

## Licensing Sub Committee

27 February 2024

### New premises licence application for By the Bridge, 4a The Green, West Bay

#### For Decision

**Portfolio Holder:** Cllr L Beddow, Culture and Communities

**Local Councillor(s):** Cllrs Bolwell, Clayton and Williams

**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 By the Bridge, 4a The Green, West Bay for the sale of alcohol, off the premises. The application has been out to public consultation and has attracted a relevant representation. 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 By the Bridge, 4a The Green, West Bay, and has been submitted to the Licensing Authority by Kelly Busby. The application and floor plan can be found at Appendix 1.

2.2 The description of the premises within the application form is:

"Wooden seaside kiosk. All customers served through hatch.  
Some outside picnic benches but all sales for off-site consumption."

2.3 The application is to permit:

Supply of alcohol (off the premises)  
Monday to Sunday                      1000-2300 hours

2.4 The operating schedule contains the steps which the applicant will take to promote the licensing objectives. These would need to be converted into enforceable conditions on a licence if it is granted and would include:

A CCTV system will be operational at the premises at all times when licensable activities are being carried out and at any other times when members of the public are present on the premises.

The CCTV system will cover all areas of the premises occupied by the public under the terms of the licence (licensed areas), including corridors and stairways (excluding WCs and changing rooms).

The CCTV system will cover the main entrance and exit and designated emergency egress routes from the premises.

The CCTV system will cover all external areas of the premises by the public, ie queuing areas, beer gardens, smoking areas and car parks.

The location of CCTV cameras are identified on the site plan of the premises. No amendments to the locations of the cameras will be made without prior consultation with Dorset Police and the Licensing Authority.

The CCTV system will be of a resolution quality which will enable the identification of person and activities, and other fine details such as, vehicle registration number plates in any light condition.

The CCTV system will contain the correct time and date stamp information.

The CCTV system will have sufficient storage and retention capacity for a minimum of 31 days continuous footage.

A designated member/members of staff at the premises will be authorised to access the CCTV footage and the conversant with operating the CCTV system. At the request of an authorised officer of the Licensing Authority or a Responsible Authority (under the Licensing Act 2003) any CCTV footage, as requested will be downloaded immediately or secured to prevent any overwriting. The CCTV footage material will be supplied, on request to an authorised officer of the Licensing Authority or a Responsible Authority with the absolute minimum of delay.

The CCTV system will be capable of securing relevant pictures for review or export at a later date.

The CCTV system will be adequately maintained and be capable of transporting recorded material onto a removable media.

The CCTV system replay must allow an authorised officer of the Licensing Authority or Responsible Authority to search the picture footage effectively and see all the information contained in the picture footage.

It must be possible to replay exported files immediately, eg, no re-indexing of files or verification codes.

A supervisor's register will be maintained at the licensed premises, showing the names, addresses and up-to-date contact details for the DPS and all personal licence holders.

The supervisors register will state the name of the person who is in overall charge of the premises at each time that licensed activities are carried out, and this information will be retained for a period of twelve months and produced for inspection on request to an authorised officer.

The premises licence holder/DPS will ask for a proof of age from any person appearing to be under the age of 25 who attempts to purchase alcohol at the premises.

The PLH/DPS staff will ask for photographic identification in the form of either passport, EU photographic driving licence or PASS accredited identification, from any person appearing to be under the age of 25 who attempts to purchase alcohol at the premises.

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 available for inspection at the premises by the police or an authorised officer of a Responsible Authority (Licensing Act 2003).

Members of the public will be prevented from accessing hot food and drink preparation areas to prevent risk of scald and burns.

A suitability trained first aiders or appointed person to deal with first aid issues will be provided at all times when the premises are open.

First aid equipment and materials adequate for the number of persons on the premises will be available on the premises at all times. All staff will be made aware of first aid location.

The PLH/DPS will ensure that litter arising from people using the premises is cleared away daily and that promotional materials such as flyers do not create litter.

The pavement from the building line to the kerb edge immediately outside the premises, including gutter/channel at its junction with the kerb edge, shall be swept and/or washed, and litter and sweepings collected in accordance with the business refuse storage arrangements.

No advertisements of any kind (including placard, poster, sticker, flyer, picture, letter sign or other mark) that advertises or promotes the establishment, its premises, or any of its events, facilities, goods or services shall be inscribed or affixed upon the surface of the highway, or upon any building, structure, works, street furniture, tree, or any other property, or to be distributed to the public.

- 2.5 The conditions at 2.4 have been taken from the risk assessment that the applicant supplied with the application. Some of the conditions that Ms Busby ticked on the risk assessment were not appropriate for this type of premises and have therefore, not been included. The conditions listed above have been checked with the applicant and she is in agreement with them.

### **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 other Responsible Authorities.

### **4 Representations from other persons**

- 4.1 There was one relevant representation received from a member of the public relating to the licensing objective of the Public Safety. The interested party raised concerns in relation to the busy location of the premises next to a bridge and the road. This e-mail can be found at Appendix 2.

- 4.2 An e-mail was sent by Licensing on behalf of the applicant to the interested party, however, the comments did not alleviate the persons concerns and they wished to continue with their representation. These e-mails can be found at Appendix 3.
- 4.3 The legislation provides clear focus on the promotion of the four statutory objectives which must be addressed when licensing functions are undertaken. The Licensing Act 2003 Section 182 Guidance (the Guidance) refers to the licensing objective of Public Safety at paragraphs 2.8 to 2.10 and 2.16 “Ensuring Safe Departure of those using the premises”:

2.8 “Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above. There will of course be occasions when a public safety condition could incidentally benefit a person’s health more generally, but it should not be the purpose of the condition as this would be outside the licensing authority’s powers (be ultra vires) under the 2003 Act. Conditions should not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.

2.9 A number of matters should be considered in relation to public safety. These may include:

- Fire safety;
- Ensuring appropriate access for emergency services such as ambulances;
- Good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts (see paragraph 2.4 above);
- Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;
- Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation);

- Ensuring appropriate and frequent waste disposal, particularly of glass bottles;
- Ensuring appropriate limits on the maximum capacity of the premises (see paragraphs 2.12-2.13, and Chapter 10; and
- Considering the use of CCTV in and around the premises (as noted in paragraph 2.3 above, this may also assist with promoting the crime and disorder objective).

2.10 The measures that are appropriate to promote public safety will vary between premises and the matters listed above may not apply in all cases. As set out in Chapter 8 (8.38- 8.46), applicants should consider when making their application which steps it is appropriate to take to promote the public safety objective and demonstrate how they achieve that

### **Ensuring safe departure of those using the premises**

2.16 Licence holders should make provision to ensure that premises users safely leave their premises. Measures that may assist include:

- Providing information on the premises of local taxi companies who can provide safe transportation home; and
- Ensuring adequate lighting outside the premises, particularly on paths leading to and from the premises and in car parks.

4.3 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.

4.4 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 – representation from interested party

Appendix 3 – response from applicant to interested party

**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](#)