

Licensing Sub-Committee

30 September 2022

New Premises Licence Application for Piazzo Lounge, 4-5 The Square, Wimborne

For Decision

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

Local Councillor(s): Cllrs Cook, Dover, Roe, Bartlett, and Morgan

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 Piazzo Lounge, 4-5 The Square, Wimborne. 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 Loungers UK Ltd have applied for a new premises licence at Piazza Lounge, 4-5 The Square, Wimborne, BH21 1JE the description of the premises within the application is:

“A food led café and bar located at 4-5 The Square, Wimborne, BH21 1JE”.

2.2 The full application, and location plan are attached at Appendix 1.

The application is to permit:

Late night refreshment (indoors and outdoors)

Monday to Sunday 2300 to 0030 hours

The premises may remain open for the sale of alcohol and the provision of late night refreshment from the terminal hour for those activities on New Years Eve through to commencement time for those activities on New Year's Day.

Sale of alcohol (on the premises):

Monday to Sunday 1000 to midnight

The premises may remain open for the sale of alcohol and the provision of late night refreshment from the terminal hour for those activities on New Year's Eve through to commencement time for those activities on New Year's Day.

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, Dorset Council Environmental Health and Dorset Council Health and Safety Team have all been consulted.

3.2 Environmental Health have made a representation, their comments can be found at Appendix 2

3.3 As a result of Environmental Health's representation, the applicant via their solicitor has amended the following:

- the alcohol terminal hour to 2300 hours,
- removal of late night refreshment,
- opening hours amended to 2330 hours,
- outside tables and chairs to be rendered unusable by 2200 hours
- a new condition, no customer access out to West Borough.

3.4 These amendments, the response to the questions raised by environmental health and the amended Loungers draft operating schedule from the applicants solicitor can be found at Appendix 3.

3.5 None of the other responsible authorities have made representations.

4. **Representations from other persons**

4.1 There were three representations received from interested parties which relate to nuisance from noise and anti-social behaviour, these can be found at Appendix 4.

4.2 The applicant's solicitor has written to the interested parties informing them of the following amendments to be made to application, this can be found at Appendix 5:

- The alcohol terminal hour is amended to 2300 hours
- Removed from the application, late night refreshment
- The opening hours terminal hour is amended to 2330
- Outside tables and chairs to be rendered unusable by 2200
- A new condition that there shall be no customer access out to West Borough

4.3 The application does not include live or recorded music. However, 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. 10:00 to 23:00) then Live and Recorded music will be permitted during those hours if the audience does not exceed 500.

4.4 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.

4.5 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. **Environmental 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 - Representation from Environmental Health

Appendix 3 - Response from applicants' solicitor to Environmental Health

Appendix 4 - Representations from interested parties

Appendix 5 - Response from applicants solicitor to interested parties

13. **Background Papers**

[Licensing Act](#)

[Section 182 Guidance](#)

[Dorset Council Licensing Policy](#)