



LICENSING AND GAMBLING SUB COMMITTEE – 24TH MAY 2021

SUBJECT: DETERMINATION OF PREMISES LICENCE APPLICATION

REPORT BY: LEE MORGAN LICENSING MANAGER

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1. Application Details – Valley Tavern Limited

<u>Applicant</u>	<u>Premises</u>	<u>Application Type</u>
Valley Tavern Limited	Valley Tavern, 15 High Street, Fleur De Lys, Blackwood, NP12 3UD	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 under the Licensing Act 2003. The proposed application for consideration is set out in 1.3 of this report.

The applicant Valley Tavern Limited currently holds a Premises Licence which permits the sale of alcohol, exhibition of film, live and recorded music, performance of dance, late night refreshment and boxing/wrestling entertainment.

1.2 Site Plan/Photographs

The plan of the existing licensed area authorised under a Premises Licence is reproduced as **Appendix 1**.

A map of the local area is reproduced for Members attention as **Appendix 1a**.

1.3 Proposed variation to Trading Times and Licensable Activity

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

Following a redesign of the premises we wish to revise the plan of the property that is included on the current premises licence. The previous café area has been converted into one large bar area. The front entrance to the property has also changed as shown on the property drawing attached. The opening times of the premises will be 08.00am to serve food but no change to alcohol hours before 11.00am.

An updated plan of the premises has also been provided as part of the Variation application, this is reproduced for Members information as **Appendix 2**.

- 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:-

‘Same as Licence.’

- 1.3.2** No Conditions are to be removed as part of the variation application.

- 1.3.3** A redacted copy of the existing licence is 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, Environmental Health (Pollution Team), Child Protection Officer, Licensing Authority in role as Responsible Authority and Police have all responded to indicate no representations in respect of the application.

There are no Responsible Authority Objections / Proposed conditions in respect of the variation application.

1.5.2 Other Persons: Local residents

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

Document	Date Received	Appendix Reference
Resident Objection (a)	26/4/2021	Appendix 6
Resident Objection (b)	26/4/2021	Appendix 7

1.6 **SUMMARY OF REPRESENTATIONS**

Two residents have made objections to the variation application.

Resident (a) expresses concern about the extension made to the bar with a stage and seating along the front wall under the windows and fears that noise will increase substantially. There are concerns if the windows are open in the summertime then the noise will be far worse. The resident alludes to the fact that this has happened in the past.

Reference is made to problems which had happened in the past namely rowdiness, fighting, urination in the street, broken glass and noise from taxis. Reference is made to Police involvement previously. The resident sums up that it is hoped that things will improve in the future.

Resident (b) expresses concern that by changing the café into a bar area that there will be increased noise coming from the front of the pub and references where there were three doors, there would now be one to limit any noise. Reference is made to the movement of the doorway which could impact upon OAP Housing. Furthermore, reference is made to a current condition in respect of opening of windows at the premises.

There have been no representation responses from the Local Health Board, Environmental Health Officer (Pollution Team), Child Protection Officer and Licensing Authority in role as Responsible Authority and Gwent Police.

1.7 **APPLICANT RESPONSE**

No response to date has been received in relation to the comments of the resident objectors.

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

A full variation application has been submitted by the Applicant following works to the interior layout / configuration of the premises and that to the main access to the premises. Members will be aware that the plan of the Premises forms part of the premises licence and an application therefore required to demonstrate the change of layout.

The Applicant has used the application to notify the Authority of his intention to open the premises from 08.00hrs for the purpose of serving food. Members will be aware that the provision of food at this time would not constitute a licensable activity. In addition, opening hours themselves do not constitute a licensable activity.

There are no changes to any licensable activities proposed as a result of the application.

Following the 28 Day consultation period on the variation application, two objections have been received from local residents.

National Guidance at paragraph 9.9 states *'It is recommended that, in borderline cases, the benefit of the doubt about any aspect of a representation should be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it.'*

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.'*

There were no objections received nor conditions proposed by any of the Responsible Authorities following the application. The lack of comments from Responsible Authorities (RA's) 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 at this time.

However the comments of the residents and the concerns expressed in Appendices 6 & 7 have been forwarded to Gwent Police, Environmental Health Officer (Pollution Team) and

Licensing Authority in its role as a Responsible Authority in order that they are able to contact the residents in relation to their comments and take any action deemed to be appropriate.

Should the allegations relating to crime and disorder, public nuisance and anti-social behaviour be witnessed by residents and the promotion of the licensing objectives be undermined, then residents should bring these matters to the attention of the Police, Environmental Health and Licensing team by way of complaint, in order that they can be investigated.

The applicant appears aware of his existing conditions attached to the Premises Licence as within the Operating Schedule of his application, the applicant has indicated that steps to promote the Licensing Objectives are 'Same as Licence.'

The Council's Licensing Policy at Paragraph 26.1 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.'*

There are specific conditions already attached to the Premises Licence to afford protection to local residents in relation to noise from entertainment. Residents should therefore contact Environmental Health Pollution Team Officers if entertainment noise is intrusive within the curtilage of their properties. Such matters can be investigated in relation to whether noise is a statutory nuisance under the Environmental Protection Act.

To determine whether there is a statutory nuisance, matters are normally investigated through monitoring of the premises following a stepped approach to advice, guidance and ultimately enforcement. Where evidence of Public Nuisance is established, this could give rise to Review proceedings of the Premises Licence under the Licensing Act. Should there be evidence where other licensing objectives are being undermined i.e prevention of crime and disorder, public safety or protection of children from harm, then Review proceedings could follow.

The National Guidance at paragraph 11.1 details *'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.'*

However the Council's Licensing policy at paragraph 11.7 also recognises that *'The Licensing Authority recognises that beyond the immediate area surrounding the licensed 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. However, applicants are encouraged to consider the actions they may take as a responsible licence-holder to mitigate the potential adverse impact of patrons. The operating schedule should again be used to demonstrate an understanding of the potential risks and the positive measures that may be implemented to manage such issues.'*

1.10 RECOMMENDATION

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.

Having had regard to and considered the comments received from the local residents. Given the nature of the variation application i.e to regularise the layout in relation to the plans of the premises in the absence of any concerns to the application from Responsible Authorities, it is recommended that the application for variation of Premises Licence be **approved**.

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

Date of this report: 12th May 2021

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