



LICENSING AND GAMBLING SUB COMMITTEE – 26TH OCTOBER 2020

SUBJECT: DETERMINATION OF PREMISES LICENCE APPLICATION

REPORT BY: LEE MORGAN LICENSING MANAGER

--

1. Application Details – Wattsville Community Group

<u>Applicant</u>	<u>Premises</u>	<u>Application Type</u>
Wattsville Community Group, Sports Ground Pavillion, Wattsville Recreational Ground, Islwyn Road South Lane, Wattsville, Crosskeys. NP11 7QH.	Sports Ground Pavillion, Wattsville Recreational Ground, Islwyn Road South Lane, Wattsville, Crosskeys. NP11 7QH.	New Premises licence

1.1 Application for Grant of a New Premises Licence

An application has been submitted to apply for a new premises licence for the above premises. The proposed application for consideration is set out in 1.3 of this report.

1.2 Site Plan/Photographs

The plan of the licensed area is reproduced as **Appendix 1**.

A location plan is reproduced as **Appendix 2**.

1.3 Proposed Trading Times and Licensable Activity

The application for the grant of a Premises Licence seeks to permit the following Licensable Activities:-

- **Supply of Alcohol (on sales only)**

Monday, Tuesday, Thursday and Friday, 19:00 to 23:00
Wednesday, 19.00 to 23.00
Saturday, 12.00 to 23.00
Sunday, 12.00 to 20.00

- **Recorded Music (indoor only)**

Monday, Tuesday, Thursday and Friday, 19:00 to 23:00
Wednesday, 17.00 to 23.00
Saturday, 12.00 to 23.00
Sunday, 12.00 to 22.00

1.3.1 The following steps have been volunteered by the applicant as part of the Operating Schedule, to promote the Licensing Objectives, and are reproduced directly from the application:-

1. The premise Supervisor will ensure that at all times when the premises are for licensable activities, there are sufficient competent staff on duty at the premises for the purpose of fulfilling the terms and conditions of the licence and for preventing crime and disorder.
2. Any incidents of a criminal nature that may occur on the premises will be reported to the police. CCTV has been installed at the premises covering all entrances and exits of the building.
3. Appropriate fire safety precautions as laid down in the fire risk assessment will be in place. Internally illuminated fire exit signs and emergency lighting are also in place. All emergency exits shall be kept free from obstruction at all times.
4. All customers will be asked to leave quietly. Clear and legible notices will be prominently displayed to remind customers to leave quietly and have regard to our neighbours.
5. All persons who appear to be under the age of 25 will be asked to show photographic ID.
6. All staff will be trained for underage sales prevention regularly.

1.4 **RELEVANT CONSIDERATIONS**

Caerphilly County Borough Council Licensing Policy **Appendix 3**

National Guidance **Appendix 4**

1.5 RELEVANT REPRESENTATIONS RECEIVED DURING APPLICATION PROCESS

1.5.1 Responsible Authorities:

Fire Safety have indicated that they have no representations in respect of the proposed new premises licence.

Police

Document	Date Received	Appendix Reference
Initial Representation	30/09/2020	Appendix 5

Licensing Authority in role as Responsible Authority

Document	Date Received	Appendix Reference
Initial Representation	05/10/2020	Appendix 6

Trading Standards

Document	Date Received	Appendix Reference
Initial Representation	16/09/2020	Appendix 7

Environmental Health Officer Noise Team

Document	Date Received	Appendix Reference
Initial Representation	05/10/2020	Appendix 8

1.5.2 Other Persons:

Residents

Document	Date Received	Appendix Reference
Resident A Representation	06/07/2020	Appendix 9a
Supplementary Comments	12/10/2020	Appendix 9ai
Residents B Representation	08/07/2020	Appendix 9b
Supplementary Comments	09/10/2020	Appendix 9bi
	13/10/2020	Appendix 9bii

1.6 SUMMARY OF REPRESENTATIONS

Fire Safety have indicated that they have no representations in respect of the proposed new premises licence.

Heddlu Gwent Police have proposed conditions that the CCTV images shall be kept for 31 days and that there are trained members of staff available to reproduce and download CCTV images, along with signage indicating the CCTV is in use. An incident report log is to be held at the premises. Management of outdoor area to ensure customers do not cause a disturbance, loiter or cause anti social behaviour. Children must be accompanied by an adult and must vacate the premises by 2200 hours. No bottles cans or glasses to be taken outside. Adequate notices are to be displayed.

The Licensing Authority in its role as a responsible authority has proposed an incident/refusals log be kept. Measures in relation to the removal and disposal of litter were suggested, along with the specific notices to be displayed that relate to children vacating the premises, customers outside the premises and that cans, glasses or bottles are not to be taken outside.

The comments of the Environmental Health Noise Pollution Officer relate to the removal of waste into external areas. The Environmental Health Officer is unable to propose conditions in relation to entertainment noise, given the hours sought by the applicant. As should a Premises licence be granted, the premises will benefit from the ability to hold live and recorded music between 8am and 11pm by virtue of the live music act exemption and recorded music deregulation. In such instances' protection will be afforded to residents via the nuisance provisions under the Environmental Protection Act 1990.

Trading Standards have proposed conditions for the training of staff/members who serve alcohol in preventing underage sales, and that staff be vigilant in preventing adults purchasing alcohol for persons who are under 18.

Relevant representations have been received from 2 households during the consultation process. The residents are objecting to the licence being granted.

Resident A was concerned that foul language currently being experienced when football matches or training was held would escalate with the consumption of alcohol from the premises. The representation included concerns that noise was likely from increased traffic, and a previous camping event at the premises had highlighted concerns with loud music. The resident expressed that a licence should not be granted under any circumstances.

Residents B expressed public safety concerns over increased traffic and parking along with the lack of sufficient lighting in the car park. They feel the granting of the licence will increase the risk of accidents, as well as creating anxiety with residents who will be reluctant to leave their houses, as they may encounter rowdy or inebriated people.

The residents added that the days and times applied for would increase the levels of noise and disturbance, which could potentially be every night. Concern was expressed about the lack of smoking facilities and alluded to an increased risk of forest fires without these facilities. The residents sought reassurance that noise or music will not be too loud, and for this to be moderated and reinforced. The residents indicated that there have been instances where music was being played too loudly by the applicants, when the music was played inside, with the patio doors open the residents indicated that they could still hear music. The residents indicated that requests to reduce the volume of music have been disregarded. It was claimed that Waste has been left for extended periods of time causing a hazard to the public.

Mediation was offered as Residents B indicated that they were not totally opposed to a licence being granted, but would rather the applicant be granted licence with reduced days. A request was made that the applicant consider a licence for 2 or 3 days, not including Sunday, and seeing how this was managed, before a full licence was granted.

Following a response from the applicant, further comments were subsequently received from Residents B, detailing that the applicant's response did not address their concerns. Their concerns remained in relation to noise, anti-social behaviour and high amounts of traffic. The financial constraints mentioned by the applicant were seen to imply that the licensee will hire out the Sports Ground Pavilion more often than not to obtain funds.

1.7 APPLICANT RESPONSE

Document	Date Received	Appendix Reference
Response to Residents	12/10/2020	Appendix 10

The applicant responded to Residents B's concerns on 12th October 2020. In this response, the applicant detailed that the Community Group did not anticipate being open at all the times applied for but had sought these days/times for flexibility and financial reasons. The applicant expressed their wish to enter into a dialogue and address any concerns of neighbours.

The Applicant has responded and agreed to the proposed conditions by the Police, Licensing Authority in role as a responsible authority, Environmental Health and Trading Standards, as such these would form the basis of conditions, should a premises licence be granted.

1.8 LICENSING ASSESSMENT

THE LICENSING ASSESSMENT IS A PROVISIONAL SUMMARY, BASED ON REPRESENTATIONS RECEIVED PRIOR TO THE HEARING. THE HEAD OF PUBLIC PROTECTION, COMMUNITY AND LEISURE SERVICES RESERVES THE RIGHT TO AMEND OR VARY THE PROVISIONS CONTAINED IN THE SUMMARY AND RECOMMENDATION, SUBJECT TO ANY CHANGE IN THE MATERIAL FACTS THAT BECOME KNOWN AT THE HEARING. THE SUB-COMMITTEE IS OBLIGED TO DETERMINE THIS APPLICATION WITH A VIEW TO PROMOTING THE LICENSING OBJECTIVES WHICH ARE:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance;
- The protection of children from harm

In making its decision, the Sub Committee is obliged to have regard to:-

- Licensing Act 2003
- Statutory Guidance issued under S182 of the Licensing Act
- The Council's own licensing policy, and
- All representations made and evidence presented

NOTE: THE SUB-COMMITTEE MAY NOT MODIFY THE CONDITIONS OR REJECT THE WHOLE OR PART OF THE APPLICATION MERELY BECAUSE IT CONSIDERS IT DESIRABLE TO DO SO. ANY SUCH ACTIONS MUST BE NECESSARY IN ORDER TO PROMOTE THE LICENSING OBJECTIVES.

Statutory Power - Licensing Act 2003. This is a Council function which is delegated to this committee to decide.

1.9 OBSERVATIONS

This application relates to the granting of a new premises licence. No objections were received from any of the Responsible Authorities (RA's). It is noted that the Police, Licensing Authority in role as responsible authority, Environmental Health, (Noise Team) and Trading Standards have all advocated conditions, which have been accepted by the applicant. The Fire Authority offered no representations in relation to the application.

The Responsible Authorities (RA's) are essentially satisfied with the applicant's ability to promote the licensing objectives, having raised no concerns or confidence in management issues in respect of the applicant.

Paragraph 9.12 of the Section 182 Home Office National Guidance states - *Each responsible authority will be an expert in their respective field, and in some cases it is likely that a particular responsible authority will be the licensing authority's main source of advice in relation to a particular licensing objective. For example, the police have a key role in managing the night-time economy and should have good working relationships with those operating in their local area. The police should usually therefore be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective. However, any responsible authority under the 2003 Act may make representations with regard to any of the licensing objectives if they have evidence to support such representations. Licensing authorities must therefore consider all relevant representations from responsible authorities carefully, even where the reason for a particular responsible authority's interest or expertise in the promotion of a particular objective may not be immediately apparent. However, it remains incumbent on all responsible authorities to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing.*

Relevant representations making objections to the granting of the premises licence have been received from 2 residents.

It is noted that some comments received relate to the council's decision to allow an application for a premises licence to be submitted at this time, however the council has no discretion or remit to prevent an applicant from making an application for a Premises Licence at any time or indeed location.

Reference has been made to a lack of consultation with residents regarding the application. However, the Licensing Authority is satisfied from photographs taken that relevant notices were clearly displayed, the relevant newspaper advertisement published and application advertised on the council's website.

Members of the Sub Licensing Committee will be required to determine the application in relation to the promotion of the four licensing objectives i.e prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm. Whilst it is understood that residents will be concerned by the same, matters such as the presence of COVID19, the use of other licensed venues, who will use the venue, implications of a licence on the natural world, increased traffic and the lack of parking will not be a consideration for Members of the Sub-Committee, as they are not considerations under the Licensing Act 2003.

Paragraph 18.4 of the Authority's licensing policy states

'Representations that are not about the likely impact on the licensing objectives may be considered as not being relevant and may be rejected.'

A number of concerns appear to be anticipatory in nature about behaviour or issues which could arise, should a licence be granted. At this time, no concerns have been brought forward by the Responsible Authorities in respect of current anti-social behaviour in the vicinity. If there are concerns in relation to foul language during football matches previously held at the venue, then this can be addressed with the club, league and ultimately Gwent Police.

The Council does not currently have any cumulative impact areas and therefore the number of other licensed premises in the vicinity would not ordinarily be a consideration for Members of the Sub Committee. The same principle would apply in relation to the 'need' or otherwise for a new, licensed premises.

The applicant details that the Community Group will permit licensable activity indoors only by virtue of 'on sales' only. Therefore all alcohol will have to remain within the curtilage of the premises, which will afford protection to local residents.

The council's licensing policy Paragraph 18.1 *The Licensing Authority will expect applicants to address the licensing objectives in their operating schedule having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and the needs of the local community, in order that those with a right to make representations or objections are able to fully assess the factors that may affect them.*

Advice is offered in relation to hours within the Section 182 Home Office National Guidance Paragraph 10.14 states:

Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested.

Paragraph 14.5 of the Council's Licensing Policy States:

The Licensing Authority recognises that beyond the immediate vicinity of the premises the control that a licence-holder can exert over its patrons diminishes and individuals who engage in anti-social behaviour are accountable in their own right.

This is echoed by Paragraph 2.21 of the Section 182 Home Office National Guidance which states that *Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.*

No concerns have been identified by the Responsible Authorities during the statutory consultation process in relation to nuisance from noise or smell from the proposed premises. In relation to complaints in relation to possible noise concerns from entertainment at the premises, protection will be afforded to residents by virtue of Statutory Nuisance provisions of the Environmental Protection Act 1990.

Paragraph 8.3 of the Authority's licensing policy states

'The following fundamental principles will apply:

The right of any individual or body to apply for a variety of permissions is not undermined and that each application will be determined on its merits;

The statutory rights of any person to make appropriate representations in respect of any application or to seek a review of any premises / club premises certificate.

The statutory function of licensing is primarily concerned with the regulation of persons, premises and temporary events within the legislation and that any conditions that may be attached to licences and certificates will focus on:

Matters within the control of premises licence/club premises certificate holders and others who are granted relevant permissions;

*The premises and places being used for licensable activities and their immediate vicinity;
and*

the direct impact of the activities taking place at the relevant premises on members of the public living, working or otherwise engaged in normal activity in the area concerned.

1.10 RECOMMENDATION

Having had regard to and considered the position of the Responsible Authorities and all comments received by residents, it is recommended that the application for a Premises Licence be **granted subject to conditions**. In reaching this conclusion, it is noted that there are no objections to the application from Responsible Authorities.

Whilst there are objections from members of the public which give rise to concerns, as identified above, such concerns are in the main either outside of the control of applicant or outside of the scope of the Licensing Act regime. It is considered that any potential conflicts with the promotion of the Licensing Objectives may be adequately controlled by the recommended conditions set out below.

- CCTV shall be in use at the premises.
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 the grant of the licence.
The CCTV equipment shall be maintained in good working order and continually record when licensable activity takes place;

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;

The correct time and date will be generated onto both the recording and the real time image screen;

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;

- 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;
- There shall be clear signage indicating that CCTV equipment is in use and recording at the premises.
- An incident report logbook shall be held at the premises at all times and shall be produced to an authorised officer of the Licensing Authority or a constable immediately upon request. It shall contain the details of persons involved, incident description, time and date, actions taken and final outcome of the situation.
- The premises supervisor, manager or other competent person shall manage any outdoor area to ensure that customers do not behave in a noisy, rowdy or offensive manner.
- Children must be accompanied by a responsible adult.
- All children shall vacate the premises by 22:00 hours & notices to be displayed to this effect.
- Should customers be outside the premises causing congestion, loitering and/or causing Anti-Social Behaviour they will be told move away from the vicinity. Notices will be displayed to this effect.
- No bottles, cans or glasses are to be taken outside & notices to be displayed to this effect.
- No waste or bottles should be moved to external areas between 23:00 and 08:00.
- All staff/members who serve alcohol to be trained in the prevention of underage sales to a level commensurate with their duties. All such training to be updated as necessary, 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.
- 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.
- The premises licence holder shall ensure that an 'incident / refusals' logbook in a bound book is kept, in which full details of all incidents are recorded. This shall include details of any refused sales and shall give details of the 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, and by whom, is to form part of the entry. The logbook 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 premises licence holder shall ensure that measures are in place to ensure the removal of litter or waste from customers and to prevent such litter from accumulating in the immediate vicinity of the premises or neighbouring premises.
- The premises licence holder shall ensure that a sufficient number of suitable receptacles are located in appropriate locations for the depositing of waste

Background Papers: Statutory Guidance issued under S182 of the Licensing Act
Caerphilly CBC Statement of Licensing Policy

Date of this report: 16th October 2020

Author: Lee Morgan – Licensing Manager Tel: 01443 866750