

Licensing Sub Committee

8 November 2023

New premises licence application for C Side 8 Pope Street, Brewery Square, Dorchester

For Decision

Portfolio Holder: Cllr L Beddow, Culture and Communities

Local Councillor(s): Cllrs Jones and Rennie

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 C Side, for live and recorded music and the sale of alcohol, on and 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 C Side, 8 Pope Street, Brewery Square, Dorchester and has been submitted to the Licensing Authority by Helen Moody. The application and floor plan can be found at Appendix 1.
- 2.2 The description of the premises within the application form is:

"The premises will be home to a new business, C Side which I am setting up as a Sole Trader in my name. It will be adjacent to Vinyl Van Record Shop with some shared areas and will be an evolving community space where people can come together with music as a common theme.

C Side will operate as a retail space selling preloved clothing, recycled jewellery and selling items that other people have created, especially young people.

Some hot and cold drinks will be served and a selection of wellbeing, craft, music-themed and other workshops and events will be held to benefit all ages and sections of the community. The space will also provide work experience opportunities for young people and those in need of work skills and confidence to help them re-engage in society.

C-Side will also co-host a selection of music-themed events, dancing workshops, live music on occasion, and offer itself as a space to community groups and organisations.

The hope is to make this a viable business cum social enterprise that is able to maintain more of a social and community focus. Having a licence will help us to increase our potential income to cover our running costs and support these community activities to make them as accessible as possible to everyone. We plan to be open from Tuesday to Saturday from 10am – 5pm and Sunday 11am - 4pm as a retail / drinks operation but are looking to expand our offer with occasional evening events, music nights, live music and potentially a food offer at a later stage. We would like to obtain a licence so that we can serve alcohol at these social events and music themed daytime / evening sessions. We estimate that the premises can comfortably hold around 60 people at a time although most events will be less than this number. We anticipate that events will be during our normal trading hours and evenings but we are applying for a licence to cover all days of the week to account for the odd occasions where we might want to hold events on a Sunday or Monday.

There is one toilet (wheelchair accessible), a main front entrance, a small kitchen / storage area and an exit to the rear of the shop that leads to a service corridor and exit. We have serviced fire equipment and a fire alarm with detectors in the toilet, kitchen, main shop and entrance.”

2.3 The notice that was displayed at the premises and appeared in the local newspaper, had the wrong address for the Dorset Council and therefore the applicant had to re-advertise the notice for another 28 days.

2.4 The application is to permit:

Live and recorded music (indoors)

Monday to Saturday 1200-2300 hours

Sunday 1200-2200 hours

Supply of alcohol (on and off the premises)

Monday to Saturday 1200-2300 hours

Sunday 1200-2200 hours

- 2.5 The operating schedule contains the steps which would be converted into conditions on a licence if it is granted and include:

Written record of all staff authorised to sell alcohol.

A challenge 25 policy for preventing underage sales with photographic ID to be shown as proof of age.

Numbers of people attending events will be restricted to 60.

All children under 12 will be accompanied by an adult.

All children under 12 shall vacate the premises by 2200 hours.

Refusals log

- 2.6 The Live Music Act 2012 allows any premises with a licence that allows the consumption of alcohol on the premises to have live amplified music between 08:00 and 23:00 without a licence. This only applies when the audience is under 500 people. The Legislative Reform (Entertainment Licensing) Order 2014 amended the Licensing Act so that there is a similar provision for recorded music, and states that any conditions on a premises relating to any of this entertainment would not have any effect between 8am and 11pm.

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 requested the following condition to be added to licence if were to be granted:

The designated premises supervisor will ensure that each member of staff authorised to sell alcohol has received adequate training on the Licensing Act 2003 in respect of sales to those who appear underage and those who appear to be intoxicated.

The applicant has agreed to this, and their response can be found at Appendix 2.

- 3.3 Environmental Protection did not make a representation, as under the Live Music Act 2012, conditions cannot be added to a licence where live and recorded music terminate at 2300 hours. They did, however, write to the applicant offering guidance to ensure that their business meets the public nuisance licensing objective if the licence were to be granted. The applicant responded to this, and their reply can be found at Appendix 3.
- 3.4 No other comments have been received from the remaining Responsible Authorities, apart from Planning who have stated that they are satisfied that the proposed retail space with occasional live music and use for community groups currently falls into category Class E. If the use of the unit starts to fall outside of the Use Class E (nightclub) on a more regular basis, then an application for planning permission change of use would be required.

4 Representations from other persons

- 4.1 There were four relevant representations received from members of the public. The objections relate to public nuisance concerns and the e-mails can be found at Appendix 4.
- 4.2 There were initially seven relevant representations received from members of the public, however, following an e-mail sent by Licensing on behalf of the applicant to the interested parties, two of these people withdrew their representation. The applicant had also carried out some sound testing at another of the interested party's home, and consequently, the party concerned has now withdrawn their representation. Two interested parties wanted their objection to remain and two did not respond. The applicants e-mail response can be found at Appendix 5.
- 4.3 Following the e-mail to the interested parties from the applicant, two of the parties responded. Their comments can be found at Appendix 6.
- 4.4 The representations contain some matters which are material considerations under planning but do not relate to the four Licensing Objectives. This would include any parts of the representations relating to the Highway, parking matters or amenity/need for a similar premises in the area. This application has been through the planning process, and these issues would have been considered at the time.
- 4.5 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.

4.6 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 repetitive. Chapter 9 of this guidance (paragraphs 9.4 to 9.10) provides more detail on the definition of relevant, frivolous and vexatious representations.

4.7 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.”

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 Environment, Climate & Ecology 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: Low

Residual Risk: Low

11 Equalities Impact Assessment

Not applicable

12 Appendices

Appendix 1 – premises licence application and plan

Appendix 2 – conditions requested by Dorset Police

Appendix 3 – comments from Environmental Protection

Appendix 4 – representations from interested parties

Appendix 5 – applicants’ response to interested parties representations

Appendix 6 – interested parties response to applicants e-mail

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](#)