



LICENSING AND GAMBLING SUB COMMITTEE – 18TH JUNE 2021

**SUBJECT: LICENSING ACT 2003 - DETERMINATION OF PREMISES
LICENCE APPLICATION**

REPORT BY: LEE MORGAN LICENSING MANAGER

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1. Application Details – Wattsville Community Group

<u>Applicant</u>	<u>Premises</u>	<u>Application Type</u>
Wattsville Community Group	Sports Ground Pavilion, Wattsville Recreational Ground, Islwyn Road South Lane, Wattsville, Crosskeys. NP11 7QH.	Variation of Premises licence

1.1 Application for Variation of Premises Licence

An application has been submitted to apply for a variation to 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.

1.2 Site Plan/Photographs

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

A location plan is reproduced as **Appendix 2**.

1.3 Proposed Trading Times and Licensable Activity

The variation application seeks to permit the following Licensable Activities:-

Sale of alcohol and playing of recorded music (Indoors) Mon to Sat 12:00 to 23:00 & Sun 12:00 to 22:00 with additional non-standard timings for New Year's Eve until 02.00 & Bank holidays until midnight.

Increase in size of licensable area including on & off sales to cover the external compound area to the rear of the building as per attached plans.

Add live music (indoors & outdoors) between the hours 12:00 to 23:00 Monday to Sunday with additional non-standard timings for New Year's Eve until 02.00hrs & Bank holidays until midnight.

The applicant proposes to amend an existing condition to include additional CCTV cameras to the external areas of the premises.

- 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:-

All Staff to be DBS checked.

1.3.2 Existing Permissions

The existing premises licence currently permits

Sale of alcohol (indoors only)

Monday to Friday 19.00 – 23.00

Saturday 12.00 to 23.00

Sunday 12.00 to 20.00.

Recorded Music provision (indoors only)

Monday, Tuesday, Thursday and Friday, 1900 to 2300

Wednesday, 1700 to 2300

Saturday, 1200 to 2300

Sunday, 1200 to 2200

1.4 RELEVANT CONSIDERATIONS

Caerphilly County Borough Council Licensing Policy **Appendix 3**

National Guidance **Appendix 4**

1.5 RELEVANT REPRESENTATIONS RECEIVED DURING APPLICATION PROCESS

1.5.1 Responsible Authorities:

No representation comments were received from the Fire and Rescue Service and Environmental Health (Health & Safety Team).

Police

Document	Date Received	Appendix Reference
Initial Representation	20/5/2021	Appendix 5

Licensing Authority in role as Responsible Authority

Document	Date Received	Appendix Reference
Initial Representation	24/5/2021	Appendix 6

Environmental Health Officer Pollution Team

Document	Date Received	Appendix Reference
Initial Representation	24/5/2021	Appendix 7

Child Protection Officer

Document	Date Received	Appendix Reference
Initial Representation	27/4/2021	Appendix 8

1.5.2 Other Persons:

Residents

Document	Date Received	Appendix Reference
Resident A Representation	5/5/2021	Appendix 9a
Supplementary Comments	13/5/2021- 30/5/2021	Appendix 9ai
Residents B Representation	23/5/2021 -24/5/2021	Appendix 9b
Resident C Representation	24/5/2021	Appendix 9c

1.6 SUMMARY OF REPRESENTATIONS

Heddlu Gwent Police made no objection to the variation and sought additional conditions in respect of the outdoor area, restricting its use to 22.00hrs. The Police have advocated provision of CCTV to include all external and internal areas covered by the licence. The Police also sought additional notices be displayed at the premises in relation to controlled substances / weapons and reminding patrons to leave the premises quietly, implementation of Challenge 25 proof of age scheme and a training requirement relating to dealing with difficult customers and safeguarding.

The Licensing Authority in its role as a responsible authority, whilst making no objection has noted and agreed with the comments of the Police in relation to use of the outside area limiting this to 22.00hrs. Notices to this effect for the attention of patrons were also proposed. A requirement was also proposed to ensure the regular monitoring of the outside area.

Concern was expressed in relation to the increased hours proposed for live/recorded music in relation to New Year's Eve, Bank Holidays and Saturday/Sundays preceding the same in respect of proximity of local residents, given the intermittent use of the premises as a result of Coronavirus which meant that the impact on residents was unknown. The Licensing Authority advocated that these non-standard timings for live/recorded music were limited to midnight on New Years Eve and 23.00hrs for Bank Holidays and Saturday/Sundays preceding the same.

It was also advocated that the premises should be clear of customers within 30 minutes of the last supply of alcohol on any day.

The comments of the Environmental Health Noise Pollution Officer also advocated curtailment of the outdoor area to 22.00hrs and advocated limiting the use of the smoking area to no more 5 persons after this time.

Where entertainment may be held after 23.00hrs, the Environmental Health Officer has proposed that all windows and doors are closed (except for access/egress) and that the volume of entertainment at a level which does not cause a nuisance to the nearest residential property. A further condition was advocated in relation to monitoring of the perimeter of the premises for noise breakout (although this will only apply after 23.00hrs)

The Child Protection Officer has advocated conditions in respect of Challenge 25 proof of age scheme and a documented staff training requirement in respect of underage sales.

Relevant representations have been received from 3 residents during the 28 Day consultation process. The residents object to the to the additional permissions in relation to alcohol and entertainment proposed by the variation application.

Resident A submitted initial concerns within a questionnaire format, referencing a number of issues attributed to the premises in respect of drunken behaviour, nuisance, anti-social behaviour, safety and use of the premises by persons who do not live within the village. The resident has subsequently amplified her concerns about patrons not being locals, the lack of lighting in the rear lanes and extended hours would give rise to noise and drunkenness. Reference was made to incidents on Saturday 29th May and Sunday 30th May in respect of cars, music, screaming children and outside drinking, preceded by an incident where two drinkers had urinated against the club house. (Nb. Temporary Event Notice in place from 28th-31st May 2021)

Resident B concerns relate to the potential for parents to drink drive, if additional alcohol hours are permitted and reference was made to the club breaching outside drinking rules. The resident indicated that he would not attend a public meeting in view of harassment received from club members and committee.

Resident C details that the club has applied to vary its licence only 6 months after the initial licence was granted. Concern is expressed that the majority of people supporting the venture do not live in the area or close by to be affected by noise or parking issues and those who will be directly affected seen as negative/miserable. Reference is made to antisocial noise from music from a sound system on the first Saturday that outdoor drinking took place and antisocial behaviour exhibited at football matches / training sessions which involves foul language. Reference is made to use of a Facebook page in which the club posted information as to menu and bar opening hours but not the promotion of the variation application and a concern that residents are scared to make representations for fear of aggressive comments in return on this platform.

Concern is expressed about the increased alcohol provision for each day including Bank Holidays which could lead to noise and antisocial behaviour. Car parking concerns are referenced which it was felt could become worse with additional alcohol provision. The resident feels that the changes proposed are not reasonable to local residents and feels that they have not been open long enough to gauge if more hours are appropriate.

1.7 APPLICANT RESPONSE

The Applicant has responded and agreed to the proposed curtailment of entertainment on Bank Holidays, use of the outdoor area and conditions advocated by the Police, Licensing

Authority, Environmental Health Pollution Team and Child Protection Officer. No response has been received in relation to resident concerns at the time of preparing this report.

1.8 LICENSING ASSESSMENT

THE LICENSING ASSESSMENT IS A PROVISIONAL SUMMARY, BASED ON REPRESENTATIONS RECEIVED PRIOR TO THE HEARING. THE HEAD OF PUBLIC PROTECTION, COMMUNITY AND LEISURE SERVICES RESERVES THE RIGHT TO AMEND OR VARY THE PROVISIONS CONTAINED IN THE SUMMARY AND RECOMMENDATION, SUBJECT TO ANY CHANGE IN THE MATERIAL FACTS THAT BECOME KNOWN AT THE HEARING. THE SUB-COMMITTEE IS OBLIGED TO DETERMINE THIS APPLICATION WITH A VIEW TO PROMOTING THE LICENSING OBJECTIVES WHICH ARE:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance;
- The protection of children from harm

In making its decision, the Sub Committee is obliged to have regard to:-

- Licensing Act 2003
- Statutory Guidance issued under S182 of the Licensing Act
- The Council's own licensing policy, and
- All representations made and evidence presented

NOTE: THE SUB-COMMITTEE MAY NOT MODIFY THE CONDITIONS OR REJECT THE WHOLE OR PART OF THE APPLICATION MERELY BECAUSE IT CONSIDERS IT DESIRABLE TO DO SO. ANY SUCH ACTIONS MUST BE NECESSARY IN ORDER TO PROMOTE THE LICENSING OBJECTIVES.

Statutory Power - Licensing Act 2003. This is a Council function which is delegated to this committee to decide.

1.9 OBSERVATIONS

This application seeks to vary the existing Premises Licence held to increase permissions for sale of alcohol hours, to effectively commence alcohol sales earlier during the day. The existing premises licence permitted the sale of alcohol Monday to Friday from 19.00hrs until 23.00hrs and 12.00 to 23.00hrs, Saturday and 12.00 to 20.00hrs on Sunday, whereas the variation seeks to permit the ability to sell alcohol from midday, 7 days a week. The variation also seeks additional hours from 20.00 to 22.00hrs on a Sunday.

In addition, increased alcohol hours are sought on New Year's Eve and Bank Holidays and Saturday / Sundays preceding a Bank Holiday as is provision for live and recorded music. This would effectively permit sale of alcohol until 02.00 on New Year's Eve and midnight on Bank Holidays and Saturday / Sundays preceding a Bank Holiday. Although the Licensing Authority in its role as Responsible Authority has restricted entertainment times to Midnight on New Year's Eve and 23.00hrs on Bank Holidays and Saturday / Sundays preceding a Bank Holiday.

The variation seeks to increase the size of licensable area to include on & off sales to cover the external compound area to the rear of the building. This replacing the existing on sales provision only. The Police, Environmental Health Officer and Licensing Authority in role as Responsible Authority have collectively advocated curtailment on use of this outdoor area to 22.00hrs, which has been accepted by the applicant.

Whilst the applicant has detailed provision of live and recorded music on his application up to 23.00hrs, this would be afforded by virtue of live music exemption / recorded music deregulation following the grant of the existing premises licence.

As part of the application, the applicant proposes to amend an existing condition to include additional CCTV cameras to the external areas of the premises.

No objection to the variation was received from any of the Responsible Authorities (RA's). It is noted that the Police, Licensing Authority in role as responsible authority, Environmental Health, (Noise Team) and Child Protection Officer have all advocated conditions or curtailment to some activities applied for, which have been accepted by the applicant. No concerns to the variation were expressed by the Fire Service / Environmental Health (Health & Safety Team).

The Responsible Authorities (RA's) therefore appear to be satisfied with the applicant's ability to promote the licensing objectives. No adverse comments have been brought forward by responsible authorities as a result of Temporary Event Notices (TEN's) given to the Licensing Authority to permit outdoor alcohol provision following the outdoor re-opening of the hospitality sector. The premises existing 'on sales' permission would have not permitted the use of the newly constructed outdoor area.

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.*

Relevant representations making objections to the granting of the premises licence have been received from 3 residents. It is noted that two of the residents separately referenced a fear or concern with regards the aggressive nature of comments allegedly made towards residents, making them scared to make representations in respect of the application.

One of the resident concerns relates to the usage of the premises by persons who are not resident in the village. However, Members of the Committee can have no regard to where premises users may reside when determining a variation application under the Licensing Act.

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 in relation to any licensable activities. However, they will not be able to consider nuisance arising from increased footfall, vehicle usage, parking issues linked to provision of sports or other activities which are not licensable activity under the Licensing Act. The Council's Licensing Policy details at Paragraph 28.5 that *'Representations should relate to the impact of licensable activities carried on from premises on the Licensing Objectives.'*

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.

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.'*

It is noted that aside from detailing on their operating schedule that *'all staff will be DBS checked'* the applicant has failed to identify measures that would assist its promotion of the licensing objectives in relation to the variation sought. The Responsible Authorities have addressed this in their representations. However, the applicant should ensure that they meet their obligations in respect of promotion of the licensing objectives and that any conditions that are attached to the licence are met and will continue to be met.

Paragraph 11.6 of the Council's Licensing Policy details the following expectation of licensees and 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.'*

In relation to complaints in relation to possible noise concerns from entertainment at the premises, protection will be afforded to residents by virtue of Statutory Nuisance provisions of the Environmental Protection Act 1990.

Should 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.

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 public nuisance or indeed any of the 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. Both Responsible Authorities and Other Parties e.g residents have the ability to call for a review of the premises licence where there is such evidence.

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.'*

The Council's Statement of Licensing Policy details at paragraph 36.2 *The Licensing Authority intends that enforcement visits will be made to licensed premises as appropriate, to ensure that any conditions imposed as part of the licence are being complied with. These visits may be either proactive planned inspections based on the risk presented by the premises, history of non-compliance etc., or reactive visits as a result of complaints.*

Paragraph 19.7 of the Council's Statement of Licensing Policy details that *'It is an expectation that the premises licence holder and designated premises supervisor will be aware of their permitted licensable activity types, permitted hours and conditions of licence. Failure to demonstrate or have a lack of regard could result in a lack of confidence in management by a Responsible Authority.'*

1.10 RECOMMENDATION

Having had regard to and considered the position of the Responsible Authorities and all comments received by residents, it is recommended that the application for a Premises Licence be **granted subject to conditions and permitted hours as detailed within Appendix 10.**

In reaching this conclusion, it is noted that there are no objections to the application from Responsible Authorities who have advocated conditions or curtailment of outdoor usage / limitation on live/recorded music provision on Bank Holidays and preceding Saturday / Sundays. It is considered that any potential conflicts with the promotion of the Licensing Objectives may be adequately controlled by the recommended conditions set out in **Appendix 10.**

However, there will be an expectation that the applicant will take steps to ensure familiarity and compliance with their licence and ensure the promotion of the licensing objectives.

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

Date of this report: 7th June 2021

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