

# Licensing Sub Committee

2 August 2024

## Premises licence variation application for Seaside Pizza and Kebab's, Weymouth

### For Decision

**Cabinet Member and Portfolio:**

Cllr G Taylor, Health and Housing

**Local Councillor(s):**

Cllr Bown and Cllr Bell

**Executive Director:**

Jan Britton, Executive Lead for Place

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**Report Status:** Public

**Brief Summary:** An application has been made for a variation of a premises licence at Seaside Pizza and Kebab's, 113a Dorchester Road, Weymouth, DT4 7JY. The application has been advertised in accordance with the regulations 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 the oral representations and information given at the hearing before reaching a decision.

## 1. Report

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 variation of a premises licence for Seaside Pizza and Kebab's, 113a Dorchester Road, Weymouth, and has been submitted to the Licensing Authority by Mahir Bayraktar. The application can be found at Appendix 1.

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

“For the supply alcohol for consumption off the premises”.

2.4 The licence currently has:

**Late night refreshment (indoors)**

Sunday to Thursday 23:00-00:00 hours  
Friday and Saturday 23:00-01:00 hours

2.5 The application is to vary the licence to have:

**Late night refreshment (indoors & outdoors)**

Monday to Sunday 12:00-05:00 hours

**Supply of alcohol (on & off the premises)**

Monday to Sunday 12:00-05:00 hours

2.6 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:

CCTV will be installed within the premises and be operational at all times the premises are open to the public. Images will be of an evidential quality and cover all internal areas of the premises, including all entrances/exits.

CCTV recordings will be retained for a minimum of 31 days and made available in a viewable format to any responsible authority upon request.

A member of staff who is trained in the operation of the CCTV system will be available at all times.

All members of staff engaged in the provision of licensable activities must receive training regarding:-

- The licensing objectives contained in the Licensing Act 2003
- Responsible retailing of alcohol, and the law
- Protection of children from harm and this must include how to competently check customers identification where necessary
- Authorised hours for licensable activities and the conditions attached to the premises licence

All training provided to relevant staff will be recorded and each member of staff will sign and date the training records. Records to be made available to any Responsible Authority upon request.

No member of staff will be permitted to supply alcohol prior to receiving the relevant training.

Incident and refusal logs will be maintained at the premises and data made available to any of the responsible authorities upon request.

The premises will operate a challenge 25 scheme. All acceptable identification will be photographic such as a photo driving licence, passport or PASS accredited proof of age card, etc.

All drinks will be stocked at the back of the counter and out of sight.

Delivery driver will have a body CCTV, The system will be capable of continuously recording during the delivery , and copies of such recordings shall be kept for a period of not less than 31 days and handed to the Police or authorised person upon production of a compliant 'Access Request'.

Clear and legible notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and to leave the vicinity as quickly and quietly as possible.

The store will have a till prompt system for alcohol products. When prompted, staff will adopt a Challenge 25 proof of age scheme.

Only recognised forms of photographic identification such as Passport, Photo Driving Licence, 'Proof of Age' card, Military ID or any other form of identification agreed with the police will be accepted as proof of age. If the appropriate proof of age is not produced there will be no sale.

Notices are to be prominently displayed advising customers of the Challenge 25 policy.

### **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 submitted a letter of representation against the application. The representation can be found at Appendix 2. The representation states that the Police are concerned around the opening and delivery hours proposed, the variety of alcohol they wish to sell and how they will sell the alcohol along with late night refreshment. The applicant did not respond to

the proposed conditions that the Police put forward to address the issues within the consultation period.

- 3.3 The Police have since contacted the applicant and requested several conditions and a possible amendment to the times. The applicant sent an email response to query the request for security and also stated that they accept the 'other' details sent via email. The Licensing Authority wrote to the applicant for further details of what had been agreed. Emails from the Police, the applicant and email from the Licensing Authority can be found at Appendix 3.
- 3.4 Dorset Council Planning also made a comment regarding planning conditions on the premises, but no objection was made to the application. The comments can be found at Appendix 4.
- 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 were 2 relevant representations received, one from a member of the public relating to the licensing objectives of the Prevention of Crime and Disorder, and the Prevention of Public Nuisance due to noise in the early hours of the morning and increased litter. Weymouth Town Council made a comment but were waiting for information regarding the operating schedule, this has now been sent to the Town Council. No further comments have been received from the Town Council at the time of writing the report. The representation from the member of the public and the comments from the Town Council can be found at Appendix 5A.

## **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. modify the conditions of the licence, or
- b. reject the whole or part of the variation.

## **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 – Variation Application

Appendix 2 – Representation from Police

Appendix 3 – Agreement of Conditions and clarification

Appendix 4 – Comment from Planning

Appendix 5 – Representations from interested parties

**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](#)