

LICENSING SUB-COMMITTEE

19 August 2024

Licence Review – Eats and Drinks, Weymouth

For Decision

Cabinet Member:

Cllr G Taylor, Health and Housing

Local Councillor(s):

Cllr J Orrell

Executive Director:

Jan Britton, Executive Lead for Place

Report Author: Aileen Powell

Job Title: Licensing Team Leader

Tel: 01258 484022

Email: aileen.powell@dorsetcouncil.gov.uk

Report Status: Public

Brief Summary: An application has been made by Dorset Police to review the premises licence at the Eats and Drinks store in Weymouth. A Licensing Sub Committee must consider the application and representations from all parties 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 [Revised Guidance issued under Section 182 of the Licensing Act 2003](#) and the [Dorset Council Statement of Licensing Policy](#).

2. Details of the Review Application

2.1 Dorset Police has applied to review the premises licence for Eats and Drinks, 24 – 25 King Street, Weymouth, DT4 7BH, under section 51 of the Licensing Act 2023. The application form and a supporting statement from a CSAS (Community Safety Accreditation Scheme) Officer are attached at Appendix 1.

2.2 The review is made under the licensing objective of the prevention of crime and disorder on the grounds that; -

there is evidence that this premises is associated with handling stolen goods.

Additionally, Dorset Police, alongside our partners in Dorset Council, have concerns that this premises is failing to promote the licensing objectives by offering alcohol for sale to those that are most vulnerable in our communities, namely street homeless individuals.

Dorset Police no longer have confidence in the DPS or Premises Licence Holder to uphold the licensing objectives at this premises.

3. The Licence

3.1 The Licence is currently held by Naguleswaran Jayauthan.

3.2 Mr. Jayauthan has held the Licence since 2005, when the Licensing Act 2003 came into effect.

3.3 The licence allows for off sales of alcohol from 7am to 11pm every day. There are no conditions on the licence apart from the mandatory conditions. The Licence is attached at Appendix 2 together with the set of mandatory conditions that apply to this licence whether they appear on the licence or not.

3.4 The agent for the applicant has written to the police regarding the content of the review. The correspondence is attached at Appendix 3 together with a letter that is referenced.

4. Responsible Authorities Representations

- 4.1 Section 13 of the Licensing Act contains the list of Responsible Authorities who must be consulted on every application. 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.
- 4.2 No representations from any of the remaining Responsible Authorities have been received.

5. Representations from Other Persons

- 5.1 The Town Council responded to the application supporting the review
- 5.2 There have been 13 representations in support of the premises licence holder. These representations are from current customers of the premises, and all speak very favourably of Mr. Jayauthan and his staff. The representations are attached 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 Officers have identified the following paragraphs of the Revised Guidance issued under Section 182 of the Licensing Act 2003 issued in December 2023 (The Guidance) to be of particular relevance; -
- 11.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.

11.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.

11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.

11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.

11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.

11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.

11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.

11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated, it

should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objective

11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises, money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.

6 Relevant Sections of Dorset Council's Statement of Licensing Policy

6.1 Officers have identified the following paragraphs of the Dorset Council Statement of Licensing Policy 2021-2026 (The Policy) to be of particular relevance; -

13.9 The council will seek to establish the cause or causes of the concern and remedial action will be targeted at such causes. Any action will be proportionate to the problems involved.

13.15 Where any agency provides evidence of the keeping of smuggled goods, such as counterfeit alcohol or tobacco, or the employment of persons who do not possess the right to work in the UK, the relevant agency may request a review of the premises licence.

7 Options

- 7.1 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) Take no action.
 - b) Modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times.
 - c) Exclude a licensable activity from the scope of the licence,
 - d) Remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management.
 - e) Suspend the licence for a period not exceeding three months.
 - f) Revoke the licence.

8 Financial Implications

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

9 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.

10 Well-being and Health Implications

None

11 Other Implications

None

12 Risk Assessment

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

Current Risk: High

Residual Risk: High

13 Equalities Impact Assessment

Not applicable

14 Appendices

Appendix 1 - Application

Appendix 2 - Licence and Plan

Appendix 3 - Correspondence

Appendix 4 - Representations Supporting the Premises

15 Background Papers

[Licensing Act 2003](#)

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

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