

Licensing Sub Committee

1 August 2023

New premises licence application for Sandy Salt Pig, Middle Beach Car Park, Beach Road, Studland

For Decision

Portfolio Holder: Cllr L Beddow, Culture and Communities

Local Councillor(s): Cllr C Brooks

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 Sandy Salt Pig Ltd, Middle Beach, Studland 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 for the Sandy Salt Pig Ltd, Middle Beach Car Park, Beach Road, Studland, BH19 3AP and has been submitted to the Licensing Authority by the Sandy Salt Pig Ltd. The application and floor plan can be found at Appendix 1.
- 2.2 The description of the premises within the application form is:

“Beach café situated in the car park at Middle Beach, Studland. Rustic exterior with outdoor seating and wonderful views.”
- 2.3 The application is to permit:
 - Supply of alcohol (on off the premises)
 - Monday to Sunday 0800-2200 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 from any of the Responsible Authorities.
- 3.3 There was one relevant representation received from Studland Parish Council. Their representation can be found at Appendix 2.
- 3.4 One representation, from the local Ward Member, was received in support of the application which can be seen at Appendix 3.
- 3.4 Following the response from Studland Parish Council, the Senior Licensing Officer, wrote to the Clerk to clarify the points they had made with a view to resolving their issues. The Senior Licensing Officers reply and the Studland Parish Council's response can be found at Appendix 4.
- 3.4 Following the representation received from Studland Parish Council, the applicant wrote to the Parish Clerk to explain how they will operate the premises. The applicant's response can be found at Appendix 5.
- 3.5 The relationship between planning and licensing is set out in paragraphs 6.2 to 6.5 of the Dorset Council Policy:

The use of premises for the sale or provision of alcohol, regulated entertainment or late-night refreshment is subject to planning control. Such use will require planning permission or must otherwise be lawful under planning legislation. Planning permission is generally required for the establishment of new premises or the change of use of premises.

In line with the S182 Guidance the planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice versa.

Where businesses have indicated, when applying for a licence under the Act, that they have also applied for planning permission or that they intend to do so, licensing committees and officers will consider discussion with their planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs.

Where relevant representations are received, any decision on a licence application will not consider whether any decision to grant or refuse

planning permission or building consent was lawful and correct. It will take into account what the impact of granting the application will be on the four licensing objectives.

- 3.6 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.

- 3.7 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."*

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 **Natural Environment, Climate & Ecology Implications**

None.

Well-being and Health Implications

None.

5 **Other Implications**

None.

6 **Risk Assessment**

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

Current Risk: Low

Residual Risk: Low

7 **Equalities Impact Assessment**

Not applicable

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Appendices

Appendix 1 – premises licence application and plan

Appendix 2 – representation form Studland Parish Council

Appendix 3 – representation in support of application

Appendix 4 – Senior Licensing Officer reply to Studland Parish Council

Appendix 5 – Applicants response to Studland Parish Council

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Background Papers

[Licensing Act 2003](#)

[Home Office Guidance issued under Section 182 of the Licensing Act 2023](#)

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