

Licensing Sub Committee

4 May 2023

New premises licence application for 54 St Thomas Street, Weymouth

For Decision

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

Local Councillor(s): Cllr J Orrell

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 54 St Thomas Street, 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.

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;
- b) to exclude from the scope of the licence any of the licensable activities to which the application relates;
- c) 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. 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 An application has been made by Cengiz Zorel, 54 St Thomas Street, Weymouth. The application and plans can be found at Appendix 1.

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

Hot food takeaway and delivery – consumption on or off the premises.

- 2.3 The application is for:

Late night refreshment (indoors)
Monday to Sunday 2300-0400 hours

- 2.4 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.
- 2.5 Dorset Police has requested conditions the following conditions be added to the licence if it were to be granted:
- a) All staff working at the premises shall be trained in the four Licensing Objectives and shall receive refresher training at least every 6 months. A record of all staff training shall be maintained and kept on the premises and made available on request to an authorised officer of the Council or the Police.
 - b) A Closed-Circuit Television (CCTV) system will be operational at the premises at all times when licensable activities are being carried out and at any other times when members of the public are present on the premises.
 - c) The CCTV system will contain the correct time and date stamp information.
 - d) The CCTV system will have sufficient storage retention capacity for a minimum of 28 days continuous footage.
 - e) A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open to the public. This staff member must be able to show a Police or authorised council officer recent data or footage with the absolute minimum of delay when requested.
 - f) The holder of the premises licence will ensure that prominent and clear notices/instructions are displayed at all relevant exit points instructing customers/staff to respect the needs of local residents and not to cause unnecessary noise when they leave the premises.
 - g) An incident book shall be maintained and checked and signed by one of the management staff on a weekly basis. The incident book will be kept on the premises and available on request to the Police or an Authorised Officer.
- 2.6 The applicant has agreed to these conditions, which can be found at Appendix 2.
- 2.7 There were no representations for any of the other Responsible Authorities.

- 2.8 There was one representation received from a member of the public, expressing their objection to application in relation to noise. Their letter can be found at Appendix 3.
- 2.9 The applicant wrote to the interested party addressing their concerns, their letter can be found at Appendix 4.
- 2.10 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.

- 2.11 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.”

3. **Considerations**

3.1 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.”

4. **Financial Implications**

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

5. **Environmental Implications**

None.

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

None.

7. **Other Implications**

None.

8. **Risk Assessment**

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

Current Risk: Medium

Residual Risk: Medium

9. **Equalities Impact Assessment**

Not applicable

10. **Appendices**

Appendix 1 – Licence application and plan.

Appendix 2 – Conditions requested by Dorset Police Licensing.

Appendix 3 – Representation from interested party.

Appendix 4 – Response to interested party from the applicant.

11. **Background Papers**

[Licensing Act 2003](#)

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

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