



LICENSING AND GAMBLING SUB COMMITTEE – 15TH JANUARY 2021

SUBJECT: DETERMINATION OF PREMISES LICENCE APPLICATION

REPORT BY: LEE MORGAN, LICENSING MANAGER

1. Application Details – Clarence Food & Wine

<u>Applicant</u>	<u>Premises</u>	<u>Application Type</u>
Alex Quintan Xavier	Clarence Food & Wine 88 High Street Blackwood NP12 1AE	Grant of 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**.

1.3 Proposed Trading Times and Licensable Activity

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

- **Supply of Alcohol (Off Sales only)**

*Sunday – Monday 07.00 – 23.00
Friday & Saturday 07.00 – 01.00*

Following representations, the Applicant subsequently determined to modify his application to reflect the following –

- **Supply of Alcohol (Off Sales only)**

Monday – Sunday 07.00 – 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: -

I will follow all the legal guidelines while we selling alcohol

I will follow all the legal requirements to prevent of crime

Make sure I will follow the legal requirements in order to keep public safety

I will make sure keep minimum nuisance around the area

Make sure I will follow all the legal guidelines to prevent harm under age and follow think 25 rules.

1.4 RELEVANT CONSIDERATIONS

Caerphilly County Borough Council Licensing Policy **Appendix 2**

National Guidance **Appendix 3**

1.5 RELEVANT REPRESENTATIONS RECEIVED DURING APPLICATION PROCESS

1.5.1 Responsible Authorities:

The Fire, Licensing Authority and Children's Services (SRT) in their role as Responsible Authority have responded to indicate no representations in respect of the application.

Police

Document	Date Received	Appendix Reference
Initial representation	3/12/2020	Appendix 4

Trading Standards

Document	Date Received	Appendix Reference
Initial representation	3/11/2020	Appendix 5

1.5.2 Other Persons:

Elected Member A

Document	Date Received	Appendix Reference
Initial representation & Supplementary comments	2/12/2020 & 14/12/2020	Appendix 6

Elected Member B

Document	Date Received	Appendix Reference
Initial representation & Supplementary comments	1/12/2020 & 14/12/2020	Appendix 7

Residents/Other Person A

Document	Date Received	Appendix Reference
Initial representation	29/11/2020	Appendix 8

Residents/Other Person B

Document	Date Received	Appendix Reference
Initial representation	30/11/2020	Appendix 9

Residents/Other Person C

Document	Date Received	Appendix Reference
Initial representation	2/12/2020	Appendix 10

1.6 **SUMMARY OF REPRESENTATIONS**

There have been responses from the Fire Authority, Licensing Authority and Children's Services (SRT) in their role as Responsible Authority to indicate no representations in respect of the proposed new premises application. Children's Services indicated it had no representations, as its concerns had been addressed by conditions proposed by Trading Standards.

Heddlu Gwent Police lodged an objection to the 01.00 hours proposed on Friday and Saturday and discussed this with the applicant. The applicant subsequently determined to amend his retail sale of alcohol hours until 23.00 Monday to Sunday. This resulted in the Police withdrawing their objection in relation to alcohol hours proposed.

Both the Trading Standards and the Police identified a lack of information contained within the operating schedule and have proposed conditions relevant to proof of age, staff training, proxy sales of alcohol, CCTV, keeping & maintaining an incident report book/refusals log, together with other relevant conditions.

Representations have also been received from 2 Elected Members for the Blackwood ward, 2 residents and 1 business owner.

All objections relate to their concerns about the potential rise in anti-social behaviour with an additional licensed premise on the high street and a rise in Crime and Disorder which could impact on Public Safety.

One of the Elected Members indicated that he believed that a closing time of 22.00hrs would be an acceptable compromise, as this meant that the shop would not be open when the pubs were closing, and would not encourage people to hang around the town consuming more alcohol, causing, anti-social behaviour and disturbing residents who live by the Town.

1.7 APPLICANT RESPONSE

Document	Date Received	Appendix Reference
Response to Police, Trading Standards & Elected Member Representations	7/12/2020, 9/12/2020 & 22/12/2020	Appendix 11

The applicant has responded and accepted the comments of the Police in relation to the change in hours from 01.00 to 23.00 on Friday & Saturday and has also accepted other proposed conditions from the Police and Trading Standards.

The applicant subsequently amended his application, following the comments of Elected Members to reflect the retail sale of alcohol provision of 07.00 to 22.00hrs Monday to Sunday.

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 in respect of 88 High Street, Blackwood, NP12 1AE. On submission of the application, the applicant described the general description of the premises as a 'newsagent.' The initial application proposed for the retail sale of alcohol sought hours until 01.00hrs on the weekend.

Following representations by the Police and Elected Members in relation to the same, the applicant has modified his application to reflect retail sale of alcohol hours from 07.00 to 22.00 Monday to Sunday.

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.

Both the Police and Trading Standards identified a lack of information detailed within the operating schedule, in relation to the prevention of crime and disorder and protection of children from harm licensing objectives and advocated conditions to assist the applicant in the promotion the licensing objectives.

The conditions proposed by the Police in relation to CCTV, Staff Training, Incident and refusals book have been accepted by the applicant. The Trading Standards Officer, proposed conditions in relation to proof of age and advocated the adoption of Challenge 25, Proof of Age scheme and staff training in respect of the same, which was agreed by the applicant.

The Police do reference a high volume of antisocial behaviour particularly in the town centre on the weekends in their representations but have not advocated refusal of the premises licence but the bringing back of hours and additional controls mentioned above. In the absence of any other representations from Responsible Authorities (RA's), then the RA's appear to be satisfied with the applicant's ability to promote the licensing objectives.

Representations objecting to the grant of the premises licence have been received from 2 Ward Elected Members, 2 residents and 1 local business owner, who express concern about increased anti-social behaviour that may arise as a result of the granting of an additional premises licence.

The position of both Elected Members has been clarified, in that it was believed the terminal hour of 22.00hrs for retail sale of alcohol would be an acceptable compromise by the applicant. As detailed above this has been accepted by the applicant. It is understood that the business owner objector shared the view of the Elected Members in respect of the 22.00hr closure and is satisfied, confirmation of their position will be provided at the hearing.

The modified nature of the hours and conditions accepted by the applicant have been communicated to the residents. However, both residents have indicated that whilst they acknowledge the amendments to the application, that they both wish to maintain their objections on the basis that an additional alcohol outlet would exacerbate existing alcohol and antisocial behaviour concerns in the area. Resident B has indicated that whilst he wishes his objection to stand, he will not be attending the hearing.

Paragraph 24.4 of the Council's Licensing Policy States – *'The Council recognises that licensing law is not a mechanism for the general control of antisocial behaviour by people once they are beyond the direct control of the individual, club or business holding the licence, certificate or permission concerned. However the Council must consider the potential detrimental impact on the surrounding areas from the operation of either individual or accumulations of premises, where the premises are the predominant cause of resultant anti-social behaviour arising from drunkenness etc.'*

The concerns of the local residents whilst understandable however appear to be largely anticipatory in nature about the increased levels of behaviour or issues which could arise, should a licence be granted for this premises. The applicant cannot be held responsible for historic or indeed current antisocial behaviour concerns of local residents. No confidence in management concerns have been raised by Responsible Authorities.

There has been reference to existing and number of premises in the area already, however the Council does not currently have any cumulative impact areas and therefore the number or type 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.

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.*

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.

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.

1.10 RECOMMENDATION

Having had regard to and considered the position of the Responsible Authorities and all comments received by local elected members, business objector and residents, it is recommended that the application to permit the sale of alcohol for off sales, between the hours of 07.00 to 22.00 Monday to Sunday **be granted** subject to the following agreed conditions namely:-

- 1 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 date the licence is granted.

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; 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.

- 2 There shall be no consumption of alcohol beverages purchased from the premises in open containers outside at the front of the premises.
- 3 Should customers be outside the premises causing congestion, loitering and/or causing Anti-Social Behaviour they will be told move away from the vicinity.
- 4 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.

- 5 All refusals will be kept in a refusals book detailing the time, date, the goods, the staff member and the name of the persons who tried to purchase. If no name is given, then a good description will be recorded. This documentation should be available for inspection on request by an authorised officer of the Licensing Authority or a Constable.
6. Rowdy and/or disorderly customers will be asked to leave the premises.
7. 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
8. (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.

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

Date of this report: 6th January 2021

Author: Lee Morgan – Licensing Manager Tel: 01443 866750