

# Licensing Sub-Committee

## 4 May 2021

### Variation for The Closet, Weymouth

#### For Decision

**Portfolio Holder:** Cllr J Haynes, Customer and Community Services

**Local Councillor(s):** Cllr J Orrell

**Executive Director:** J Sellgren, Executive Director of Place

Report Author: Aileen Powell  
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**Report Status:** Public

**Recommendation:** The Sub-Committee determines the application in the light of written and oral evidence and resolves to take such steps as it considers appropriate and proportionate for the promotion of the licensing objectives of;

- a) The prevention of crime and disorder
- b) The prevention of public nuisance
- c) Public safety
- d) The protection of children from harm

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

#### 1. Executive Summary

An application has been made to vary the licence at The Closet on Maiden Street in Weymouth. The application has been out to public consultation and has attracted representations. A Licensing Sub-Committee must consider the application and representations at a public hearing.

## **2. Financial Implications**

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

## **3. Climate implications**

None

## **4. Other Implications**

Public Health and Community Safety

## **5. Risk Assessment**

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

Current Risk: Medium

Residual Risk: Medium

## **6. Equalities Impact Assessment**

Not Applicable

## **7. Appendices**

Appendix 1 – Premises licence

Appendix 2 – Application for the variation

Appendix 3 – Representations

Appendix 4 – Responses to Representations

Appendix 5 – Further Correspondence

Appendix 6 – Agreed Conditions

Appendix 7 – Section 182 Guidance Chapter 10

## **8. Background Papers**

[Licensing Act](#)

[Section 182 Guidance](#)

[LGA Councillors Handbook](#)

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

## 9. Details

- 9.1. Jamie Crage is the holder of the premises licence for The Closet, 38A Maiden Street, Weymouth which currently allows: -

### **Sale of alcohol on and off the premises**

Monday to Sunday	09:00 to 05:00
Bank Holidays and New Year's Eve	09:00 to 06:00

### **Regulated Entertainment (Recorded Music, indoors only)**

Monday to Sunday	09:00 to 04:00
Bank Holidays and New Year's Eve	09:00 to 05:00

### **Regulated Entertainment (Films, Indoor Sport, Live Music, Dance and anything similar, indoors only)**

Monday to Sunday	09:00 to 05:00
Bank Holidays and New Year's Eve	09:00 to 06:00

### **Late Night Refreshment (Indoors only)**

Monday to Sunday	23:00 to 05:00
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The current licence is attached at appendix 1.

- 9.2. Mr Crage has applied to vary the area that is currently licensed for The Closet to include the footprint of the premises currently known as the Closet Bar.
- 9.3. The two premises have always been linked by a corridor which hereto has been for staff use only. The purpose of this variation is to operate the combined premises as one to reduce the impact from noise nuisance and anti-social behaviour by allowing the customers to flow freely between the venues without having to exit the premises.
- 9.4. Mr Crage has also applied to change the conditions of the licence with regard to the provision of Door Supervisors to reflect this change and the reduced capacity of the combined venues following the addition of a porched entrance way to the part of the premises formerly known as the Closet Bar. The full application, with supporting documents, is attached at appendix 2.
- 9.5. The application has been advertised on the premises, in a newspaper and the Council's web site.
- 9.6. Three representations have been received from Environmental Health, Weymouth Town Council and Respect Weymouth who represent residents who live in the vicinity of the premises. The representations are included in full in appendix 3.

- 9.7. Mr Cragge has responded to the representations; the responses are attached in full at appendix 4.
- 9.8. Further correspondence from Respect Weymouth which is attached at appendix 5.
- 9.9. To assist the Sub-Committee the conditions on the current licence, and a list of conditions that Mr Cragge has agreed to have been included at appendix 6. There are discussions that are ongoing between the parties, in relation to the possible noise conditions.

## **10. Considerations**

- 10.1. The two premises are within the Cumulative Impact Area.
- 10.2. The part of the policy relating to the cumulative policy is attached in full at appendix 8. Paragraphs 7.17 and 7.22 put the onus on the applicant to demonstrate how the new premises will not add to the anti-social behaviour or crime and disorder, and the types of premises that are likely to be considered as such.

“Applications for premises situated within a designated cumulative impact area for new premises licences or variations that are likely to add to the existing cumulative impact will normally be refused if relevant representations are received. It is for the applicant to demonstrate that their application would not add to the cumulative impact of such licensed premises in the area and so give good reason for the council to depart from its own policy.

When considering an application where the subject premises is in a cumulative impact area, the council will need to be satisfied that the grant of the licence or variation will not impact on the cumulative impact of existing licensed premises in the area and as the burden of proof is on the applicant, they will often suggest measures which they assert will demonstrate there will be no impact. Examples of factors the licensing authority may consider as demonstrating there will be no impact may include, though are not limited to:

- Small premises who intend to operate up to midnight.
- Premises which are not alcohol led and only operate during the day time economy
- Instances where the applicant is relocating their business to a new premises but retaining the same style of business.
- Conditions which ensure that the premises will operate in a

- particular manner such as a minimum number of covers or waiter/waitress service to secure a food led operation.
- Premises which will bring a variety of cultural activities to the area and expand the range of activities on offer for customers.”

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

*9.42 Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.*

*9.43 The authority’s determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.*

*9.44 Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.*

10.3. Chapter 10 of the section 182 Guidance relates to the imposition of conditions on licences and is attached in full at appendix 7. Conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned, they should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided. (from the Guidance paragraph 10.10)

## **11. Recommendation**

11.1. The Sub-Committee determines the application in the light of written and oral evidence and resolves to take such steps as it considers appropriate and proportionate for the promotion of the licensing objectives of;

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

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

- a) modify the conditions of the licence, or
- b) reject the whole or part of the variation.

### **Footnote:**

Issues relating to financial, legal, environmental, economic and equalities implications have been considered and any information relevant to the decision is included within the report.