

Licensing Sub-Committee

16 June 2022

New Premises Licence Application for Throop Hollow Farm, Throop

For Decision

Portfolio Holder: Cllr L Beddow Customer and Community Services

Local Councillor(s): Cllr L Miller & Cllr P Wharf

Executive Director: J Sellgren, Executive Director of Place

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Report Status: Public

Brief Summary: An application has been made for a new premises licence for Throop Hollow Farm, Throop. 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.

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.

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.

1. **Background**

1.1 Section 4 of the Licensing Act 2003 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.

1.2 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).

1.3 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.

2. **Details of the Application**

2.1 Philip Trim has applied for a premises licence at Throop Hollow Farm, Throop Hollow, Throop, Dorchester, DT2 7JD.

2.2 The description of the premises within the application form is: -

“Seasonal campsite operating under the 28 day scheme, with ad hoc charity events and or private parties a few times a year”

2.3 The full application and the plans for the premises, as received, are attached at Appendix 1. The site location can be viewed on Appendix 1 taken from the Council’s Dorset Explorer page, showing the proximity of nearby residential properties.

2.4 The application is to permit: -

Live Music (indoors and outdoors)

Everyday 18:00 – 23:00

Recorded Music (indoors and outdoors)

Everyday 18:00 – 23:00

Supply of Alcohol (on and off)

Everyday 18:00 – 23:00

3. **Representations from Responsible Authorities**

3.1. Section 13 of the Licensing Act 2003 contains the list of Responsible Authorities who must be consulted on each premises application. Dorset Police, Dorset and Wiltshire Fire Service, Public Health Dorset, the Immigration Authority, Dorset Council Trading Standards, Dorset Council Planning Department, Dorset Council Environmental Protection team, Dorset Council Children’s Services and Dorset Council Health and Safety Team have all been consulted.

Environmental protection have made a representation requesting conditions to be added to the licence if the licence is to be granted. The Applicant has agreed to these conditions and following this agreement Environmental Protection withdrew their representation. This can be seen on Appendix 2.

The planning team have made a “comment” that there is currently no planning permission. This comment can be found on Appendix 5

Some of the other responsible authorities have written to acknowledge the application but had no comment or concerns to make, these can also be seen on Appendix 5.

4. Representations from Other Persons

4.1. Two representations have been received from members of the public and one representation from the local parish council of Affpuddle and Turnerspuddle. All the representations are expressing objections to the application, and these are included, in full, at Appendix 3. Most of the representations received made comment on the noise relating to the music that would come from the premises. In other representations there were concerns regarding the campsite, also the number of customers the site may or may not have and traffic concerns. The concerns about traffic or increased traffic cannot be considered in a Licensing Act 2003 hearing as this matter is not relevant, this would be a concern for Highways. A mediation letter was sent by the Applicant to one of the parties who made a representation which you can find at Appendix 4, there was no response to the mediation letter.

4.2. In relation to noise concerns, due to the times applied for on the application relating to alcohol, Live and Recorded Music would not be licensable under the Live Music Act 2012 which states Live and Recorded Music is not to be regarded as Regulated Entertainment where a premises licence permits the sale of alcohol on the premises between the hours of 08:00 – 23:00 and the audience does not exceed 500. Therefore if a licence for the sale of alcohol is granted for the hours applied for (i.e. 18:00 to 23:00) then Live and Recorded music will be permitted during those hours if the audience doesn't exceed 500. As a result of the Live and Recorded Music not being regarded as licensable in the above scenario, any noise related conditions that may be placed on the licence if granted, will not be enforceable between the hours of 08:00 and 23:00 hours.

4.3. 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.

4.4. The guidance states at paragraph 9.4 what a "relevant" representation is;

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"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."

5. Considerations

- 5.1 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.”

6. **Financial Implications**

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

7. **Climate Implications**

None

8. **Well-being and Health Implications**

None

9. **Other Implications**

Public Health and Community Safety

10. **Risk Assessment**

10.1 **HAVING CONSIDERED:** the risks associated with this decision; the level of risk has been identified as:

Current Risk: Low

Residual Risk: Low

11. **Equalities Impact Assessment**

None

12. **Appendices**

- Appendix 1 – Application, plan, and site location
- Appendix 2 – Representations from ‘Responsible Authorities’
- Appendix 3 – Representations from ‘Other Persons’
- Appendix 4 – Meditation letter from Applicant to ‘Other Person’
- Appendix 5 – No Comments/concerns from ‘Responsible Authorities’

13. **Background Papers**

[Licensing Act](#)
[Section 182 Guidance](#)

Dorset Council Licensing Policy
Live Music Act 2012