



Licensing Sub-Committee

Date: Monday, 12 December 2022
Time: 10.00 am
Venue: Council Chamber, County Hall, Dorchester, DT1 1XJ

Members (Quorum)

Jon Andrews, Les Fry and Emma Parker

Chief Executive: Matt Prosser, County Hall, Dorchester, Dorset DT1 1XJ

For more information about this agenda please contact Democratic Services Meeting Contact 01305 224202 elaine.tibble@dorsetcouncil.gov.uk

Members of the public are welcome to attend this meeting, apart from any items listed in the exempt part of this agenda.

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Agenda

Item		Pages
1.	ELECTION OF CHAIRMAN AND STATEMENT FOR THE PROCEDURE OF THE MEETING	3 - 6
	To elect a Chairman for the meeting and the Chairman to present and explain the procedure for the meeting.	
2.	APOLOGIES	
	To receive any apologies for absence.	
3.	DECLARATIONS OF INTEREST	
	To disclose any pecuniary, other registrable or non-registrable interests as set out in the adopted Code of Conduct. In making their disclosure councillors are asked to state the agenda item, the nature of the interest and any action they propose to take as part of their declaration. If required, further advice should be sought from the Monitoring Officer in advance of the meeting.	

4. URGENT ITEMS

To consider any items of business which the Chairman has had prior notification and considers to be urgent pursuant to section 100B (4) b) of the Local Government Act 1972. The reason for the urgency shall be recorded in the minutes.

5. TEMPORARY EVENT NOTICE- SUNSET WEYMOUTH

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A Temporary Event Notice (TEN) has been served on the Council for the sale of alcohol, regulated entertainment and late-night refreshment. The Notice has been considered by the Police and Environmental Protection. Both the Police and Environmental Protection have served Objection Notices. A Licensing Sub Committee must consider the Notice and the Objection Notices.

6. EXEMPT BUSINESS

To move the exclusion of the press and the public for the following item in view of the likely disclosure of exempt information within the meaning of paragraph x of schedule 12 A to the Local Government Act 1972 (as amended).

The public and the press will be asked to leave the meeting whilst the item of business is considered.



THE LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005

Rights of a Party

1. A party has the right to attend the hearing and may be represented by any person.
2. A party is entitled to give further information where the authority has asked for clarification.
3. A party can question another party, and/or address the authority, with consent of the authority.

Failure to Attend

4. If the authority is informed a party does not wish to attend, the hearing may proceed in their absence.
5. If a party has not indicated their attendance and fails to attend the hearing may be adjourned if considered in the public interest, or hold the hearing ensuring the party's representation is considered.
6. Where the authority adjourns the hearing it shall notify the parties of the date, time and place.

Procedural Information

7. At the start of the hearing, the authority shall explain the procedure which it proposes to follow and shall consider any request for permission for another person to appear at the hearing.
8. A hearing shall take the form of a discussion led by the authority and cross-examination shall not be permitted unless the authority considers that it is required.
9. The authority will allow the parties an equal maximum period of time in which to speak.
10. The authority may require any person behaving disruptively to leave, and may refuse that person to return, but such a person may, before the end of the hearing, submit in writing information they would have been entitled to give orally had they not been required to leave.

FOOTNOTE:

In relation to all other matters governed by the Licensing Act 2003 (Hearings) Regulations 2005 any party or their representative may contact the Licensing Services at Dorset Council and they will be provided with a full copy of the regulations on request.

LICENSING SUB-COMMITTEE PROCEDURE

1. At the start of the meeting the Chairman will introduce:
 - the members of the sub-committee
 - the council officers present
 - the parties and their representatives
2. The Chairman will then deal with any appropriate agenda items.
3. The Licensing Officer will be asked to outline the details of the application, including details of any withdrawn representations.
4. The applicant or their representative is then invited to present their case.
5. Committee members will be invited to ask questions.
6. Where appropriate the Responsible Bodies e.g. representatives of Police, Fire Services, Environmental Services or Trading Standards will be invited to address the sub-committee on any relevant representations they may have.
7. The Chairman may then allow an opportunity for questions.
8. The Chairman will ask any person who has made representations, who have already expressed a wish to do so, to address the sub-committee. The sub-committee will have read all the papers before them, including any letters of representation. Members of the public are asked to keep their comments concise and to the point.
9. All parties will be given the opportunity to “sum up” their case.
10. The Chairman will ask the Legal Advisor if all relevant points have been addressed before advising all parties present that the sub-committee will withdraw from the meeting to consider its decision in private. The sub-committee will be accompanied by the Democratic Services Officer and the Legal Advisor can be called upon to offer legal guidance.
11. The Chairman will:
 - advise when the sub-committee’s decision will be confirmed in writing.
 - Inform those present of their right to appeal to the Magistrates’ Court.

NOTE

The Chairman may vary this procedure, as circumstances require but will have regard to the rules of natural justice and the Licensing Act 2003 (Hearings) Regulations 2005.

The meeting will take place in public. However, the public can be excluded from all or part of the meeting where the sub-committee considers that the public interest in so doing outweighs the public interest in the meeting or that part of the meeting, taking place in public.

Under no circumstances must the parties or their witnesses offer the sub-committee information in the absence of the other parties.

The Chairman and the Sub-Committee have discretion whether to allow new information or documents to be submitted and read at the meeting.

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Licensing Sub-Committee

12 December 2022

Objection to Temporary Event Notice – Sunset, 78 The Esplanade, Weymouth

For Decision

Portfolio Holder: Cllr L Beddow, Culture, Communities and Customer Services

Local Councillor(s): Cllr J Orrell

Executive Director: J Sellgren, Executive Director of Place

Report Author: Kathryn Miller
Title: Senior Licensing Officer
Tel: 01305 252214
Email: Kathryn.miller@dorsetcouncil.gov.uk

Report Status: Public

Brief Summary: A Temporary Event Notice (TEN) has been served on the Council for the sale of alcohol, regulated entertainment and late-night refreshment. The Notice has been considered by the Police and Environmental Protection. Both the Police and Environmental Protection have served Objection Notices. A Licensing Sub Committee must consider the Notice and the Objection Notices.

Recommendation: The Sub-Committee considers the Temporary Event Notice in the light of the objection notices made by Environmental Health and the Police and any 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 consider the oral representations and information given at the hearing before reaching a decision.

1 Details of the TEN

- 1.1 A Temporary Event Notice (TEN) has been served on the Licensing Authority by Radoslaw Kakuba for Sunset Weymouth, 78 The Esplanade, Weymouth.
- 1.2 The TEN covers a period from 16-17 December 0900-2359 hours and 18-22 December from 0900-2000 hours. The TEN was originally submitted to include the 23 December, however, this exceeded the maximum allowance of 7 days. Mr Kakuba was informed of this, and he asked to delete the 23 December. The Notice covers the sale of alcohol, regulated entertainment and late-night refreshment and is for 120 attendees. The TEN is attached at Appendix 1.
- 1.3 Objection Notices have been correctly served by Environmental Protection and Police within the statutory three working days consultation period. The Objection Notices are attached at Appendix 2.
- 1.4 Following the Objection Notice from Environmental Protection, Mr Kakuba responded that the music would be in the basement and offered to monitor the noise levels. Mr Kakuba's and Environmental Protection's response can be found at Appendix 3.
- 1.5 Mr Kakuba has also responded the Objection Notice from Dorset Police and this can be found at Appendix 4.

2 History of the premises

- 2.1 Sunset had its premises licence revoked after a review that had been brought by residents in September 2022.
- 2.2 Edmon Ltd who were the licence holders at the time did not appeal the decision and after the 21 days appeal period, the premises licence ceased on 3 October 2022.
- 2.3 A visit was made by Licensing Officers on 5 October, where it was found that alcohol was still on display on both the ground floor and the basement bars, following the revocation. A Section 19 Closure Notice was served on Mr Kakuba as he was in breach of Section 136 Licensing Act 2003, which states:

“a person commits an offence if they carrying on or attempt to carry on a licensable activity on or from any premises otherwise than under and in accordance with an authorisation or knowingly allows a licensable activity to be so carried on.

- 2.4 A further visit by Licensing Officers was made on 19 October to check that all alcohol had been removed from both areas. The ground floor bar did not have alcohol available, however, the basement bar still had alcohol displayed. Officers spoke to Mr Kakuba on the telephone and told him that the alcohol needed to be taken off display. Following this visit, Mr Kakuba produced via e-mail, photographs showing the basement bar clear of alcohol and the signage stating this area was closed. The Section 19 Notice was cancelled.
- 2.5 A further visit was made by Licensing and a colleague from Environmental Protection on 2 November 2022 following a complaint of noise coming from Sunset on the night of Saturday 29 October into Sunday 30 October. A member of staff informed Officers that this was a private party, Mr Kakuba confirmed this in an e-mail to Licensing. He also confirmed that Sunset only sold soft drinks and the alcohol was the participants own. A copy of this e-mail is at Appendix 5.

3 Considerations

- 3.1 Paragraph 7.28 of the Section 182 Guidance sets how the Authority should decide what actions are appropriate.

If the licensing authority receives an objection notice from the police or EHA that is not withdrawn, it must (in the case of a standard TEN only) hold a hearing to consider the objection unless all parties agree that this is unnecessary. The licensing committee may decide to allow the licensable activities to go ahead as stated in the notice. If the notice is in connection with licensable activities at licensed premises, the licensing authority may also impose one or more of the existing licence conditions on the TEN (insofar as such conditions are not inconsistent with the event) if it considers that this is appropriate for the promotion of the licensing objectives. If the authority decides to impose conditions, it must give notice to the premises user which includes a statement of conditions (a “notice (statement of conditions)”) and provide a copy to each relevant party. Alternatively, it can decide that the event would undermine the licensing objectives and should not take place. In this case, the licensing authority must give a counter notice.

- 3.2. The steps that the Sub-Committee may take are:

- a) Issue counter notices for the event which will not allow it to occur.
- b) Not to issue counter notices and allow the event as applied for.

4 Financial implications

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

5 Climate Implications

None

6 Well-being and Health Implications

None

7 Other Implications

Public Health and Community Safety

8 Risk Assessment

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

Current Risk: Medium

Residual Risk: Medium

9 Equalities Impact Assessment

None

10 Appendices

Appendix 1 – Temporary Event Notice

Appendix 2 – Objection Notices

Appendix 3 – Response by Mr Kakuba to Environmental Protection's objection.

Appendix 4 – Response by Mr Kakuba to Dorset Police's objection.

Appendix 5 – Mr Kakuba's e-mail following private party.

11 Background Papers

[Licensing Act](#)

[Section 182 Guidance](#)

[Dorset Council Licensing Policy](#)

Temporary Event Notice

Before completing this notice, please read the guidance notes at the end of the notice. If you are completing this notice by hand, please write legibly in block capitals. In all cases, ensure that your answers are inside the boxes and written in black ink or typed. Use additional sheets if necessary. You should keep a copy of the completed notice for your records. You must send at least one copy of this notice to the licensing authority and additional copies must be sent to the chief officer of police and the local authority exercising environmental health functions for the area in which the premises are situated. The licensing authority will give to you written acknowledgement of the receipt of the notice.

I, the proposed premises user, hereby give notice under section 100 of the Licensing Act 2003 of my proposal to carry on a temporary activity at the premises described below.

1. The personal details of premises user (Please read note 1)			
1. Your name			
Title	Mr		
Surname	Kakuba		
Fornames	Radoslaw		
2. Previous names (Please enter details of any previous names or maiden names, if applicable. Please continue on a separate sheet if necessary)			
Title			
Surname			
Forenames			
3. Your date of birth	████████		
4. Your place of birth	████████		
5. National Insurance Number	████████		
6. Your current address (We will use this address to correspond with you unless you complete the separate correspondence box below)			
78 The Esplanade			
Post town	Weymouth	Postcode	DT4 7AA
7. Other contact details			
Telephone numbers			
Daytime			

Evening (optional)			
Mobile (optional)			
Fax number (optional)			
E-Mail address (if available)		[REDACTED]	
8. Alternative address for correspondence (If you complete the details below, we will use this address to correspond with you)			
78 The Esplanade			
Post town	Weymouth	Postcode	DT4 7AA
9. Alternative contact details (if applicable)			
Telephone numbers:			
Daytime			
Evening (optional)			
Mobile (optional)			
Fax number (optional)			
E-Mail address (if available)		[REDACTED]	

2. The premises	
Please give the address of the premises where you intend to carry on the licensable activities or, if it has no address, give a detailed description (including the Ordnance Survey references) (Please read note 2)	
Sunset Weymouth 78 The Esplanade Weymouth DT4 7AA	
Does a premises licence or club premises certificate have effect in relation to the premises (or any part of the premises)? If so, please enter the licence or certificate number below.	
Premises licence number	
Club premises certificate number	

If you intend to use only part of the premises at this address or intend to restrict the area to which this notice applies, please give a description and details below. (Please read note 3)

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Please describe the nature of the premises below. (Please read note 4)

Restaurant/Bar - 2 decks: - Ground floor - used only for entry and bar - Basement - used for bar and party. Most guests will be sitting at basement. Basement will be used for music as is soundproof and not disturb neighbourhood quiet.

Please describe the nature of the event below. (Please read note 5)

It is birthday party. So will be amplified music, but to restricted level (to be not so loud outside basement room). Will be drinks, meal, alcohol. Invited people are 80-90, but looking they can come with partners - estimate to 120 people max. Main party will be 16/12, but after party will continue to next days with much smaller number of people.

3. The licensable activities

Please state the licensable activities that you intend to carry on at the premises (please tick all licensable activities you intend to carry on). (Please read note 6)

The sale by retail of alcohol	<input checked="" type="checkbox"/>
The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club	<input type="checkbox"/>
The provision of regulated entertainment	<input checked="" type="checkbox"/>
The provision of late night refreshment	<input checked="" type="checkbox"/>
Are you giving a late temporary event notice? (Please read note 7)	<input checked="" type="checkbox"/>

Please state the dates on which you intend to use these premises for licensable activities. (Please read note 8)

Event Starts 16/12/2022
 Event Ends 23/12/2022

Please state the times during the event period that you propose to carry on licensable activities (please give times in 24 hour clock). (Please read note 9):

Fri 16 December 2022 09:00 - 23:59	Sat 17 December 2022 09:00 - 23:59
Sun 18 December 2022 09:00 - 20:00	Mon 19 December 2022 09:00 - 20:00
Tue 20 December 2022 09:00 - 20:00	Wed 21 December 2022 09:00 - 20:00
Thu 22 December 2022 09:00 - 20:00	Fri 23 December 2022 09:00 - 23:59

Please state the maximum number of people at any one time that you intend to allow to be present at the premises during the times when you intend to carry on licensable activities, including any staff, organisers or performers. (Please read note 10)	120
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If the licensable activities will include the supply of alcohol, please state whether the supplies will be for consumption on or off the premises, or both (please tick as appropriate). (Please read note 11)

On the premises only	<input checked="" type="checkbox"/>
Off the premises only	<input type="checkbox"/>
Both	<input type="checkbox"/>

Please state if the licensable activities will include the provision of relevant entertainment. If so, please state the times during the event period that you propose to provide relevant entertainment.

Alcohol - sale up to 23:59
Music - to 23:59
Late night refreshments - to 23:59

4. Personal licence holders (Please read note 12)

Do you currently hold a valid personal licence? (Please tick) Yes No

If "Yes" please provide the details of your personal licence below.

Issuing licensing authority	City of Bristol
Licence number	
Date of issue	
Date of expiry	
Any further relevant details	Waiting for Licence. Documents (application) was send 5/10 and accepted 10/10 - but still waiting to be granted.

5. Previous temporary event notices you have given (Please read note 13 and tick the boxes that apply to you)

Have you previously given a temporary event notice in respect of any premises for events falling in the same calendar year as the event for which you are now giving this temporary event notice? Yes No

If answering yes, please state the total number of temporary event notices (including the number of late temporary event notices, if any) your associate(s) have given for events in the same calendar year.

Has any associate of yours already given a temporary event notice for the same premises in which the event period:
a) ends 24 hours or less before; or
b) begins 24 hours or less after
the event period proposed in this notice? Yes No

6. Associates and business colleagues (Please read note 14 and tick the boxes that apply to you)

Has any person with whom you are in business carrying on licensable activities given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If answering yes, please state the total number of temporary event notices (including the number of late temporary event notices, if any) your associate(s) have given for events in the same calendar year.	
Has any associate of yours already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has any person with whom you are in business carrying on licensable activities given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If answering yes, please state the total number of temporary event notices (including the number of late temporary event notices, if any) your business colleague(s) have given for events in the same calendar year.	
Has any person with whom you are in business carrying on licensable activities already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

7. Checklist (Please read note 15)

I have: (Please tick the appropriate boxes)	
Sent at least one copy of this notice to the licensing authority for the area in which the premises are situated	<input type="checkbox"/>
Sent a copy of this notice to the chief officer of police for the area in which the premises are situated	<input type="checkbox"/>
Sent a copy of this notice to the local authority exercising environmental health functions for the area in which the premises are situated	<input type="checkbox"/>
If the premises are situated in one or more licensing authority areas, sent at least one copy of this notice to each additional licensing authority	<input type="checkbox"/>
If the premises are situated in one or more police areas, sent a copy of this notice to each additional chief officer of police	<input type="checkbox"/>
If the premises are situated in one or more local authority areas, sent a copy of this notice to each additional local authority exercising environmental health functions	<input type="checkbox"/>
Made or enclosed payment of the fee for the application	<input type="checkbox"/>
Signed the declaration in Section 9 below	<input type="checkbox"/>

8. Condition (Please read note 16)

It is a condition of this temporary event notice that where the relevant licensable activities described in Section 3 above include the supply of alcohol that all such supplies are made by or under the authority of the premises user.

9. Declarations (Please read note 17)

The information contained in this form is correct to the best of my knowledge and belief.

I understand that it is an offence:

- (i) to knowingly or recklessly make a false statement in or in connection with this temporary event notice and that a person is liable on summary conviction for such an offence to a fine of any amount; and
- (ii) to permit an unauthorised licensable activity to be carried on at any place and that a person is liable on summary conviction for any such offence to a fine of any amount, or to imprisonment for a term not exceeding six months, or to both.

Signature	
Date	
Name of Person signing	

For completion by the licensing authority

10. Acknowledgement (Please read note 18)

I acknowledge receipt of this temporary event notice.

Signature	
Date	
Name of Officer signing	

NOTESGeneral

In these notes, a person who gives a temporary event notice is called a “premises user”.

The police and local authority exercising environmental health functions may intervene on the grounds of any of the four licensing objectives (the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm) to prevent the occurrence of an event at which permitted temporary activities are to take place or to agree a modification of the arrangements for such an event. However, the licensing authority will intervene of its own volition in the cases described below.

First, it will issue a counter notice if there is an objection to a late temporary event notice (see note 7 below).

Secondly, it may issue a notice in relation to its decision to impose conditions on a temporary event notice (see note 2 below).

Thirdly, it will issue a counter notice if the first, second, third and fifth of the limits set out below would be exceeded. If any of the limits below are breached or if a counter notice has been issued, any licensable activities taking place would be unauthorised and the premises user would be liable to prosecution. The limitations apply to:

- the number of times a person may give a temporary event notice (50 times per year for a personal licence holder and 5 times per year for other people);

- the number of times a person may give a late temporary event notice (10 times per year for a personal licence holder and 2 times per year for other people);
- the number of times a temporary event notice may be given in respect of any particular premises (12 times in a calendar year);
- the length of time a temporary event may last for these purposes (168 hours or 7 days);
- the maximum aggregate duration of the periods covered by temporary event notices at any individual premises (21 days per calendar year); and
- the scale of the event in terms of the maximum number of people attending at any one time (a maximum of 499).

For the purposes of determining the overall limits of 50 temporary event notices per personal licence holder (in a calendar year) and of 5 for a non-personal licence holder (in a calendar year), temporary event notices given by an associate or a person who is in business with a premises user (and that business involves carrying on licensable activities) count towards those totals. The limits applying to late temporary event notices are included within the overall limits applying to the total number of temporary event notices. Note 14 below sets out the definition of an “associate”.

When permitted temporary activities take place, a premises user must ensure that either:

- a copy of the temporary event notice is prominently displayed at the premises; or
- the temporary event notice is kept at the premises either in his own custody or in the custody of a person present and working at the premises and whom he has nominated for that purpose.

Where the temporary event notice is in the custody of a nominated person, a notice specifying that fact and the position held by that person must be displayed prominently at the premises.

Where the temporary event notice or a notice specifying the nominated person is not displayed, a constable or an authorised person (for example, a licensing officer, fire officer or environmental health officer) may require the premises user to produce the temporary event notice for examination. Similarly, where the nominated person has the temporary event notice in his custody, a constable or authorised person may require that person to produce it for examination. Failure to produce the temporary event notice without reasonable excuse would be an offence.

It should also be noted that the following, among other things, are offences under the Licensing Act 2003:

- the sale or supply of alcohol to children under 18 years of age (maximum fine on conviction is a fine not exceeding level 5 on the standard scale, currently £5,000);
- allowing the sale of alcohol to children under 18 (maximum fine on conviction is a fine not exceeding level 5 on the standard scale, currently £5,000);
- knowingly allowing the consumption of alcohol on the premises by a person aged under 18 (maximum fine on conviction is a fine not exceeding level 5 on the standard scale, currently £5,000);
- allowing disorderly behaviour on the premises (maximum fine on conviction is a fine not exceeding level 3 on the standard scale, currently £1,000);
- the sale of alcohol to a person who is drunk (maximum fine on conviction is a fine not exceeding level 3 on the standard scale, currently £1,000);

- obtaining alcohol for a person who is drunk (maximum fine on conviction is a fine not exceeding level 3 on the standard scale, currently £1,000);
- knowingly allowing a person aged under 18 to make any sale or supply of alcohol unless the sale or supply has been specifically approved by the premises user or any individual aged 18 or over who has been authorised for this purpose by the premises user (maximum fine on conviction is a fine not exceeding level 1 on the standard scale, currently £200); and
- knowingly keeping or allowing to be kept on the premises any smuggled goods which have been imported without payment of duty or which have otherwise been unlawfully imported (maximum fine on conviction is a fine not exceeding level 3 on the standard scale, currently £1,000).

In addition, where the premises are to be used primarily or exclusively for the sale or supply of alcohol for consumption on the premises, it is an offence to allow children under 16 to be present when the premises are open for that purpose unless they are accompanied by an adult. In the case of any premises at which sales or supplies of alcohol are taking place at all, it is an offence for a child under 16 to be present there between the hours of midnight and 5am unless accompanied by an adult. In both instances, the penalty on conviction is a fine not exceeding level 3 on the standard scale, currently £1,000.

Note 1

A temporary event notice may only be given by an individual and not, for example, by an organisation or club or business. The individual giving the notice is the proposed “premises user”. Within businesses, clubs or organisations, one individual will therefore need to be identified as the proposed premises user.

If you include an e-mail address in section 1(7) or 1(9), the licensing authority may send to this the acknowledgement of receipt of your notice or any notice or counter notice it is required to give under sections 104A, 106A or 107 of the Licensing Act 2003.

Note 2

For the purposes of the Licensing Act 2003, “premises” means any place. Premises will therefore not always be a building with a formal address and postcode. Premises can include, for example, public parks, recreation grounds and private land.

If a premises licence or club premises certificate has effect in relation to the premises (or any part of the premises) which you want to use to carry on licensable activities, it is possible that any conditions which apply to the licence or certificate may be imposed on the temporary event notice if certain pre-conditions are met. These pre-conditions are that the police or the local authority exercising environmental health functions object to the notice and the licensing authority decides:

- not to give a counter notice under section 105 of the Licensing Act 2003;
- the conditions apply to the licence or certificate; and
- the imposition of the conditions on the notice would not be inconsistent with the carrying on of the licensable activities under the notice.

Note 3

A temporary event notice can be given for part of a building, such as a single room or a plot within a larger area of land. You should provide a clear description of the area in which you propose to carry on licensable activities. This is important as any licensable activities conducted outside the area of the premises protected by the authority of this temporary event notice would be unlawful and could lead to prosecution.

In addition, when holding the proposed event, the premises user would need to be able to restrict the number of people on the premises at any one time when licensable activities are taking place to less than 500. If more than 499 are on the premises when licensable activities are being carried on, the licensable activities would be unlawful and the premises user would be liable to prosecution. The maximum figure of 499 includes, for example, staff, organisers, stewards and performers.

Note 4

A description of the nature of the premises assists the chief officer of police and local authority exercising environmental health functions in deciding if any issues relating to the licensing objectives are likely to arise. You should state clearly that the premises to be used are, for example, a public house, a restaurant, an open field, a village hall or a beer tent.

Note 5

A description of the nature of the event similarly assists the chief officer of police and local authority exercising environmental health functions in making a decision as to whether or not to make an objection. You should state clearly that the event taking place at the premises would be, for example, a wedding with a pay bar, the supply of beer at a particular farmers' market, a discotheque, the performance of a string quartet, a folk group or a rock band.

Note 6

The licensable activities are:

- the sale by retail of alcohol;
- the supply of alcohol by or on behalf of a club to, or to the order of, a member of a club;
- the provision of regulated entertainment; and
- the provision of late night refreshment.

Please refer to Schedules 1 and 2 to the Licensing Act 2003 for fuller details of the definitions and exemptions relating to regulated entertainment and late night refreshment.

Regulated entertainment, subject to specified conditions and exemptions, includes:

- (a) a performance of a play;
- (b) an exhibition of a film;
- (c) an indoor sporting event;
- (d) a boxing or wrestling entertainment;
- (e) a performance of live music;
- (f) any playing of recorded music;
- (g) a performance of dance; and
- (h) entertainment of a similar description to that falling within (e), (f) or (g).

If you are uncertain whether or not the activities that you propose are licensable, you should contact your licensing authority for further advice.

Note 7

Late notices can be given no later than 5 working days but no earlier than 9 working days before the event in relation to which the notice is given. A late notice given later than 5 working days before the event to which it relates will be returned as void and the activities described in it will not be authorised.

The number of late notices that can be given in any one calendar year is limited to 10 for personal licence holders and 2 for non-personal licence holders. These count towards the total number of temporary event notices (i.e. 50 temporary event notices per year for personal licence holders and 5 temporary event notices for non-personal licence holders).

If there is an objection from either the police or local authority exercising environmental health functions, the event will not go ahead and a counter notice will be issued.

Note 8

The maximum period for using premises for licensable activities under the authority of a temporary event notice is 168 hours or seven days.

Note 9

You should state here the times during the event period, for example 48 hours, when you intend to carry on licensable activities. For example, you may not intend to carry on licensable activities throughout the entire 48 hour event period, and may intend to sell alcohol between 8.00 hrs and 23.00 hrs on each of the two days.

Note 10

No more than 499 may be on the premises for a temporary event at any one time when licensable activities are being carried on. If you intend to have more than 499 attending the event, you should obtain a premises licence for the event. Your licensing authority should be able to advise you. The maximum figure of 499 includes not only the audience, spectators or consumers but also, for example, staff, organisers, stewards and performers who will be present on the premises.

Note 11

If you indicate that alcohol will be supplied only for consumption on the premises, you would be required to ensure that no person leaves the premises with alcohol supplied there. If such a supply takes place, the premises user may be liable to prosecution for carrying on an unauthorised licensable activity. Similarly, if the premises user gives notice that only supplies of alcohol for consumption off the premises will take place, he/she must ensure that alcohol supplied is not consumed on the premises. The premises user is free to give notice that he/she intends to carry on both types of supplies. For this purpose, the supply of alcohol includes both of the first two licensable activities listed in note 6 above.

Note 12

The holder of a valid personal licence issued under the Licensing Act 2003 may give up to 50 temporary event notices in any calendar year subject to the other limitations in the 2003 Act. A proposed premises user who holds such a licence should give the details requested.

Note 13

As stated under Note 12, a personal licence holder (issued under the Licensing Act 2003) may give up to 50 temporary event notices (including 10 late notices) in any calendar year. An individual who does not hold a personal licence may only give 5 temporary event notices (including 2 late notices) in England and Wales in any calendar year. A calendar year is the period between 1st January to 31st December inclusive in any year.

If an event straddles two calendar years, it will count against the limits on temporary event notices (12 for each premises, 21 days for each premises, 50 per personal licence holder and 5 for non-holders) for each year. However, only one notice needs to be given.

For the purposes of determining the overall limits of 50 temporary event notices per personal licence holder (in a calendar year) and of 5 for a non-personal licence holder (in a calendar year), temporary event notices given by an associate or a person who is in business with a premises user (and that business involves carrying on licensable activities) count towards those totals. Note 14 below sets out the definition of an “associate”.

If a temporary event notice has been given for the same premises, by the same premises user, and would have effect within 24 hours before the start of the event period under the current proposal or within 24 hours after the end of that period, the temporary event notice given would be void and any licensable activities carried on under it would therefore be unlicensed.

For the purposes of determining whether or not the required gap of 24 hours is upheld, temporary event notices given by an associate or a person who is in business with a premises user (and that business involves carrying on licensable activities) count as if they had been given by the premises user. Note 14 below sets out the definition of an “associate”.

Note 14

An “associate” of the proposed premises user is:

- a. the spouse or civil partner of that person;
- b. a child, parent, grandchild, grandparent, brother or sister of that person;

- c. an agent or employee of that person; or
- d. the spouse or civil partner of a person within (b) or (c).

For these purposes, a person living with another as that person's husband or wife is to be treated as that person's spouse.

Note 15

It is a requirement that you send at least one copy of this notice to the licensing authority at least ten working days (or five working days for a late notice) before the commencement of the proposed licensable activities. The authority will give you written acknowledgement of the receipt of the notice. This will be important proof that you gave the notice and when you gave it for the purposes of the Act. Some premises may be situated in two licensing authority areas, for example, where a building or field straddles the local authority boundary. Where this is the case, at least one copy of the notice must be sent to each of the licensing authorities identified, together with the appropriate fee in each case. In such circumstances, you will receive acknowledgements from all the relevant licensing authorities.

One copy must be sent to each of the chief officer of police and the local authority exercising environmental health functions for the area in which the premises is situated at least ten working days for a standard notice (or five working days for a late notice) before the commencement of the proposed licensable activities. Where the premises are situated in two police areas or environmental health areas, a further copy will need to be sent to the further police force and local authority exercising environmental health functions.

Note 16

Under the Licensing Act 2003, all temporary event notices are given subject to a mandatory condition requiring that where the licensable activities involve the supply of alcohol, all such supplies must be made by or under the authority of the named premises user. If there is a breach of this condition, the premises user and the individual making the supply in question would be liable to prosecution. For this purpose, the supply of alcohol includes both of the first two licensable activities listed in note 6 above.

Note 17

It is an offence knowingly or recklessly to make a false statement in, or in connection with, a temporary event notice. (A person is to be treated as making a false statement if he produces, furnishes, signs or otherwise makes use of a document that contains a false statement.) To do so could result in prosecution and a fine not exceeding level 5 on the standard scale.

Note 18

You should not complete section 10 of the notice, which is for use by the licensing authority. It may complete this section as one means of giving you written acknowledgement of its receipt of the notice.

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Kathryn Miller

Subject: FW: TEN - objection

From: Jane Williams [REDACTED]
Sent: 30 November 2022 12:29
To: [REDACTED]
Cc: Licensing [REDACTED]
Subject: TEN - objection

Dear Mr Kakuba

Thank you for your TEN supplied to us from Licensing Colleagues.

I note that you state that you have put an application in for a licence. I can confirm to you that this is a Food Registration form and not an application for a premises licence to sell alcohol or have regulated entertainment etc. You may wish to consider where you are in a premises licence application process.

I have no issues with the sale of alcohol for the premises.

You will be aware that Dorset Council has been involved with problems to do with the amplification of music in Sunset Bar. I am therefore objecting on the grounds that the structure of the building is unable to contain and prevent the transmission of sound at this time, and that should this TEN be granted there is a high likelihood that the prevention of public nuisance objective will be breached. You state that the basement is soundproofed (from your TEN document, I am not aware that any changes have been made to the premise to make it so. I am happy to be challenged on this should you have undertaken acoustic works and are able to supply an acoustic report specifying that these works will prevent the carriage of sound, and a confirmation that these works have been completed to a suitable standard.

I appreciate that you are different owner and if this was just about managing noise levels it is likely that I would only be requesting a noise management plan as part of this TEN.

You will need to act promptly for me to remove objection otherwise a hearing will be called within a short period of time. If you need knowledge on timescales I refer you back to the licensing team.

Going forward should you eventually put in for that premises licence the same issues will arise and I will be asking the same to be supplied before I will consider removing any objection.

Kind regards
Jane

Jane Williams
Environmental Protection Team Leader
Community and Public Protection
Dorset Council

[REDACTED]
dorsetcouncil.gov.uk





Objection to TEN – Sunset Weymouth 78 The Esplanade, Weymouth

*Environmental Health submission to the Licensing Authority in respect of an objection against a TEN
between the dates of 16 – 22 December 2022*

Background:

The Esplanade is the beach front of Weymouth town and has numerous shops, restaurants, and bars. Additionally, above many of these shops are residential premises, and flats. Most bars are at the southern end of The Esplanade beyond the King George III statue with very few occurring to the north of this. The Sunset Weymouth bar is the only premises on the mid-section of The Esplanade, all other commercial properties (mainly ground floor) are retail units which do not operate late into the evening.

The premises has been a café/restaurant for many years and was brought to our attention because of a potential noise nuisance, for amplified music and speech being played on a Friday and Saturday nights from 20.00hrs to Midnight. A review of the premises licence was undertaken in September and their premises licence was revoked.

A new owner Mr Kakuba has taken over the premises and has been operating as an unlicensed restaurant.

The objection:

A TEN was received by the operators of Sunset Weymouth to serve alcohol and have regulated entertainment on the week leading up to Christmas 2022, including operating until midnight on Friday 16th and Saturday 17th.

We have objected under the prevention of public nuisance, as the known history of the site would indicate that the premises structure is unable to prevent residential premises above from being disturbed by amplified music.

I informed Mr Kakuba of the situation which was already known to him and advised him that should he wish to undertake such events he will in all likelihood need the services of an acoustic consultant to direct him in appropriate sound insulation.

A single private party has been held since Mr Kakuba has been the operator, which gave rise to complaints from the residents above – and in fear of a repetition of the previous occupiers use. This party was held in the basement – the area where he is intending on having these events.

Summary:

It is requested that the TEN is not supported by the licensing hearing committee.

Unfortunately, until appropriate sound insulation measures are taken to protect the residents above Environmental Protection will continue to object to any TENs received or the application for a premises licence, should regulated entertainment be requested as part of the document.

**Jane Williams
Team Leader Environmental Protection (West)
5 December 2022**

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Notification of Determination

Review Hearing

9 September 2022

Applicants: Jeroen 't Hart and John Davidson

Premises: Sunset Bar (formerly Cool Runnings) 78 The Esplanade, Weymouth, Dorset DT4 7AA

Premises Licence Holder: Edmon Limited

Sub-Committee members: Cllrs J Andrews (Chairman), M Barron and S Williams.

Decision

To REVOKE the Premises Licence.

Reasons for the Decision:

The Sub-Committee was addressed by the Licensing Team Leader who outlined her report and the reason for the hearing.

The report set out that the Premises licence permitted the sale of alcohol on and off the premises Monday to Saturday from 09:00 to 23:59 and Sunday 09:00 to 23:00. The performance of live music and playing of recorded music (both indoors) were additionally permitted for the same days and hours. Late night refreshment (indoors and outdoors) was licensed from 23:00 to 23:59 Monday to Saturday. The request for a review of the Premises Licence had been received from Jeroen 't Hart and John Davidson. The grounds for the review related to the 'playing of extremely loud music typically from 21:00 to 24:00 on Friday and Saturdays' which affected the neighbours' ability to sleep, watch television or carry out a normal conversation in their properties. In addition reference was made to rowdy behaviour associated with the Premises.

The Licensing Team Leader stated in her report that representations had been received from several of the Responsible Authorities namely, Dorset Police, Dorset Council Environmental Protection, Dorset Council Planning and Dorset Council Licensing. In addition representations had been received from a Ward councillor and five people who either lived or had businesses in the area.

In the written representation submitted by Dorset Council Licensing (in its capacity as a Responsible Authority), the opinion was expressed that the Premises were undermining the licensing objective of the prevention of public nuisance, due to the volume of the music played at the Premises. The Licensing Authority had undertaken a joint visit to the Premises with the Environment Protection Team in July 2022, and the Licensing Officer had described the music volume as 'incredibly loud' which made the flat above the Premises 'unliveable'. The Licensing Officer had written to the holder of the Premises Licence, Edmon Limited and

the Designated Premises Supervisor setting out the seriousness of the issues, including a breach of a licence condition, but nonetheless no reply was received to his correspondence.

In the written representation from the Ward Councillor reference was made to the fact that in previous years no complaints had been made about the Premises, but it was now causing complaints due to noise. The Councillor asked that consideration be given to adding further conditions to the Premises Licence to control the noise, or if that was not thought possible then the licence should be revoked.

The written representations from members of the public either living or having businesses close to the Premises, referred to exceptionally loud noise which vibrated through the building even to the third floor, and antisocial behaviour including drunkenness, fighting and drug taking. Comments were made that the situation was impacting negatively on residents' health and wellbeing and that visitors staying in nearby hotels were intimidated when walking past the Premises or waiting at the bus stop. Several guests had been reported as saying that they would not return to Weymouth as a result.

In response to questioning the Licensing Team Leader confirmed that no information had been submitted by the Premises Licence Holder prior to the hearing.

The Sub-Committee heard from the applicants for the review. Jeroen 't Hart amplified the statements made in his written application for the review and stated that the noise levels from the Premises made living in his flat unbearable. The music was so loud that it was having a detrimental effect on his quality of life such that he was unable to have a normal conversation, watch television or sleep in his property whilst the music was being played in the Premises. He referred to the bass beats of the music causing the windows in his flat to shake. The property was a listed building and consent would be required to make any changes to the windows. Mr 't Hart clarified that in addition to the nuisance experienced through playing of extremely loud music, the behaviour of the people in the Premises and using the outside area was also a major issue, due to shouting, singing and inappropriate language. In addition bright lights were used in the Premises which flashed out onto the outside area. Mr 't Hart felt that the area was not safe due to fights breaking out which were fuelled in his view by alcohol and drug consumption. He referred to the fact that a bus stop was just a short distance down the road from the Premises but people using the bus stop felt anxious and intimidated by the behaviour of customers of the Premises. Mr 't Hart asked the Sub-Committee to stop the Premises from being able to play music and to reduce their licence to sell alcohol to between 09:00 and 20:00 in order that he and other residents could use their dwellings as they were intended.

Linda Davidson spoke on behalf of John Davidson and had also submitted a written representation in her own right. She explained that they lived above the Premises. The Premises had previously been a fish and chip shop and then a café/bar which closed in the early evening. They only played soft background music which had not caused them any disturbance. However when the Premises changed its format with a new tenant, they started to experience serious issues with loud music played into the evening. She stated that the property is a listed building with no soundproofing and the sound from the music came through the floor of their property. Mrs Davidson explained that the new tenant had spoken to them about his plans for the Premises and when she and her husband started to be disturbed by the noise levels in February 2022, they contacted him directly by email. They had also gone into the Premises several times to ask for the music to be turned down but were told by the manager that it was only for four hours to attract customers and the manager refused to turn the sound down. Mrs Davidson stated that they were sworn at and ridiculed for asking for the sound level to be reduced. She said that in May 2022 the noise level increased, and Friday and Saturday nights became intolerable and they either had to go out or sit in their kitchen which was affected by the noise to a lesser degree. Mrs

Davidson described the deleterious effect the situation was having on their mental health, having endured the noise and anxiety for some six months. She stated that they could not have family or friends round in the evening due to the noise and they had been forced to cancel a family celebration because they could not have people staying overnight due to the disturbance caused by the Premises. Mrs Davidson explained that she felt intimidated and no longer went down to their garage alone when the Premises were open.

Mrs Davidson stated that she had kept a diary of the noise problems they had experienced and had been very relieved when the Environmental Protection Team had visited the Premises and her home to assess the situation and heard the noise for themselves. She thought that the statutory Noise Abatement Notice would be effective in dealing with the noise but as it had not produced the desired effect.

In response to questioning Mrs Davidson stated that the noise was ongoing and if anything had increased. They had tried to speak to the manager but had been told that the licence permitted them to play music as they wanted and to leave the Premises.

The Responsible Authorities who had submitted representations addressed the Sub-Committee. An officer from Dorset Council's Environmental Protection Team stated that they had been alerted to the venue in mid-May this year by a complaint from the public, since then a further three complaints had been made. The complainants had stated that the problems had started around February 2022. The Officer said that a meeting had been held with two directors and a manager from the Premises Licence Holder, Edmon Limited on 1 July 2022, the purpose of which was to discuss the issues and possible the steps that could be taken before any formal action.

Noise logs were completed by complainants and a visit to the Premises and one of the complainant's homes was carried out on 15 July 2022. The officer stated that the music was so loud when they arrived at the Premises around 22:30 that communication was only possible by sign language. She explained that the noise registered at 98 decibels on the dance floor and hearing loss is possible at 85 decibels. An assessment was made of the noise in the complainant's home and during that visit a senior Environmental Health Officer determined that a statutory noise nuisance existed. As a result on 1 August 2022 Noise Abatement Notices were served on Edmon Limited and the Designated Premises Supervisor. The officer confirmed that noise recording equipment had been placed in the complainant's home last weekend and she could see that the button had been pressed several times to indicate that the noise level was an issue but unfortunately the equipment had not been working properly and no recordings were made. The Officer stated that the situation could not be allowed to continue as it was.

The Sub-Committee was addressed by Sergeant Gosling from Dorset Police. The Officer stated that he had provided as much information as possible in writing before the hearing. He said that it was unusual for residents to seek a review themselves as it was a daunting prospect, so it showed the degree to which they were impacted by the operation of the Premises. Sergeant Gosling explained that they had concerns about the Premises and investigations were ongoing so he was limited in what he could say. Dorset Police followed a five-stage process where premises come to their attention to try to work with licence holders to resolve problems quickly through collaboration. In circumstances where this process was not successful the Police would seek a review themselves and, in this case, they may well have done that in due course.

In the written representation from Dorset Police reference was made to a joint visit to the Premises with Environmental Protection Officers on 12 August 2022. Although the visit had been pre-arranged the manager was angry and unhappy that it was taking place and asked the officers to leave. Reference was made to the aggressive way the manager addressed

the officers and her unwillingness to work with them. It was also noted that complaints were later made to the Environmental Protection out of hours service and on the officers' return to the Premises the music appeared to be even louder than before and could be heard on the other side of the road. The various options available to the Sub-Committee were considered in the submission. It was stated that action had to be taken to address the situation but given that some conditions on the current licence were not being adhered to there was little confidence that any further conditions would be followed. Removal of the DPS or suspension of the licence was not suggested to be likely to result in any significant change to the operating standards at the Premises. Removal of a licensable activity such as the sale of alcohol was mentioned but this could make it potentially an unviable business. Whilst the revocation of the licence was acknowledged to be a last resort it was appropriate where a premises is detrimental to the community.

The Sub-Committee was addressed by Jeremy Woodcraft solicitor for the Premises Licence Holder. Mr Woodcraft stated that this was a case where revocation had been mentioned by the Responsible Authorities, but he was looking for a solution that would stop short of that but would also give everyone the comfort that the nuisance would cease. Clearly live and recorded music on Friday and Saturday nights was the issue in this case. The Sub-Committee had the ability to make a statement that conditions would apply to the playing of live and recorded music where a review had been sought. The Sub-Committee could impose conditions such that the Premises had to ensure there was no encroachment on the quality of life of residents and the Premises Licence Holder/DPS would have to comply. They could also take music out completely, but whilst the financial aspects were not relevant for the Sub-Committee, music was a key component of the licence and the most money was made during the evenings. Whatever steps were taken they had to be proportionate.

Mr Woodcraft stated that acoustic glass had been installed which showed the willingness of his client to act to address the issues. His client had also instructed a professional acoustic company to carry out a survey. He said his client was willing not to play live or recorded music until such time as a noise management plan was produced and signed off by Environmental Protection. His client would have to comply with the conditions, which could be easily monitored, and further action could be taken if he failed to do so. Conditions were already in place to control noise outside the Premises and his client would be willing to close the outside area at 10pm. Mr Woodcraft noted that the Police had identified that there may potentially be a drug issue, but as the Officer stated there is a five-step plan which is normally gone through before action is taken and at this point that stepped plan approach had not commenced.

In response to questioning Mr Woodcraft confirmed that the DPS is in charge of the Premises. The DPS and directors from the company holding the licence were not in attendance at the hearing today but the two managers were present. In response to reference by Sergeant Gosling to employing SIA door staff at the weekends Mr Woodcraft stated that his client would be willing to employ SIA door staff when music was being played until thirty minutes after it ceased. However more thought would have to be given to define when door staff were necessary. Mr Woodcraft asked that his client be given the opportunity to see what steps it was possible to take to address the noise.

The Sub-Committee carefully considered the documents presented to them and the written and oral representations made by all parties. They had regard to the Licensing Act 2003, the Licensing Objectives, the Section 182 Statutory Guidance and the Dorset Council Statement of Licensing Policy.

The Sub-Committee was satisfied that there was a significant level of noise nuisance caused by live/recorded music played at the Premises, together with noise and anti-social behaviour

from customers in the external area and immediately outside the Premises. The Sub-Committee found the combination of the evidence from the residents/business owners and the three Responsible Authorities very persuasive.

As a result of the information presented to them the Sub-Committee took the view that up until about February 2022 it appeared that no problems had been experienced with the Premises because they were run as businesses which did not operate late into the evening and only played what amounted to background music. The issues had arisen when the venue was changed into a more late-night venue with music. The building was an old building and the sound from the Premises was able to infiltrate the dwellings above it. The change in character of the offer of the Premises, namely playing loud music into the evening, had caused considerable distress to those living near the Premises and those operating businesses in the area. The Sub-Committee acknowledged the level of intrusion felt by the residents living above the Premises and the steps that they had taken to try to work with the licence holder to find a mutually acceptable level of music.

It appeared to the Sub-Committee that the Responsible Authorities who were party to this review had made significant efforts to work with the Premises Licence Holder/DPS to resolve the issues prior to the review being called for by two members of the public. Advice had been given by the Licensing Authority, but the Premises Licence Holder /DPS had not responded to the detailed letters. Two directors of the company holding the premises Licence had met with members of the Environmental Protection Team but nonetheless the situation did not improve and the fact that the Environmental Protection Team considered it necessary to serve a Noise Abatement Notice in connection with a statutory noise nuisance, emphasised the seriousness of the situation, yet it appears that since the service of the Notice the noise was stated to have become worse.

The Sub-Committee was particularly disturbed to hear of the unacceptable behaviour of the lady who presented herself as managing the Premises when the Responsible Authorities (Police, Licensing and Environmental Protection) attended at the Premises. The behaviour showed contempt for the licensing objectives and the role of the Responsible Authorities. Video footage submitted with review request exposed further inappropriate behaviour and encouragement to others to do the same. The Sub-Committee noted that the licence holder and DPS did not attend the hearing.

The Sub-Committee considered whether further conditions, including conditions related to live and recorded music, could be added to the licence to address the issues, and promote the licensing objectives. They concluded given the behaviour of the Premises Licence Holder and managers of the Premises in relation to the conditions currently on the licence, the behaviour towards the Responsible Authorities and the fact that a Noise Abatement Notice had to be issued, that they had no confidence that revised conditions would be complied with. The Sub-Committee determined that the removal of the DPS or the exclusion of a licensable activity from the scope of the licence was not appropriate.

After careful deliberation, the Sub-Committee concluded that it was appropriate to revoke the licence. The Sub-Committee recognised that this was a serious step to take and did not take it lightly. In coming to this conclusion it took account of all the information before it. It noted that the situation had extended for a period of over 6 months and had had a considerable impact on the residents' quality of life and ability to enjoy their own homes. The applicants for the review had tried to come to a compromise with the licence holder without success, and considerable advice and assistance had been provided by the Responsible Authorities, but the situation did not improve. It appeared that the licence holder did not take the issues seriously for some considerable time.

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. You may wish to seek independent legal advice in relation to any such appeal. The Court may make an award of costs against a party. If an appeal is successful, the Council will resist any costs application and if an appeal is unsuccessful an application for costs will be made by the Council.

Councillor J Andrews

Date 9 September 2022

Kathryn Miller

Subject: FW: TEN - SUNSET WEYMOUTH
Attachments: Notification of Determination Sunset Bar (002) (002).docx

From: Gatehouse, Kirsty [REDACTED]

Sent: 02 December 2022 13:47

To: [REDACTED]

Cc: Licensing [REDACTED].Licensing [REDACTED]

Subject: RE: TEN - SUNSET WEYMOUTH

Good afternoon

On behalf of the Chief Officer of Police, we would like to object to this Temporary Event Notice on the grounds that we feel it would undermine the Licensing Objective of the Prevention of Crime and Disorder.

As per the attached decision notice, this premises recently had their Premises Licence revoked following a review hearing in September 2022. We submitted an objection alongside Environmental Health after it had been proposed by local residents. The committee decided that revocation was the appropriate action following the evidence put forward.

Since the revocation, a Section 19 closure notice was served on the Premises as they still had alcohol out for sale and were still advertising its sale once the Premises Licence had been removed at the end of September. This was however rescinded at the start of October when proof had been received that all alcohol had been removed from display. Despite the Section 19 being withdrawn, it showed that the Premises Licence revocation had not been understood and complied with.

At the end of October, we were informed of a large gathering of young people outside the premises in the early hours of the morning, seemingly after a party had been held. During a follow up visit, empty beer bottles could be seen around the room alongside a large cannister of nitrous oxide. In an email from Mr Kakuba received after this visit, we were told this was an 18th birthday party where they said they were not selling alcohol but the party goers had brought their own alcohol with them.

Despite an apparent change in ownership, we have still received similar reports to those we were getting prior to the revocation. We therefore do not feel we can support this TEN application.

Many thanks
Kirsty



**DORSET
POLICE**

Kirsty Gatehouse 6084

Licensing Officer
[REDACTED]
[REDACTED]

Drug and Alcohol Harm Reduction Team

Weymouth Police Station, Radipole Lane, DT4 9WW

From: Licensing [REDACTED]

Sent: 30 November 2022 10:36

To: .Licensing [redacted] ENV Health [redacted]
[redacted]

Please find attached a TEN

If you have any comments can I have them by the 5th December

Please note that the dates have been amended and are now from the 16th to the 22nd and not the 23rd

Laura Goff
Licensing Officer
Place Services
Dorset Council



[redacted]
dorsetcouncil.gov.uk



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Kathryn Miller

Subject: FW: TEN - objection

From: Jane Williams [REDACTED]
Sent: 05 December 2022 13:30
To: [REDACTED]
Cc: Licensing [REDACTED]
Subject: RE: TEN - objection

I'm so sorry to return to you but I do need to get clarity.

At this moment in time my objection remains.

Are you saying that it is only your intention to have background/incidental music in the basement area during the period of your TEN? i.e. no commercial DJ and music levels no higher than speech?

Depending on the answer to the above questions will determine whether I will continue to object or remove my objection.

Regards
Jane

Jane Williams
Environmental Protection Team Leader
Community and Public Protection
Dorset Council

[REDACTED]
dorsetcouncil.gov.uk



From: [REDACTED]
Sent: 05 December 2022 11:59
To: Jane Williams [REDACTED]
Subject: RE: TEN - objection

Thank you.

Just to clarify: we not intend to use commercial DJ, so be able to more control the volume.

Secondary – structural engineer I mention he helped to company where I worked before (to last Friday – collapse 😞), to cut acoustic nuances between floors, so he knows all that issues.

So, now I will do all recommendations from Kirsty Gatehouse (I asked and waiting for reply) and hope we all will have happy Christmas 😊

From my side – I will do all to make the lowest disturbances to our neighbours.

Thank you again!

Regards

Radoslaw

From: Jane Williams [REDACTED]
Sent: 05 December 2022 11:49
To: [REDACTED]
Cc: Licensing [REDACTED]
Subject: RE: TEN - objection

Morning Radoslaw.

When the complainants are the flat above the attached flat and the properties to the side, the music is being carried through the structure. You need an acoustic consultant to give you guidance not a structural engineer.

I have heard the download and I noted in the background the unit you have used to undertake the test. This is not a commercial DJ set up and therefore would be difficult to offer a comparison. I can appreciate the work you are doing on this to plicate the problem but at this stage I am still unable to remove my objection.

I agree it is costly but if this is the way you intend to run expand your business going into the future that is the investment you will need to make. It doesn't have a quick fix hence my objection.

Should you be granted the TEN for the supply of alcohol you can play background music also known as incidental music which should be no higher in volume than speech. Its not there to dance too (there may be some who do anyway!)

You may of course present the information below in the hearing – I don't think the date has been set yet, licensing colleagues will be able to direct you on this.

Kind regards
Jane

Jane Williams
Environmental Protection Team Leader
Community and Public Protection
Dorset Council

[REDACTED]
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From: [REDACTED]
Sent: 05 December 2022 11:31
To: Jane Williams [REDACTED]
Subject: RE: TEN - objection

Please see video taken playing music at basement. https://1drv.ms/v/s!AunAywqVOo7bgZZk_eORx0h-mmN5-Q?e=YuzS2F .

It is easily to see and hear that music – which on basement is on “disco” level – on ground floor is only as background.

To prevent any potential complains we can also cut bass.

I talk with structural engineer and his opinion is only weak point is ceiling/floor between ground floor and first floor. It is made from concrete blocks lied on steel reinforced concrete beams. However It cuts most of sounds – due to size can transmit low frequencies. That happened when was loud amplified music on ground floor when Edmon was there.

Sorry, but have no official statement/analyse as it cost a lot of money and I restaurant can't earn now enough also that can not be done quickly. I hope (agreeing with you) that subjective feelings are more important than numbers, and this video can confirm that. Also – very welcome to test yourself.

Hope anyway it not will be that loud, as Christmas Parties are not usually big and loud parties – we chat about before.

Also I replied to police with question what I can do to sort / repair Edmon's sins.

Kind Regards

Radoslaw

From: Jane Williams [REDACTED]
Sent: 02 December 2022 08:56
To: [REDACTED]
Cc: Licensing [REDACTED]
Subject: RE: TEN - objection

Morning

The basement was just as much an issue as the ground floor. The structure conveys bass and treble through it to the apartments above and to the side of the premises. Using a basic sound level meter will not enable you to determine this impact and no set decibel level can assist in determining this. Should you wish to try to have regulated entertainment in the your premises my advice would be to get an acoustic consultant involved to assist you. This is not about who manages the premises but that the building is not fit to have this type of regulated entertainment take place. I'm sorry but my objection remains.

Kind regards

Jane

Jane Williams
Environmental Protection Team Leader
Community and Public Protection
Dorset Council

[REDACTED]
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From: [REDACTED]
Sent: 02 December 2022 00:51
To: Jane Williams [REDACTED]
Subject: RE: TEN - objection

Dear Ms Williams,

Thank you for explanation.

Just want point that music will be at basement, and previous owners issues was corresponding to amplified music played on ground floor.

Please let me try on weekend with loud measure device what difference is when music played at the basement and measured there and at ground floor.

We are not going to play amplified music at ground floor and also can adjust volume level at basement to acceptable on ground floor.

This is bigger party – so for us it is “to be or not to be”. Bad previous reputation have effect at this moment – that restaurant not earning money – which is so shame for that central place of the city.

Anyway – Please wait for my test results on the weekend.

Can you provide me what is acceptable level in dB and which level will be final dB limit which we can’t “touch”?

Kind Regards

Radoslaw Kakuba

From: Jane Williams [REDACTED]

Sent: 30 November 2022 12:29

To: [REDACTED]

Cc: Licensing [REDACTED]

Subject: TEN - objection

Dear Mr Kakuba

Thank you for your TEN supplied to us from Licensing Colleagues.

I note that you state that you have put an application in for a licence. I can confirm to you that this is a Food Registration form and not an application for a premises licence to sell alcohol or have regulated entertainment etc. You may wish to consider where you are in a premises licence application process.

I have no issues with the sale of alcohol for the premises.

You will be aware that Dorset Council has been involved with problems to do with the amplification of music in Sunset Bar. I am therefore objecting on the grounds that the structure of the building is unable to contain and prevent the transmission of sound at this time, and that should this TEN be granted there is a high likelihood that the prevention of public nuisance objective will be breached. You state that the basement is soundproofed (from your TEN document, I am not aware that any changes have been made to the premise to make it so. I am happy to be challenged on this should you have undertaken acoustic works and are able to supply an acoustic report specifying that these works will prevent the carriage of sound, and a confirmation that these works have been completed to a suitable standard.

I appreciate that you are different owner and if this was just about managing noise levels it is likely that I would only be requesting a noise management plan as part of this TEN.

You will need to act promptly for me to remove objection otherwise a hearing will be called within a short period of time. If you need knowledge on timescales I refer you back to the licensing team.

Going forward should you eventually put in for that premises licence the same issues will arise and I will be asking the same to be supplied before I will consider removing any objection.

Kind regards

Jane

Jane Williams
Environmental Protection Team Leader
Community and Public Protection
Dorset Council



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Licensing

From: Gatehouse, Kirsty [REDACTED]
Sent: 05 December 2022 11:11
To: Licensing
Subject: FW: TEN - SUNSET WEYMOUTH

Categories: Laura

From: [REDACTED]
Sent: 03 December 2022 16:12
To: Gatehouse, Kirsty [REDACTED]
Subject: Re: TEN - SUNSET WEYMOUTH

Dear Kirsty Gatehouse,

Thanks for explanation, I understand all. But now I have question: **What can I do to sort all of issues?**

From my side:

- I can control level of music volume on basement to be on adequate low level on ground floor level
- I can ask all clients buying alcohol to show ID
- I can ask guests for staying reasonable quiet when are on premise
- I can do all reasonable steps you propose to keep premise on proper level

The party (closed) in October was finished just before 11pm. We only allow to guests sit outside for a while when we are closing (asking to be quietly). But restaurant was closed, guests went out – so can't be responsible for all other people – especially at early morning?).

About your last paragraph: "Despite an apparent change in ownership, we have still received similar reports to those we were getting prior to the revocation. We therefore do not feel we can support this TEN application". That's very worried me! I – as the owner not understand WHY I have not information about. I should be the first who should be asked for. So – if I was not asked yet – I understand it is no issues.

So – Please one more time revise your statement, let me know what steps I can do to prevent any antisocial behaviour, and hope – we will be happy to demonstrate that is now good place!

Kind Regards
Radoslaw Kakuba

From: Gatehouse, Kirsty [REDACTED]
Date: Friday, 2 December 2022 at 13:47
To: [REDACTED]
Cc: Licensing [REDACTED].Licensing [REDACTED]
Subject: RE: TEN - SUNSET WEYMOUTH

Good afternoon

On behalf of the Chief Officer of Police, we would like to object to this Temporary Event Notice on the grounds that we feel it would undermine the Licensing Objective of the Prevention of Crime and Disorder.

As per the attached decision notice, this premises recently had their Premises Licence revoked following a review hearing in September 2022. We submitted an objection alongside Environmental Health after it had been proposed by local residents. The committee decided that revocation was the appropriate action following the evidence put forward.

Since the revocation, a Section 19 closure notice was served on the Premises as they still had alcohol out for sale and were still advertising its sale once the Premises Licence had been removed at the end of September. This was however rescinded at the start of October when proof had been received that all alcohol had been removed from display. Despite the Section 19 being withdrawn, it showed that the Premises Licence revocation had not been understood and complied with.

At the end of October, we were informed of a large gathering of young people outside the premises in the early hours of the morning, seemingly after a party had been held. During a follow up visit, empty beer bottles could be seen around the room alongside a large cannister of nitrous oxide. In an email from Mr Kakuba received after this visit, we were told this was an 18th birthday party where they said they were not selling alcohol but the party goers had brought their own alcohol with them.

Despite an apparent change in ownership, we have still received similar reports to those we were getting prior to the revocation. We therefore do not feel we can support this TEN application.

Many thanks
Kirsty



**DORSET
POLICE**

Kirsty Gatehouse 6084

Licensing Officer
[REDACTED]
[REDACTED]

Drug and Alcohol Harm Reduction Team

Weymouth Police Station, Radipole Lane, DT4 9WW

From: Licensing [REDACTED]

Sent: 30 November 2022 10:36

To: .Licensing [REDACTED] ENV Health [REDACTED]

Subject: TEN - SUNSET WEYMOUTH

Please find attached a TEN

If you have any comments can I have them by the 5th December

Please note that the dates have been amended and are now from the 16th to the 22nd and not the 23rd

Laura Goff
Licensing Officer
Place Services
Dorset Council

[REDACTED]
dorsetcouncil.gov.uk



**Dorset
Council**



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Licensing

Subject: FW: Sunset Bar Weymouth

From: [REDACTED]
Sent: 10 November 2022 19:56
To: Licensing [REDACTED]
Subject: RE: Sunset Bar Weymouth

Good afternoon.

Sorry for late answer, but weekend and beginning of this week was very busy – even crazy busy. I didn't expect, that starting new business will take so much time as taking now. Also – according to GDPR – was waiting for consent to share this contact data to you (lawyer proposed to ask for consent first).

Premise was hired by [REDACTED] for birthday party

On Saturday, October 29, there was a private and closed event, only for guests invited by the organizers. After the restaurant was closed, only the party guests remained. There was alcohol, but only the participants' own. The restaurant only sold soft drinks (coca-cola, fanta, water, juices) and the cold food / snacks were pre-made which was pre-ordered. The birthday party ended at 11pm, but the guests continued to diverge for a while.

I would like to mention that there was really a lot of order at that time. There has been no incident and the outgoing guests were much quieter than other people passing by our premises. Only twice we asked people who were not guests, but were already talking loudly on the sidewalk with leaving guests - to talk a little more quietly. But it was already happening on the street - at the bus stop, outside the premises, so we even showed a lot of good will for the neighbours to have a quieter environment.

The birthday party was held in the basement, behind closed doors, so even in the restaurant dining room it was possible to talk calmly without raising your voice.

Kind Regards

Radoslaw Kakuba

From: Licensing [REDACTED]
Sent: 04 November 2022 09:59
To: [REDACTED]
Subject: Sunset Bar Weymouth

Dear Mr Kakuba

I visited the Sunset Bar in Weymouth on Wednesday 2 November with my colleagues from Environmental Health and Dorset Police Licensing, following a complaint that had been received by Dorset Council regarding loud music coming from the Sunset Bar on the night of Saturday 29 October going into Sunday 30 October. After talking with a member of staff, she informed us that it was a private party. If this is the case, please can give me the details by return of e-mail, of who hired the premises, what the party was for (birthday etc) and if there were any sales of alcohol and/entertainment.

I would like to remind you that it is an offence under Section 136 of the Licensing Act to carry on or attempt to carry on a licensable activity on or from any premises otherwise than under and in accordance with an authorisation, or knowingly allows a licensable activity to be so carried on. A person guilty of an offence under this section is liable on

summary conviction to imprisonment or a term not exceeding six months or to a fine or both. A licensable activity is a sale or supply of alcohol, performance of a play, exhibition of a film, indoor sporting event, boxing or wrestling, performance of live music (inc karaoke), playing of recorded music, performance of dance, or provision of late night refreshment (hot food and/or drink between the hours of 2300—0500 hours).

I look forward to hearing from you.

Many thanks

Kathryn Miller
Senior Licensing Officer
Community and Public Protection
Dorset Council



licensing@dorsetcouncil.gov.uk



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