

Licensing Sub-Committee



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| Report subject | Application to vary premises licence PL0269 – Licensing Act 2003. Baggies Coffee House, 43 High Street, Christchurch. |
| Meeting date | 6 th August 2019 |
| Status | Exempt Report |
| Executive summary | <p>An application to vary the premises licence at Baggies Coffee House, 43 High Street, Christchurch has been received under section 34 of the Licensing Act 2003. An objection to that variation application has been received from Dorset Police concerned with the licensing objectives of the prevention of crime and disorder and public safety.</p> <p>Where representations are received the Licensing Authority is obliged to hold a hearing to consider those representations and determine what action to take in respect of the application.</p> |
| Recommendations | It is RECOMMENDED that: Members consider the evidence placed before them and reach a decision. |
| Reason for recommendations | The Council is required by the Licensing Act 2003 to hold a hearing when there are representations in respect of a variation application and determine whether to grant the licence. |

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| Portfolio Holder(s): | Councillor Lewis Allison, Portfolio Holder for Tourism, Leisure and Communities |
| Corporate Director | Kate Ryan, Corporate Director Environment & Community |
| Contributors | Sean Whitney, Public Health and Protection Manager ☎ 01202 795387 ✉ sean.whitney@bcpcouncil.gov.uk |
| Wards | Christchurch Town |
| Classification | For Decision |

Background

1. Baggies Coffee Shop, 43 High Street, Christchurch, was granted a premises licence PL0269 on the 5th August 2015, (see appendix 1) for the sale by retail of alcohol for consumption on and off the premises between 0800 and 2300 hours, Monday to Sunday.
2. An application dated 4th June 20129 has been received in accordance with section 34 of the Licensing Act 2003, to vary this licence (see appendix 2) to extend the terminal hour for the sale of alcohol to 0200hours Monday to Sunday and to permit late night refreshment until 0200 hours. The premises would remain open to members of the public until 0230 hours. These timings have been confirmed with the applicant.
3. As required the variation application was advertised by displaying the required notice at the premises and advertising the application in a local newspaper and copies were sent to all responsible authorities.

Representations received

4. On the 5th July 2019 an objection to the variation application was received from Dorset police. The applicant was informed of the objection and advised to contact Dorset police to try to achieve a resolution to their objections (see appendix 3).
5. Following this e-mail the applicant and Dorset police have met and discussed the application. The e-mails at appendix 4 show that whilst a compromise position was agreed, which meant the police would withdraw their objection, the subsequent stance by the applicant to further vary this agreement meant that Dorset police were no longer satisfied that licensing objectives would be upheld and therefore are maintaining their objection to the variation application.

Statutory Obligations

6. BCP Council is designated as the Licensing Authority by the Licensing Act 2003 for the various licensing functions prescribed within the Act.

7. Whilst carrying out its statutory duties, the Licensing Authority must promote the four licensing objectives :-
 - (a) The Prevention of Crime and Disorder;
 - (b) Public Safety;
 - (c) The Prevention of Public Nuisance; and
 - (d) The Protection of Children from Harm.
8. Where relevant representations are made the Licensing Authority must hold a hearing to consider them and having had regard to those representations take such steps as specified in the Licensing Act 2003 that it considers appropriate for the promotion of the licensing objectives.
9. The steps that may be taken are set out in section 35(4) of the Licensing Act 2003;
 - a. *to modify the conditions of the licence*
 - b. *to reject the whole or part of the application*

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.
10. It is essential that the Sub-Committee takes into account the Council's Statement of Licensing Policy whilst considering the application and the applicant, responsible authorities, or 'other persons' should bring to members attention any relevant paragraphs in that policy that they feel to be of particular relevance to this application.
11. The Statement of Licensing Policy makes it clear that the Licensing Authority's role is to hold a balance between the needs of the licensing, entertainment and food industry and the needs of residents and others including businesses, workers, shoppers and visitors.
12. The council's policy does not make any predetermined presumptions about licensed premises and their associated applications based on the area in which they are located. The Licensing Authority shall consider each application on its own merits and will base its consideration on the applicant controlling entertainment and customer behaviour whilst in their direct control and not what may occur when customers are beyond that control.
13. If the Sub-Committee does choose to depart from its own policy it must have heard compelling and exceptional reasons during the hearing and must disclose the reasons as part of the decision.
14. It is also a statutory obligation of the Sub-Committee to take into account the statutory guidance issued under section 182 of the Licensing Act 2003 before reaching a decision and the applicant, responsible authorities, or 'other persons' should bring to members attention any relevant paragraphs of the statutory guidance that they feel to be of particular relevance to this application.

Options for Decision

15. The Licensing Sub-Committee must make a decision taking into account all relevant matters before them, but not any that are irrelevant. Hearsay evidence is admissible but it will be for the Sub-Committee to attach whatever weight it thinks fit to such evidence.
16. Whilst there is no fetter on the Sub-Committee's discretion, it must be done according to the rules of reason and justice, not according to private opinion. The main rules of natural justice are to give the other side a fair opportunity of commenting on any evidence before the Sub-Committee and of contradicting it. It is not necessary to allow cross examination but instead a tribunal of this kind is master of its procedure providing that the rules of natural justice are applied.
17. If Members consider that granting the variation as applied for would not jeopardise any of the Licensing Objectives, it should be granted in full with conditions consistent with the revised operating schedule as proposed in the variation application.
18. Alternatively the Sub Committee may grant the application but impose extra conditions as it thinks fit or make amendments to the operating schedule conditions and/or proposed hours etc.
19. If however the sub-committee concludes that no number of conditions would ensure that all of the Licensing Objectives would be upheld, the whole application should be rejected.
20. Full reasons for the decision reached must be given based on the evidence presented to the sub-committee and only as relevant to the Licensing Objectives.

Summary of financial implications

21. There are no financial implications associated with this report.

Summary of legal implications

22. If Members decide to refuse the application or vary the conditions to the licence which the applicant does not agree to, the applicant may appeal to the Magistrates' Court within a period of 21 days beginning with the day that the applicant is notified, in writing, of the decision.

Summary of human resources implications

23. There are no human resource implications associated with this report

Summary of environmental impact

24. The licensing objective of the Prevention of Public Nuisance can impact upon the environment

Summary of public health implications

25. There are no public health implications associated with this report

Summary of equality implications

26. All applicants and objectors will be treated fairly without discrimination, based on the law and natural justice

Summary of risk assessment

27. N/A

Background papers

Published works

Appendices

Appendix 1 – Premises Licence PL0269

Appendix 2 – Variation application

Appendix 3 – Objection from Dorset police

Appendix 4 – Mediation between applicant and Dorset police