

Licensing and Gambling Acts Sub Committee

11 September 2026

Application for a variation of a premises licence for Bonita, 10 Custom House Quay, Weymouth, DT4 8BG

For Decision

Cabinet Member and Portfolio:

Cllr M Bell, Public Health, Prevention and Communities

Local Councillor(s):

Cllr J Orrell

Executive Director:

S Crowe, Executive Director of Housing, Communities and Prevention

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Report Status: Public

Brief Summary: An application has been made to vary the premises licence for Bonita, 10 Custom House Quay, Weymouth, Dorset, DT4 8BG. The application has been out to public consultation. Representations have been received. A Licensing Sub-Committee must therefore 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:

- 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 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 to vary the premises licence for Bonita, 10 Custom House, Weymouth, DT4 8BG and has been submitted to the Licensing Authority by the applicant Mrs Alison Record. The application form is attached at Appendix 1.

2.2 The description of the proposed variation given by the applicant is:

Removal of current annex 2 conditions.

Add off sales to the licence

Add one hour to the sale of alcohol in the morning, Monday to Saturday and three additional hours on Sunday mornings.

Add outdoors to the late-night refreshments

Add an updated plan

Removal of the non-seasonal Christmas Day and Good Friday times

Add New Years timings

2.3 The application is to vary the current licensable activities and times:

Recorded music (indoors and outdoors)

Monday to Sunday

2300-2330 hours

Late night refreshment (indoors and outdoors)

Monday to Sunday	2300-midnight
New Years Eve	2300-0100 hours

Alcohol sales (consumption on and off the premises)

Monday to Sunday	0900-midnight
New Years Eve	0900-0100 hours

The late-night refreshment and recorded music elements of the variation were withdrawn after the representation from Environmental Protection. See Paragraph 4.2.

- 2.4 The Live Music Act 2012 allows any premises with a licence for the consumption of alcohol on the premises to have live amplified and recorded music between 08:00 and 23:00 without a licence. This only applies when the audience is under 500 people and takes place when the premises are open and being used for the sale of alcohol for consumption on the premises. The Legislative Reform (Entertainment Licensing) Order 2014 amended the Licensing Act and states that any conditions on a premises relating to any of this entertainment would not have any effect between 8am and 11pm or when the premises are open and selling alcohol for consumption on the premises.
- 2.5 There has been a licence in place at the premises since November 2005 which was held by three previous owners.
- 2.6 The premises licence currently allows for the following:

Late night refreshment (indoors)

Monday to Saturday	2300-midnight
Sunday	2300-2330 hours
Christmas Day	2300-2330 hours
Good Friday	2300-2330 hours

Alcohol sales (consumption on the premises)

Monday to Saturday	1000-midnight
Sunday	1200-2330 hours
Christmas Day	1200-2330 hours
Good Friday	1200-2330 hours

3 Opening hours

- 3.1 The premises licence for Bonita was converted from a Restaurant Licence that had originally been granted under the Licensing Act 1964. Schedule 8

of the Licensing Act 2003 prescribed the process for converting existing licences to the new licensing regime. During that process, only the Police were entitled to object to the conversion, and then only where they considered that a material change in circumstances had occurred which would undermine the crime prevention objective. In the absence of a Police objection, the licensing authority was required to grant the converted licence subject to the same terms and conditions as those attached to the Justices' Licence it replaced.

3.2 Under the Licensing Act 1964, opening hours were not individually specified on licences. Instead, all licensed premises were subject to statutory "permitted hours". Section 59 of the 1964 Act defined these as the hours during which the sale and consumption of intoxicating liquor could lawfully take place. The permitted hours were prescribed by the legislation itself and applied automatically to qualifying premises.

3.3 For premises operating under a Restaurant Licence, the permitted hours were:

Weekdays (other than Christmas Day, Good Friday and New Year's Eve): 10:00am to midnight.

Sundays (other than Christmas Day and New Year's Eve) and **Good Friday**: 12:00 noon to 11:30pm.

Christmas Day: 12:00 noon to 11:30pm.

New Year's Eve (where it did not fall on a Sunday): 10:00am to midnight.

New Year's Eve (where it fell on a Sunday):
12:00 noon to 11:30pm.

The New Year extension:

From the end of permitted hours on New Year's Eve until the commencement of permitted hours on the following day (or, where there were no permitted hours on the following day, until midnight on 31 December).

- 3.4 In addition, the legislation provided a number of ancillary permissions. The restrictions on permitted hours did not prevent;
- consumption of alcohol on the premises during the first 20 minutes after the end of permitted hours;
 - the removal of alcohol from the premises during the first 20 minutes after the end of permitted hours, provided it was not supplied or removed in an open container; and
 - consumption of alcohol for up to 30 minutes after the end of permitted hours by persons taking meals on the premises, where the alcohol had been supplied as ancillary to those meals.
- 3.5 These statutory permitted hours formed part of the rights attached to the former Restaurant Licence and were carried forward into the converted premises licence.
- 3.6 A review of the records relating to the 2005 conversion of the Harbourside Bistro licence (as the premises was then known) confirms that no objection was lodged by the Police. The statutory conversion application forms did not require applicants to specify opening hours, unlike variation applications under the Licensing Act 2003, because the permitted hours were already prescribed by the Licensing Act 1964.
- 3.7 Accordingly, the restrictions embedded within the converted licence conditions are inconsistent with, and directly contradict, the opening hours currently shown on the face of the premises licence. This discrepancy appears to arise from the way in which the licence was subsequently recorded rather than from any variation or amendment made during the conversion process.
- 3.8 A copy of the current licence is attached at Appendix 2.

4 Responsible Authorities

- 4.1 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 and Rescue Service, Dorset Council Public Health, Trading Standards, Children's Services, Planning, Licensing, Environmental Protection, Dorset Council Food Safety and Port Health and the Immigration Authority have all been consulted.
- 4.2 Environmental Protection have made a representation asking for the following conditions to be added to the licence if it were to be granted,

which the applicant has agreed to. The applicant also amended their application to remove the provision of late-night refreshment and recorded music. The email with Environmental Protection conditions and the Applicants response can be found at Appendix 3:

No amplified music or speech to be played externally
No speakers to be placed such that they face the external area
Any external lighting to be positioned such that the face of the light is parallel with the ground.

- 4.3 Child Safeguarding responded that there is a reference to remove restricted access for children and alcohol with a meal. They wanted to know what the current restrictions in respect of children within the premises are and if access is unrestricted, how will the applicant promote the Protection of Children from Harm, if for example, they are with an intoxicated parent or accessing the premises late at night. Their response can be found at Appendix 4.
- 4.4 Following receipt of these comments, the Applicant submitted their Child Protection and Safeguarding Policy which Licensing forwarded to the Child Safeguarding Team for review. The Team confirmed that they were satisfied with the policy. A copy is provided at Appendix 5.
- 4.5 Dorset Council's Planning Service did not make a representation to the variation; however, they noted the changes to floor layout and asked the applicant to contact the Planning Department as it might be that listed building consent is required as the building appears to be Grade II listed. Their response can be found at Appendix 6.
- 4.6 Dorset and Wiltshire Fire Rescue Service (DWFRS) responded that they had recently conducted a Fire Safety Audit of the premises and had advised the responsible person of the following:

Additional safety measures will need to be implemented to mitigate the excessive travel distance from the toilet area to the front door as the alternative exit through the adjoining premises (Kingfisher Marine) is not considered acceptable.

The door between the kitchen and adjoining premises may not be capable of preventing the spread of fire or smoke for the required duration to allow sufficient time for people to escape safely in case of fire.

The premises has faux foliage on ceilings and walls. It should be confirmed that all ceiling linings when tested to specified British Standards is of a class B-s3-d2 standard.

The letter from DWFRS can be found at Appendix 6.

5 Representations from other persons

5.1 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.

5.2 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.”

5.3 There were 11 relevant representations received from members of the public. The representations were made on the licensing objective of Prevention of Public Nuisance. Concerns were raised around noise and

disruption from the premises. These representations can be found at Appendix 7.

- 5.4 Two letters were received from Weymouth Town Council and Cllr Kate Weller the neighbouring Ward Member. Weymouth Town Council had no objection to the application; however, they requested that outside music stops at 10pm, with music only continuing indoors. They also stated that the volume should be set low outside all daytime and should be soft background music for the venue only. This means it should not be audible from the street or by neighbouring café table. Since this comment was made, and the suggested conditions from Environmental Health, the applicant has withdrawn recorded music from their application.
- 5.5 The comments from the neighbouring Ward Member Cllr Kate Weller, were in overall support of the application but with reservations on the midnight closing and a suggested closing time of 2300 hours at the latest at the weekend and preferable 2230 hours during the week. The 20 minutes drinking up time should be retained. She also commented that music be allowed but should cease at 2100 hours externally. Cllr Weller was content with alcohol being served without food, she preferred it to be restricted to snacks and meals. Cllr Weller did state that she was opposed to off sales being permitted as this would likely encourage sitting around the harbour drinking well into the night, thus disturbing residents.
- 5.6 The comments from Weymouth Town Council and Cllr Weller can be found at Appendix 8.
- 5.7 Some of the representations contain some matters which are material considerations under planning but do not relate to the four Licensing Objectives. This would include any parts of the representations relating to the listed building and planning consent, which will be considered and taken into account during the planning application.
- 5.8 Concerns relating to noise from the extractor system and odour emissions are matters that fall within the remit of Environmental Protection. In response to these issues, Environmental Protection has served four notices on the management of Bonita.

However, the fact that Environmental Protection has enforcement powers in relation to existing statutory nuisance issues does not prevent the Licensing Sub-Committee from considering measures to address noise and odour through the premises licence. The Sub-Committee may impose appropriate licence conditions where these are considered necessary and proportionate.

6 Relevant Sections of the Licensing Act 2003

6.1 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.

7 Relevant Sections of the Statutory Guidance issued under Section 182

7.1 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.

7.2. 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.

7.3. 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.

7.4 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."

8 Considerations

- 8.1 The premises fall within the cumulative impact zone. The part of the policy relating to the cumulative impact policy is available under Background papers. Paragraphs 7.17 and 7.22 puts the onus on the applicant to demonstrate how the new premises will not add to the anti-social behaviour or crime and disorder, and the types of premises that are likely to be considered as such: "Applications for premises situated within a designated cumulative impact area for new premises licences or variations that are likely to add to the existing cumulative impact will normally be refused if relevant representations are received. It is for the applicant to demonstrate that their application would not add to the cumulative impact of such licensed premises in the area and so give good reason for the council to depart from its own policy. When considering an application where the subject premises is in a cumulative impact area, the council will need to be satisfied that the grant of the licence or variation will not impact on the cumulative impact of existing licensed premises in the area and as the burden of proof is on the applicant, they will often suggest measures which they assert will demonstrate there will be no impact. Examples of factors the licensing authority may consider as demonstrating there will be no impact may include, though are not limited to:

- Small premises who intend to operate up to midnight.
- Premises which are not alcohol led and only operate during the daytime economy.
- Instances where the applicant is relocating their business to a new premises but retaining the same style of business.
- Conditions which ensure that the premises will operate in a particular manner such as a minimum number of covers or waiter/waitress service to secure a food led operation.
- Premises which will bring a variety of cultural activities to the area and expand the range of activities on offer for customers."

9 Options

- 9.1 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 modify the conditions of the licence
- b. to reject the whole or part of the application

10 Financial Implications

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

11 Environmental Implications

None.

12 Well-being and Health Implications

None.

13 Other Implications

None.

14 Risk Assessment

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

Current Risk: Low

Residual Risk: Low

15 Equalities Impact Assessment

Not applicable

16 Appendices

Appendix 1 – Application form

Appendix 2 – Current licence

Appendix 3 – Conditions requested by Environmental Protection

Appendix 4 – Comments made by Child Safeguarding

Appendix 5 – Applicants response to Child Safeguarding and copy of their Child Safeguarding policy

Appendix 6 – Comments made by Planning

Appendix 7 - Representations received from interested parties against the application

Appendix 8 - Comments received from Weymouth Town Council and Cllr Kate Weller

17 Background Papers

[Licensing Act 2003](#)

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

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