

# Licensing Sub-Committee

14 August 2020

## Licensing Act 2003 New Premises Licence Cherries Ice Cream Parlour, West Bay

### For Decision

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

**Local Councillor(s):** Cllrs S Williams, K Clayton and D Bolwell

**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 of;-

- the prevention of crime and disorder,
- the prevention of public nuisance,
- public safety, and
- the protection of children from harm.

**Reason for Recommendation:** The Sub-Committee must take into account the oral representations and information given at the hearing as well as the written representations contained within the report.

### 1. Executive Summary

An application for a new premises licence has been made by Marianna Browning for Cherries Café and Ice Cream Parlour for on and off sales of alcohol. A representation has been received and remains unresolved therefore a hearing by the licensing Sub-Committee must be held to consider the representation and 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**

None

## **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 – Application form

Appendix 2 – Police email

Appendix 3 – Representation

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

- 9.1. An application for a new premises licence has been submitted by Marianna Browning for Cherries Café and Ice Cream Parlour, 1 Pier Terrace West Bay, Bridport, DT6 4ER. This is a small café with 45 covers inside and 20 outside.
- 9.2. The times requested are for the on and off sales of alcohol between the hours of 0900hrs and 2100hrs every day. The addition of off sales was emailed to the department. The application form and email is attached at appendix 1.
- 9.3. The operating schedule focuses on the training of staff and states that alcohol will only be served with food.
- 9.4. The application was initially received on 19 June but due to irregularities with the advertisement requirements had to be restarted. The application has now been advertised in all the required places for the required amount of time.
- 9.5. There are no representations from the responsible authorities but the police have requested, and applicant has agreed, to have conditions attached to a licence should it be granted. The conditions requested would cover CCTV, Challenge 25, staff training and a refusals and incident log. The emails relating to this are attached at appendix 2.
- 9.6. One representation from an interested person has been received which focuses on the impact of drunk people in the area. Any reference to the need for a premises of this type is a planning matter and cannot be considered as a relevant factor when considering this application. The full representation is included at appendix 3, with a response from the applicant to each point at appendix 4.
- 9.7. For representations to be relevant they must relate to 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 state 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 taken into account the representation and the evidence presented at the hearing the sub-committee may;
- i. reject the application
  - ii. grant the licence subject to any conditions that are deemed appropriate
  - iii. exclude from the scope of the licence any of the licensable activities to which the application relates;
  - iv. refuse to specify a person in the licence as the premises supervisor.
- 9.10. If the Sub-Committee is minded to grant the licence then the following conditions that are consistent with the operating schedule should be attached:
- i. Sales of alcohol on the premises will only be permitted to accompany a table meal.
  - ii. A clear notice shall be displayed at every exit from the premises to instruct customers to respect the needs of local residents and leave the premises and the area quietly.

9.11. The following conditions would cover the points agreed with the police:

- i. A CCTV system shall be installed at the premises. The CCTV system shall be maintained in working condition and record the premises while the premises is open for licensable activities. Recordings will be retained for a minimum of 28 days and be made available to the Police or officers of the Council upon request and be of evidential quality.
- ii. The Licensee will adopt a "Challenge 25" policy where all customers who appear to be under the age of 25 and attempt to purchase alcohol or other age-restricted products are asked for proof of their age.
- iii. The Licensee to prominently display notices advising customers of the "Challenge 25" policy.
- iv. The following proofs of age are the only ones to be accepted :
  - Proof of age cards bearing the "Pass" hologram symbol
  - UK Photo Driving licence
  - Passport
- v. The Licensee will ensure that each member of staff authorised to sell alcohol has received adequate training on the law with regard to age restricted products and that this has been properly documented and training records kept. The training record to be kept on the licensed premises and made available for inspection by the Licensing Officer, Trading Standards or the Police.
- vi. The Licensee will ensure that each member of staff authorised to sell alcohol is fully aware of his /her responsibilities in relation to verifying a customer's age and is able to effectively question purchasers and check evidence of proof of age.
- vii. The Licensee will ensure that each member of staff authorised to sell alcohol is sufficiently capable and confident to confront and challenge under - 18s attempting to purchase alcohol.
- viii. The licence holder will keep a register of refused sales of all age- restricted products (Refusals Book).
- ix. The refusals book will contain details of time and date, description of the attempting purchaser, description of the age restricted products they attempted to purchase, reason why the sale was refused and the name/signature of the sales person refusing the sale.
- x. The Refusals book will be examined on a regular basis by the Licensee and date and time of each examination to be endorsed in the book.
- xi. The licence holder will keep an incident record book which will contain details of time and date, description of any incidents that happen on in the immediate vicinity of the premises.

**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.