

LICENSING SUB-COMMITTEE



Report subject	Application to Vary Premises Licence at DYMK, 31 Poole Hill, Bournemouth, BH2 5PW
Meeting date	24 November 2022
Status	Public Report
Executive summary	<p>TLT solicitors have made application to vary the premises licence at DYMK, 31 Poole Hill, on behalf of Greene King Retailing Limited.</p> <p>The current licence permits the showing of films, live music, recorded music, anything of a similar description and the supply of alcohol (on and off sales) Sunday to Thursday 12:00 until 01:00 and Friday and Saturday 12:00 until 03:00 and late night refreshment Sunday to Thursday 23:00 until 01:00 and Friday and Saturday 23:00 until 04:00. Premises opening hours are currently 11:00 to 01.30 Sunday to Thursday, and 11:00 to 04:00, Friday and Saturday.</p> <p>The licence holder is seeking to extend the hours for supply of alcohol, films, live music, recorded music, anything of a similar description and late night refreshment on Wednesdays and Thursdays until 03:00. In addition, the licence holder is seeking to extend the premises opening hours until 04:00 on Wednesday and Thursday and on all non-standard timings. All other days and times are to remain unaltered.</p> <p>In addition to the extension of hours, the applicant has applied to vary the layout and design of the premises in accordance with plan submitted with the application and to update the current licence conditions by way of additional conditions and the removal of others</p>
Recommendations	<p>It is RECOMMENDED that:</p> <p>Members are asked to decide whether to: -</p> <p>a) Grant the application for variation as made;</p> <p>b) Refuse the application, or part of, for variation to the premises licence;</p> <p>c) Grant the application, or part of, subject to additional conditions.</p> <p>Members of the Licensing Sub-Committee are asked to make a decision at the end of the hearing after all relevant parties</p>

	have been given the opportunity to speak. Members must give full reasons for their decision.
Reason for recommendations	<p>The Licensing Authority has received 6 representations from other persons in objection to the application on the grounds that to grant the application, would undermine the prevention of public nuisance licensing objective.</p> <p>Representation in objection to the application has also been received from BCP Council's Environmental Health on the grounds of Public Nuisance.</p> <p>The Licensing Authority may only consider aspects relevant to the application that have been raised in the representation. Where representations have been received from a responsible authority or any other person, and the concerns have not been resolved through mediation between all parties, the Scheme of Delegation, set out in the Council's Constitution states that the application should be dealt with by the Licensing Sub-Committee.</p>

Portfolio Holder(s):	Councillor Bobbie Dove – Community Safety and Regulatory Services
Corporate Director	Jess Gibbons – Chief of Operations
Report Authors	Tania Jardim – Licensing Officer
Wards	Westbourne & West Cliff
Classification	For Decision

Background

1. DYMK currently holds a premises licence which allows the following activities and timings: -

Films (Indoors)

Monday - 11.00 to 01.00

Tuesday - 11.00 to 01.00

Wednesday - 11.00 to 01.00

Thursday - 11.00 to 01.00

Friday - 11.00 to 02.00

Saturday - 11.00 to 02.00

Sunday - 11.00 to 01.00

Live Music (Indoors)

Monday - 12.00 to 01.00

Tuesday - 12.00 to 01.00

Wednesday - 12.00 to 01.00

Thursday - 12.00 to 01.00

Friday - 12.00 to 03.00

Saturday - 12.00 to 03.00

Sunday - 12.00 to 01.00

Recorded Music (Indoors)

Monday - 12.00 to 01.00

Tuesday - 12.00 to 01.00

Wednesday - 12.00 to 01.00

Thursday - 12.00 to 01.00

Friday - 12.00 to 03.00

Saturday - 12.00 to 03.00

Sunday - 12.00 to 01.00

Activity like Music / Dance (indoors)

Monday - 12.00 to 01.00

Tuesday - 12.00 to 01.00

Wednesday - 12.00 to 01.00

Thursday - 12.00 to 01.00

Friday - 12.00 to 03.00

Saturday - 12.00 to 03.00

Sunday - 12.00 to 01.00

Late Night Refreshment (Indoors)

Monday - 23.00 to 01.00

Tuesday - 23.00 to 01.00

Wednesday - 23.00 to 01.00

Thursday - 23.00 to 01.00

Friday - 23.00 to 04.00

Saturday - 23.00 to 04.00

Sunday - 23.00 to 01.00

Supply of Alcohol (On & Off)

Monday - 11.00 to 01.00

Tuesday - 11.00 to 01.00

Wednesday - 11.00 to 01.00

Thursday - 11.00 to 01.00

Friday - 11.00 to 03.00

Saturday - 11.00 to 03.00

Sunday - 11.00 to 01.00

Non-standard timings for licensable activities

Christmas Eve, Christmas Day, Boxing Day, New Year's Eve and Day, all Bank Holidays plus the day preceding a Bank Holiday and Fridays and Saturdays preceding a Bank Holiday Good Friday, Easter Saturday, Easter Sunday and Easter Monday 11:00 to 03:00.

On the morning of BST begins where the terminal hour is later than 01.00 the terminal hour shall be extended by one hour.

A copy of the current licence and plan is attached at Appendix 1.

2. The variation application is to extend the hours for supply of alcohol, films, live music, recorded music, anything of a similar description and late night refreshments until 03:00 on Wednesdays and Thursdays only and the premises opening hours and non-standard timings until 04:00 on Wednesday and Thursday only.

3. In addition, the applicant has applied to vary the layout and design of the premises in accordance with plan submitted with the application and to update the licence conditions. A copy of the application is attached at Appendix 2.

Consultation

4. The application was served on all responsible authorities and the applicant confirmed that the statutory notices were displayed on site and published in the local newspaper. The licensing office received reports that the notice was not displayed at the premises, however, when contacting the applicant's solicitor, they advised that it had been temporarily removed from the original pillar whilst the building was being painted, but confirmed it was put back up onto the window next to the pillar. It was explained that it was placed on the outside of the window as these are obscured. The solicitor explained the notice had only been removed for a few hours and provided photos showing that the notice was placed on the window to the left of the entrance.
5. The application prompted representations from Environmental Health and 6 from other persons.
6. BCP Council's Environmental Health has submitted a representation on the grounds that to grant the variation would undermine the Prevention of Public Nuisance licensing objective. A copy of all the representations in objection to the application are attached at Appendix 3.
7. Mediation took place between Dorset Police and the applicants, and the following conditions were agreed: -
 - At least 2 door supervisors shall be employed at the premises from 22:00 hours until close on any night the premises operates beyond 01:00 hours.
 - Bottle bins shall be provided at the exit doors. No open vessels to be removed from the premises.

These conditions are an amendment to the following conditions proposed by the applicant on their application form.

- At least 2 SIA licensed door supervisor shall be on duty at the entrance of the premises every Friday, Saturday and every Sunday of a bank holiday weekend, from 21:00 until the premises has closed and the last customer has left the building
- Bottle bins shall be provided at the exit doors and staff shall show due diligence in preventing bottles and glasses being taken from the premises.

Dorset Police therefore have no representation provided these conditions are attached should the application be granted.

8. These conditions were forwarded to the other persons who made representation for their information.
9. Following receipt of the conditions agreed with Dorset Police, one of the residents, who made a representation, provided a photo showing the proximity of the premises to their own residence. This is shown as Appendix 4.

Options Appraisal

10. Before making a decision, Members are asked to consider the following matters: -

- The representations made by the Environmental Health officer and 6 other persons.
- The relevant licensing objectives, namely the prevention of public nuisance.
- The Licensing Act 2003, appropriate Regulations, Statutory Revised Guidance issued under Section 182 of the Licensing Act 2003 (April 2018) and the Council's Statement of Licensing Policy.

Summary of financial implications

11. N/A.

Summary of legal implications

12. 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 human resources implications

13. N/A.

Summary of sustainability impact

14. N/A.

Summary of public health implications

15. N/A.

Summary of equality implications

16. N/A.

Summary of risk assessment

17. N/A.

Background papers

BCP Council – Statement of Licensing Policy

<https://democracy.bcpCouncil.gov.uk/documents/s21122/Statement%20of%20Licensing%20Policy.pdf>

Hearing Regulations

<https://www.legislation.gov.uk/uksi/2005/44/made>

Revised Guidance issued under Section 182 of the Licensing Act 2003 (April 2018)

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705588/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_April_2018_.pdf

Appendices

- 1 – Copy of current premises licence and approved plan
- 2 – Copy of application and proposed new plan
- 3 – Representations in objection to the application
- 4 – Copy email from resident with photo showing proximity