

Licensing Sub Committee

27 March 2024

New premises licence application for Smoke on the Water, High Street, Swanage, Dorset

For Decision

Portfolio Holder: Cllr L Beddow, Culture and Communities

Local Councillor(s): Cllr Orrell

Executive Director: Jan Britton, Executive Lead of Place

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Report Status: Public

Brief Summary: An application has been made for a new premises licence for Smoke on the Water, High Street, Swanage for supply of alcohol, on and off the premises and for Late Night Refreshment, indoors and outdoors. 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 Smoke on the Water, High Street, Swanage, Dorset and has been submitted to the Licensing Authority by Smoke on the Water Ltd. The application and floor plan can be found at Appendix 1.

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

“Restaurant + Bar selling beer, wine, spirits, cider – on the premises and for takeaway. And playing amplified + unamplified Music on premises”.

- 2.3 The application is to permit:

Supply of alcohol (on and off)
Monday to Sunday 09:00-23:00 hours
New Years Eve 09:00-02:00 hours

Late Night Refreshment (indoors and outdoors)
New Years Eve 23:00 – 02:00

2 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.

3.3 No comments have been received from any of the Responsible Authorities.

4 Representations from other persons

4.1 There has been one relevant representation received from a member of the public. The objection relates to Prevention of Public Safety, and the Prevention of Public Nuisance. The objection relates to noise, anti-social behaviour, public health, violence and litter, this representation can be found at Appendix 2.

4.2 The applicant wrote a statement regarding concerns which can be found at appendix 3.

4.3 On the application the applicant applied for Live and Recorded Music, but this was explained to the applicant that this was not required as this fell within the remit of the Live Music Act 2012.

4.4 The Live Music Act 2012 deregulated live and recorded music from the Licensing Act 2003 if the entertainment takes place within a premises licence boundary that has the ability to sell alcohol on site, is between the hours of 08:00 and 23:00 and does not exceed an audience limit of 499.

4.4 The applicant requested to remove the Live and Recorded music element of the licence application including the request to remove the non-standard timings extension to 02:00 for recorded music. This request can be found at appendix 4.

4.5 The applicant also applied for Late Night Refreshment between the hours of 09:00 – 23:00 however only the Non-Standard timings request for New Years Eve would be required on the licence if it were to be granted.

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 to representation from applicant
Appendix 4 – Applicant request to remove Live and Recorded Music
- 13 Background Papers
[Licensing Act 2003](#)
[Home Office Guidance issued under Section 182 of the Licensing Act 2003](#)
[Live Music Act 2012](#)
[Dorset Council Statement of Licensing Policy 2021](#)