

Licensing Sub-Committee

5 August 2020

Licensing Act 2003 – Application to vary the premises licence for “Somewhere Else”, Weymouth

Choose an item.

Portfolio Holder: Cllr A Alford, Customer, Community and Regulatory Services

Local Councillor(s): Cllr J Orrell

Executive Director: John Sellgren, Executive Director of Place

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Report Status: Public

Recommendation: The Sub-Committee determines the application in the light of written and oral evidence and resolves to take such steps as it considers appropriate for the promotion of the licensing objectives.

Reason for Recommendation: The Sub-Committee must consider the oral representations and information given at the hearing before reaching a decision.

1. Executive Summary

An application to vary a premises licence has been made by Jamie Crage to remove three conditions from the licence for “Somewhere Else” to allow for a different operating model. Representations have been received and remain unresolved therefore a hearing by the licensing Sub-Committee must be held to determine the application.

2. Financial Implications

The applicant or any person or body making a relevant representation will have the right to appeal any decision of the Licensing Sub Committee to the magistrate's court.

3. Climate implications

None

4. Other Implications

Human Rights Act 1998. Article 6 of the Convention requires that everyone be given a fair and public hearing within a reasonable. The applicant has received a copy of this report and has been invited to attend the Committee meeting or submit written representations to be placed before the Members when considering this matter.

5. Risk Assessment

Having considered the risks associated with this decision, the level of risk has been identified as:

Current Risk: Low

Residual Risk: Low

6. Equalities Impact Assessment

Not applicable

7. Appendices

Appendix 1 – Premises licence

Appendix 2 – Variation application

Appendix 3 – Representation from Respect Weymouth

Appendix 4 – Response from Applicant

8. Background Papers

[Licensing Act](#)

[Live Music Act](#)

[Licensing Act 2003 \(Descriptions of Entertainment\) \(Amendment\) Order 2013](#)

[Section 182 Guidance](#)

[LGA Councillors Handbook](#)

[EHRC - Guide to the Human Rights Act for Public Authorities](#)

9. Details of Application

- 9.1. An application has been received from Jamie Crage to vary the premises licence at Somewhere Else, 23 St Edmunds Street, Weymouth, DT4 8AS.
- 9.2. The current licence allows for both on and off sales between 0900hrs and 0400hrs on a daily basis with the opening hours of the premises as 0900hrs to 0500hrs. The licence is attached at appendix 1.
- 9.3. The variation seeks to remove three conditions from the existing licence.

40) Glass and Bottles

Drinks, open bottles and glasses will not be taken from the premises at any time. Empty bottles and glasses will be collected regularly and promptly. Glass and other sharp objects will be stored and disposed of using tamper proof receptacles. Receptacles will be secured and not accessible to the customers.

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

42) Plastic or toughened polycarbonate (or similar) glasses/bottles will be used in all outdoor areas.

The variation is sought in order to:-

“.. extend the current offering of products to safely deliver a takeaway service of cold and hot beverages.

The proposed plan is to use the main entrance for customers to sit in for consumption of products on the premises. Using the rear door as exit only.

The use of the 2nd door to the left of the main entrance for take away sales only for consumption off the premises these products will be hot beverages, iced drinks, and cold beverages between the hours of 11am – 10pm. This entrance will be safely monitored for social distancing and a queuing system will be implanted for the safety of staff and the public.”

The full variation application is attached at appendix 2.

- 9.4. No representations have been received from any of the Responsible Authorities.

- 9.5. Two representations have been received objecting to the application. One is from the Town Council, who have stated that;-

“The above application was considered by the Weymouth Town Council Planning and Licensing Committee on Tuesday 30th June 2020. Please see below the Council’s representation:

Members voted unanimously to object on the grounds of possible public nuisance, public safety and the premises being located within the Cumulative Impact Area.”

- 9.6. The second representation is from a residents group called “Respect Weymouth” and is attached in full at appendix 3. The representation is a detailed report from a group of residents and objects to a permanent change to the licence and a change to the conditions for the whole of the hours covered by the licence.
- 9.7. For representations to be relevant they must relate to both the proposed variation and one of the four licensing objectives of prevention of public nuisance, prevention of crime and disorder, public safety or the prevention of harm to children.
- 9.8. Paragraphs 9.42 – 9.44 of The Section 182 Guidance states that; -

“Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.

The authority’s determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence

variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination”

9.9. Having considered the representations and the evidence presented at the hearing the Sub-Committee may; -

- modify the conditions of the current licence as applied for, or
- reject the whole or part of the application.

The conditions can be modified by alteration, omission or by adding new conditions if the Sub-Committee believe it is appropriate for the prevention of public nuisance or the prevention of crime and disorder.

9.10. After having sight of the representations Mr Crage stated via email that he appreciated the concerns that had been raised and offered to restrict the times for off sales to between 1000hrs and 2130hrs and to ensure that only paper or plastic cups left the building, the email is attached at appendix 4.

9.11. Officers therefore suggest putting off sales on the front of the licence between 1000hrs and 2130hrs and amend the three conditions to

40) Glass and Bottles

No glass whether it is open bottles, drinking vessels or anything similar will be taken from the premises at any time. Empty bottles and glasses will be collected regularly and promptly. Glass and other sharp objects will be stored and disposed of using tamper proof receptacles. Receptacles will be secured and not accessible to the customers.

41) The PLH/DPS will prominently display notices which inform customers that glass bottles or glasses may not be taken off the premises.

42) All off sales will be made in paper, plastic, toughened polycarbonate or similar receptacles.

9.12. These conditions have been put to Mr Crage and he has indicated he would be happy for the licence to be varied by applying them. They have been sent to the other parties who have yet to respond.

Footnote:

Issues relating to financial, legal, environmental, economic and equalities implications have been considered and any information relevant to the decision is included within the report.