of Dorset Council, over a 15 minute period throughout the duration of music events rehearsals, or other checks.
- (5) The Licensee shall ensure that the promoter, sound system supplier, sound engineers and any other personnel with responsibilities affecting noise levels are informed of the sound control limits and that any instructions from the acoustic consultant regarding noise levels shall be implemented.
- (6) The Licensee shall ensure that the appointed acoustic consultant makes arrangements for the continual monitoring (with sound level meter) of noise levels at the sound mixer position, and for prompt feedback to the sound engineer accordingly to ensure that the noise limits are not exceeded. The Licensing Authority shall have access to the results of the noise monitoring at any time.
- (7) Music events shall be run in accordance with the Noise Management Statement and Plan.
- (8) The Licensee shall take all reasonable steps to ensure that the MNL arising from the licensable activities do not exceed the limit set in Condition (4) at the sensitive receptors identified in response to Condition (2).
- (9) Measurements will include octave and one third octave band measurement where useful in identification of any intrusive frequency. In particular measurements required by Condition (6) will be made at 63Hz and 125Hz octave bands.
- (10) A written record of the method by which monitoring and measurements were undertaken shall be made by the

acoustic consultant and maintained by or on behalf of the Licensee.

- (11) All noise measurements shall be undertaken in accordance with recognised professional acoustic practice. Written proof shall be available on request by the Licensing Authority that any sound level meter used in pursuit of compliance with these conditions has been appropriately calibrated within a suitable timescale before its use.
- (12) In the event of the limits in Condition (4) being exceeded, or it being determined as necessary to reduce the noise levels to these limits, then in either case the Licensee shall: (i) take and keep a written record of the time and date when such levels are exceeded or the noise levels are required to be reduced (as the case may be); (ii) take and keep a written record of every step undertaken to reduce the noise levels below the limits and the time when such action was taken; and (iii) Produce such a written record to any officer of the Council (or other person appointed to act upon its behalf) upon request.
- (13) All data in respect of the monitoring carried out in pursuit of compliance with these conditions shall be in writing and that information, together with that secured by virtue of conditions (2) and (3) above, shall be both provided to the Licensing Authority within 15 working days of any request by the Licensing Authority. The information shall be provided: (a) Unedited form; and (b) such other additional form(s) as the Licensing Authority may at any time required in writing.
- (14) Live and recorded music shall be played only within the hours specified on the Application for Premises Licence 047107.

### **Reason for the Decision**

- 1. The Licensing Sub-Committee carefully considered all the evidence put before it, including third party representations, the licensing objectives, the Council's Statement of Licensing and the Guidance issued under Section 182 of the Licensing Act 2003. The Sub-Committee considered that it was proportionate in the circumstances to grant the application with conditions.
- 2. In order to comply with conditions imposed by Environmental Health as set out in appendix 5 to the application, amended by the sub-committee and accepted by the applicant; and to promote the Licensing Objective of "Prevention of Public Nuisance"

3. In general terms the sub-committee believe the applicant was aware of the need to operate these premise in full compliance with the Licensing Act of 2003.
- (b) To grant the application of a licence for the premises known as THE PARLOUR at Bredy Farm, Bredy Lane at Burton Bradstock on the basis of the operating schedule as set out by the applicant.

The sub-committee had listened to and read all the evidence presented to them and concluded that the application to grant the Premises Licence at THE PARLOUR, Bredy Farm, Bredy Lane, Burton Bradstock should be allowed subject to the mandatory conditions as set out in the Licensing Act 2003.

That is the Sub-committee's decision. However the matter will no doubt be brought to the authority's attention for a review if there are any reasons for concern established.

### **Reason for the Decision**

1. The Licensing Sub-Committee carefully considered all the evidence put before it, including third party representations, the licensing objectives, the Council's Statement of Licensing and the Guidance issued under Section 182 of the Licensing Act 2003.
  2. In not imposing any discretionary conditions the sub-committee were operating within the spirit of the Licensing Act 2003, which states that conditions should not be imposed unless it would be necessary to refuse the application without them.
  3. In general terms the sub-committee believe the applicant was aware of the need to operate these premise in full compliance with the Licensing Act of 2003.
- (c) To grant the application to vary the licence for the premises known as THE CIDER SHED at Bredy Farm, Bredy Lane at Burton Bradstock on the basis of the operating schedule, as amended to remove the existing conditions and to allow the following licensable activities:-  
Sale by retail of alcohol on and off the premises 08:00 – 02:00 hrs  
Monday – Sunday  
Performance of live music indoors and outdoors 23:00 – 23:45 hrs  
Friday – Sunday  
Playing of recorded music indoors and outdoors 23:00 – 02:00 hrs  
Monday – Sunday

The sub-committee had listened to and read all the evidence presented to them and concluded that the application to grant the Premises Licence at THE CIDER SHED, Bredy Farm, Bredy Lane, Burton Bradstock should be allowed subject to the mandatory conditions as set out in the Licensing Act 2003.



That is the Sub-committee's decision. However the matter will no doubt be brought to the authority's attention for a review if there are any reasons for concern established.

### **Reason for the Decision**

1. The Licensing Sub-Committee carefully considered all the evidence put before it including third party representations, the licensing objectives, the Council's Statement of Licensing and the Guidance issued under Section 182 of the Licensing Act 2003. The Sub-Committee considered that it was proportionate in the circumstances to grant the variation of the licence as requested.
2. In not imposing any additional discretionary conditions the sub-committee were operating within the spirit of the Licensing Act 2003, which states that conditions should not be imposed unless it would be necessary to refuse the application without them.
3. It is of course the case that, if there were significant problems in the future, after the grant of this variation, a formal review of this licence could take place.

#### **4. Application to Vary an Existing Licence - Swim Cafe Bar Marine Parade, Lyme Regis**

The Chairman welcomed all present and it was confirmed that the objector to the application was not in attendance at the meeting. The sub-committee would consider the written objections accordingly.

The Licensing Officer set out a report on an application to vary a premises licence for the Swim Café Bar, Marine Parade, Lyme Regis, Dorset.

The variation application requested the removing of the existing conditions and replace with new and to provide the following additional activities:-

Sale by retail of alcohol on and off the premises 10:00 – 02:00 hrs Monday to Sunday

Sale of retail of alcohol off the premises from the Kiosk 10:00 – 20:00 hrs Monday to Sunday.

There had been one written representation objecting to the application.

The Chairman invited the applicant Mr Briggs to address the sub-committee and the councillors were given the opportunity to ask questions.

The sub-committee then adjourned at 4.00pm to consider the application. On returning at 4.10pm, the Chairman advised that

Decision

To grant the variation application of a premises licence known as SWIM CAFÉ at Marine Parade, Lyme Regis, Dorset on the basis of the operating schedule as set out by the applicant and to allow the following licensable activities:-

Sale by retail of alcohol on and off the premises 10:00 – 02:00 hrs Monday – Sunday

Sale by retail of alcohol off the premises from the Kiosk 10:00 – 20:00 hrs Monday – Sunday

The sub-committee had listened to and read all the evidence presented to them and had concluded that the application to vary the Premises Licence at SWIM CAFE, Marine Parade, Lyme Regis, Dorset should be allowed subject to the mandatory conditions as set out in the Licensing Act 2003.

That is the Sub-committee's decision. However the matter will no doubt be brought to the authority's attention for a review if there are any reasons for concern established.

### **Reason for the Decision**

1. In not imposing any conditions the sub-committee were operating within the spirit of the Licensing Act 2003, which states that conditions should not be imposed unless it would be necessary to refuse the application without them.
2. The Licensing Sub-Committee carefully considered all the evidence put before it including third party representations, the licensing objectives, the Council's Statement of Licensing and the Guidance issued under Section 182 of the Licensing Act 2003. The Sub-Committee considered that it was proportionate in the circumstances to grant the variation of the licence.
3. It is of course the case that, if there were significant problems in the future, after the grant of this variation, a formal review of this licence could take place.

### **5. Urgent items**

There were no urgent items to report.

**Duration of meeting:** 2.00 - 4.42 pm

**Chairman**

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