



LICENSING AND GAMBLING SUB COMMITTEE

MINUTES OF THE DIGITAL MEETING HELD VIA MICROSOFT TEAMS ON
THURSDAY 8TH JULY 2021 AT 10.00 A.M.

PRESENT

Councillor W. Williams – Vice-Chair (Presiding)

Councillors:

P.J. Bevan, Mrs D. Price

Together with:

L. Morgan (Licensing Manager), K. Hopkins (Senior Licensing Officer), T. Helps (Licensing Officer), T. Rawson (Solicitor), R. Barrett (Committee Services Officer)

Representing the Applicant

Mrs N. Richardson Anderson (Holistic Services)

Representing Responsible Authorities

A. Baker (Trading Standards), C. Davis (Environmental Health), PC A. Jones (Gwent Police), A. Dicks (Licensing Authority as a Responsible Authority)

Representing Other Persons (Local Residents)

Mr Jones, Mr and Mrs Wicks, Mr Day

INTRODUCTION AND RECORDING ARRANGEMENTS

Due to joining difficulties by the applicant, the meeting start was delayed to 10.05 a.m.

The Chair welcomed all those in attendance and introductions were made. The Chair reminded those present that the meeting was being recorded and would be made available following the meeting via the Council's website – [Click Here to View](#)

1 TO RECEIVE APOLOGIES FOR ABSENCE

An apology for absence was received from D. Lewis (Children's Services).

2 DECLARATIONS OF INTEREST

There were no declarations of interest made at the beginning or during the course of the meeting.

3 DETERMINATION OF PREMISES LICENCE APPLICATION - HUNTERSMOON, HOLISTIC SERVICES, R/O DYNEVOR TERRACE, NELSON, CF46 6PD

The Legal Advisor to the Sub Committee outlined the procedure for the meeting, including the order of representations and the opportunities for all parties to ask questions.

Mr Lee Morgan (Licensing Manager) presented his report and outlined the application for a new premises licence at Huntersmoon, Holistic Services, rear of Dynevor Terrace, Nelson. Members were advised that the application sought to permit the supply of alcohol (on and off sales) from the premises between Monday to Sunday, 08:00 to 23:00. Members were referred to the photographs of the premises as contained in the agenda pack.

During the 28-day consultation period, representations were received from Trading Standards, Children's Services, Environmental Health, Gwent Police, and the Licensing Authority in their role as Responsible Authority, Environmental Health (Pollution Team), and the Child Protection Officer, who all advocated conditions as summarised in Section 1.6 of the report but had made no objections to the application. These conditions had been accepted by the applicant. Representations were also received from seven local residents in objection to the application with full details appended to the Officer's report, and the applicant had responded to a number of the resident representations as set out at Appendix 11.

Attention was drawn to the local policy considerations as set out in the report and to the way in which the Sub-Committee would deal with the application. The Sub Committee were referred to the recommendation set out in the Licensing Manager's report, which considered the position of the Responsible Authorities and all comments received by residents and recommended that the application for a Premises Licence be granted, subject to the conditions as set out in Appendix 12 of the report in order to control any potential conflicts with the promotion of the Licensing Objectives.

All parties present were afforded the opportunity to ask questions of the Licensing Manager. A Member queried the provision of music within the licence and Mr Morgan confirmed that for any licensed premises, there is an automatic entitlement to live and recorded music from 08:00 to 23:00 as this is deregulated under the Licensing Act 2003, although this facility would be for the applicant to consider going forward. Therefore entertainment between the above times would not be a licensable activity, but could be controlled through the statutory provisions under the Environmental Protection Act and so there would be protection afforded to local residents in the event of noise nuisance from a premises.

Queries were received on the licensable area and the access point to the building. Mr Morgan confirmed that the footprint of the premises (including the outside buildings) were included in the application, and that access to the premises is off Dynevor Terrace with a lane leading to the premises which is believed to be the sole access. A Member also enquired about pedestrian access and Mr Morgan confirmed this would be a question for the applicant when making her representation.

Representations were then invited from the applicant, Holistic Services.

Mrs Nicola Anderson (applicant) outlined the nature of her business and the reasons for the application. She explained that she had applied for the license to hold activities and social groups for the community and sell fine wines and ales. Moving forward, she was looking to develop the business into a wellness centre offering retreats at the weekend and conference centre facilities. Some of these events might wish to have alcohol supplied and so the main reason for the application was to comply with licensing law.

All parties present were afforded the opportunity to ask questions. Mr Todd Rawson (Legal Advisor to the Sub Committee) asked the applicant where the outdoor areas would be on the area plans included in the agenda pack at page 9 and 11. Mrs Anderson referred to photographs within the pack and explained that there is ongoing work on this area so would

not be visible on these pictures, but there would be a segregated area clearly outlining where alcohol could be consumed and purchased, and also outlined the location of the tea/coffee area within the building. She explained that outside the front of the unit there is a picnic area that will be self-contained so that alcohol cannot be taken outside this area.

The Legal Advisor sought further clarification on whether the external area to be licensed was included in the plans at Page 9 and 11 of the agenda pack. Mrs Anderson explained that an updated plan to include this area had been submitted to Licensing but was not in the pack. Mrs Anderson had also verbally clarified the position of the external area during a site visit. The Legal Advisor confirmed this point would be addressed later once other questions had been asked.

A Member asked why the premises was seeking supply of alcohol hours so early in the day from 08:00. Mr Anderson explained that this is to cover special occasions such as Father's Day where gift packages are sold that include alcohol, and so had applied for 08:00 to comply with licensing requirements around the sale of alcohol.

A Member referred to the aerial location plan at Page 13 and sought clarification on the structures displayed and access routes to the building. Mrs Anderson confirmed the location of the exits and explained that the aerial photograph showed caravans on site which had since been cleared for the purpose of constructing additional parking facilities. She also confirmed that all parking areas had been clearly marked out to comply with Highways requirements.

Mr Day (Local Resident) referred to the automatic provision for music if the licence were granted, and in referring to speakers mounted on the outside of the building, asked Mrs Anderson if it was her intention to play music outside. Mrs Anderson explained that these were installed during lockdown restrictions and play ambient music, although they had not been used for a number of weeks. However she was unable to confirm if the sound system would be used in the future, as her plans might change if the premises starts hosting events such as psychic fairs and yurt hospitality. Mr Day expressed concern that entertainment was not included in the application and Mrs Anderson explained that in her understanding, entertainment is not something she would need to apply for.

Mr Jones (Local Resident) expressed concerns over matters that had arisen during the meeting, namely in relation to the licensable activity that would be taking place at the premises, and he was not confident that the external areas had been fully clarified. He was also concerned around the intended use of the premises and planning approval, given that it had initially been for a hairdresser and holistic services operating within normal office hours, and he had concerns around the substantial way that the premises was developing externally. He asked the applicant if the buildings had been granted permitted change of use and Mrs Anderson confirmed that she had all the relevant planning permission for her business.

A Member asked if Licensing had a copy of the updated premises plan. Mr Morgan confirmed that an amended plan had been received during the application process and provided clarification on the areas under consideration. Mr Rawson then shared his screen so that this information was viewable by all parties. Mr Morgan confirmed with Mrs Anderson that the updated plan showed the café and licensable area, which was highlighted in blue, and he described this area to all parties present.

Mr Morgan also emphasised that Planning is a separate consideration to Licensing and the application relates purely to licensable provisions. Although it may be the case that a premises obtains a licence but may not have planning consent, the purpose of the meeting was to take into account Licensing Act 2003 provisions and not Planning matters.

Representations were then invited from Responsible Authorities.

Mr Alex Baker (Trading Standards Officer) referred to the representation submitted by his

colleague (Mr Tim Keohane) and confirmed that conditions had been advocated to prevent the sale of alcohol to children, to which the applicant had agreed.

No questions were received for Trading Standards and representations were then invited from Environmental Health.

Mrs Ceri Davies (Environmental Health Officer) confirmed that her representation related to the Prevention of Public Nuisance licensing objective and had advocated two conditions, namely to prevent alcohol consumption in outside areas after 22:00 and that disposal/ collection of refuse, bottles and recycling only takes place between 09:00 and 22:00, in order to prevent nuisance occurring. Mrs Davis felt that the conditions were warranted in view of the surrounding residential area, and that although there is an automatic entitlement regarding music, in Environmental Health's view, there is unlikely to be outdoor music after 22:00 if customers cannot sit outside.

All parties present were afforded the opportunity to ask questions. Mr Day asked if customers were allowed to stand out front and sought clarification on which building that would be, as there appeared to be two different areas under the application. Mr Morgan confirmed that Environmental Health had proposed no consumption of beverages in any outdoor area after 22:00. He advised that this condition had also been proposed by Gwent Police and that this would be elaborated upon when their representation was made to the Sub Committee.

Mrs Wicks asked if the building was soundproof as it was made of tin and Mrs Davis confirmed that she did not hold any information in this regard. Mrs Wicks also asked where the smoking areas were located. Mrs Anderson confirmed that the buildings have not been professionally soundproofed to her knowledge, and that following a local fire risk assessment, a designated smoking area has been assigned within the contained areas opposite the white building. Mrs Wicks asked to see this on the plan and the Legal Advisor shared his screen so that all those in attendance could view the updated plan. Mrs Anderson confirmed that the smoking area was in between the two storage sheds and that this was the only designated area.

The Legal Advisor also reminded all parties present that this section of the proceedings was for questions to be asked of Environmental Health, not the applicant, and that the opportunity to put questions to the applicant, who was best-placed to answer site specific questions, had already taken place earlier in the hearing.

No further questions were received for Environmental Health and representations were then invited from Gwent Police.

PC Adrian Jones (Gwent Police) outlined his representations as set out in the pack. He confirmed that Gwent Police had no objections to the granting of the licence and was satisfied with the conditions that had been agreed by the applicant.

All parties present were afforded the opportunity to ask questions, and in referring to residents' concerns around anti-social behaviour, the Legal Advisor asked if this was a particular problem in the Nelson area and if such data had been checked when Gwent Police were compiling their representations. PC Jones provided an explanation of how calls to the police are categorised and confirmed that the data for the last 3 months had shown 10 police calls for the Dynevor Terrace area, two of which were ASB-related. Mrs Wicks also questioned PC Jones in relation to a matter which led to Mr Morgan seeking advice from the Legal Advisor in view of the proceedings being held in public.

Mr Rawson urged caution around what was being disclosed and for clarity confirmed that the overall point being made by Mrs Wicks was that she found the behaviour of the applicant to be unacceptable. He confirmed that the Sub Committee would need to take on board the pillars of the four licensing objectives in making their decision and that this information would be noted.

Mrs Anderson expressed concerns that this information could have a negative bearing on her application. Following further discussion between all parties and questions over the relevance of this new information, the Legal Advisor emphasised the point that this was new information not included in the agenda pack or disclosed to interested parties before the meeting and that everyone should be expressly aware that not all parties might have consented to the disclosure of such information.

Representations were then invited from the Licensing Authority as a Responsible Authority. Mrs Annette Dicks (Assistant Licensing Manager) referred to her representation and confirmed she had undertaken a site visit with Gwent Police, and that the Licensing Authority supported the conditions submitted by the Responsible Authorities to promote the four licensing objectives. During the site visit, Mrs Dicks had noted the layout of the small reception/bar area and observed that if the applicant wished to make further changes if the licence were granted, she would need to apply for a premises variation.

No questions were received for the Licensing Authority and representations were then invited from Local Residents (Other Persons).

Mr Jones (Local Resident) explained that the development was amongst a residential area and that the premises licence would take away residents' rights to enjoy their gardens and depreciate the amenity of the area. Although Mr Jones had no issue with the activities of the business to date, he expressed concern that the grant of a premises licence could lead to public nuisance, noise and disturbance. He also felt that the access route is not sufficient as it is vehicular only with no designated pedestrian footpath. He explained that it was primarily the licensing aspect that is causing the concern.

There were no questions for Mr Jones and representations were then invited from Mrs Wicks (Local Resident).

Mrs Wicks referred to a shared drive between her property and Holistic Services and explained there was no public path leading up to the building. She feared that her property would devalue from being next to a licensed premises. Mrs Wicks also explained that her child has severe developmental issues and his wellbeing and behaviour would be severely impacted by any licence, as he is affected by change and loud noises. Mrs Wicks referred to the limited access to the premises which would make it difficult for the fire brigade to access in an emergency. Mrs Wicks also felt that the wellbeing nature of the business conflicted with the supply of alcohol, and the business was already causing misery to local residents.

All parties present were afforded the opportunity to ask questions. Mrs Anderson responded to several of the points raised and asked Mrs Wicks if she was aware that Mrs Anderson owns the land and that the driveway is for shared access only. Mrs Wicks indicated that she was aware of this but stated that the access purpose has changed, given that it was privately owned and is now being used for commercial purposes. Further discussion took place between Mrs Anderson and Mrs Wicks regarding a vehicular access dispute and the proceedings were moved on to the next speaker.

Mr Day (Local Resident) was invited to make his representation and outlined his concerns to the Sub Committee. He explained that his house was located in a quiet cul-de-sac and that he had concerns over the licence with regards to music outside and increased noise nuisance. He referred to the lack of a footpath and had concerns about the increased number of people who would be walking past his property and the potential for disturbances. He was concerned at the lack of representation from the Fire Authority given the restricted access. Mr Day also had concerns regarding the number of proposed conditions given the nature of the application and felt that a premises licence was contradictory to the wellness aspect of the business.

All parties present were afforded the opportunity to ask questions. Mrs Dicks (Assistant

Licensing Manager) referred to an earlier question around the lack of pedestrian access and asked Mr Day if the site was accessible on foot and if there was a car park out the back of the premises. Mr Day confirmed that there is a car park to the rear of the premises and outlined the driveway and lane leading onto Dynevor Terrace. Mr Day was unable to confirm if there were designated footpaths going in and out of the property but once leaving the driveway gates, there is a path.

Mr Morgan addressed the point raised by Mr Day regarding the lack of representations from the Fire Authority. He explained that during the consultation process, the Fire Authority had responded to offer no representation comments in relation to the application.

Mrs Wicks referred to an earlier point she had raised about tyres being left in the middle of the access road and asked Mr Morgan if they were there when the Fire Authority assessed the site. Mr Morgan explained that he was not in attendance that day and that Mrs Wicks would need to raise her concerns regarding this matter to the relevant authority, such as Highways or the Fire Service.

All parties were then afforded the opportunity to sum up before the Licensing and Gambling Sub Committee retired to make its decision.

Mr Lee Morgan (Licensing Manager) referred Members to his report and to the evidence heard at the meeting. He referred to the report recommendation and reminded Members that the outcome was for the Sub Committee to determine.

Mr Alex Baker (Trading Standards) confirmed that he had nothing to add and his position remained the same as per the representations in the agenda pack.

Mrs Ceri Davis (Environmental Health) confirmed she had nothing to add to the original recommendations and asked the Sub Committee to take into consideration the two proposed conditions in her representation.

PC Adrian Jones (Gwent Police) confirmed that Gwent Police were satisfied with the application as per the agreed conditions in the agenda pack.

Mrs Annette Dicks (Licensing Authority) confirmed she had nothing further to add but reiterated that if there were any subsequent changes to the use of the premises, the licence holder would need to submit an application to vary the licence.

Mr Jones reiterated his concerns around the 08:00 to 23:00 hours applied for 7 days a week, feeling that this would cause public nuisance, and that given the premises was meant to be a wellbeing centre, the change did not sit well with the residential area.

Mrs Wicks referred to the shared drive and explained that as she lives next door to the premises. She asked the Sub Committee to take into account the impact that the licence would have on her family's lives.

Mr Day reiterated his earlier points and concerns, including how any conditions imposed would be enforced, and maintained that he did not agree with the business being a wellness centre.

Mrs Anderson thanked all parties for their time and maintained that her business and associated activities would be good for the community.

The Legal Advisor informed all parties present that the Sub Committee would retire to consider the representations made at the meeting and they would be informed in writing of the decision in the next 5 days.

The Sub Committee retired at 11.36 a.m. to make its decision and all other parties left the meeting.

Following consideration of the application for a new premises licence at Huntersmoon, Holistic Services, rear of Dynevor Terrace, Nelson, CF46 6PD, and having regard to the Licensing Manager's report and all the representations made, the Licensing and Gambling Sub Committee unanimously

RESOLVED that the application for a new premises licence be GRANTED, subject to:

- (1) the supply of alcohol (on and off sales) being limited between Monday and Sunday to between the hours of 09:00 to 22:00;
- (2) the imposition of all of the conditions contained in Appendix 12 of the Licensing Manager's report, save that condition (a) number 2 shall read "There shall be no consumption of beverages in any outside areas after 21:00 hours. Notices shall be displayed to inform patrons of this requirement." For ease of reference, the conditions are attached to these minutes.

In making their decision, the Sub Committee considered all four Licensing Objectives, the Licensing Act 2003, revised Home Office Guidance and Caerphilly Council's Licensing Policy.

The Sub Committee gave significant weight to the Applicant's representations that she does not intend to run the premises akin to a public house, but the licensed activities were intended to be ancillary to various aspects of her business model. The Sub Committee took account of the proximity of the premises to neighbouring residents and formed the view that the promotion of the licencing objectives in this instance would be best served by reducing the licensable hours to 09:00 to 22:00. In short, the Sub Committee formed the view based on the evidence that there was no significant need to have what would otherwise be traditional public house hours for licensable activities that were ancillary to the main aspects of the Applicant's business.

The Sub Committee took into account the resident representations. It did not afford any significant weight to the concerns regarding the pedestrian access to the premises. This was not a matter that clearly touched on the four licensing objectives and as such, did not factor significantly in the decision. The Sub Committee took into account the largely anticipatory concerns regarding both noise nuisance and anti-social behaviour (including litter). The Sub Committee gave significant weight to the representations of the Gwent Police and also factored in that licensed premises would have a limited degree of control over patrons' behaviour after exiting the premises, which would diminish as the distance increased. The Sub Committee were satisfied that the conditions to be imposed on the licence adequately managed this anticipatory issue and were confident should any issues arise the review mechanism under the Licensing Act 2003 could adequately determine those issues.

The anticipatory issue of noise was taken into account by the Sub Committee, which also took into account the needs of the disabled resident nearby. This was a factor in it deciding to reduce the hours of the licensable activity. The Sub Committee formed the view that issue surrounding live music and the incidental playing of recorded music was not significant. These are not licensable activities and in this instance the residents' concerns did not persuade the Sub Committee to refuse the application. It appeared to the Sub Committee that the neighbours fears in regards to noise nuisance from live music and or the incidental playing of recorded music would equally apply should the premises be licensed or not, given the deregulation of this area of activity. The Sub Committee took into account normal enforcement routes for tackling noise nuisance would be available for local residents.

The Sub Committee did not take into account irrelevant matters, such as the purported devaluation of the property values, the access easement issues and aspects that touched on planning issues. It was apparent that such issues did not touch on the four licensing objectives.

The decision notice advised that any person aggrieved by the decision had the right to appeal to the local Magistrates Court within 21 days from the date of written notification of the decision.

The meeting closed at 12.30 p.m.

Conditions applicable to the grant of the licence as per Appendix 12 of the Licensing Manager's report and incorporating the amendment in respect of condition (a) number 2 (in bold) :-

1. There shall be no consumption of alcohol beverages purchased from the premises in open containers outside the front of the main building of the premises.
2. **There shall be no consumption of beverages in any outside areas after 21:00 hours. Notices shall be displayed to inform patrons of this requirement.” For ease of reference, the conditions are attached to these minutes.**
3. The premises shall be cleared of customers within 30 minutes of the last supply of alcohol.
4. The licensee shall ensure that any glass bottles or glasses are removed from persons leaving the premises.
5. Rowdy and/or disorderly customers will be asked to leave the premises.
6. The premises supervisor, manager or other competent person shall manage any the outdoor areas to ensure that customers do not loiter, cause congestion or behave in a noisy, rowdy or offensive manner.
7. Clear notices must be displayed at prominent points in all outside areas informing them as to the need to respect the local residents and the noise levels and when customers leave the premises.
8. The premises license holder shall require the designated premises supervisor, or in his/her absence other responsible person, to keep an Incident/refusals logbook in a bound book which full details of all incidents are recorded. This shall include details of any refused sales and shall give details of persons involved, incident description, time and date, actions taken and final outcome of the situation. This shall be completed as soon as possible and in any case no later than the close of business on the day of the incident. The time and date when the report was completed, by whom, is to form part of the entry. The log book is to be kept on the premises at all times and shall be produced to an authorised officer of the Licensing Authority or a constable when required. The records shall be kept for a 12 month period.
9. CCTV shall be in use at the premises and covers the outside areas of the premises
 - (i) Where a CCTV system is to be installed, extended or replaced, it shall be to an appropriate standard as agreed with the Licensing Authority in consultation with the Police. Where a CCTV system is to be installed, it shall be fully operational by such date that the business is trading and the premises license is in place. Where existing CCTV systems are to be replaced or extended the replacement or extension to the system shall be concluded by the business trading date and its premises license is in place and the system be fully operational on that date;
 - (ii) The CCTV equipment shall be maintained in good working order and continually record when licensable activity takes place and for a period of two hours afterwards;
 - (iii) The premises licence holder shall ensure images from the CCTV are retained for a period of 31 days. This image retention period may be reviewed as appropriate by the Licensing Authority;

- (iv) The correct time and date will be generated onto both the recording and the real time image screen;
 - (v) If the CCTV equipment (including any mobile units in use at the premises) breaks down the Premises Licence Holder shall ensure the designated premises supervisor, or in his/her absence other responsible person, verbally informs the Licensing Authority and the Police as soon as is reasonably practicable. This information shall be contemporaneously recorded in the incident report register and shall include the time, date and means this was done and to whom the information was reported. Equipment failures shall be repaired or replaced as soon as is reasonably practicable and without undue delay. The Licensing Authority and the Police shall be informed when faults are rectified;
 - (vi) The premise licence holder shall ensure that there are trained members of staff available during licensable hours to be able to reproduce and download CCTV images into a removable format at the request of any authorised officer of the Licensing Authority or a constable;
 - (vii) There shall be clear signage indicating that CCTV equipment is in use and recording at the premises
10. The licence holder/DPS or responsible person shall risk assess the need for polycarbonate or toughened glasses to be used in the premises, especially for outdoor events/use.
11. The premises license holder shall ensure participation in any Pub watch scheme or similar scheme operating in the area of the licensed premises.
12. All staff to be trained in the prevention of underage sales to a level commensurate with their duties. All such training to be updated on an annual basis, or for instances when legislation changes, and should include training on how to deal with difficult customers. The training should be clearly documented and signed and dated by both the trainer and the member of staff receiving it. The documentation shall be available for inspection on request by an authorised officer of the Licensing Authority or a constable.
- (a) An approved proof of age scheme shall be adopted, implemented and advertised within the premise such as 'Challenge 25' whereby an accepted form of photographic identification shall be requested before any alcohol is sold to any person who appears to be under 25 years of age. Acceptable proof of age shall include identification bearing the customers photograph, date of birth and integral holographic mark or security measure. Suitable means of identification would include PASS approved proof of age card, photo-card driving licence and passport.
 - (b) Publicity materials notifying customers of the operation of the Challenge 25 scheme shall be displayed at the premises, including a Challenge 25 sign of at least A5 size at the entrance to the premises and where practicable at each point of sale.
 - (c) All staff with a responsibility for supplying or selling alcohol shall be vigilant in preventing adults buying alcohol on behalf of persons who are under 18 and will refuse such sales where they suspect that this may be about to occur.
13. Activities relating to the onsite disposal (including placing into external receptacles) and collection of refuse, bottles and recyclable materials shall only take place between 0900 and 2200.