

Licensing Sub-Committee

11 November 2020

New Premises Licence for 38 Maiden Street, Weymouth

For Decision

Portfolio Holder: Cllr J Haynes, Customer and Community Services

Local Councillor(s): Cllr J Orrell

Executive Director: J 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 and proportionate for the promotion of the licensing objectives of;

- a) The prevention of crime and disorder
- b) The prevention of public nuisance
- c) Public safety
- d) 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.

1. Executive Summary

An application has been made for a new premises licence for 38 Maiden Street, Weymouth. The application has been out to public consultation and has attracted six relevant representations. A Licensing Sub-Committee must consider the application and representations at a public hearing.

2. Financial Implications

Any decision of the Sub-Committee could lead to an appeal by any of the parties involved that could incur costs.

3. Climate implications

None

4. Other Implications

Public Health and Community Safety

5. Risk Assessment

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

Current Risk: Medium

Residual Risk: Medium

6. Equalities Impact Assessment

Not Applicable

7. Appendices

Appendix 1 – Application

Appendix 2 – Representations from Responsible Authorities

Appendix 3 – Representations from other parties

Appendix 4 – Response to Representations

Appendix 5 – Weymouth and Portland Borough Council Policy

8. Background Papers

[Licensing Act](#)

[Section 182 Guidance](#)

[LGA Councillors Handbook](#)

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

9. Details

9.1. Kristian Barker has applied for a new premises licence for 38 Maiden Street, Weymouth. The application describes the premises as a town centre restaurant and bar.

9.2. The application seeks permission for live and recorded music, late night refreshment and alcohol supply.

9.3. The hours on the original application are:

Live and recorded music (indoors) every day	23:00 – 01:00
Late night refreshment (indoors) every day	23:00 – 05:00
Supply of Alcohol (on and off sales) every day	10:00 – 01:00

9.4. The application has been advertised on the premises, in a newspaper and the Councils web site.

9.5. Four representations have been received from responsible authorities, namely, Dorset Council Licensing Authority, Dorset Police, Dorset and Wiltshire Fire and Rescue Service and Dorset Council Environmental Protection department. The representations are attached at appendix 2.

9.6. Representations have also been received from two bodies representing the community, namely, Weymouth Town Council and Respect Weymouth. The representations are included at appendix 3.

9.7. Following receipt of the representations the applicant's agent has offered to reduce the hours applied for to:

Live and recorded music (indoors) every day	23:00 – 01:00
Late night refreshment (indoors) every day	23:00 – 04:00
Supply of Alcohol (on and off sales) every day	10:00 – 00:00

Proposals made include a time limit last entry and supply one SIA registered doorman. The full letter is attached at appendix 4.

10. Cumulative Impact Policy

10.1. The current policy from the predecessor Council is attached in full at appendix 5. Paragraphs 6.6.1 to 6.6.10 set out the principles of a Cumulative Impact Policy.

10.2. Paragraphs 6.12.1 – 6.12.7 set out this special licensing policy which is:

“The Licensing Authority has adopted a special policy relating to cumulative Impact in relation to:

- Melcombe Regis (Weymouth)

This special policy will create a rebuttable presumption that applications for new premises licences, club premises certificates, or variation applications that are likely to add to the existing cumulative impact will normally be refused, unless the applicant can demonstrate why the operation of the premises involved will not add to the cumulative impact or otherwise impact adversely on the promotion of the licensing objectives.

The effect of adopting a special policy of this kind is to create a rebuttable presumption that where representations are received applications will normally be refused unless the applicant can demonstrate, in their operating schedule, that there will be no adverse cumulative impact on the licensing objectives.

It must be stressed that the presumption created by this special policy does not relieve responsible authorities or other persons of the need to make a representation. If there are no representations, the licensing authority must grant the application in terms that are consistent with the operating schedule submitted.

This special policy is not absolute. The circumstances of each application will be considered on its merits and the Licensing Authority shall permit licences and certificates that are unlikely to add to the cumulative impact on the licensing objectives to be granted.

After receiving representations in relation to a new or variation application the Licensing Authority will consider whether it would be justified in departing from this special policy in the light of the individual circumstances of the case. The impact of an application can be expected to be different for premises with different styles and characteristics. If the Licensing Authority decides that an application should be refused, it will still need to show that the grant of the application would undermine one or more of the licensing objectives and that conditions or restrictions would be an ineffective solution.

Examples of applications that the Licensing Authority may consider as exceptional may include, though are not limited to:

- Small premises with a capacity of 50 persons or less who only intend to operate during the hours 10:00 and 23:00
- Premises which are not alcohol-led and operate only within the hours 08:00 and 22:00

Examples of factors the Licensing Authority will not consider as exceptional include that the:

- Premises will be well managed and run
- Premises will be constructed to a high standard
- Applicant operates similar premises elsewhere without complaint
- Similar premises operate in the area.”

10.3. The supporting evidence for the policy can be found at paragraphs 6.13.1 – 6.14 in the policy attached at appendix 5.

11. Considerations

11.1. Paragraphs 9.42 to 9.44 of the Section 182 Guidance sets how the Authority should decide what actions are appropriate.

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.

12. Recommendation

12.1. The Sub-Committee determines the application having considered their special policy, written and oral evidence and resolve to take such steps as it considers appropriate and proportionate for the promotion of the licensing objectives of;-

- a) the prevention of crime and disorder
- b) the prevention of public nuisance
- c) public safety, or,
- d) the protection of children from harm.

12.2. The steps that the Sub-Committee may take are;-

- a) to grant the licence subject to such conditions as the authority considers appropriate for the promotion of the licensing objectives, and the mandatory conditions
- b) to exclude from the scope of the licence any of the licensable activities to which the application relates;
- c) to refuse to specify a person in the licence as the premises supervisor, or,
- d) to reject the application.

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.