



Licensing Sub-Committee

Licensing Act 2003 – Application for a variation of a premises licence for Weymouth Kebab House, 1 Westham Road, Weymouth, DT4 8NP

Date of Meeting: 27 January 2020

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

Local Member(s): Cllr John Orrell

Director: John Sellgren, Executive Director of Place

Executive Summary:

An application to vary a premises licence has been made by Emrah and Osman Tanyel to include the off sale of alcohol to the current licence which allows late night refreshment only. Representations have been received and remain unresolved therefore a hearing by the licensing Sub-Committee must be held to determine the application. This premises falls within the Cumulative Impact Area of Melcombe Regis for which there is a special policy with a presumption of refusal.

Equalities Impact Assessment:

Not Applicable

Budget:

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

Risk Assessment:

Having considered the risks associated with this decision, the level of risk has been identified as:
Current Risk: Medium
Residual Risk: Medium.

Climate implications:

Not Applicable

Other Implications:

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

Recommendation:

The Sub-Committee determines the application in the light of written and oral evidence and resolves to take such steps as described below as it considers appropriate for the promotion of the licensing objectives. Due consideration must be given to the special Cumulative Impact Area (CIA) policy and this should only be departed from in exceptional circumstances and with justifiable reasons given.

Reason for Recommendation:

The special CIA policy was adopted for the Melcombe Regis area of Weymouth after careful consideration of evidence presented to the Authority.

Appendices:

- 1 – Application form
- 2 – Current Licence
- 3 – CIA Policy
- 4 – Representations

Background Papers:

[Licensing Act](#)
[Section 182 Guidance](#)
[LGA Councillors Handbook](#)
[EHRC - Guide to the Human Rights Act for Public Authorities](#)

Officer Contact:

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1. An application has been received to vary the current licence at 1 Westham Road, Weymouth to include the supply of alcohol for off sales between the hours of;

11:00 and 05:00 from Sunday to Thursday
11:00 and 06:00 from Fridays to Saturday.

A copy of the application is attached at appendix 1. The current licence is attached at appendix 2, it should be noted that this licence is shown in the previous owners' names as there is a transfer application that has been decided but due to technicalities with the licensing system cannot be processed until this application is decided.

2. The premises falls within the Cumulative Impact Area (CIA) identified in the Weymouth area special policy contained within the Statement of Licensing Policy attached at appendix 3. The effect of this policy is that the application should be refused unless the applicant can satisfy the sub-committee that it will not add to any alcohol related disorder in the area.

3. Weymouth policy states

This special policy will create a rebuttable presumption that applications for new premises licences, club premises certificates, or variation applications that are likely to add to the existing cumulative impact will normally be refused, unless the applicant can demonstrate why the operation of the premises involved will not add to the cumulative impact or otherwise impact adversely on the promotion of the licensing objectives. Part of Paragraph 1.

After receiving representations in relation to a new or variation application the Licensing Authority will consider whether it would be justified in departing from this special policy in the light of the individual circumstances of the case. The impact of an application can be expected to be different for premises with different styles and characteristics. If the Licensing Authority decides that an application should be refused, it will still need to show that the grant of the application would undermine one or more of the licensing objectives and that conditions or restrictions would be an ineffective solution. Paragraph 5.

4. Objections have been received from;

- Weymouth Town Council who have concerns over anti-social behaviour, and
- Dorset Police on the grounds it falls within the CIA.

Both representations are attached at appendix 4.

5. The area was also subject to a Public Space Protection Order in 2017 to try and control alcohol related anti-social behaviour.

6. The evidence used to support the special policy is detailed in paragraphs 6.13.4 and 6.13.5 of the policy document attached at appendix 3. The statistics show that over 50% of public place assaults take place between 21:00 and 06:00 and that 63.3% of night time public violence that happens in Weymouth occurs in the Melcombe Regis area.

7. The sub-committee should refuse this application unless the applicant can demonstrate that the operation of the premises would not add to the cumulative impact of alcohol related violence in the area.
8. If the sub-committee are satisfied that a premises of this nature will not add to the cumulative impact of alcohol premises in the area they may grant the variation as it is, or subject to conditions. They must give full and substantial reasons as to why they are departing from the special policy for this application.