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## DORSET COUNCIL - LICENSING SUB-COMMITTEE

### MINUTES OF MEETING HELD ON WEDNESDAY 15 JULY 2020

**Present:** Cllrs Emma Parker, Bill Pipe and Kate Wheller

**Also present:** Mr Elford (applicant's representative), Mr Seal (the applicant) Mr Cross and Mr Middleton (objectors to the application)

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

Kate Critchel (Senior Democratic Services Officer), Elaine Tibble (Senior Democratic Services Officer), Lara Aintree (Senior Lawyer - Regulatory) and Roy Keepax (Licensing Officer)

**1. Election of Chairman and Statement for the Procedure of the Meeting**

It was proposed by Cllr B Pipe and seconded by Cllr K Wheller.

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.

**2. Apologies**

No apologies for absence were received at the meeting.

**3. Declarations of Interest**

No declarations of disclosable pecuniary interests were made at the meeting. All three member indicated that they had made a site visit of the premises but had not pre-determined the application.

**4. Urgent items**

There are no urgent items to report.

**5. Application for a new premises licence for Cove Café Ltd, Bridport**

The Licensing Officer set out the application for a new premises licence made by Cove Café Ltd for on and off sales of alcohol, regulated entertainment and late night refreshment.

The Licensing Officer advised that the applicant had withdrawn some parts of the application in his letter dated 9 July 2020 and this information had been circulated to all parties. The application was now for:-

The supply of alcohol (on sales only) between 1100hrs and 2330hrs daily, with an additional hour on New Year's Eve and all national bank holidays.

Regulated entertainment indoor only (live and recorded music) between 2300 and 2330hours with an additional hour on New Year's Eve and all national bank holidays, and

Late night refreshment between 2300 and midnight with an additional hour on New Year's Eve and all national bank holidays.

The Licensing Officer continued that whilst it might look odd to see live and recorded music for only the half an hour on the application. This was down to the Live Music Act which simply meant that any premises with alcohol licences did not need music on their licence in order to have music on their licence in order to have music playing between 8am and 11pm.

The Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013 meant that indoor sporting events and performance of dance were also not considered to be licensable activities if they occurred between the hours of 0800 hrs and 2300hrs (subject to certain audience size limitations). There was no similar provision for films.

The Licensing Officer continued that one of the objectors had shared his submission that he intended to give prior to the hearing and this had been circulated to all parties. The Licensing Officer took this opportunity to remind the sub-committee about the relevance of representations. All of the representations had been included in the committee papers in their entirety for the purposes of transparency. However only those elements that related to the licensing four objectives should be taken into account.

There were no questions of the Licensing Officer at this stage.

The applicant's solicitor, Mr Elford on behalf of Seals Cove Ltd advised the sub-committee that the premises was sited on a trading estate within Bridport. He thanked the Licensing Officer for listing the changes made and indicated that the rest of the application remained as originally stated. The premise was aimed at families not just with young children, but for all age groups of the family and the application sought flexibility in order to cater for the demand from customers.

Mr Elford acknowledged that there was some objections from local residents, but pointed out that there had been no representations received from the responsible authorities.

Mr Elford also proposed a number of additional conditions to address some of the concerns raised by representations received. These were set out as:-

- (i) To provide a smoking area for customers of the premises
- (ii) To monitor the smoking area to ensure that customer behaviour is not a nuisance to business or residents
- (iii) Notices to be displayed in the smoking area reminding them to respect local residents.
- (iv) No noise that the premise will give rise to a nuisance to local residents
- (v) That the premises licence holder shall install a noise limiter set at a level where no nuisance is caused to local residents
- (vi) A noise test to be carried out before opening to the public.

By setting these conditions the applicant aimed not to upset any local business or resident. Mr Elford also indicated that the premises licence holder would provide the duty manager contact number to local residents in the unlikely event that there were concerns at an event.

He advised members that the premises would not be operating as a nightclub and would offer the following condition (vii) that the premises will not operated as a late night drinking venue. Plus (viii) that licencing activities shall be ancillary to the use of the premises for a family leisure complex. It was hoped that this would give local residents assurance.

He continued that there had been concerns raised about the booking arrangements and he suggested that the premises licence holder would incorporate the conditions of the licence within the hire agreement of its customers. The premises licence holder would appoint sufficient employees to run the business and at the moment they were looking to hire a minimum of 10 full- time and 10 part-time staff to the business. But that number was likely to increase as the business grows.

Mr Elford also offered a condition relating to training (ix) That staff would be trained commensurate to their function within the business. (x) that the premises licence holder would ensure that a personal licence holder was on duty at the premises from 8pm every day. The applicant had already trained 7 staff as personal licence holders in addition to himself.

Mr Elford continued that he understood local residents concerns, but argued that there was no evidence at this time to support those concerns. He asked members to approve the application.

He Licensing Officer asked Mr Elford to clarify that the removal of anything of similar description to live music, recorded music and performances of dance (part H on the application) and that live music and recorded music remained on the licence between 2300-2330 hours. Mr Elford on behalf of the applicant confirmed this was the case.

The Chairman invited members to asked questions. In response to a question regarding the responsible authorities, Mr Elford confirmed that there were no objections from the responsible authorities.

Cllr Pipe sought clarification in what was meant as "late night". Mr Elford advised that the premise was a family leisure complex not a late night pub/bar

with “vertical drinking”. The hours sought would allow flexibility. For example the climbing wall would be used in the day by school groups and the bar would not be required. However in the evening adult amateur climbers may wish to enjoy a social drink after a climbing session.

In response to another question, Mr Elford advised that the soft play area was not a licensable activity, but there would be a Challenge 25 initiative in place on the site. The applicant confirmed that around 8.30pm most children would be out of the soft play area, unless there was a family party event. All children would be expected to be supervised.

In respect of the implementation of a noise limiter, members asked if an expert would be consulted for the installation. In reply Mr Elford confirmed that this would be the case, and that the walls and roof had been insulated. He did not believe that there would be noise breakout from the premises.

Members asked where the smoking area would be sited? Mr Elford confirmed that it would be sited in an area which would not affect local residents and other customers. Members also asked about the siting of pop-up bars and the applicant confirmed that if there was a pop-up bar these would be manned by the premises staff. Members were further advised that these events would be risk assessed accordingly. In response to a question in respect of capacity, members were advised that the final figure had not yet been established yet.

In respect to function room advertisements, members were informed that advertising would be by the website and onsite bookings mainly for children’s parties.

In respect of a question about car parking, the applicant confirmed that parking was not a relevant issue to the application. However the premise would have 50 spaces and in the summer months he was hoping to operate a bus service from West Bay to and from the site.

In response to a further question, Mr Elford advised that “vertical drinking model” was like a traditional pub, for example drinking standing at the bar.

The Chairman welcomed Mr Cross an objector to the application. He had concerns about drunk people using the footpath by the side of his property. Was this the right place to sell alcohol on an industrial estate when there were many public houses in the town? Mr Cross indicated that he understood the business model but could not agree that it was appropriate to sell alcohol on the site. There were no questions to Mr Cross

The Chairman invited Mr Middleton to address the sub-committee. Mr Middleton appreciated that his points in his previous submission had now been taken into account. However these were not addressed prior to him making his representation and this caused him some concern. The conditions proposed by the applicant showed that they are now listening to the residents but he did not think that the concessions put forward or the conditions proposed were substantiated. For example there was no smoking area indicated on the plan.

In his view, this showed that there was no preparation or consideration for this issue. He was concerned with the information given in particular regarding the capacity figures. Which could be amplified considerable. He further expressed concerns about the parking issues. He asked members to consider reducing the licensing hours as some of the conditions still remained unclear. He felt that it was important to consider the application with caution as it was sited on an industrial estate near the town with a residential area. He considered it to be reasonable for the business to operate with temporary event notices in the short to medium term. The community was not adverse the business succeeding but he was surprised that the local residents had not had any consultation in this matter.

Mitigation was not successful and in response to a question from the Chairman the timings considered acceptable to Mr Middleton would be 11.00am to 6pm which was in keeping with the trading estate hours. He also asked Sunday trading hours to be considered as there is no Sunday trading on the industrial estate at the moment.

In response to questions from members Mr Middleton confirmed that he had attended 2 mitigating meetings with a representative of the applicant, but there had been no consultation prior to the application being submitted.

The Chairman invited the Licensing Officer to respond to the public statements and she confirmed that applicants were not required to provide smoking areas for their customers. The capacity of the building was not recorded on the licence that was a matter for the fire risk assessment and with regards to consulting residents, the requirement of the regulations was that the application be advertised in a local newspaper and a notice be displayed on site. These were both complied with and were considered sufficient.

The applicant had no questions of the Mr Middleton.

The Chairman invited all parties to sum up their case. In summing up Mr Middleton asked the sub-committee to reject the application and Mr Cross also strongly objected to the application.

In summing up Mr Elford stated he was sorry that residents felt that they had not been consulted. However giving the conditions offered he was confident that the applicant would promote the four licensing objectives in the way that the premises was operated.

The Licensing Officer and the Legal Advisor had nothing further to add.

In closing the meeting the Chairman advised that the sub-committee would consider the information provided and the decision would be sent to all parties in writing within 5 workings. All parties had 21 days to appeal to magistrates court following the decision made by the sub-committee.

Decision

That the application be grant as set out in the appendix attached.

An application for a new premises licence has been made by Cove Café Ltd for on and off sales of alcohol, regulated entertainment and late night refreshment. Representations have been received and remain unresolved therefore a hearing by the licensing Sub-Committee must be held to determine the application.

**6. Exempt Business**

There was no exempt business to report.

**Decision Appendix**

**Duration of meeting:** 10.00 - 11.25 am

**Chairman**

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## Notification of Determination

### Application for a new premises licence for Cove Café Ltd, Bridport

**Applicant(s):** Cove Café Limited

**Premises:** Seals Cove, St. Andrews House, St. Andrews Trading Estate, Shoe Lane, Bridport

**Sub Committee members:** Cllrs E Parker (Chairman), B Pipe, K Wheller

#### Decision

To **GRANT** the application for a new premises licence on the basis of the operating schedule as set out by the applicant and as amended at the meeting (withdrawal of off sales, films, indoor sporting events and anything of a similar description to live music, recorded music and performance of dance) and subject to the following conditions;

#### 1. The Prevention of Crime and Disorder

A Closed-Circuit Television (CCTV) system will be operational at the premises at all times when licensable activities are being carried out and at any other times when members of the public are present on the premises.

The CCTV system will have sufficient storage retention capacity for a minimum of 31 days' continuous footage.

A designated member of staff at the premises will be authorised to access the CCTV footage and be conversant with operating the CCTV system.

At the request of an authorised officer of the Licensing Authority or a Responsible Authority (under the Licensing Act 2003) any CCTV footage, as requested, will be downloaded immediately or secured to prevent any overwriting. The CCTV footage material will be supplied, on request, to an authorised officer of the Licensing Authority or a Responsible Authority with the absolute minimum of delay.

The DPS will ensure that an Incident Report Register is maintained on the premises to record incidents such as anti-social behaviour, admissions refusals and ejections from the premises.

The Incident Report Register will be produced for inspection immediately on the request of an authorised officer of the Licensing Authority or a Responsible Authority or Police

The premises must adopt a dispersal policy for the patrons leaving the premises. The policy must include, but not be limited to, the management of patrons leaving the premises after 2300hrs to ensure public nuisance is kept to a minimum. The policy must be kept in a written form on site. The policy must be available to be viewed by either an authorised council officer or police constable on request. Staff, including any door supervisors must be trained at the commencement of their employment and at six monthly intervals thereafter. They must be conversant with this policy and adhere to it at all times. A written record must be kept of all training delivered on this policy.

#### 2. Public Safety

The premises will be maintained in a safe manner at all times

All exits will be kept unobstructed, easy to open and clearly signed

All staff will be trained in emergency procedures and training records maintained  
Written records of all accidents and safety incidents involving members of the public and/or staff will be kept. These will be made available at the request of an authorised officer  
A suitably trained and competent person must ensure weekly safety check of the premises, decorative and functional fixtures, floor surfaces and equipment (including electrical appliances) to which the public may come into contact are undertaken. Records of these safety checks must be kept and made available for inspection by an authorised officer  
First Aid equipment and materials adequate for the number of persons on the premises will be available on the premises at all times. All staff will be made aware of first aid location

### **3. The Prevention of Public Nuisance**

All refuse will be disposed of in an appropriate manner. Staff will be instructed to maintain all external areas in a clean and presentable manner at all times.

Notices will be displayed asking patrons to leave the premises quietly and to have respect for local residents.

Drinks in open bottles and glasses will not be taken from the premises at any time. Empty bottles and glasses will be collected regularly and promptly.

The DPS will prominently display notices which inform customers that open bottles or glasses may not be taken off the premises

A direct telephone number for the duty manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.

For live and recorded music after 2300 hours, a sound limiting device located in a separate and lockable cabinet from the volume control shall be fitted to any musical amplification system and set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service to ensure that no noise nuisance is caused to local residents. The operational panel of the noise limiter shall then be secured. The keys securing the noise limiter cabinet shall be held by the licence holder or authorised manager only, and shall not be accessed by any other person.

### **4. The Protection of Children from Harm**

The staff will ask for photographic identification in the form of either a passport, EU photographic driving licence or PASS accredited identification, from any person appearing to be under the age of 25 who attempts to purchase alcohol at the premises.

A log shall be kept detailing all refused sales of alcohol. The log should include the date and time of the refused sale, a description of the person refused, why they were refused (e.g. no ID, fake ID) and the name of the member of staff who refused the sale. The log shall be available for inspection at the premises by the police or an authorised officer of the Licensing Authority or a Responsible Authority (under the Licensing Act 2003)

The premises will operate a "No ID, No Sale" policy at all times for persons who look under 25. Staff will be trained in the understanding of this policy and training records maintained for inspection if requested by the police or any other responsible authority.

### **Reasons for the Decision:**

The Sub-committee have considered carefully all of the documents presented and all of the oral and written representations made by all parties. They have had regard to the four Licensing Objectives, the Home Office Statutory Guidance and the Dorset Council (West Dorset) Statement of Licensing Policy 2016

1. The Sub-committee considered the representations of the local residents and given the nature of the business, the granting of the proposed application was unlikely to have a detrimental effect on any of the four licensing objectives.

2. The Sub-committee grant the application for a new premises licence in the terms sought by the applicant with the proposed conditions (as amended). The Sub-committee believe these conditions are consistent with, and tailored to, the particular characteristics of the proposed business, as set out in the operating schedule, and are appropriate for the promotion of the licensing objectives.
3. The Sub-committee believe that the imposition of these conditions is a fair and proportionate and appropriate response to the concerns of those who had objected and will ensure the licensing objectives are promoted and complied with.

Where a premises holds a licence under the Licensing Act 2003, any of the responsible authorities or other parties can apply to the licensing authority for a review of the licence if the premises fails to satisfy any of the four licensing objectives: The prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm).

**Right of Appeal:**

Any party who wishes to appeal the decision has 21 days from the date of receipt of this notice to submit an appeal to Weymouth Magistrates Court, Westwey Road, Weymouth, DT4 8BS.

Please note that any persons wishing to appeal should be advised that costs may be incurred and that they should seek independent legal advice.

Councillor E Parker

Date 15 July 2020

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