



## LICENSING AND GAMBLING SUB COMMITTEE

MINUTES OF THE DIGITAL MEETING HELD VIA MICROSOFT TEAMS ON  
MONDAY 10TH MAY 2021 AT 10.00 A.M.

PRESENT

Councillor D.W.R. Preece – Chair

Councillors:

P.J. Bevan, W. David

Together with:

L. Morgan (Licensing Manager), R. Furmage (Licensing Officer), M. Wallbank (Senior Solicitor), R. Barrett (Committee Services Officer)

### **Representing the Applicant**

Professor R. Light (Barrister), Mr I. Thavarajah (Bargoed Service Station), Mr R. Baker (Licensing Agent)

### **Representing Gwent Police**

PC K. Williams (Gwent Police)

### **Representing Other Persons**

Mr D. Whetter (Local Resident) – by telephone

## **INTRODUCTION AND RECORDING ARRANGEMENTS**

Due to technical difficulties, the meeting start was delayed to 10.15am.

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

### **1 APOLOGIES FOR ABSENCE**

There were no apologies for absence received.

### **2 DECLARATIONS OF INTEREST**

The Legal Advisor to the Sub Committee referred to a late representation from the Member of the Senedd (MS) for Caerphilly, that had been directly emailed to the Sub Committee the night before the meeting. All parties present were advised that the representation was not admissible as the consultation deadline for representations had long since passed.

Councillor W. David sought advice on whether he needed to declare an interest and leave the meeting as the MS is his son. The Legal Advisor explained that as the representation would be treated as disregarded, in his view there was no need to declare an interest. Councillor David confirmed that he had not discussed the application with the MS beforehand and felt there was no need to declare an interest on this occasion.

Councillor P. Bevan added that he had not read the representation from the MS as it had been sent over the weekend.

Following discussion on the matter, the applicant's barrister stated that he had every confidence that the Sub Committee would disregard the late representation and deal with the application in an impartial manner and he was happy for the meeting to proceed.

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

### **3 DETERMINATION OF PREMISES LICENCE APPLICATION - BARGOED SERVICE STATION, GWERTHONOR PLACE, GILFACH, BARGOED, CF81 8JP**

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 for the variation of a premises licence located at Bargoed Service Station Limited, Gwerthonor Place, Gilfach, Bargoed. It was noted that supplementary information has been circulated to all parties before the meeting, namely site plans from Licensing and additional supporting information from the applicant.

Members were advised that the applicant currently holds a Premises Licence which permits the sale of alcohol between the hours of 07.00hrs until Midnight. The opening hours as specified on the licence currently reflect 05.00hrs until 01.00am. The application sought to permit off-sale of alcohol 24 hours a day from Monday-Sunday inclusive, and Late Night Refreshment (Sale of hot food/drink) from Monday – Sunday inclusive, 2300 hrs to 0500 hrs. Furthermore, the application sought the removal of all embedded conditions, the removal of Annex 2 & 3 Conditions, and to replace those conditions with new updated conditions, and for approval of a change of layout to the premises.

A number of steps had also been volunteered by the applicant as part of the Operating Schedule, to promote the Licensing Objectives, and were set out in the report.

During the consultation process, a representation was received from Gwent Police who advocated conditions which were accepted by the applicant, and ultimately the Police were content with the imposition of conditions. A representation was also received from one local resident and full details were appended to the Officer's report.

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. Members were referred to the recommendation set out in the Licensing Manager's report, which recommended that the application for the variation of the premises licence be granted, subject to the conditions set out in Appendix 9 in the report. It was also recommended that the embedded conditions set out in Appendix 2 and conditions set out in Appendix 3 be removed and that Members approve the revised plan demonstrating the change of layout to the premises.

All parties present were afforded the opportunity to ask questions of the Licensing Manager and none were received.

Representations were then invited from the applicant, Bargoed Service Station Ltd.

Professor R. Light (Barrister) spoke on behalf of his client and referenced the applicant's extensive experience in running forecourt sites across the UK. The applicant has 10 sites in total, 3 of these being 24-hour premises and have experienced no recorded problems or issues. He stated that the Bargoed site previously operated for many years on a 24-hour basis and that the manager (Mr I. Thavarajah) had 15 years DPS experience, 5 of these being at the Bargoed site, and lived 5 minutes away from the premises. To his knowledge, there had been no instances of noise complaints or disturbance received by the Bargoed premises.

Professor Light summarised the aspects of the application relating to the removal of old/embedded conditions and site layout and acknowledged that these were uncontentious. He explained that the licensable activity for late night refreshment applied for would not entail a burger bar or takeaway, but simply a facility to obtain a hot drink or heated-up pastry. With regards to the sale of alcohol, this was already permitted to midnight and the applicant wished to extend this to 24 hours. Professor Light referred to the suite of conditions to underpin the extension of licensable hours and also the copy of the staff training manual prepared by Mr Baker (Licensing Agent for the applicant) which had been circulated to all parties beforehand.

Mr Baker outlined the contents of the licensing training manual which is issued to all new clients in order to train their staff. He explained that all staff undergo a comprehensive training regime to ensure they fully understand their responsibilities under the Licensing Act, and they are not permitted to sell alcohol until this training is satisfactorily completed.

Professor Light then referred to the lack of representations from Responsible Authorities and the single representation from a local resident. He outlined the proximity of the premises to nearby houses and explained that the site would dim their lights in the night so as not to create light pollution for nearby residents. Professor Light also highlighted the concerns raised by Mr Whetter (Local Resident) in his representation and responded to each of these in turn.

Professor Light referred to extracts from the CCBC Licensing Policy and the removal of the embedded conditions. He asked the Sub Committee to note the list of conditions submitted as supplementary information to provide reassurance in respect of the representation for Gwent Police. Professor Light then read through each of the proposed conditions in detail to evidence how the licensing objectives would be met by the applicant. Particular reference was made to the availability of CCTV, the proof of age scheme, rubbish clearance, and clear signage for customers to leave the premises quietly. Areas of the forecourt would be locked at night to prevent loitering, there would be no external illumination after 22:00 hours (save that needed for health and safety purposes) and alcohol displays would not be permitted within 5 metres of the entrance of the premises. Signage would also be displayed with the telephone number of the premises so that residents can ring through to site if they have any issues.

All parties were then afforded the opportunity to ask questions, and Mr Whetter disputed the distance cited by Professor Light between the premises and his house. He also sought clarification on the distance between the premises and other nearby residences. Mr Whetter was advised that no other residents had made objections so the distance to their houses could not be confirmed. Mr Whetter was however advised that he would have the opportunity to raise his question during the course of his representation.

Mr Whetter asked if the claim regarding the applicant's other 24-hour premises operating without incident could be substantiated and if he could be provided with details of these locations. At this point, Mr Whetter lost telephone connection momentarily and proceedings were paused until he reconnected to the meeting.

The Legal Advisor sought clarification on how Condition 16 proposed by the applicant (in relation to pumps nearest the road being switched off and coned off between the hours of 23.00 & 05.00 hours) relates to licensable activity. Professor Light confirmed that this would

relate to the Crime and Disorder licensing objective, as these pumps are the furthest away from the kiosk and occasionally people drive off without paying for fuel. Such measures would also prevent noise nuisance next to the road under the Prevention of Public Nuisance licensing objective. The Legal Advisor confirmed that the Sub Committee would consider this condition when making their deliberations but it related more to the sale of fuel than alcohol.

A Member referred to the re-opening of the night-time economy in Bargoed and the potential for patrons to be walking through Bargoed and Gilfach late at night past the garage. He asked how the garage would deal with patrons attempting to purchase alcohol from the garage late at night and any associated anti-social behaviour. Professor Light cited an example of case law where it was determined that perception could not be taken into account when considering that application. Although he appreciated the rationale for the question, Professor Light emphasised that there was no evidence for this type of situation to occur.

There were no further questions for the applicant and representations were then invited from Responsible Authorities.

PC Karina Williams confirmed that Gwent Police had made representations as set out in the meeting papers and had proposed a number of conditions to assist in meeting the 4 Licensing Objectives. These had been accepted by the applicant and she had nothing to add.

There were no questions received for Gwent Police and representations were then invited from Other Persons.

Mr David Whetter (Local Resident) referenced the short distance between his property and the premises and asked if he was allowed to raise concerns regarding the impact on properties which are closer to the site. The Licensing Manager confirmed that Mr Whetter was the sole objector and that whilst he could reference the distance and say other residents live closer to the premises, any representation or comments would have to be from Mr Whetter's perspective as the objector.

Mr Whetter queried the claim from Professor Light that the applicant's other 24-hour sites were well run and without issue, and suggested he had no evidence to support this claim. Professor Light explained that these other sites were just for background information and outlined details of the three locations. Following further discussion with Mr Whetter, Professor Light acknowledged that this was second-hand information and withdrew this aspect of his statement.

Mr Whetter also disputed the claim from Professor Light that the premises had previously operated on a 24-hour basis. Following discussions with his client, Professor Light withdrew this observation from his statement. The Legal Advisor added that this assertion was an ancillary point in any event and not relevant to the proceedings.

Reference was made to the point about the DPS living 5 minutes away from the premises. Professor Light explained that this was intended to evidence that the DPS lives locally and could be there quickly in the event of any issues.

Mr Whetter then summarised his concerns as set out in his representation appended to the report. He explained that his concerns had increased recently, particularly after reading the comments in Gwent Police's representation which stated that the enhanced licensable hours would increase the likelihood of a disturbance within the nearby residential vicinity. He highlighted crime and disorder problems in the area and questioned Professor Light's earlier reference to case law and the matter of whether perceived issues can be taken into account for such applications. The Legal Advisor to the Sub Committee explained that it would be acceptable for Mr Whetter to highlight something that might happen as the result of granting the licence; however the Sub Committee cannot pre-empt that something might happen and not grant on that basis, and that there needs to be realistic prospects for issues to arise when considering this as part of their deliberations.

Mr Whetter confirmed that although nothing had happened at the premises as yet, he reiterated his concerns as set out in his representation for there to be a potential increase in anti-social behaviour if the variation were granted. He expressed his concerns regarding the availability of alcohol at the site and highlighted late-night noise as a result of vehicles leaving the premises.

No questions were received for Mr Whetter and all parties were afforded the opportunity to sum up before the Licensing and Gambling Sub Committee retired to make its decision.

The Licensing Manager and Gwent Police summarised their representations to the Sub Committee. During the summation from Professor Light, Mr Whetter lost telephone connection and proceedings were paused for a few moments until he reconnected to the meeting.

Professor Light summarised the main points made in his representation and was appreciative of resident concerns. He requested that residents contact the premises if any issues arise.

Mr Whetter referenced CCBC Licensing Policy in his summation and reiterated his concerns that late-night licensed premises can be a source of crime and disorder problems, but acknowledged that he understood the process to complain and for the premises to be brought back to the Sub Committee for review if necessary.

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 11.46 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 for Bargoed Service Station, Gwerthonor Place, Gilfach, Bargoed, CF81 8JP, and having regard to the Licensing Manager's report and all the representations made, the Licensing and Gambling Sub Committee, by a 2-1 majority

RESOLVED that the application for the variation of the premises licence in respect of hours for alcohol sales and the provision of late night refreshment be granted, subject to the proposed conditions as set out in Appendix 9 of the Licensing Officer's Report and appended to these minutes.

The Sub Committee unanimously

RESOLVED that the embedded conditions as set out in Appendix 2 and annex conditions as set out in Appendix 3 be removed from the licence, and that the revised premises plan demonstrating the change of layout be approved.

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

There were no objections from any party to the revised proposed plan of the Premises or to the removal of the embedded conditions from the Licensing Act 1964 and the Sub Committee therefore determined unanimously that these elements of the Application should be granted.

With regard to the revision of the hours for the sale of alcohol and the provision of late-night refreshment, the Sub Committee noted that there were no objections from Responsible Authorities in this regard. However, the Sub Committee also noted Mr Whetter's concerns with regard to the potential for noise nuisance and anti-social behaviour late at night. Whilst the Sub Committee were concerned with regard to the potential for such disturbance, a

majority concluded that the interests of local residents were satisfactorily protected by the review procedure set out in the Licensing Act 2003.

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 12.50 p.m.

**Conditions applicable to the grant of the licence as per Appendix 9 of the Licensing Manager's report:**

1. CCTV shall be in use at the premises.
  - (i) Where a CCTV system is to be installed, extended or replaced, it shall be to an appropriate standard as agreed with the Licensing Authority in consultation with the Police. Where existing CCTV systems are to be replaced or extended the replacement or extension to the system shall be concluded by the date the licence is granted and the system be fully operational on that date;
  - (ii) The CCTV equipment shall be maintained in good working order and continually record when licensable activity takes place;
  - (iii) The premises licence holder shall ensure images from the CCTV are retained for a period of 31 days. This image retention period may be reviewed as appropriate by the Licensing Authority;
  - (iv) The correct time and date will be generated onto both the recording and the real time image screen;
  - (v) If the CCTV equipment (including any mobile units in use at the premises) breaks down the Premises Licence Holder shall ensure the designated premises supervisor, or in his/her absence other responsible person, verbally informs the Licensing Authority and the Police as soon as is reasonably practicable. This information shall be contemporaneously recorded in the incident report register and shall include the time, date and means this was done and to whom the information was reported. Equipment failures shall be repaired or replaced as soon as is reasonably practicable and without undue delay. The Licensing Authority and the Police shall be informed when faults are rectified;
  - (vi) The premise licence holder shall ensure that there are trained members of staff available during licensable hours to be able to reproduce and download CCTV images into a removable format at the request of any authorised officer of the Licensing Authority or a constable;
  - (vii) There shall be clear signage indicating that CCTV equipment is in use and recording at the premises during opening hours.

The CCTV system shall include all external areas of the premises.

2. All staff 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.
3. 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.  
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.

4. The premises licence holder shall require the designated premises supervisor, or in his / her absence other responsible person, to keep an 'incident / refusals' logbook in a bound book 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 records should be kept for a minimum of 12 months and shall be produced to an authorised officer of the Licensing Authority or a constable when required.
5. The premises licence holder, premises supervisor or event manager, shall ensure that measures shall be put in place to remove litter or waste arising from customers and to prevent such litter from accumulating in the immediate vicinity of the premises or neighbouring premises.
6. A clear notice shall be displayed at any exit to the premises to instruct customers to respect the needs of local residents and leave the premises and the area quietly.
7. The premises supervisor, manager or other competent person shall manage all areas to ensure that customers do not behave in a noisy, rowdy or offensive manner.
8. The premises licence holder shall ensure that a clearly visible notice will be placed on the premises advising those attending, that the Police will be informed if anyone is found in possession of controlled substances or weapons.
9. The entrance door to the shop will be closed to customers between the hours of 23.00 & 05.00 (the doors can be closed earlier should the licence holder so elect). Any sales between these hours will be made through the night pay window.
10. The premises will install an electronic shunt lock which can be operated remotely from behind the serving counter.
11. The premises will introduce till prompt system to help remind staff to ask for ID when appropriate to do so.
12. Between the hours of 23.00 & 05.00 hours the pumps nearest the road will be switched off and then coned off.
13. Areas of the forecourt not deemed necessary for use between 23.00 & 05.00 hours will be coned off.
14. No external illumination will be left on between the hours of 23.00 & 05.00 hours 7 days a week except for lighting connected to site safety, the Pole sign and the shop fascia signage.
15. Spirits will only be displayed behind the counter and will not be self service.
16. Alcohol will not be displayed within 5 metres of the store entrance.
17. A direct telephone landline number for the business will be displayed in a prominent location should a member of the public wish to raise a concern.