



LICENSING AND GAMBLING SUB COMMITTEE

MINUTES OF THE DIGITAL MEETING HELD VIA MICROSOFT TEAMS ON THURSDAY 11TH
NOVEMBER 2021 AT 10.00 A.M.

PRESENT

Councillor W. Williams – Vice-Chair Presiding

Councillors:

D. Cushing, J.E. Roberts

Together with:

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

Representing the Applicant

Mr G. White (Brew Monster Brewing Company Limited)

Representing Other Persons

Dr P. Brown, Mrs C. Newbury and Mrs K. Jordan (Local Residents)

INTRODUCTION AND RECORDING ARRANGEMENTS

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](#)

It was noted that proceedings would pause at 11.00 a.m. for the national two-minute silence to mark Armistice Day.

1 APOLOGIES FOR ABSENCE

There were no apologies for absence received.

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 - BREW MONSTER BREWING COMPANY LTD, UNIT 1, LON Y TWYN, CAERPHILLY, CF83 1NW

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 the report and outlined the application submitted to vary the premises licence at Brew Monster Brewing Company Ltd, Unit 1, Lony Twyn, Caerphilly, which sought to extend the hours for the following Licensable Activities:-

Supply of Alcohol (on and off sales)

Saturday 09:00 to 12:00

Sunday 09:00 to 23:00

Mr Morgan outlined the permissions and conditions for the existing licence as set out in Sections 1.3.1 and 1.3.2 of the report and asked Members to note an error in the listing for the existing Supply of Alcohol (on and off sales) on Saturdays, explaining that this should state 12:00 to 23:00 and not 16:00 to 23:00.

Members were advised that the original premises licence was granted in September 2020 and that the variation was seeking to increase trade by three hours on Saturday mornings (9:00 to 12:00) and open all day on Sundays (09:00 to 23:00).

During the consultation process, responses were received from Fire Safety, the Local Health Board, Heddle Gwent Police, and the Environmental Health Pollution Team, who all stated they had no representations or objections to make in respect of the variation application submitted. Representations were also received from 8 residents who objected to the granting of the variation, and full details were summarised in the report and attached as appendices. It was noted that the applicant has acknowledged receipt of the resident representations and has indicated that he would respond to these at the hearing.

The Sub Committee were asked to note that three residents who had submitted representations but were not in attendance had asked Dr Brown to represent them at the hearing.

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. Reference was made to the Officer observations set out in Section 1.9 of the report which sought to address many of the concerns raised by local residents. The Sub Committee were referred to the recommendation set out in the Licensing Manager's report, which recommended that having had regard to comments received from residents but noting the absence of comments from Responsible Authorities, the variation to permit the additional retail sale of alcohol hours sought (namely Saturday 09.00 to 12.00 and Sunday 09.00 to 23.00) be approved.

All parties present were afforded the opportunity to ask questions of the Licensing Manager. A Member made reference to several representations in the report which stated the premises had not yet opened, and was advised that the applicant would be able to confirm the position when he made his representation.

Representations were then invited from the applicant, Mr Glenn White.

Mr White explained that the original intention had been for the premises to open earlier in 2021, but that these plans had been put on hold as a result of the second lockdown arising from the Covid-19 pandemic and the subsequent impact on businesses in general. Therefore the premises had not started trading yet, but installation work on the bar was proceeding and it was intended to open at the end of January 2022. Mr White explained that he had applied for the extra opening hours on the weekend in order to align these with the other drinking establishments in the area. He explained that the premises was already restricted in relation to its competitors as it could only open from 16:00 on weekdays, and that the variation would create additional trade which would enable the premises to increase their staffing levels.

Mr White explained that many of the concerns raised by residents did not relate to the running

of the premises itself, although he appreciated these concerns and had worked hard to address many of the issues raised. He explained that complaints had been received around problem parking by contractors who were undertaking building work at the premises. Mr White had spoken to the workers to address this issue and remind them to park appropriately. He also emphasised that this was a short-term issue and that builders would be leaving in the next month once these works had been completed.

Mr White then addressed each of the residents' representations in turn and responded to the main areas of concern. These included concerns around noise and disturbance as a result of building works at the premises, concerns around an increase in traffic and parking issues, general concern around the impact of the additional hours applied for, and reference made to the location of waste bins and an overturned bin at the premises. Concerns had been raised around the potential for noise from outside drinking, the existing anti-social behaviour caused by customers from neighbouring licensed establishments, noise emanating from air conditioning units and chiller units, and concerns around odours coming from the premises. One resident had also stated that the premises had previously indicated that they would not open on Sundays.

Mr White explained that he had already addressed the issues around inappropriate parking by contractors. The premises had invested in insulation and soundproofing measures and there were existing conditions in place around the control of unpleasant odours. Mr White felt that the additional hours applied for would not have an impact on the surrounding area. In regards to the waste bins, Mr White explained that this involved a specific incident where someone had overturned a brewery bin during the night, and it was flagged to staff the next morning. The bins have now been relocated to the rear of the premises to prevent further reoccurrences, although Mr White emphasised that this was unrelated to the application itself.

In regards to the concerns around the potential for increased traffic and noise, Mr White was of the view there would not be a significant increase in traffic, as most customers were likely to walk or use public transport or park in the town itself. There was also no outdoor seating at the premises and so customers would not be drinking outside. It was emphasised that any anti-social behaviour had been caused by patrons of other establishments and so was unconnected to this premises. Mr White stated that the concerns around noise from air conditioning units and chiller units related to brewery equipment, not the premises itself, and there had been some noise whilst the enclosure for these units was being built but this had only been during the daytime. He had since checked and there was minimal noise being emitted from this equipment. In regards to Sunday opening, Mr White explained that he had originally sought this on the initial premises application in September 2020, and it was since felt that there is more of a need for the business to trade on a Sunday.

Mr White reiterated that the premises had worked exceptionally hard to produce the conditions, processes and controls that are in place to minimise the impact on residents. He emphasised his wish to be a good neighbour and felt that the premises had striven to build better relationships with local residents over the last 7-8 months.

All parties present were afforded the opportunity to ask questions of the applicant.

A Member asked whether the bins referenced in the representations belonged to the brewery or licensable area. Mr White confirmed that the brewery and premises are one and the same company and it was anticipated that the same bins would be used for both operations. He explained that there had not yet been an opportunity to locate the bins inside the perimeter of the premises but that these will eventually be located in the premises' yard once this is cleared.

Dr P. Brown (local resident) stated that the bins had been permanently left on the street for the last 8-9 months. He also referred to Mr White's claim that better relations had been built with residents and stated he was not aware of anything in this regard. Mr White explained that he had spoken with the resident who lived next door on multiple occasions and was

making great efforts to work with her to minimise any impact from the premises, with these measures including the building of a wall to enclose the gap between her house and the premises.

Mrs C. Newbury (local resident) claimed that she had received abuse from Mr White and the workmen on site, and so questioned how residents would be able to approach him in the future, given that they were now afraid of raising any issues with the premises. Mr White stated he was unaware of any abuse and that discussions with residents had only ever been good-natured. Mrs Newbury reiterated that she did not feel safe and was unable to see how she could raise any issues with the premises face to face. Mr White maintained that he had only ever been approachable to residents and welcomed the opportunity to talk to them about any issues, explaining that he had numerous examples of this.

A Member asked Mrs Newbury if she could provide any specific examples of the abusive behaviour that she had referenced. Mrs Newbury explained that her garden is overlooked by the rear end of the premises and that the workmen have continually called down into her garden, made comments and aggravated her dog. She also referenced an alleged physical assault on one resident when they had challenged the builders. Mr White emphasised that he was not aware of any such incidents, and that although he had spent a lot of time of site with the workmen, such behaviour would be concerning to him. He reminded all parties that the building work would be completed very soon and emphasised that he would never condone such behaviour.

There were no further questions for the applicant and representations were then invited from Other Persons (Local Residents).

Dr P. Brown (local resident) was then invited to make his representation and spoke on behalf of Mrs Newbury and several other residents who had submitted representations in objection to the variation application. Dr Brown appreciated that many of the residents' concerns were not related to licensing matters but emphasised that these issues were still causing a public nuisance. He explained that the main concerns related to the extension of hours applied for over the weekends. He added that other licensed premises in the area are not near residential areas or have been there for hundreds of years. However, Brew Monster is a new facility and the previous business at the site only operated for 5 hours on Saturdays. The variation if granted would see an increase in trading by 3 hours on Saturday and 14 hours on Sunday and therefore in principle, the premises would effectively be open 365 days a year. This would create continual movement around the site, with no respite for residents arising from the increase in hours.

There were no questions for Dr Brown and representations were then invited from Mrs K. Jordan (local resident).

Mrs Jordan confirmed that she was representing her mother (Resident G) who lived adjacent to the Brew Monster premises. Mrs Jordan acknowledged that Mr White had built up a good relationship with her mother, but felt that the extra hours applied for would be incredibly disruptive to her, as there would be an increase in traffic, the smoking area is located next to her garden wall, and that she would not be able to fully enjoy her garden on the weekends as customers would be able to see into her garden from next door. Mrs Jordan also relayed a message from her mother which stated that although she would not wish for the hours to be increased, she wished to highlight that Mr White had been approachable and fair to her.

Mr White confirmed that he was happy to work with Mrs Jordan's mother to address any concerns, but emphasised that the bar is located on the other side of the building and is completely enclosed. He took on board the concerns around the smoking shelter being close to the neighbouring garden, and explained that he had already discussed these concerns with Mrs Jordan's mother, who had asked that that the premises raise the height of the wall adjacent to her garden to increase the level of privacy.

A Member sought clarification on the location and use of the smoking area. Mr White explained that this would be used by brewery and bar customers. He explained that this is located in the front part of the yard and is approximately 10 metres from the neighbouring garden, which would be shielded by existing trees and the increased height of the boundary wall. He added that customers would not be permitted to take their drinks out with them to the smoking area.

Dr Brown expressed concern that customers would need to exit the front of the premises to travel along the pavement and access the designated smoking area. He felt that customers would use the front of the premises on the main street as a smoking area, instead of the designated area to the rear. He was also concerned that noise from the smoking area would be amplified due to the acoustic layout of neighbouring streets.

Mr White explained that the use of the smoking area had been discussed at length at the previous premises hearing and referred to the noise assessment carried out by his consultant at that time. He explained that he had carried out extensive testing via sound meters over the past few months to determine that there was no noise pollution being generated from the brewery equipment. Mr White emphasised that his business is doing everything they can to ensure there are no noise complaints and felt that the existing conditions imposed on the premises licence would cover the extended Saturday and Sunday hours applied for.

In response to queries from a Member, Mr White confirmed that the premises were not intending to employ security staff as they did not anticipate any problems from the type of clientele that they were looking to attract, and it was also expected that there would be less customers later in the evening compared to other establishments.

There were no more questions received and it was confirmed that there were no other persons in attendance who wished to make representations. The Legal Advisor suggested a short adjournment at this point to give attendees the opportunity to participate in the two-minute silence to mark Armistice Day.

The meeting was adjourned at 10.58 a.m. and reconvened at 11.04 a.m.

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

Mr Lee Morgan (Licensing Manager) referred to the representations in the agenda pack from those residents not in attendance and reminded the Sub Committee to take these into consideration when determining the application. He asked Members to consider all the information heard today and to take into account all relevant licensing guidance. He referred to the recommendation in the report and reminded all present that ultimately the decision rested with the Sub Committee.

Mrs C. Newbury (local resident) expressed concerns that the noise arising from the increased hours would have a disruptive effect on the enjoyment of her home and garden, and called for the variation application to be refused.

Dr P. Brown (local resident) reiterated his concerns around the significant increase in hours which would result in the premises being open 365 days a year.

Mrs K. Jordan (local resident) reiterated her mother's concerns about the smoking area and hoped that, if the hours were to be extended, then the proposed measures would be put in place to lessen the impact on privacy.

Mr White (applicant) emphasised that he was more than happy to work together with Mrs Jordan, her mother, and other residents in order to resolve any issues. He referenced the significant investment in the business and his commitment to making sure the premises is run

in a proper manner.

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 11.11 a.m. to make its decision and all other parties left the meeting.

Following consideration of the application for the variation of a premises licence located at Brew Monster Brewing Company Ltd, Unit 1, Lon y Twyn, Caerphilly, 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 the variation of a premises licence as set out in Section 1.3 of the Licensing Manager's report be GRANTED to extend the licence to supply alcohol (on and off sales) on Saturdays from 09:00 to 12:00 and Sundays from 09:00 to 23:00.

The Sub Committee were satisfied that the current conditions of the licence were sufficient to promote the four Licensing Objectives and no amendments to the existing conditions were made.

In reaching their decision, the Sub Committee placed weight on Responsible Authorities having an expertise in their various areas touching on the respective four Licensing Objectives, and took into account paragraph 9.12 of the Home Office National Guidance. The Sub Committee came to the view that it was significant that no representations had been made by any Responsible Authority as to the variation sought and the promotion of the four Licensing Objectives.

In considering the residents' representations, the Sub Committee reached the view that many of the areas of the representations were not relevant for the purposes of determining the variation application pursuant to the Licensing Act 2003. Whilst the Sub Committee could empathise with unsympathetic behaviour/conduct of construction workers, any nuisance alleged in this regard simply did not relate to any licensable activity being carried out by the Applicant. The Sub Committee reached the same view on the issues noted in regards to the placement of the commercial bins on or immediately adjacent to the public highway.

The Sub Committee did not find issues that arose with other licenced premises in the locality were relevant to the determination of this variation application, particularly in the absence of any representations from any Responsible Authority. The Sub Committee determined that the Applicant could not be held responsible for action of other licensees in the locality to which he has no control or responsibility for. Similarly, the prior commercial use of the Applicant's building before being redeveloped into a brewery/bar was not relevant, and the concerns raised would be relevant to planning issues.

The Sub Committee were mindful that the hearing was not to redetermine the suitability of a licence for the premises, which had already been determined. The Sub Committee were mindful that some of the activity on the Applicant's premises would relate to licensable activities and some would not. The alleged light pollution was within the context of no licensable activity actually being conducted as yet on the Premises. Similarly, the alleged noise nuisance via industrial air conditioning units, and smell from brewing by-products were within the context of no licensable activity actually being conducted as yet on the Premises. The Sub-Committee took into account there being no evidence or representation made that such issues had been reported to Environmental Health as yet – which would have the obligation to investigate and regulate the same, should a statutory nuisance indeed exist.

The Sub Committee did not take into account the planning permission for the premises. It gave consideration to its licensing policy and formed the view that the two areas of regulation are separate. It would be a matter for the Applicant and the Planning Authority to ensure all planning requirements are complied with notwithstanding the grant of a licence under the Licensing Act 2003, or any subsequent variation to such a licence.

The Sub Committee took into account the evidence in regards to the improving relationship between Resident G and the Applicant and noted that privacy and noise concerns from the smoking area did not form a part of Resident G's written representations. The Sub Committee were satisfied, at this point in time, that the Applicant and Resident G would be able to reach an amicable accommodation in this regard, if an actual issue does eventuate – failing which a review of the licence conditions could be sought by Resident G. As such the Sub Committee did not find it reasonable or proportionate to place any further condition in regards to the smoking area given the Applicant had no prior warning that this was an issue, and no detailed evidence on the issue was heard by the Sub Committee.

The Sub Committee were satisfied that the current conditions of licence, as applied to the variation of hours for the licensable activity, promoted the 4 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 12.05 p.m.