

Licensing Sub-Committee

19 January 2022

Application to for new premises licence for

Caffeine, Weymouth

For Decision

Portfolio Holder: Cllr L Miller, Customer and Community Services

Local Councillor(s): Cllr J Orrell

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

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 to premises licence for Caffeine, 44 The Esplanade, Weymouth. 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. Well-being and Health Implications

None

4. Climate implications

None

5. Other Implications

Public Health and Community Safety.

6. Risk Assessment

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

Current Risk: Medium

Residual Risk: Medium

7. Equalities Impact Assessment

Not applicable

8. Appendices

Appendix 1 – Application

Appendix 2 – Representations from Dorset Police and Environmental Health

Appendix 3 – Correspondence between Environmental Health and applicant

Appendix 4 – Correspondence between Dorset Police and applicant

Appendix 5 – Representations from interested parties against the application.

Appendix 6 - Representation from Weymouth Town Council.

Appendix 7 – Representations from interested party supporting the application.

Appendix 8 – Cumulative impact policy from Dorset Council's Licensing Policy

9. Background Papers

[Licensing Act](#)

[Live Music Act](#)

[Section 182 Guidance](#)

[Dorset Council Licensing Policy](#)

10. Details

- 10.1 Caffeine Weymouth Ltd have applied for a new premises licence for 44 The Esplanade, Weymouth, DT4 8DH. The applicants are applying for a new licence after the previous licence holder surrendered the licence when they terminated their tenancy in October 2021. The full application is attached at Appendix 1.
- 10.2 The application has been advertised on the premises, in a newspaper and the Council's website.
- 10.3 The description of the premises states that it will be a café/coffee bar on the first floor and on the lower floor a cocktail bar and bistro aimed at the over 25 age group.
- 10.4 The application applied for is:
- Films (indoors)
Monday to Sunday 0830 to 0430 hours
- Live music (indoors)
Monday to Sunday 0830 to 0430 hours
- Recorded music (Indoors)
Monday to Sunday 0830 to 0430 hours
- Performance of dance (indoors)
Monday to Sunday 0830 to 0430 hours
- Late night refreshment (indoors and outdoors)
Monday to Sunday 2300 to 0430 hours
- Supply of alcohol (on and off the premises)
Monday to Sunday 0830 to 0430 hours
- 10.5 Two representations were received from Dorset Police and Environmental Health, their responses are attached at Appendix 2.
- 10.6 Environmental Health proposed noise conditions along with an amendment to hours of operation for regulated entertainment. This is included at Appendix 3.
- 10.7 Following the representation from Dorset Police, the applicant's agent has offered a change to the hours of operation and additional conditions. The correspondence and responses between Dorset Police and the applicant's agent are attached at Appendix 4.
- 10.8 Five representations were received from interested parties objecting to the application. The representations are included at Appendix 5.

10.9 Weymouth Town Council have also objected to the application. This can be found at Appendix 6

10.10 One letter of support has been received. This is included at Appendix 7.

11 Considerations

11.1 The premises fall within the cumulative impact zone.

11.2 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.”

11.3 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 Page 12 its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination."

- 11.4. 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 also 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.

12. Recommendation

- 12.1. 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.

12.2. 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.

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.