

Licensing Sub-Committee

Licensing Act 2003 – Application to vary a premises licence – McKenzie’s, 45 Station Road, Swanage, BH19 1AD

Date of Meeting: 05 March 2020

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

Local Member(s): Cllr G Suttle and Cllr B Trite

Director: John Sellgren, Executive Director of Place

Executive Summary:

An application has made by Julie McKenzie to vary a premises to authorise the supply of alcohol for consumption on the premises only daily from 12:00 to 22:30. Representations have been received and remain unresolved therefore a hearing by the licensing Sub-Committee must be held to determine the application.

Equalities Impact Assessment:

N/A

Budget:

N/A

Risk Assessment:

N/A

Climate implications:

N/A

Other Implications:

Members will need to consider the application in light of the Council’s published Statement of Licensing Policy.

Recommendation:

The Sub-Committee determines the application in the light of written and oral evidence and resolves to either:

- grant the premises licence in the terms sought by the applicant, including such conditions as are consistent with the operating schedule; or
- grant the premises licence as above but modified to such extent that the Sub-Committee considers appropriate for the promotion of the licensing objectives; or
- refuse the application

and give reasons for the decision.

Reason for Recommendation:

Dorset Council Scheme of Delegation.

Appendices:

- 1 – Existing premises licence
- 2 – Original Application form
- 3 – Proposed Operating Schedule as amended
- 4 – Representations

Background Papers:

None

Officer Contact:

Name: Ian Carter

Tel: 01929 557220

Email: ian.carter@dorsetcouncil.gov.uk

1. Further Information

- 1.1 McKenzie's Bistro (formally known as Elizabeth's) is a restaurant located within one of the main retail frontages of Swanage. It currently benefits from a premises licence (PL1740) which authorises the sale of alcohol for consumption on the premises from 12:00 to 15:00 Monday to Saturday and from 18:00 to 22:00 Friday and Saturday. A copy of the current licence is attached as Appendix 1.
- 1.2 The application originally sought to vary the licence to authorise the sale of alcohol for consumption on the premises only between the hours of 12:00 and 23:00 Monday to Sunday. A copy of the original application form and plans are attached as Appendix 2.
- 1.3 Representations relating to the prevention of public nuisance have been received from an interested party. A copy of their representation is attached as Appendix 3.
- 1.4 No representations have been received from any responsible authority.
- 1.5 In response to the representation the applicant has amended the application to terminate the sale of alcohol at 22:30 each day and offered two additional conditions. These amendments are included within the proposed operating schedule attached as Appendix 4.
- 1.6 In determining the application with a view to promoting the licensing objectives in the interests of the local community, the Licensing Sub-Committee must give appropriate weight to:
 - (a) the steps that are appropriate to promote the licensing objectives
 - (b) the representations (including supporting information) presented by all parties

- (c) the statutory guidance issued under section 182 of the Licensing Act 2003; and
- (d) The Council's statement of licensing policy.

- 1.7 All parties, the applicant or the person making the relevant representation, may appeal the decision made by the Licensing Sub-Committee to the Magistrates Court.
- 1.8 The current statutory guidance published by the Home Office and the Council's Statement of Licensing Policy are available in full for Members to view. The attention of Members is however specifically requested to the following provisions.

2. Guidance issued under section 182 of the Licensing Act 2003

- 2.1 Alongside the promotion of the four licensing objectives the current statutory guidance published by the Home Office identifies that the legislation also supports a number of key aims and purposes that include;
 - (a) Protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises.
 - (b) Recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises.
- 2.2 The statutory guidance at paragraph 1.17 identifies the need for each application to be considered on its own merits and that conditions must be tailored to the individual type, location and characteristics of the events concerned. "This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions."
- 2.3 At paragraph 2.21 the statutory guidance states in respect of the public nuisance objective "Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right."

3. Dorset Council (Purbeck) Statement of Licensing Policy

- 3.1 The council's statement of licensing policy at 6.4.2 clarifies that "The licensing objectives are the only matters to be taken into account in determining an application."
- 3.2 At paragraph 6.5.1 the council's statement of licensing policy states "The Committee shall not consider the commercial need or demand for additional licensed premises, other than to take account of any cumulative impact upon the licensing objectives."