

Licensing Sub Committee

4 May 2023

Application to review the premises licence for Polish Deli (now known as Weymouth Market) in 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 to review the premises licence for Polish Deli (now known as Weymouth Market), 9 King Street, Weymouth. The application has been out to public consultation. 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) modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times
- b) exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption)
- c) remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management
- d) suspend the licence for a period not exceeding three months
- e) revoke the licence

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

1. Background

- 1.2 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.

- 1.3 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 Dorset Police has applied for a review of the premises licence, WPPL0169 at 9 King Street, Weymouth, DT4 7BJ. The premises is licensed under the name of Polish Deli but is currently signed as Weymouth Market.
- 2.2 The grounds for the review are contained in full in the application at Appendix 1. In summary, the premises is involved in criminal activity that the Licensing Act 2003 considers particularly serious, namely the sale and storage of smuggled tobacco. Dorset Police no longer have confidence in the Premises Licence Holder.

2.3 The premises licence is currently suspended due to the non-payment of the annual licence fee. The premises are not selling alcohol due to the suspension of the licence and there is no designated premises supervisor (DPS) named on the licence. The licence could be reinstated if the licence holders paid the outstanding amount. A copy of licence is attached at Appendix 2.

2.4 The licence that is suspended allows:

Sale of alcohol (off the premises)	
Monday to Saturday	0900-2100 hours
Sunday	1000-1600 hours

3 Responsible Authorities

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

3.2 There were no representations received from any of the Responsible Authorities.

3.3 There were no representations received from other parties.

4 Reviews

4.1 The Home Office Revised Guidance issued under Section 182 of the Licensing Act 2003 (the S182 Guidance) contains a chapter on Reviews. This chapter is included in full under Background Papers of the report. Paragraphs 11.1 and 11.2 of the s182 Guidance states that:

The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.

At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four

licensing objectives.

- 4.2 Section 13 of the Dorset Council Licensing Policy (the DC Policy) contains guidance on how the Licensing Authority will deal with enforcement and reviews. Paragraph 13.1 states; -

The Licensing Act contains measures to ensure that the council, and responsible authorities, are able to deal with premises that wilfully and persistently undermine the licensing objectives. The council and responsible authorities are committed to encouraging a thriving day time and night-time licensed economy but will not tolerate those premises whose activities break the law or infringe upon the quality of life for local residents and businesses.

- 4.3 Paragraph 13.9 of the DC Policy states; -

The council will seek to establish the cause or causes of the concern and remedial action will be targeted at such causes. Any action will be proportionate to the problems involved.

- 4.4 Section 13 of the DC Policy is attached in full at under Background Papers of the Report.

5 Considerations

- 5.1 Paragraphs 11.16 to 11.17 and 11.19 to 11.23 of the s182 Guidance sets the powers available to the Licensing Authority:

- 5.2 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.

- 5.3 The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.

- 5.4 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for

example, by reducing the hours of opening or by requiring door supervisors at particular times

- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption)
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management
- suspend the licence for a period not exceeding three months
- revoke the licence.

- 5.5 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.
- 5.6 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual. Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.
- 5.7 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

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

None.

10 Risk Assessment

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

Current Risk: High

Residual Risk: High

11 Equalities Impact Assessment

Not applicable

12 Appendices

Appendix 1 – Review application

Appendix 2 – Current licence

13 Background Papers

[Licensing Act 2003](#)

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

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