

LICENSING SUB-COMMITTEE



Report subject	Application for a Premises Licence - Licensing Act 2003 – Tom’s Bar, 1 Church Street, Christchurch.
Meeting date	12 June 2019
Report author	Sean Whitney
Wards	Christchurch Town
Status	Public Report
Classification	For Decision
Executive summary	The Licensing Act 2003 requires the council as the Licensing Authority to issue premises licences. Where there are representations to an application for a premises licence the council must hold a hearing to consider those representations and decide whether to grant a premises licence under the Licensing Act 2003
Recommendations	It is RECOMMENDED that: Members consider of all 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 premises licence application and determine whether to grant the licence.

Background

1. An application shown at Appendix 1 has been received for a Premises Licence for the sale of alcohol, the playing of recorded music and late night refreshment at 1 Church Street, Christchurch.
2. The premises previously operated as a clothes shop and was granted planning permission with conditions on the 22nd March 2019 for a change of use to Class A4. Operations associated with this use were also permitted at 1A Castle Street. The applicant intends to operate the premises “as a high-end speakeasy wine and cocktail bar with tapas-style artisanal food supplied by local suppliers and provision of food and drink, including coffees and teas, from breakfast through to evening”.

3. The Premises Licence application is for;
- the supply of alcohol both on and off the premises between 0900 and 2300hrs Sunday to Wednesday, 0900 to 2400hrs on Thursdays and 0900 to 0100hrs Fridays and Saturdays
 - recorded music that is either unamplified or only played through the in-house background music system between 0900 and 2300hrs Sunday to Wednesday, 0900 to 2400hrs on Thursdays and 0900 to 0100hrs Fridays and Saturdays
 - late night refreshment indoors between 2300 and 2400 on Thursdays and 2300 to 0100 Fridays and Saturdays
 - opening hours of the premises are 0900 to 2300hrs Sunday to Wednesday, 0900 to 2400hrs on Thursdays and 0900 to 0100hrs Fridays and Saturdays

Licensing Objectives

4. BCP Council is designated as the Licensing Authority by the Licensing Act 2003 for the various licensing functions prescribed within the Act.
5. 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.
6. Any conditions to be attached to a licence must be appropriate to achieve those objectives. Any objections must also be based on the objectives.
7. The Licensing Act 2003 dictates that there must be a 'presumption of issue' unless the evidence presented at the hearing satisfies the Sub-Committee that one or more of the licensing objectives cannot be met. However, if problems subsequently occurred, any person may demand that the licence be reviewed by way of a review application, resulting in another hearing.

Statement of Licensing Policy

8. It is essential that the Sub-Committee takes into account the Council's Statement of Licensing Policy whilst considering the application. This is a statutory obligation.
9. 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.

10. 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.
11. 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.
12. 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.

Section 182 of Licensing Act 2003 Guidance

13. It is also a statutory obligation of the Sub-Committee to take into account the statutory guidance to the Licensing Act 2003 before reaching a decision.
14. The applicant, responsible authorities, or 'other persons' should bring to members attention any relevant paragraphs that they feel to be of particular relevance to this application.

Application and Representations Received

15. Copies of the application were sent to all responsible authorities and the statutory notice was displayed on site and published in a local newspaper in compliance with the statutory requirements.
16. Dorset Police and the Applicant have agreed a set of conditions shown at appendix 2. These agreed conditions now form part of the operating schedule.
17. Ten representations from other persons were also received objecting to the application. These representations are shown at Appendix 3.

Statutory Obligations

18. The Licensing Act 2003 in Section 18(3) and (4) lays down what appropriate steps the Licensing Sub Committee may, having considered all relevant factors as detailed above, take as part of its decision.
19. The steps that may be taken are;
 - (a) To grant the licence subject to –
 - (i) The conditions mentioned in subsection 2(a) (*operating schedule*) modified to such extent as the authority considers appropriate for the promotion of the licensing objections, and
 - (ii) Any condition which under section 19, 20, and 21 must be included in the licence; (*Mandatory Conditions*)

- (b) To exclude from the scope of the licence any of the licensable activities to which the application relates;
- (c) To refuse to specify a person in the licence as the premises supervisor;
- (d) To reject the application.

Options for Decision

20. 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.
21. 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.
22. If Members consider that granting the licence would not jeopardise any of the Licensing Objectives, it should be granted in full as submitted. This would include conditions being attached based on the operating schedule as contained within Section M of the application shown at Appendix '1'.
23. Alternatively the Sub Committee may grant the licence but impose extra conditions as it thinks fit or make amendments to the operating schedule conditions and/or proposed hours etc.
24. There appears to be no supporting evidence to refuse to specify the nominated person as the Designated Premises Supervisor.
25. If members consider that no number of conditions would ensure that all of the Licensing Objectives would be upheld, then the application should be rejected.
26. Full reasons for the decision must be given based on the evidence presented to the sub-committee as relevant only to the Licensing Objectives.

Summary of financial implications

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

Summary of legal implications

28. If Members decide to refuse the application or attach 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 environmental impact

29. Noise, litter and light pollution are all examples of considerations that may be taken into account as part of the Prevention of Public Nuisance Licensing Objective.

Summary of equality implications

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

Background papers

Published works

Appendices

Appendix 1; Premises Licence Application

Appendix 2; Agreed conditions with Dorset Police

Appendix 3: Representations from other persons