

Licensing Sub Committee

21 June 2024

New premises licence application for Ninas Bistro, 1 West Street, Wareham, Dorset

For Decision

Portfolio Holder:

Cllr G Taylor, Public Health, Environmental Health, Housing, Community Safety and Regulatory Service

Local Councillor(s): Cllrs Ezzard & Holloway

Executive Director:

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Report Status: Public [Choose an item.](#)

Brief Summary: An application has been made for a new premises licence at Nina's Bistro, 1 West Street, Wareham. The application has been advertised in accordance with regulations 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

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 Nina's Bistro, 1 West Street, Wareham, and has been submitted to the Licensing Authority by Geanina Sofian. The application and plan can be found at Appendix 1.
- 2.2 The description of the premises:

"Nina's Bistro is a small corner plot building at the crossroads in the centre of the small market town of Wareham. It is historic brick built building with the bistro on the ground floor and residential flats above. It comprises of a small seating area with seating for 14 patrons across 6 tables and stools under the communal breakfast bar. The seating area has 2 large bay windows that look out onto South Street and West Street. There is a single door for customers to enter which exits directly onto the pavement in West Street. In the dining area there is a small bar for customer to place their orders and holds the coffee machine, till and other equipment to make hot and soft drinks. This is not to be used for seating. Behind the counter is an opening into the kitchen which is obscured by a wooden trellis. Next to the bar is an opening into a small lobby which currently has the handwash and food prep sinks for the kitchen. There is a wooden door that opens inwards to give access to the yard and an alley behind the premises used for bins. This is not to be used for customers. There is a small corridor that runs off the lobby through a folding door. There is a low storage area to the right at the end a small toilet through a sliding door. I am not

applying for any off-supplies and all on site supplies will be in the dining area for customer to accompany their meal”.

2.3 The application is to permit:

Supply of alcohol (on the premises)
Monday to Sunday 1000-2200 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:

After 1700 hours, alcohol will only be supplied to patrons who are having table meal.

The premises will be monitored by CCTV 24 hours a day.

Fire extinguishers will be sited in the dining room and in the kitchen.

Challenge 25 age verification policy will be in place at the premises and the only acceptable forms of photographic identification will be a driving licence, passport or PASS age verification card.

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 have requested the following conditions be added to the licence if it were to be granted. Their e-mail can be found at Appendix 2:

- Challenge 25 shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence or passport, or holographically marked PASS scheme identification cards. Appropriate signage advising customers of the policy shall prominently displayed in the premises.
- A Closed-Circuit Television (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 contain the correct time and date stamp

information and will have sufficient storage retention capacity for a minimum of 28 days of continuous footage. Weekly checks will be made and documented to ensure the system is functioning as required and all details are correct, including the time and date shown. CCTV shall be downloaded on request of the Police or authorised officer of the council. A staff member who is conversant with the operation of the CCTV system will be on the premises at all times when the premises is open to the public. Appropriate signage advising customers of CCTV being in operation, shall be prominently displayed in the premises.

- All staff involved in the sale of alcohol shall receive training on the Licensing Objectives, the law relating to prohibited sales, the age verification policy adopted by the premises and the conditions attached to the Premises Licence. Refresher training shall be provided at least once every six months. A record shall be maintained of all staff training and that record shall be signed and dated by the person receiving the training and the trainer. The records shall be kept for a minimum of 12 months and made available for inspection by Police, Licensing or other authorised officers.
- A log shall be kept detailing all refused sales of alcohol. The log should include the date and time of the refused sale 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 the Council at all times whilst the premises is open.
- The DPS will ensure that an incident report register is maintained on the premises to record incidents such as anti-social behaviour. The incident report register will be kept on the premises and produced for inspection immediately on the request of an authorised officer or Police. The register will be checked and signed on a weekly basis by management.
- After 1700hrs, alcohol shall only be served to patrons who are sitting to eat.

3.3 The applicant has agreed to these conditions to be added to the licence if it were to be granted.

3.4 Dorset Council Licensing, Environmental Protection, Children's Services, Public Health, Dorset & Wiltshire Fire and Rescue Service, Trading Standards and Dorset Council Health and Safety and the Immigration Authority have not made any representations.

4 Representations from other persons

4.1 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.

4.2 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.”

4.3 There was one relevant representation received from a member of the public relating to the licensing objective of the Prevention of Public Nuisance. The interested party raised concern in relation to increase in noise from the premises.

4.4 An e-mail was sent by Licensing on behalf of the Applicant to the interested party, which explained the reason for the licence application and their intentions. This e-mail can be found at Appendix 3.

4.5 The interested party did not respond following the e-mail from the Applicant. The original representation can be found at Appendix 4.

5. Relevant Sections of the Licensing Act 2003

5.1 Section 4 sets out the general duties of the Licensing Authority;

(1) A licensing authority must carry out its functions under this Act (“licensing functions”) with a view to promoting the licensing objectives.

(2) The licensing objectives are:

- (a) the prevention of crime and disorder;
- (b) public safety;
- (c) the prevention of public nuisance; and
- (d) the protection of children from harm.

(3) In carrying out its licensing functions, a licensing authority must also have regard to:

- (a) its licensing statement published under section 5, and
- (b) any guidance issued by the Secretary of State under section 182.

6 Relevant Sections of the Statutory Guidance issued under Section 182

6.1 Paragraphs 1.2, 1.4 and 1.5 of the Revised Guidance issued under Section 182 of the Licensing Act 2003 issued in December 2023 (The Guidance) sets out the Licensing Objectives and aims;

The legislation provides a clear focus on the promotion of four statutory objectives which must be addressed when licensing functions are undertaken.

Each objective is of equal importance. There are no other statutory licensing objectives, so that the promotion of the four objectives is a paramount consideration at all times.

However, the legislation also supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work. They include:

- protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;

- giving the police and licensing authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing problems;
- recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises;
- providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area; and
- encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them.

6.2. Paragraph 1.16 of the Guidance sets out how conditions should be formulated;

Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. The use of wording such as “must”, “shall” and “will” is encouraged. Licence conditions:

- must be appropriate for the promotion of the licensing objectives;
- must be precise and enforceable;
- must be unambiguous and clear in what they intend to achieve;
- should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation;
- must be tailored to the individual type, location and characteristics of the premises and events concerned;
- should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;
- should not replicate offences set out in the 2003 Act or other legislation;
- should be proportionate, justifiable and be capable of being met;
- cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
- should be written in a prescriptive format.

6.3. Paragraph 1.19 states;

While licence conditions should not duplicate other statutory provisions, licensing authorities and licensees should be mindful of requirements and responsibilities placed on them by other legislation.

6.4 Paragraphs 9.42 – 9.44 of the Guidance set out how the Licensing Authority will determine an application;

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.

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.

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.”

7 Options

7.1 The Sub-Committee will determine the application in the light of all of the written representations and any oral evidence from the hearing. They will 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.

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

The Council is under a general duty to consider the impact any decision will have on the Natural Environment, Climate and local ecology.

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 and plan application

Appendix 2 – conditions requested by Dorset Police

Appendix 3 – e-mail from applicant to interested party

Appendix 4 – relevant representation received from 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](#)