

LICENSING SUB-COMMITTEE

26 July 2024

Licence Variation - Seal's Cove, Bridport

For Decision

Cabinet Member:

Cllr G Taylor, Health and Housing

Local Councillor(s):

Cllrs B Bolwell, D Bolwell and S Williams

Executive Director:

Jan Britton, Executive Lead for Place

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Report Status: Public

Brief Summary: An application has been made to vary the premises licence for Seal's Cove in Bridport. 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

Reason for Recommendation: The Sub-Committee must consider all the written representations, the oral representations, and any information given at the hearing before making 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 Cove Cafe Ltd have applied to vary their premises licence under section 34 of the Licensing Act 2023 for Seal's Cove at St Andrews House, Shoe Lane, Bridport, DT6 3EX. The application form is attached at Appendix 1.

2.2 The variation is made to increase the licensed area to cover the whole building (the current licensed area is included in the plan with the existing licence at Appendix 2) and the grassed area out the back of the building, and to add off sales to the licence.

2.3 The application is for; -

Live Music (Both indoors and outdoors)

Everyday 11:00 to 23:30
NYE and BH 11:00 to 00:30

Recorded Music (Both indoors and outdoors)

Everyday 11:00 to 23:30
NYE and BH 11:00 to 00:30

The Sale of Alcohol (on and off the premises)

Everyday 11:00 to 23:30
NYE and BH 11:00 to 00:30

2.4 The application includes statements in the operating schedule at section M that security guards will be deployed, and a decibel meter will be used to monitor sound levels.

2.5 The Environmental Protection Officer has made suggestions about suitable conditions to prevent public nuisance which does not include the use of a decibel meter, see paragraph 3.2.

- 2.6 Officers recommend that a suitable condition to be consistent with the statement relating to security would be: -

For any events in the outside area a risk assessment will be carried out, and documented regarding whether SIA security staff should be employed for the event. The risk assessment will be available to authorised officers on request.

- 2.7 The current licence, which is attached at Appendix 2 allows for; -

Live Music (indoors)

Everyday 11:00 to 23:30

NYE and BH 11:00 to 00:30

Recorded music (indoors)

Everyday 11:00 to 23:30

NYE and BH 11:00 to 00:30

Late Night Refreshment (Both indoors and outdoors)

Everyday 23:00 to Midnight

NYE and BH 23:00 to 01:00

The Sale of Alcohol (on the premises only)

Everyday 11:00 to 23:30

NYE and BH 11:00 to 00:30

3. Responsible Authorities Representations

- 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 Environmental Health requested that if the variation is granted, conditions be added to the licence. The applicant has agreed to the suggested conditions, with a subsequent clarification that they wanted to be able to play background music through speakers at events such as a Christmas Market.. The emails are attached at Appendix 3. The conditions and times that are agreed are; -

- The garden area to be emptied of patrons before 22.00hrs.
- When there is live or recorded music indoors all windows and doors will be kept closed except for ingress and egress.
- A clear and legible sign will be placed in a prominent position on all exits reminding patrons to consider neighbours and leave quietly.

With the amended times being; -

Live Music (indoors)

Monday to Sunday	11:00 to 23:30
NYE	11:00 to 00:30
BH	11:00 to 00:30

Live Music (outdoors)

Monday to Thursday	11:00 to 23:00
Friday to Sunday	11:00 to 23:30
NYE	11:00 to 00:30
BH when it falls on a Friday	11:00 to 00:30

Recorded Music (indoors)

Monday to Sunday	11:00 to 23:30
NYE	11:00 to 00:30
BH	11:00 to 00:30

Recorded Music (outdoors)

Monday to Thursday	11:00 to 23:00
Friday to Sunday	11:00 to 23:30
NYE	11:00 to 00:30
BH when it falls on a Friday	11:00 to 00:30

The Sale of Alcohol (on and off the premises)

Everyday	11:00 to 23:30
NYE	11:00 to 00:30
BH	11:00 to 00:30

3.3 Environmental Protection have also requested conditions that: -

- No live or recorded music shall be held in the garden area except acoustic (i.e. no amplification of any sort – no microphones, amplifiers, etc)
- There will be no external speakers.

3.4 The applicant has requested the ability to have speakers outside to play background music at events to provide an ambience, and stated they will monitor the levels with the aid of a decibel meter.

3.5 The imposition and effect of these conditions is complicated by the exemptions set out in Schedule 1 of the Licensing Act 2003, the Live Music Act 2012 and The Legislative Reform (Entertainment Licensing) Order 2014. The Guidance explains the effect of this at Chapter 16 which is attached, in full, at Appendix 7.

3.6 Schedule 1 of the Licensing Act sets out what constitutes Regulated Entertainment and exempts background music, any music that is incidental to an event that is not licensable and any music at fetes or fairs from requiring a licence.

3.7 The Live Music Act gives an exemption to any music between 8am and 11pm, on a premises licensed for alcohol, and where the audience is less than 500.

- 3.8 The Legislative Reform (Entertainment Licensing) Order 2014 inserted Section 177A (2) into the Act which means that any conditions on any licence do not have any effect, if they relate to Live or Recorded Music between 8am and 11pm.
- 3.9 Because of all the exemptions the conditions relating to either live or recorded music, whether that be inside or outside will only be enforceable after 11pm. This applies to the two disputed conditions and the doors and windows condition.
- 3.10 It would also mean that any condition relating to outside speakers would not impact on the events mentioned in the applicants email in Appendix 3.
- 3.11 Dorset and Wiltshire Fire Service and Dorset Council Children's Services responded that they had no concerns regarding the application.
- 3.12 No representations from any of the remaining Responsible Authorities have been received.

4. **Representations from Other Persons**

- 4.1 There has been one representation from the Town Council.

Seal's Cove on St Andrews Trading Estate. Object. The Council has particular concerns about the licensing of the outdoor area for entertainment and sale of alcohol, as this presents a heightened risk of noise (public nuisance to nearby residences and adjoining public open space), and crime and disorder. The Council is further concerned about the sale of alcohol in an establishment at which, as the applicant states, "...a major part of the business is children's soft play". A major concern in respect of alcohol consumption is that the establishment appears to have planning permission for a 'firing range'; even though it is unclear whether this facility is currently offered, it is very clearly the case that the use of firearms alongside alcohol consumption in a children's attraction is a wholly unsafe combination. The Council has no objection in principle to the licensing of these premises and is happy to engage with the applicant to seek further details, assurances, and amendments to the application that address the concerns raised.

- 4.2 Representations have also been received from two residents of Bridport objecting to the application and one in support of the application. The representations against the application cite the reasons of nuisance being caused by lights and sound in the external area as well as disturbance to wildlife. The full representations are attached at Appendices 4 and 5.
- 4.3 For the content of a representation to be taken into consideration it must be relevant to one of the four Licensing Objectives set out in paragraph 1.1 of this report.
- 4.4 Representations about noise, light pollution and public safety on the site all relate directly to one of the Licensing Objectives and are therefore relevant representations.

- 4.5 Representations about flora and fauna do not relate to one of the Licensing Objectives and whilst the Council is under a general duty to protect the environment, the Guidance is very clear that the four Licensing Objectives are the only considerations for the Sub-Committee, see paragraph 6.1 of this report.
- 4.5 The Applicant has put a response together which is attached at Appendix 6, and which has been circulated to all of the parties.

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.”

6 Options

6.1 The members of the Sub-Committee will determine the application in the light of all of the written representations and any oral evidence given at the hearing. They will take such steps as they consider 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

6.2 The steps that the Sub-Committee may take are to: -

- a) modify the conditions of the licence, or
- b) reject the whole or part of the variation.

7 Financial Implications

Any decision of the Sub Committee could lead to an appeal by any of the parties involved that could incur costs.

8 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.

9 Well-being and Health Implications

None

10 **Other Implications**

None

11 **Risk Assessment**

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

Current Risk: Low

Residual Risk: Low

12 **Equalities Impact Assessment**

Not applicable

13 **Appendices**

Appendix 1 - Application and Plan

Appendix 2 – Licence and Plan

Appendix 3 - Representation from Environmental Protection

Appendix 4 - Representations Against the Application

Appendix 5 - Representation for the Application

Appendix 6 - Response to the Representations from the Applicant

Appendix 7 – Ch 16 Revised Statutory Guidance

14 **Background Papers**

[Licensing Act 2003](#)

[Home Office Guidance issued under Section 182 of the Licensing Act 2003](#)

[Dorset Council Statement of Licensing Policy 2021](#)