

Licensing Sub Committee

8 August 2023

New Premises Licence Application – 26 St Thomas Street, Weymouth

For Decision

Portfolio Holder: Cllr L Beddow, Culture and Communities

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 26 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 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) Grant the licence subject to such conditions as the authority considers appropriate for the promotion of the licensing objectives, and the mandatory conditions.
- b) Exclude from the scope of the licence any of the licensable activities to which the application relates.
- c) Refuse to specify a person in the licence as the designated premises supervisor, or
- d) Reject the application.

Reason for Recommendation: The Sub-Committee must consider the oral submissions 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 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 Sophie Elizabeth Gardiner has applied for a new licence at 26 St Thomas Street, Weymouth, DT4 8EJ. The premises is to become a daytime café, serving food, alcoholic and soft drinks. The application and plan of the premises is attached at Appendix 1.
- 2.2 The application was originally for the following hours; -

Recorded music

Monday to Thursday 0900 – 2300
Friday to Saturday 0900 – 0200
Sunday 1000 – 2200

The supply of alcohol

Monday to Thursday 1100 – 2300
Friday to Saturday 1100 – 0200
Sunday 1100 – 2200

Late Night refreshment

Friday to Saturday 2300 – 0200

Opening hours

Monday to Thursday 0900 – 2300
Friday to Saturday 0900 – 0200
Sunday 1000 – 2200

- 2.3 The operating schedule contains the steps which would be converted onto a licence if it is granted include:

- Joining Pubwatch
- Having CCTV on site
- Challenge 25 Policy for alcohol sales
- Security risk assessment to be provided when special events are operated
- Volume checks every hour
- Litter checks
- No glass outside

No under 18's after 1900hours

3 **Representations from Responsible Authorities**

- 3.1 Section 13 of the Licensing Act contains the list of Responsible Authorities who must be consulted on each application. In accordance with this section 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 Councils Environmental Protection raised an objection requesting some specific conditions be added to any licence if it is granted, and have now withdrawn that objection after reaching an agreement with the applicant.
- 3.3 Similarly Dorset Police have negotiated conditions with the operator and subsequently withdrawn their objection having agreed an earlier closing time of midnight on Fridays and Saturdays. A full list of agreed conditions is attached at Appendix 2, together with the representations and agreements from the applicant.
- 3.4 The revised times for this application are: -

Recorded music

Monday to Thursday 0900 – 2300
Friday to Saturday 0900 – Midnight
Sunday 1000 – 2200

The supply of alcohol

Monday to Thursday 1100 – 2300
Friday to Saturday 1100 – Midnight
Sunday 1100 – 2200

Late Night refreshment

Friday to Saturday 2300 – Midnight

Opening hours

Monday to Thursday 0900 – 2300
Friday to Saturday 0900 – Midnight
Sunday 1000 – 2200

- 3.5 No other comments have been received from the remaining Responsible Authorities, apart from planning who have advised the applicant they will require a change of use prior to opening.

4 **Representations from Other Persons**

- 4.1 There were two representations received from other persons, one from Weymouth Town Council and one from an individual.
- 4.2 The Town Council is concerned about noise escape from the premises as it has single glazing. They have requested that a noise limiter be required.

- 4.3 The representation from an individual who lives in close proximity to the premises also relates to noise. Full copies of the representations can be found at Appendix 3.
- 4.4 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.

- 4.5 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.”

5 Considerations

- 5.1 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.”

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 Natural Environment, Climate & Ecology Implications

None.

8 Well-being and Health Implications

None.

9 Other Implications

None

10 Risk Assessment

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

Current Risk: Medium

Residual Risk: Medium

11 Equalities Impact Assessment

Not applicable

12 Appendices

Appendix 1 – Application Form and Plan

Appendix 2 – Conditions Agreed with Responsible Authorities

Appendix 3 – Representation from Other Parties

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](#)