

Licensing Sub Committee

22 June 2023

New premises licence application for Holton Heath Service Station, Wareham Road, Poole

For Decision

Portfolio Holder: Cllr L Beddow, Culture and Communities

Local Councillor(s): Cllrs B Ezzard and R Holloway

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Report Status: Public

Brief Summary: An application has been made for a new premises licence for Holton Heath Service Station for the sale of alcohol, off the premises. 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

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. 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 for a new premises licence application for Holton Heath Service Station has been submitted to the Licensing Authority by Sterling Petroleum Lt. The application can be found at Appendix 1.
- 2.2 The description of the premises within the application form is:
- "Convenience store with a small service station."
- 2.3 The application is to permit:
- Supply of alcohol (off the premises)
Monday to Sunday 0600-2300 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 Dorset Police has requested the following conditions be added to the licence if it were to be granted which the applicant has agreed to. This can be found at Appendix 2:

- The premises will be managed and controlled by a responsible person at all times. The Designated Premises Supervisor will be on the premises or contactable during the operating hours of the premises.
- The premises shall install and maintain a comprehensive CCTV system both internally and externally. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum of 30 days with correct date and time stamping. A documented check of the CCTV shall be completed weekly to ensure all cameras remain operational and the 30 days storage for recordings is being maintained. 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 are 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. CCTV shall be downloaded on request of the Police or authorised officer of the Council. Appropriate signage advising customers of CCTV being in operation shall be prominently displayed in the premises.
- Spirits (with the exception of spirit mixers and pre mixed spirit drinks) will be located behind the counter.
- All staff involved in the sale of alcohol shall receive training on the law relating to prohibited sales, the age verification policy adopted by the premises and the conditions attached to the Premises Licence. Refresher training shall be provided at least once every six months. A record shall be maintained of all staff training and that record shall be signed and dated by the person receiving the training and the trainer. The records shall be kept for a minimum of 12 months and made available for inspection by Police, Licensing or other authorised officers.
- The DPS will ensure that an incident report register is maintained on the premises to record incidents such as anti-social behaviour. The incident report register will contain consecutively numbered pages, the date and time of the incident, details of the nature of the incident, the names of any staff involved or to whom the incident was reported, the names and numbers of any police officers attending, the police incident number, names and addresses of any witnesses and confirmation of whether there is CCTV footage of the incident. The incident report register will be kept on the premises and produced for inspection immediately on the request of an authorised officer or Police.
- Challenge 25 shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification, such as a driving licence or passport, or holographically marked PASS scheme identification cards. Only identification documents shown in a physical format shall be accepted. Documents presented on mobile devices will not be accepted. Appropriate

signage advising customers of the age verification policy shall be prominently displayed in the premises. The EPOS terminal will have a till prompt for staff whenever alcohol and/or tobacco are attempted for sale.

- A log shall be kept detailing all refused sales of alcohol. The log should include the date and time of the refused sale, a description of the person refused, why they were refused (eg no ID, fake ID) and the name of the member of staff who refused the sale. The log shall be kept on the premises and shall be made available for inspection by the Police or an authorised officer of the Council at all times when the premises is open.

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

3.3 There has been one representation received from a member of the public. Their representation can be found at Appendix 3.

3.4 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.

3.5 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.”

4. **Considerations**

- 4.1 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 **Natural Environment, Climate & Ecology Implications**

None.

Well-being and Health Implications

None.

6 **Other Implications**

None.

7 **Risk Assessment**

7.4 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 – premises licence application

Appendix 2 – conditions requested by Dorset Police

Appendix 3 – representation from interested party

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](#)