

# Licensing Sub-Committee

## 7 September 2021

### New Premises Licence Application for Parnham House, Beaminster

#### For Decision

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

**Local Councillor(s):** Cllr R Knox

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

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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

Officers are of the view that the application covers a wide a scope of potential events or occasions and the proposed conditions, even as amended may not adequately address every possible scenario. Should the Sub-Committee be minded to grant the application it is recommended that they consider restricting the licence, either by limiting the activities that can occur in certain areas, reducing the area covered for on-sales to reduce the potential nuisance relating to noise from events held under the Live Music Act and/or restrict the numbers of people who are on the site at any one time to ensure that any large scale events would require separate licences.

**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 for a new premises licence for Parnham House in Beaminster. The application has been out to public consultation and has attracted relevant representations. A Licensing Sub-Committee must consider the application and representations at a public hearing.

## **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 – Application

Appendix 2 – Notice Placements

Appendix 3 – Representations from Responsible Authorities

Appendix 4 – Amended Conditions, Music Boundary Plan and NMPv1

Appendix 5 – Representation Objecting

Appendix 6 – Representations Supporting

Appendix 7 – Applicants Submission

## **8. Background Papers**

[Licensing Act](#)

[Live Music Act](#)

[Section 182 Guidance](#)

[Dorset Council Statement of Licensing Policy](#)

## 9. Background

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

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

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

9.3. The relationship between planning and licensing is set out in paragraphs 6.2 to 6.5 of the Dorset Council Policy: -

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

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

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

Where relevant representations are received, any decision on a licence application will not consider whether any decision to grant or refuse planning permission or building consent was lawful and correct. It will take into account what the impact of granting the application will be on the four licensing objectives.

## 10. Details of the Application

10.1. Parnham Estates Limited have applied for a premises licence at Parnham House, Beaminster, Dorset, DT8 3LZ.

10.2. The description of the premises within the application form is: -

“The premises is a stately home, This licence application is to establish a sustainable future for the Estate within the hospitality sector, where a wide variety of events and form of tourism accommodation will be available. The Estate will provide hotel facilities, cottages, wagons, cabins with facilities including a restaurant, estate shop and gardens. These facilities will provide a continuing source of revenue, with the preparation of Parnham House as an events centre. This application will also lead to the conservation of Parnham House (following a disastrous arson attack in 2017) and a sustainable future for the Parnham Estate which extends over 53 hectares. Parnham House will also provide employment and training opportunities for local people within the hospitality sector and in the maintenance of the Estate. Parnham Estate would also be available for hosting public events for example the East Dorset food fair, and the availability of facilities for the community at large for example, restaurant, Estate shop, and access to gardens. During the restoration of Parnham viewing facilities and interpretation facilities of the construction programme will be made available to the visiting public. This application is for a site wide licence as shown on the masterplan, with more detailed plans attached, for the fixed buildings”

10.3. The full application, the plans and a proposed set of conditions for the premises, as initially received, are attached at appendix 1 (page 21 for the application form, page 40 for the proposed conditions accompanying the application, page 44 for the whole site plan and pages 45 for the individual building plans). The [site location](#) can be viewed on the Council’s Dorset Explorer page, showing the proximity of Parnham House in relation to Beaminster and Netherbury.

10.4. The application was to permit the: -

**On and off sales of alcohol**

Every Day                      24 hours

**Films, Live Music, Recorded Music, dance and any similar entertainment (indoors and outdoors)**

Every Day                      24 hours

**Plays, Boxing and Wrestling (indoors and outdoors) and Indoor Sports**

Every Day                      10:00 to 01:00

**Late-Night Refreshment (indoors and outdoors)**

Every Day                      23:00 to 05:00

## 11. Advertising

- 11.1. All new premises licence applications are required to be advertised for a period of no less than 28 consecutive days prominently at the premises, and in cases where the premises covers an area of more than 50 metres square, at every 50 metres along the external perimeter of the premises where it abuts any highway.
- 11.2. Several reports were received of Notices not being placed in the correct places, and there was non-compliance initially with the regulations.
- 11.3. Confirmation from the applicant's agent was received on the 28 July that 60 Notices had been correctly placed as at the 14 July and a plan was supplied indicating the locations of the Notices, that plan is attached at appendix 2, page 64 of this report.
- 11.4. The consultation time was extended during the period that the Notice requirements were being complied with and has therefore run from 4 June up to and including the 10 August.
- 11.5. Some Notices have been removed during the extended consultation period by persons unknown, and so not all of the 60 Notices will have been up for the full consecutive 28 days. However, this should not necessarily mean that the application cannot proceed due to a procedural defect, the Sub-Committee may decide to let it proceed because: -
  - a) It has been widely publicised, both on site, in a paper circulating in the vicinity and on the Council's website and not all of the Notices have been removed.
  - b) There have been an unprecedented number of representations from residents from both Beaminster and Netherbury, the closest villages.
  - c) The Notice period has been extended twice and covered a period of 66 days in total.
  - d) The Representations are both detailed and wide ranging and it is unlikely that any further period of time would add to the issues already covered
- 11.6. Officers recommend that the Sub-Committee allow the application to proceed and refer to the recent [High Court decision](#) as reported in the Local Government Lawyer. This was a decision by the High Court not to allow a Judicial Review of a decision made by Tonbridge and Malling Borough Council when an applicant had failed to comply with the advertising regulations exactly. As steps had been taken to rectify the situation, the application had been advertised by a variety of means and there were a wide and comprehensive range of matters covered in the many representations that were received the permission to JR was refused as "the grounds of review were unarguable".



**Films, Live Music, Recorded Music, dance and any similar entertainment (outdoors)**

Every Day 08:00 to 23:00  
10 Occasions per year within the blue boundary 08:00 to 01:00

**Plays, Boxing and Wrestling (indoors) and Indoor Sports**

Thursday to Saturday 10:00 to 01:00  
Sunday to Wednesday 10:00 to 00:00

**Plays, Boxing and Wrestling (outdoors)**

Every Day 10:00 to 23:00  
10 Occasions per year 10:00 to 01:00

**Late-Night Refreshment (indoors and outdoors)**

Every Day 23:00 to 05:00

12.4. The conditions would ensure there are no consecutive weekends for external events finishing after 23:00, ensure that a professional Noise Management Plan (NMP) was produced to the satisfaction of the Environmental Protection Team and require Event Management Plans and Risk Assessments before any events of over 500 people are held.

12.5. The Environmental Protection Team have been provided with the first version of a NMP which is attached in appendix 4 at page 75 of this report. The NMP only relates to events within the walled garden, which is a small area within the blue line on the revised plan, but is not delineated on the revised on the plan as such, it also refers to weddings and private parties, which usually only require a licence for a pay bar as the entertainment is not licensable as it is not open to the public.

12.6. Consideration needs to be given to the wording of the suggested conditions as terms like “occasions” and “events” are non-specific and could lead to confusion. Events can be single or multiple days and be for any number of people. Likewise, the ten occasions could cover considerably more than ten days if multiple day events count as one occasion and large multi-day events would cause significantly more nuisance than ten single day events such as food fairs.

**13. Representations from other persons**

13.1. 97 representations have been received from members of the public, ward members, the Parish Council, and other bodies. Most of the representations are expressing objections to the application, and these are included, in full, at appendix 5 (page 97). Three representations in support of the application were received and have been included at appendix 6 found on page 276 of the report.

### 13.2. The Guidance sets out at 8.13 the role of “other persons”

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

### 13.3. The guidance states at paragraph 9.4 what a “relevant” representation is –

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

13.4. Following the agreement between the applicant and the Responsible Authorities who made representations, the revised conditions were sent to everyone else who had made representations with the updated information. No representations were withdrawn, and any extra comments received have been included with the original representations in appendix 5.

13.5. The representations contain some matters which are material considerations under planning but do not relate to the four Licensing Objectives. This would include any parts of the representations relating to the AONB and Highway matters, which will be considered and taken into account during the planning application.

- 13.6. The representations cover a number of points that are material to licensing applications including the lack of detail contained within the application, the fact that the application could allow for large events every other weekend through the summer. The potential nuisance of music travelling to the neighbouring villages, size of the area covered, the wording of the proposed conditions amongst other matters.
- 13.7. Careful consideration needs to be given to the noise conditions which can be problematic. Conditions need to be precise enough to be understandable and enforceable whilst making sure they do what they need to which is to prevent public nuisance. Conditions relying on terms such as inaudible have been challenged through case law and found to be unenforceable. What are suitable conditions for buildings are usually different to the conditions needed to control outside events.
- 13.8. The application is for a licence for the whole site, with the addition of a “music boundary”(the area outlined in blue), however events such as country shows or food festivals which fall outside of the definition of licensable activities would not be restricted to this area. In addition the effect of the Live Music Act means that where there is a licence in place for the on-sales of alcohol, and the premises are being used for on-sales, music events for under 500 people between 08:00 and 23:00 would also not be restricted to this area. Consideration could be given to restricting the area where alcohol can be supplied which would then limit all events to an area.

#### **14. Response to Representations**

- 14.1. The applicant submitted drawings of the site to be included in the report on the 27 August, these are included at appendix 7 at page 279 of this report

#### **15. Considerations**

- 15.1. 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."*

15.2. The Live Music Act 2012 allows any premises with a licence that allows the consumption of alcohol on the premises to have live amplified music between 08:00 and 23:00 without a licence. This only applies when the audience is under 500 people. The Legislative Reform (Entertainment Licensing) Order 2014 has amended the Licensing Act so that there is a similar provision for recorded music, and states that any conditions relating to any of this entertainment would not have any effect between 8am and 11pm. There is a safeguard within the Licensing Act that at a Review hearing the provisions of the Live Music Act could be disapplied.

### **13. Recommendation**

13.1. 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.

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

- a) to grant the licence subject to such conditions as the authority considers appropriate for the promotion of the licensing objectives, and the mandatory conditions
- b) to exclude from the scope of the licence any of the licensable activities to which the application relates;
- c) to refuse to specify a person in the licence as the designated premises supervisor;
- d) to reject the application.

13.3. Officers are of the view that the application covers a wide a scope of potential events or occasions and the proposed conditions, even as amended may not adequately address every possible scenario. Should the Sub-Committee be minded to grant the application it is recommended that they consider restricting the licence, either by limiting the activities that can occur in certain areas, reducing the area covered for on-sales to reduce the potential nuisance relating to noise from events held under the Live Music Act and/or restrict the numbers of people who are on the site at any one time to ensure that any large scale events would require separate licences.

13.4. The licence may be varied when plans for the venue are clearer and some events have taken place. This would prevent any possible public nuisance being caused by events that were permitted under a licence, but not considered when the application was being decided and therefore not conditioned for. As variations are considered in the same way that this application has been there would be ample opportunity for comment by interested parties and responsible authorities on any proposed changes.

13.5. If a licence is granted it can be reviewed under section 51 of the Licensing Act at any time by either a Responsible Authority or any other person or body.

#### **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.