

Licensing Sub-Committee

19 August 2022

New Premises Licence Application for 27 Station Road, Swanage

For Decision

Portfolio Holder: Cllr L Beddow, Culture, Communities and Customer Services

Local Councillor(s): Cllrs Suttle and Trite

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 27 Station Road, Swanage. 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).

2. **Details of the application**

2.1 Antony and Paige Glancy have applied for a new premises licence at 27 Station Road, Swanage, BH19 1AD.

2.2 The description of the premises within the application is:

“High Street positioned retail shopfront premises. Open plan with enclosed bar and stock area. No off supplies of alcohol.”

2.3 The full application, pro forma risk assessment, “operating schedule” and location plan are attached at Appendix 1.

2.4 The application is to permit:

Recorded music (indoors):

Monday to Sunday 1100 to 2300 hours

Sale of alcohol (on the premises):

Monday to Sunday 1100 to 2300 hours

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 Children's Services and Dorset Council Health and Safety Team have all been consulted.

3.2 None of the responsible authorities have made representations.

3.3 Dorset Police have requested additional conditions to go on the licence if it is granted and the applicant has agreed to this. These can be found at Appendix 2.

4. Representations from other persons

4.1 There were three representations received, one from a member of the public and two from the Dorset Council Ward Members, these can be found at Appendix 3. The representations relate to nuisance from noise and anti-social behaviour.

4.2 In addition, there are some matters which do not relate to the licensing objectives, these are parking and highway issues.

4.3 Following the representations received, the applicant provided the interested parties with the policies that he intends to implement. These can be found at Appendix 4.

4.4 In relation to noise relating to music, 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 permits the sale of alcohol on the premises between the hours of 0800-2300 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 does not 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.

4.5 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.

4.6 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.”

5. Considerations

5.1 Paragraphs 9.42 to 9.44 of the 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: Medium

Residual Risk: Medium

11. Equalities Impact Assessment

None

12. Appendices

- Appendix 1 - Application and plan
- Appendix 2 - Conditions requested by Dorset Police
- Appendix 3 - Representations from interested parties
- Appendix 4 - Applicants policies

13. Background Papers

[Licensing Act](#)

[Section 182 Guidance](#)

[Dorset Council Licensing Policy](#)