

Licensing Sub-Committee

29 March 2023

New premises licence application for Pageant Gardens, Sherborne

For Decision

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

Local Councillor(s): Cllr M Hall

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 Pageant Gardens, Station Road, Sherborne. 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:

- a) The prevention of crime and disorder
- b) The prevention of public nuisance
- c) Public safety
- d) The protection of children from harm

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.

Reason for Recommendation: The Sub-Committee must consider the oral representations and information given at the hearing before reaching a decision.

1. Details of the application

1.1 An application has been made by Sherborne Town Council for a new premises licence for Pageant Gardens, Station Road, Sherborne, Dorset, DT9 3NQ. The application and plans can be found at Appendix 1.

1.2 The description of the premises within the application form is:

“Pageant Gardens is owned and managed by Sherborne Town Council and is one of the Pride Parks in the town. The Gardens are located at the bottom of the town next to the Sherborne railway station. There is adequate space in the gardens for a range of local community events with plenty of room for everyone to enjoy on a daily basis. The Gardens contain a range of seating, a band stand, and several water features along with various floral displays which make The Gardens attractive for everyone.

1.3 The application is to permit:

Plays (outdoors)
Monday to Sunday 0900-2300 hours

Films (outdoors)
Monday to Sunday 0900-2300 hours

Live Music (indoors and outdoors)
Monday to Sunday 0900-2300 hours

Recorded music (outdoors)
Monday to Sunday 0900-2300 hours

Performances of dance (outdoors)
Monday to Sunday 0900 to 2300 hours

Anything of a similar description to that falling within e, f or g (outdoors)
Monday to Sunday 0900-2300 hours

Supply of alcohol (on premises)
Monday to Sunday 1000-2300 hours

- 1.4 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, Dorset Council Children's Services and Dorset Council Health and Safety Team have all been consulted.
- 1.5 Dorset Police have requested conditions to be added to licence if it were to be granted which the applicant agreed to. These can be found at Appendix 2.
- 1.6 There were no other representations from any of the other Responsible Authorities.
- 1.7 There were four representations received from members of the public, most of the representations were expressing objections to the application, however, following a response by Sherborne Town Council to their concerns, two parties withdrew their representation and two wished to continue with their representation. The two remaining representations from interested parties can be found at Appendix 3.
- 1.8 As part of the Town Council's response, they have stated that they would cease the sale of alcohol at 2200 hours. Their response can be found at Appendix 4.
- 1.9 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.
- 1.10 The Licensing Act 2003 Section 182 Guidance (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.

1.11 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.”

2 Considerations

2.1 Paragraphs 9.42 to 9.44 of the Section 182 Guidance sets how the Licensing 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.”

3 Financial Implications

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

4 Climate Implications

None

5 Well-being and Health Implications

None

6 Other Implications

None

7 Risk Assessment

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

Current Risk: Low

Residual Risk: Low

8 Equalities Impact Assessment

Not applicable

9 Appendices

Appendix 1 – Licence application and plan

Appendix 2 – Dorset Police response

Appendix 3 – Representations from interested parties.

Appendix 4 – Response to interested parties from the Town Council

10 Background Papers

[Licensing Act 2003](#)

[Home Office Guidance issued under Section 182 of the Licensing Act 2003](#)

[Dorset Council Statement of Licensing Policy 2021](#)