



LICENSING AND GAMBLING SUB COMMITTEE – 10TH MAY 2021

SUBJECT: DETERMINATION OF PREMISES LICENCE APPLICATION

REPORT BY: LEE MORGAN LICENSING MANAGER

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1. Application Details –Bargoed Service Station Limited

<u>Applicant</u>	<u>Premises</u>	<u>Application Type</u>
Bargoed Service Station Limited	Bargoed Service Station Gwerthonor Place Gilfach Bargoed CF81 8JP	Variation of Premises licence

1.1 Application for Variation of a Premises Licence

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

The applicant Bargoed Service Station Limited 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.

1.2 Site Plan/Photographs

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

1.3 Proposed variation to Trading Times and Licensable Activity

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

- **Supply of Alcohol (Off Sales only)**
Monday – Sunday inclusive, 24 hours a day.
- **Late Night Refreshment (Sale of hot food/drink)**
Monday – Sunday inclusive, 2300 hours to 0500 hours

Furthermore, the application seeks to remove all embedded conditions, remove Annex 2 & 3 Conditions and replace those conditions with new updated conditions. An updated plan of the premises has also been provided.

- 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. A digital CCTV system will be installed, or the existing systems maintained, such systems to be fit for purpose and to be to the reasonable satisfaction of the Police. Cameras will be located internally and externally and will record in any lighting situation.
 2. The CCTV system shall be capable of producing copies on site. Copies of recordings will either be recorded digitally onto CD/DVD or other equivalent medium and will be produced to an evidential standard.
 3. Any recording will be retained and stored in a suitable and secure manner for a minimum of 31 days and shall be made available, subject to Data Protection legislation, to the Police for inspection upon reasonable request.
 4. The precise location of the cameras may be agreed, subject to compliance with Data Protection legislation, with the Police from time to time.
 5. The system will display, on any recording, the correct time and date of the recording.
 6. The CCTV system will be maintained and fully operational throughout the hours that the premises are open for any licensable activity. Appropriate notices will be displayed prominently advising customers that the premises are covered by CCTV cameras.
 7. Adequate waste receptacles for use by customers shall be provided in and immediately outside the premises.
 8. The premises licence holder will ensure that an age verification policy will apply to the premises whereby all cashiers will be trained to ask any customer, unknown to them as a person aged over 18 years, and attempting to purchase alcohol, who also appears to be under the age of 25 years (or older if the licence holder so elects) to produce, before being sold the alcohol, appropriate identification. Appropriate identification would be a valid passport, photo-card driving licence bearing a holographic mark or other form of identification that complies with any mandatory condition that may apply to this licence.
 9. All staff engaged or to be engaged in the sale of alcohol on the premises shall receive the following training in age related sales:
 - a) Written induction training which must be completed and documented prior to the sale of alcohol by the staff member.
 - b) Written refresher/reinforcement training at intervals of no more than twelve months.
 - c) Training records will be available for inspection by a Police Officer or other authorised officer upon reasonable request.
 10. All cashiers shall be trained to record refusals of sales of alcohol in a refusal book/register. The book/register will contain:
 - a) Details of the time and date the refusal was made.

- b) The identity of the staff member refusing the sale.
 - c) Details of the alcohol the customer attempted to purchase.
 - d) This book/register will be available for inspection by a Police Officer or other authorised officer on request.
11. 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.
 12. Appropriately worded signage will be prominently displayed requesting customers leaving the premises at night to respect local residents.
 13. Appropriate alcohol related signage regarding underage sales, proxy selling & Challenge 25 will be displayed prominently.
 14. The premises will install an electronic shunt lock which can be operated remotely from behind the serving counter.
 15. The premises will introduce till prompt system to help remind staff to ask for ID when appropriate to do so.
 16. Between the hours of 23.00 & 05.00 hours the pumps nearest the road will be switched off and then coned off.
 17. Areas of the forecourt not deemed necessary for use between 23.00 & 05.00 hours will be coned off.
 18. 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.
 19. Spirits will only be displayed behind the counter and will not be self service.
 20. Alcohol will not be displayed within 5 metres of the store entrance.
 21. 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.

1.3.2 The Embedded conditions referred to above are reproduced for Members information as **Appendix 2**. The conditions referred to in Annex 2 & 3 are reproduced for Members information as **Appendix 3**.

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:**

The Local Health Board, Fire Service and Environmental Health have responded to indicate no representations in respect of the application.

Gwent Police responded with representations, advocating the applicant amend the application to incorporate a number of conditions. The Licensing Authority in role as Responsible Authority confirmed that they had no representations but that they supported the Gwent Police representations.

The Police Representations are reproduced for Members information as **Appendix 6**.

1.5.2 Other Persons: Local resident

There has been one resident objection received during the 28 day consultation period for the variation application.

Document	Date Received	Appendix Reference
Resident Objection	12/4/2021	Appendix 7

The resident expressed concern in respect of the potential of noise from vehicles engines using the premises and from music. Concern was also expressed in relation to potential rowdy behaviour and littering at the site. Reference was made to the potential for Anti-Social Behaviour, if greater alcohol hours were permitted at the site.

1.6 SUMMARY OF REPRESENTATIONS

There have been responses from the Local Health Board, Environmental Health Officer and Licensing Authority in role as Responsible Authority to indicate no representations in respect of the proposed variation of the premises licence.

A local resident has lodged an objection to the variation application for additional hours in respect of provision of alcohol and that of late-night refreshment. Concern is expressed in relation to potential rowdy behaviour and littering at the site. Reference was made to the potential for Anti-Social Behaviour being exacerbated, if greater alcohol hours were permitted at the site.

The resident details occasions currently where occupants of vehicles play loud music and leave engines idling and subsequently use excessive speed and cause noise when exiting the petrol station.

Further comment is made about the increased ease of availability of alcohol and implications for health generally should the application be approved

Representations have also been received from Gwent Police who advocate the imposition of conditions as opposed an objection in relation to the variation application.

The Police commented that with the enhanced licensable hours this would be likely to increase the likelihood of a disturbance within the nearby residential vicinity. They indicated a concern for the potential for people to congregate outside the premises in the early hours which could also cause a disturbance within the vicinity which consists predominantly of residential properties.

Gwent Police advocated the following additional conditions:

1. 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.
2. 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.

In addition to the above, the Police advocated amendment to the proposed operating schedule by the applicant in particular those relating to proposed conditions 1 – 10,

and 12 – 13 in order to strengthen the operating schedule to allow for the safe and responsible trading of the business and to support the four licensing objectives during these extra hours.

The proposed amended wording conditions are reflected below.

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. 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.
6. 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.
7. 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.

1.7 APPLICANT RESPONSE

Document	Date Received	Appendix Reference
Response to Police Representations	9/4/2021	Appendix 8

The applicant has responded and accepted the representations of Gwent Police. No response to date has been received in relation to the comments of the resident objector.

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 variation application seeks to increase the permitted sale of alcohol provision making alcohol available 24hrs a day, whereas the current permitted hours allow the sale of alcohol between 07.00hrs until Midnight. The application also seeks to introduce late night refreshment i.e the sale of hot food or drink, authorisation for this provision is required between the hours of 23.00hrs until 05.00hrs.

The application also seeks to reflect the change of layout to the interior of the premises, which is supported by submission of an amended plan. In addition, the applicant seeks to remove some embedded conditions which are now largely superfluous or outdated and to also update its operating schedule.

Following the 28 day consultation on the variation application, one objection has been received from a local resident. The resident expresses concern about the potential for anti social activities in respect of the operation of the Service station and car wash facility and alludes to current issues experienced with connected to vehicles and their occupants in respect of vehicle noise and loud music and the potential for this to increase into the night time. The resident is noted to reside in close proximity to the premises.

Paragraph 28.21 of the council's licensing policy details *'Relevant representations about applications can also be made by any other person, regardless of their geographical position in relation to the relevant premises. However the Licensing Authority will usually give greater weight to representations that are made by people who can demonstrate that they would be directly affected by the carrying on of licensable activities at the premises concerned.'*

It is unclear from the resident comments to date whether there is a link to the behaviour described above to any licensable activity i.e sale of alcohol or whether the behaviour is linked to use of the petrol station or the shop for other goods. Subject to any planning considerations, the premises can legitimately offer the sale of fuel and other goods such as food / confectionary on a 24 hour basis.

The lack of comments from Responsible Authorities (RA's) in particular Environmental Health Officers would indicate that they are 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 or indeed the application submitted.

Neither the Police or other Responsible Authorities e.g Environmental Health reference any existing anti-social behaviour emanating from the site or in the vicinity. Ancillary information held on the Public Protection database indicates the absence of any complaint history in respect of vehicular noise, music or anti-social behaviour attributed to the site.

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.

Paragraphs 10.1 and 10.2 of the Council's licensing policy details that '*Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people, can be a source of crime and disorder problems.*'

'The Licensing Authority will expect operating schedules (see section 27) to satisfactorily address these issues from the design of the premises through to the day-to-day operation of the business.'

Officers are aware that prior to the application for Variation that was submitted, that a licensing consultant representing the applicant engaged with some of the Responsible Authorities and undertook a pre application site visit to the premises. Paragraph 10.3 of the Council's licensing policy details '*Applicants are recommended to seek advice from the Licensing Authority's licensing officers and the police, as well as taking into account, as appropriate, local planning and transport policies, tourism, cultural and crime prevention strategies, when preparing their plans and operating schedules.*

Gwent Police have acknowledged the likelihood for disturbance within nearby residential vicinity and the potential for people to congregate outside the premises. However, they believe that the promotion of the licensing objectives can be met via the imposition of conditions in this case. The Police advocate conditions in addition to that set out by the applicant and have suggested the strengthening of a number of proposals suggested by the applicant. Ultimately the position of the Police is that they are content with the imposition of conditions.

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.

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.

If Members were not of a mind to determine to grant the additional hours for sale of alcohol and new provision of late night refreshment then, Members may wish to approve the removal of embedded conditions and submission of revised plan, encompassing the change of layout to the premises. Members will be aware that the plan forms part of the Premises Licence.

Members attention is drawn to the following proposed condition advocated by the Police and agreed by the applicant namely ‘ *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.*’ Should Members determine to grant the variation application, it is advocated that this condition is not applied to the licence as it duplicates an existing legal requirement.

1.10 RECOMMENDATION

Having had regard to and considered the comments received from the local resident and in the absence of any concerns to the application from Responsible Authorities, it is recommended that the application for variation of Premises Licence be **granted, subject to the proposed conditions as set out in Appendix 9.**

It is also recommended that embedded conditions as set out in Appendix 2 are removed and likewise the conditions set out in Appendix 3. Furthermore, it is recommended that Members approve the revised plan, demonstrating the change of layout to the premises.

It is considered that any potential conflicts with the promotion of the Licensing Objectives may be adequately controlled by way of the operating schedule proposed by the applicant and conditions proposed by Police.

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

Date of this report: 27th April 2021

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