

Licensing Sub Committee

18 March 2024

New premises licence application for Baps and Pitta, 50 St Mary Street, Weymouth, Dorset

For Decision

Portfolio Holder: Cllr L Beddow, Culture and Communities

Local Councillor(s): Cllr Orrell

Executive Director: J Britton, Executive Lead of Place

Report Author: Kathryn Miller

Job Title: Senior Licensing Officer

Tel: 01305 252214

Email: Kathryn.miller@dorsetcouncil.gov.uk

Report Status: Public

Brief Summary: An application has been made for a new premises licence for Baps & Pitta, 50 St Mary Street, Weymouth for late night refreshment (indoors). The application has been out to public consultation and has attracted relevant representations. A Licensing Sub Committee must consider the application and representations at a public hearing.

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

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 designated premises supervisor;

d) to reject the application.

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

1. Background

1.1 Section 4 of the Licensing Act 2003 sets out the duties of the Licensing Authority, it sets out that a Council's licensing functions must be carried out with a view to promoting the four licensing objectives of:

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

1.2 All applications and decisions are made with due regard to the [Licensing Act 2003](#) (the Act), the [Revised Guidance issued under Section 182 of the Licensing Act 2003](#) (the Guidance) and the [Dorset Council Statement of Licensing Policy](#) (the Policy).

2. Details of the application

2.1 An application has been made for a new premises licence for Baps & Pitta, 50 St Mary Street, Weymouth, Dorset and has been submitted to the Licensing Authority by Osman Tanyel. The application and floor plan can be found at Appendix 1.

2.2 The description of the premises within the application form is:

“Ground floor café/takeaway”.

2.3 The application is to permit:

Late night refreshment (indoors)

Sunday to Thursday 2300-0300 hours

Friday & Saturday 2300-0400 hours

Food served for consumption on the premises before 2300 hours, takeaway only after 2300 hours.

2 Responsible Authorities

3.1 Section 13 of the Licensing Act contains the list of Responsible Authorities who must be consulted on each application. Dorset Police, Dorset and Wiltshire Fire Service, Public Health Dorset, the Immigration Authority, Dorset Council Trading Standards, Dorset Council Children's Services, Dorset Council Planning, Dorset Council Licensing, Dorset Council Environmental Protection and Dorset Council Health and Safety have all been consulted.

3.2 Dorset Police have made a representation under the Prevention of Crime and Disorder Licensing Objective, and requested the following condition be added to any licence granted. Their e-mail can be found at Appendix 2:

When the premises are open for licensable activities after midnight, there shall be two SIA door staff employed until the premises are closed and cleared of all patrons.

3.3 No other comments have been received from the remaining Responsible Authorities.

4 Representations from other persons

4.1 There were two relevant representations received from the Ward Member and Weymouth Town Council based on the Prevention of Crime and Disorder and Prevention of Public Nuisance. These representations can be found at Appendix 3.

4.1 There were five relevant representations received from members of the public. The objections relate to Prevention of Crime and Disorder, Public Safety, and the Prevention of Public Nuisance. The objections relate to noise and anti-social behaviour, these e-mails can be found at Appendix 4.

4.2 The solicitor for the Applicant has produced a written submission which contains several documents, one of which is a new set of proposed conditions that would be added to licence if the Sub Committee were minded to grant it:

Late night refreshment shall only be provided by way of take-aways and deliveries – it's consumption inside the premises will not be permitted. Patrons shall not be permitted to consume alcohol on the premises All staff working in the premises after 23;00 hours shall be trained with regard to the four licensing objectives and the conditions of the

Premises Licence. A written record of all training (including refresher training to be provided at least once a year) shall be maintained and made available for inspection by Police and other authorised officers on request.

The prevention of crime and disorder

A digital CCTV system shall be installed and thereafter maintained in good working order that covers all internal parts of the premises, except the WC.

Recordings shall be retained for a minimum of 31 days.

Facilities shall be made available to allow Police and other authorised officers to view recordings whenever the premises are open to the public and to be provided with copies in a playable format as soon as is reasonably practicable, provided all requests to view recordings or be provided with copies are compliant with Data Protection regulations.

A member of staff trained and authorised to operate the CCTV system shall be on duty whenever the premises are open.

The system shall be checked at least weekly, a written record shall be maintained of the checks, any fault notified to the police and rectified as soon as possible.

The holder of the Licence shall undertake a written risk assessment to determine whether or not it is appropriate to deploy SIA registered door supervisors on any particular days or times and shall then deploy such door supervisors as may be determined by the outcome of the risk assessment

The risk assessment shall be reviewed at least once a year, following any incident or crime and disorder at or in the near vicinity of the premises or at the request of the police. A copy of the risk assessment shall be provided to the Police and the Licensing Authority on request.

Crime prevention notices are displayed warning customers of the possibility of crime which may target them, e.g. "Bags should not be left unattended", "Watch out for Pickpockets".

Toilet to be closed to the public after 11:00 pm

Public Safety

Where possible furniture to be fixed in place

No glass bottles to be served for soft drinks only plastic / cans

First aid equipment kept on the premises & a first aider on duty.

The prevention of public nuisance

Bins are to be collected daily by specialist waste management company and not be accessible by patrons.

Signage shall displayed at the exit from the premises asking all patrons to "Leave quietly & respect our neighbours"

Patrons will be asked to leave the premises once they have collected their order & not to congregate around the outside of the building.

Disposal of empty bottles into waste receptacles outside the premises will not be permitted to take place between the hours of 23:00 hrs and 07:00 hrs to minimise disturbance to nearby occupiers.

All ventilation and extract systems are to be designed and maintained so as to prevent noxious smells causing a nuisance to nearby properties.

All bins / refuse receptables to be cleaned on a weekly basis

The protection of children from harm

Children (i.e. persons under the age of 18) shall not be permitted in the premises after 23:00 hours

- 4.3 The solicitor acting for the Applicant has proposed amendments to the Application as follows:

Operating hours – Late Night refreshment

As originally applied for:

Sundays to Thursdays: 11 p.m. to 3 a.m

Friday and Saturdays: 11 p.m. to 4 a.m.

"Food served for consumption on the premises or takeaway before 11 pm with takeaway only after 11 pm"

"Bank Holidays to also open to 4 am

Amended application:

Sundays to Thursdays: 11 p.m. to 1 a.m

Friday and Saturdays: 11 p.m. to 4 a.m.

Sundays falling on Bank Holiday weekends 11 p.m. to 3 a.m.

Proposed limitation to be altered into a condition.

Opening Hours

As originally applied for:

Sundays to Thursdays: 11 p.m. to 3 a.m
Friday and Saturdays: 11 p.m. to 4 a.m.
“Bank Holidays to also open to 4 am”

Amended application:

Sundays to Thursdays: 11 p.m. to 1 a.m
Friday and Saturdays: 11 p.m. to 4 a.m.
Sundays falling on Bank Holiday weekends 11 p.m. to 3 a.m.

The full submission from the Applicant’s solicitor can be found at Appendix 5.

- 4.4 The representations contain some matters which are material considerations under planning but do not relate to the four Licensing Objectives. This would include any parts of the representations relating to the Highway, parking matters or amenity/need for a similar premises in the area. This application has been through the planning process, and these issues would have been considered at the time.
- 4.5 The relationship between planning and licensing is set out in paragraphs 6.2 to 6.5 of the Dorset Council Policy:

The use of premises for the sale or provision of alcohol, regulated entertainment or late-night refreshment is subject to planning control. Such use will require planning permission or must otherwise be lawful under planning legislation. Planning permission is generally required for the establishment of new premises or the change of use of premises.

In line with the S182 Guidance the planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice versa.

Where businesses have indicated, when applying for a licence under the Act, that they have also applied for planning permission or that they intend to do so, licensing committees and officers will consider discussion with their planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs.

Where relevant representations are received, any decision on a licence application will not consider whether any decision to grant or refuse planning permission or building consent was lawful and

correct. It will take into account what the impact of granting the application will be on the four licensing objectives.

4.6 The Licensing Act 2003 Section 182 Guidance (the Guidance) sets out at 8.13 the role of “other persons”:

“As well as responsible authorities, any other person can play a role in a number of licensing processes under the 2003 Act. This includes any individual, body or business entitled to make representations to licensing authorities in relation to applications for the grant, variation, minor variation or review of premises licences and club premises certificates, regardless of their geographic proximity to the premises. In addition, these persons may themselves seek a review of a premises licence. Any representations made by these persons must be ‘relevant’, in that the representation relates to one or more of the licensing objectives. It must also not be considered by the licensing authority to be frivolous or vexatious. In the case of applications for reviews, there is an additional requirement that the grounds for the review should not be considered by the licensing authority to be repetitious. Chapter 9 of this guidance (paragraphs 9.4 to 9.10) provides more detail on the definition of relevant, frivolous and vexatious representations.

4.7 The Guidance states at paragraph 9.4 what a “relevant” representation is;

“A representation is “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. For example, a representation from a local businessperson about the commercial damage caused by competition from new licensed premises would not be relevant. On the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by **the** applicant to prevent that nuisance were inadequate, would be relevant. In other words, representations should relate to the impact of licensable activities carried on from premises on the objectives.”

5. Considerations

5.1 The premises fall within the cumulative impact zone. The part of the policy relating to the cumulative impact policy is available under Background papers. Paragraphs 7.17 and 7.22 put the onus on the applicant to demonstrate how the new premises will not add to the anti-social behaviour or crime and disorder, and the types of premises that are likely to be considered as such: “Applications for premises situated within a designated cumulative impact area for new premises licences or variations that are likely to add to the existing cumulative impact will normally be refused if relevant representations are received. It is for the applicant to demonstrate that their application would not add to the cumulative impact of such licensed premises in the area and so give good reason for the council to depart from its own policy. When considering an application where the subject premises is in a cumulative impact area, the council will need to be satisfied that the grant of the licence or variation will not impact on the cumulative impact of existing licensed premises in the area and as the burden of proof is on the applicant, they will often suggest measures which they assert will demonstrate there will be no impact. Examples of factors the licensing authority may consider as demonstrating there will be no impact may include, though are not limited to:

- Small premises who intend to operate up to midnight.
- Premises which are not alcohol led and only operate during the day time economy.
- Instances where the applicant is relocating their business to a new premises but retaining the same style of business.
- Conditions which ensure that the premises will operate in a particular manner such as a minimum number of covers or waiter/waitress service to secure a food led operation.
- Premises which will bring a variety of cultural activities to the area and expand the range of activities on offer for customers.”

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

“9.42 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.

9.43 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.

9.44 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.”

6 Financial Implications

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

7 Environment, Climate & Ecology Implications

None.

8 Well-being and Health Implications

None.

9 Other Implications

None.

10 Risk Assessment

10.1 **HAVING CONSIDERED:** the risks associated with this decision; the level of risk has been identified as:

Current Risk: Low

Residual Risk: Low

- 11 Equalities Impact Assessment
Not applicable
- 12 Appendices
Appendix 1 – premises licence application and plan
Appendix 2 – conditions requested by Dorset Police
Appendix 3 – representations from Ward Member and Weymouth Town Council
Appendix 4 – representations from interested parties
Appendix 5 – submission from Applicant’s solicitor
- 13 Background Papers
[Licensing Act 2003](#)
[Home Office Guidance issued under Section 182 of the Licensing Act 2003](#)
[Dorset Council Statement of Licensing Policy 2021](#)