



## LICENSING AND GAMBLING SUB COMMITTEE 12<sup>TH</sup> APRIL 2024

**SUBJECT: LICENSING ACT 2003 - DETERMINATION OF CLUB PREMISES  
CERTIFICATE VARIATION APPLICATION**

**REPORT BY: LEE MORGAN - LICENSING MANAGER**

### 1. Application Details –

<u>Applicant</u>	<u>Premises</u>	<u>Application Type</u>
Blackwood Town Cricket Club	Highfields Gordon Road Blackwood NP12 1DS	Variation of Club Premises Certificate (CPC)

#### 1.1 Application for Variation of a Club Premises Certificate - Licensing Act 2003

An application has been submitted to apply to vary the Club Premises Certificate for the above premises under the Licensing Act 2003. The proposed application for consideration is set out in 1.3 of this report.

The Applicant, Blackwood Town Cricket Club, currently holds a Club Premises Certificate which permits the supply of alcohol for on sales only. This currently permits the supply of alcohol Monday to Saturday 11.00am – Midnight and Sunday 12.00 until 23.00. The current Club Premises Certificate permits alcohol to be consumed in a small outdoor area immediately in front of the premises.

A plan of the existing area authorised by the Club Premises Certificate is reproduced as **Appendix 1**.

#### 1.2 Site Plan/Photographs

A plan of the initial proposed increased licensable area is reproduced as **Appendix 2**.

Photographs of Blackwood Cricket Club are reproduced as **Appendix 2a**.

### 1.3 **Proposed Trading Times and Licensable Activity**

The following is an extract from the application submitted by the Applicant:

*To increase the area where alcohol can be consumed on the premises to the extents of the boundary of the Club grounds.*

*To add a small stage area into the building plan of the upstairs main concert room.*

*To remove the requirement to attend Pubwatch meetings, any embedded and Annex A Conditions.*

The initial plan of the premises submitted with the variation application is reproduced for Members information as **Appendix 2**.

A revised premises plan, subsequently submitted following Responsible Authority representations is reproduced for Members information as **Appendix 3**.

- 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: -

*The Club follows the England and Wales Cricket Board Safeguarding Strategy and has designated Safeguarding officer with all coaches working directly with children provided training and have DBS checks conducted.*

*Children are welcomed into the club when accompanied by a responsible adult but are asked to leave the bar area by 9pm. Children attending events at the Club in the main hall are to be supervised by a responsible adult at all times as stipulated in our booking conditions.*

- 1.3.2 The following Embedded Conditions are proposed to be removed as part of the variation application.

*By converting the certificate embedded restrictions are carried over from the Licensing Act 1964. By varying the certificate, some of these restrictions will no longer apply.*

*The times the licence authorises the carrying out of licensable activities are stated on your licence. Alcohol shall not be sold or supplied except during permitted hours.*

*These restrictions do not prohibit the supply to, or consumption by, any person of alcohol in any premises where they are residing.*

*This information has been taken from the guidance issued by the DCMS.*

*This is not an exhaustive list of relevant provisions of the Licensing Act 1964. You are advised to obtain your own legal advice if you have any queries in respect of Licensing Act 1964 provision.*

**1.3.3** The following Conditions from “Annex 2” of the existing club premises certificate proposed to be removed as part of the variation application.

1. Members of the Local Pub-Watch Scheme.
2. Club members are instructed not to admit members and guests who behave in a drunken manner
3. Member of Blackwood and District LVA
4. The club complies with health and safety and fire precaution regulations.
5. club complies with advised capacity limits.
6. Signage is displayed near exits requesting members and guests to respect the needs of local residents by quietly leaving the premises and car park.
7. When live or recorded music is played all reasonable steps are taken to avoid disturbance to neighbouring properties.
8. In the absence of a parent children are the responsibility of the team manager who are approved by the Child Protection Officer.
9. Accompanied children and grandchildren of members and their guests may attend a private party in the function area.
10. Committee members, club stewardess and other bar staff are instructed in the offence provisions of the Licensing Act 2003.

#### **1.4 RELEVANT CONSIDERATIONS**

Caerphilly County Borough Council Licensing Policy **Appendix 4**

National Guidance **Appendix 5**

#### **1.5 RELEVANT REPRESENTATIONS RECEIVED DURING APPLICATION PROCESS**

##### **1.5.1 Responsible Authorities:**

**Gwent Police**

<b>Document</b>	<b>Date received</b>	<b>Appendix Reference</b>
<b>Initial Representation</b>	<b>29/02/2024 and 14/03/2024</b>	<b>Appendix 6</b>

### Environmental Health (Pollution)

Document	Date received	Appendix Reference
Initial Representation	12/03/2024	Appendix 7

### Environmental Health (Health and Safety)

Document	Date received	Appendix Reference
Initial Representation	12/03/2024	Appendix 8

### Trading Standards

Document	Date received	Appendix Reference
Initial Representation	12/03/2024	Appendix 9

### Licensing Authority

Document	Date received	Appendix Reference
Initial Representation	13/03/2024	Appendix 10

Childrens Services and the Fire Authority in its role as a responsible authority responded to indicate that they had no representations in respect of the variation application submitted.

There have been four resident objections received during the 28 Day consultation period for the variation application.

#### 1.5.2 Other Persons:Residents

Document	Date Received	Appendix Reference
Mr and Mrs Griffiths objection	04/03/2024	Appendix 11
J Maguire objection	06/03/2024	Appendix 12
Mr and Mrs Courcoux objection and Supplementary comments	12/03/2024 and 24/03/24	Appendix 13 and 13a
C Brewer objection	13/03/2024	Appendix 14

## **1.6 SUMMARY OF REPRESENTATIONS**

The Police make no objection to the application, but suggested rewording of conditions offered by the applicant in relation to children being supervised on the premise by a responsible adult and offered several other conditions to promote the licensing objectives.

The Police advocate the use of CCTV covering the licensable area, including both internal and external areas, Challenge 25 Proof of Age policy at the premises and training for staff members in relation to underage sales and dealing with difficult customers.

The Police also advocate the use of a refusal register and notices to be displayed for customers to respect residents and leave the area quietly. The Police also advocate the outside area should be regularly monitored, no glass or bottles should be taken outside unless decanted into plastic/polycarbonate containers.

Gwent Police subsequently supported comments of the Environmental Health and Licensing Authority in role as a Responsible Authority in seeking to reduce the size of the licensable area and seasonal use of its operation.

Environmental Health (Hand S) make no objection to the application, however offered conditions to promote the licensing objectives specifying that all alcoholic beverages intended to be used in the outside area shall be dispensed, or decanted into polycarbonate, plastic, non-glass containers. All glass bottles should be retained behind the bar for safe disposal.

Trading Standards make no representations, however support conditions proposed by Gwent Police under the Protection of Children from Harm licensing objective.

Environmental Health (Pollution) objected to the application which was submitted and advocate a reduction in the licensable area to the carpark area only. Comment was made that by reducing the licensable area to allow members and guests to consume alcohol will allow the club to appropriately manage the external area.

The Environmental Health Officer also proposed conditions to reduce potential nuisance to residents in the vicinity of the premises by curtailing the outside area to 22.00 hours for licensable activities and alcohol consumption with notices being displayed to bring to the attention of members and guests.

The officer advocate members of the club must manage the outside area to ensure members do not behave in a noisy, rowdy or offensive manner, ensure adequate measures are in place to remove litter or waste, prevent litter from accumulating in the immediate vicinity of the club premises and any collection of refuse, bottles and recyclable materials shall only take place between 09:00 and 21:00 hours.

The Licensing Authority in its role as a responsible authority object to the application having regard to representations received from residents in relation to how the outside area would be managed and support comments of the Environmental Health Pollution Control Officer. It is proposed by reducing the outside area the committee would be able to better control members and guests and reduce possible nuisance to residents from licensable activities.

In their representation, the Licensing Authority referred to applying for a Temporary Events Notice (TEN) should the club intend to organise occasional events for the general public to attend, such as charity fun days and end of season BBQ.

In addition, it was advocated that the use of any new outside area be restricted between 1<sup>st</sup> April and 30<sup>th</sup> September only. This was subsequently supported by Gwent Police.

Four residents have made objections to the variation application.

Mr and Mrs Griffiths - Concern is expressed in respect of proximity to premises and reference to increase in cans, bottles and other waste being thrown in gardens by spectators and other drinkers at the club. There was fear of increased ASB and swearing due to increased consumption of alcohol and greater volume of customers attracted to a drinking field environment. It was felt that there would be increased noise from use of proposed stage and parking problems.

Furthermore, there was concern that club does not have sufficient staff or management resource to manage or care about problems already experienced. Reference to poor communication and responses from the club and existing problems with cricket ball damage and refuse nuisance.

J Maguire - Concern is expressed in respect of the application that would allow people to consume alcohol up to the boundaries of the cricket field which abuts several properties. There is a fear that alcohol induced behaviour would be even more audible and visible to clubs' neighbours. Reference is made to foul language emanating from the club ground and comment is expressed that if reported to the club there is no one to deal with it. Reference is made to the vast majority of Members not living in the vicinity and whether they would wish to endure nuisance behaviour.

The resident references concern over the club's ability to manage an extended licensable area. Comment is expressed in respect of poor prior communication from the club and reference the absence of any communication as part of this application, only becoming aware of the application displayed on a lamppost. In summing up the resident expresses doubt about the club's ability to monitor or police any additional licensed area.

Mr and Mrs Courcoux – comment about their experience over a 4-year period and indicate that all of the information within their submission had been raised with the Club's Committee. Reference is made to seeking out support of a local councillor in an attempt to address some of the issues.

Concern was expressed about poor management of the existing licence. Comment was made in respect of prior occasions and events held where alcohol appears to have been sold contrary to the existing licence.

The resident referenced persistent problems with litter issues that had been experienced which was from in large part due to the club allowing the consumption of alcohol across the whole of its premises. Further reference is made to a lack of control during the 2024 Six Nations Rugby internationals where the club failed to prevent patrons leaving the premises with glasses.

Comment is made concerning the use of foul/offensive language attributed to consumption of alcohol across the club's entire boundary which is heightened during summer months. Furthermore, concern is expressed about prior ASB over a prolonged period.

Reference is made to a regular issue with club patrons urinating on the resident's wall and demonstrates an incident of this with video footage (this will be made available at the meeting) and incidents of intoxicated individuals hitting cricket balls into the resident's property and instances of parties entering their premises to retrieve cricket balls. In addition, the resident references occasions where club patrons have urinated behind the cricket scoreboard in full view of his home, requiring the erection of a privacy screen.

The resident expresses a view that the clubs variation application to extend the area for consumption of alcohol is highly likely to have a negative impact on the licensing objectives and neighbouring residents.

The resident also details a lack of support for the Environmental Health / Licensing Authority proposal to limit the extent of any 'new' outside area to the car park.,

C Brewer – comment is expressed that the initial application to vary the alcohol licence amounted to a vast area covering hundreds of square metres with no designated area which could allow uncontrolled numbers of patrons and noise. Reference was made to the absence of any restrictions on timing in the proposed area given the clubs existing permitted hours. Concern is expressed about the ability to monitor extended drinking area and the effectiveness of any CCTV if the area was extended to the full club boundaries.

Further comment was made that the application did not seek to limit use of any area to a limited period e.g cricket season only. Concern is expressed that there was only reference to a control of waste during the cricket season and controls had not been identified at any other times. Comment is made to the use of the Club by Non-Members of the club which is contrary to the club premises certificate. There is a suggestion that a designated members area could only be used for consumption of alcohol during cricket matches which may go a long way towards minimising disruption to neighbouring properties.

## **1.7 APPLICANT RESPONSE**

The applicant has responded to the comments of the Responsible Authorities and to resident concerns.

A copy of the responses to residents and responsible authorities is reproduced as **Appendix 15 and 15a**.

In relation to the objections lodged by both the Environmental Health Officer and Licensing Authority, the applicant has revised their position in respect of the increased area sought for the provision of the supply of alcohol to its members to reflect the area shown in **Appendix 3**.

The applicant has agreed to the limiting the use of any additional outside area

until 22.00hrs and to limit its use between 1<sup>st</sup> April to the 30<sup>th</sup> September. However, the revised outside area sought has not been agreed with the Environmental Health Pollution Officer / Licensing Authority in its role as a responsible authority who expressed concerns as to the applicant's ability to manage the size of the licensable area sought.

The applicant has also agreed to the proposed conditions advocated by the Police and Environmental Health (Health and Safety).

## **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**

The application to vary the club premises certificate seeks to increase the size of the outdoor licensed area to permit the supply of alcohol for on sales, the removal of outdated conditions attached to the certificate and to revise the premises plan to incorporate a small stage in the first-floor function room.

A variation application was required to regularise the position in relation to the stage in the first-floor function room, as the premises plan forms part of the club premises



certificate and therefore needed to reflect this change of layout. It is understood that the stage has been in place for a number of years.

A variation application can also remove outdated or superfluous conditions. In this regard, the application seeks to remove a number of existing conditions contained within the club premises certificate.

None of the Responsible Authorities (RA's) have raised any concerns with these aspects of the application and are not believed to be contentious. The club already has the ability to provide regulated entertainment at the premises which has been the case since the implementation of the Licensing Act in 2005 and could take place with or without a stage. However, such structures are required to be displayed on a plan of a premises.

However, it appears that the main purpose of the initial application was to substantially increase the size of its permitted outdoor area for the supply of alcohol on the premises to reflect the extend of the cricket field. The size of this area was subsequently revised following objection from Responsible Authorities given concerns as to management of the same.

As part of the application process applicants are required to consider their operating schedule and to include measures that will assist in the promotion of the licensing objectives.

Paragraph 6.13 of the Section 182 Home Office Guidance states that *'Club operating schedules prepared by clubs, must include the steps it intends to take to promote the licensing objectives. These will be translated into conditions included in the certificate, unless the conditions have been modified by the licensing authority following consideration of relevant representations...'*

Paragraph 26.1 of the council's Statement of Licensing Policy states *'All new and variation applications should incorporate an 'operating schedule' which outlines how the premises will be operated. This should include details of how the applicant will promote the four licensing objectives and reduce any potential negative impact from the operation of their business on the local community, depending on the type of premises, location and profile of customers. The proposals contained in the operating schedule will form the main body of the conditions to be applied to the licence, together with any applicable mandatory conditions, any conditions agreed with responsible authorities during the application process and any conditions imposed by a licensing sub-committee where representations have been made.'*

It is noted that aside from referencing measures to safeguard children, that the club have not suggested any measures in relation to the control of what was initially quite a substantial outdoor area in respect of crime and disorder or indeed the prevention of public nuisance. This may suggest a lack of consideration or thought by the applicant in respect of promotion of the licensing objectives.

The responsible Authorities in the form of the Environmental Health Pollution Officer and Licensing Authority in its role as a responsible authority appear to have recognised this, paragraph 11.6 of the council's statement of licensing policy which states *'The Licensing Authority recommends that licensees apply a high standard of control to minimise the potential for any public nuisance that may arise from their operation of the premises, particularly where: • they are situated in a residential or noise sensitive area; or • extended opening hours are proposed.'*

Following a site visit by Responsible Authorities, RA's have sought to reduce any increased area in order that it may be managed by the club and limiting use of any new outside area between 1<sup>st</sup> April and 30<sup>th</sup> September only and up to 22.00hrs only. Gwent Police have also sought to control any additional licensed area by requiring CCTV coverage to all areas where club patrons will benefit from licensable activities.

Paragraph 9.12 of the Section 182 Home Office Guidance provides the following advice to Members in respect of Responsible Authority comments and 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<sup>5</sup>. 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.'*

It appears that the Environmental Health Officer and Licensing Authority in its role as a responsible authority believe that the applicant could promote the licensing objectives based on an outdoor area identified within **Appendix 17**.

Paragraph 9.44 of the Section 182 Home Office Guidance provides the following guidance to Members and states *'Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that any condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.'*

It is possible that this application has been prompted as a result of a complaint from a local resident in respect of alleged patron noise and behaviour in August 2023. It was identified during a licensing officer visit, that the club appeared to be utilising an outdoor area for the purpose of the supply of alcohol outside of the area permitted by the existing club premises certificate. This area is shown on a plan of the premises reproduced for Members information as **Appendix 17**.

It should be noted that the Licensing Authority and Responsible Authorities can only consider matters linked to licensable activities and promotion of the licensing objectives. As a result, matters in respect of cricket balls or players going into gardens

to retrieve them, the standard of cricket nets / fencing in situ and swearing by players on the field will not be a matter for Members consideration. In addition, the club cannot be held responsible only be held responsible the actions of individual members of the public who may discard their own litter into private gardens.

Resident comments received during the consultation period suggest that the club may have been in breach of its club premises certificate by allowing the supply of alcohol beyond its only permitted area i.e patio area, shown on **Appendix 1**. This position is supported by a licensing officer visit on the 3<sup>rd</sup> August 2023 which established that licensable activity appeared to be taking place outside the area permitted by the club premises certificate.

Further inference is made by residents as to whether the club is or has been acting in accordance with its club premises certificate given reference to use by non-members and 'events' held at the premises. Local Authority Records held suggest that the Club does not appear to utilise the Temporary Events Notice (TEN's) facility that is available under the Licensing Act 2003. Going forward the club will need to ensure that it complies with the requirements of its club premises certificate or considers alternative authorisations in the form of a premises licence or through Temporary Event Notices.

The applicant has responded to the comments of the residents in an attempt allay some of their concerns in relation to usage and licensable activities at the premises. The variation application for a club premises certificate does not permit any greater access to members of the public as licensable activities e.g supply of alcohol will only be permitted to club members, their guests and visiting teams. It is therefore not envisaged that there would be any greater footfall as a direct result of this application. There is a suspicion that the club have been utilising areas outside of that currently permitted for some time.

Paragraph 2.27 of the Section 182 Home Office Guidance states *'Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in antisocial 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.'*

Resident objectors have outlined their concern and confidence in management of the club committee for a range of issues, some of which are not connected to the licensing objectives. In the case of one resident a complaint history of 4 years was alluded too. However, this is not necessarily reflected in a complaint history documented with the Licensing Authority or Responsible Authorities in relation to breaches of licensable activity.

The committee of the club will now be aware of the resident concerns in respect of compliance with its club premises certificate and the times and prospective conditions that could be applied to the certificate should this application be approved. Such conditions including provision of CCTV covering the outside area and training and record keeping requirements which can be checked, should there be any future concerns as to compliance or failure to promote the licensing objectives.

Members of the Sub Licensing Committee will be required to determine this 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 in relation to any licensable activities.

However, they will not be able to consider nuisance arising from parking issues or other activities unconnected with licensable activities and outside the control of the cricket club.

It should be noted that should there be evidence presented that the club is not promoting the licensing objectives and/or complying with its club premises certificate, then Section 87 of the Licensing Act 2003 provides a mechanism for the review of a club premises certificate by a Responsible Authority or indeed an 'Other Person' e.g resident.

Paragraph 11.1 of the Section 182 Home Office Guidance provides guidance as to the review process and states '*The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.*'

### **1.10 RECOMMENDATION**

Members are asked to approve the variation to reflect change of Premises Plans to incorporate stage in first floor function room and to remove the conditions set out in Paragraphs 1.3.2 and 1.3.3 of this report.

Having had regard to the objections made by residents and noting the comments made by the Responsible Authorities, it is recommended that the application to vary the club premises certificate to include an increased outside area is approved. For avoidance of doubt, this being an area limited to 18 metres by 3 metres which is delineated on the premises plan shown at **Appendix 17**, subject to a seasonal usage between 1<sup>st</sup> April to 30<sup>th</sup> September with curtailment of this area being 22.00hrs and all conditions set out at **Appendix 16**.

Background Papers:

Statutory Guidance issued under S182 of the Licensing Act

Caerphilly CBC Statement of Licensing Policy

Date of this report: 2<sup>nd</sup> April 2024

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