



LICENSING AND GAMBLING SUB COMMITTEE – 22ND JUNE 2021

**SUBJECT: DETERMINATION OF CLUB PREMISES CERTIFICATE
VARIATION APPLICATION**

REPORT BY: LEE MORGAN LICENSING MANAGER

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1. Application Details –

<u>Applicant</u>	<u>Premises</u>	<u>Application Type</u>
Pontymister Welfare Bowls Club	Pontymister Welfare Bowls Club, Ty Isaf Pavilion, Pontymister, Risca	Variation of Club Premises Certificate

1.1 Application for Variation of a Club Premises Certificate

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, Pontymister Bowls Club, currently holds a Club Premises Certificate which permits the supply of alcohol.

1.2 Site Plan/Photographs

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

A map of the local area is reproduced for Members' attention **Appendix 2**.

1.3 Proposed variation to Trading Times and Licensable Activity

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

Removing current embedded conditions.

Adding the outside bowling green area adjacent to the pavilion for the consumption of alcohol as part of the licensing area. The bowling green is surrounded by a high hedge and has two solid entrance gates.

Extending provision of alcohol hours.

Adding provision of recorded and live music.

Varying opening hours.

An updated plan of the premises has also been provided as part of the Variation application, this 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:-

Except for access and egress all doors and windows shall be kept closed during periods of entertainment associated with the Premises Licence.

No speakers for amplification of music shall be placed on the outside of the premises or on the outside of any building forming a part of the premises.

There shall be no consumption of beverages in any outside areas/specific after 23.00 hours.

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.

Outdoor lighting shall be positioned, so far as is reasonably practicable, so as to limit its intrusion into residential accommodation in the vicinity of the licensed premises whilst maintaining an adequate level of lighting for the safe access and egress of customers and persons employed at the premises.

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.

The premises shall be cleared of customers within 30 minutes of the last supply of alcohol on any day.

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.

- 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 2003.

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 the Licensing Act 1964 provisions.

- 1.3.3** Current Permissions – The current Club Premises Certificate (CLR019) permits the sale of alcohol -

On weekdays, other than Christmas day, Good Friday or New Year's Eve – 11.00am to 11.00pm.

On Sundays, other than Christmas Day or New Year's Eve 12noon to 10.30pm.

On Good Friday, 12noon to 10.30pm.

On New Year's Eve, except on a Sunday, 11.00 to 11.00pm.

On New Year's Eve on a Sunday, 12noon to 10.30pm.

On Christmas Day, as provided by rules of the club and notified in writing by the chairman or secretary of the club to the licensing authority. The said hours shall:

Not exceed six and a half hours; not begin earlier than 12noon; not end later than 10.30pm; provide for a break of at least 2 hours, including 3.00pm to 5.00pm; not extend for more than three and a half hours after 5.00pm.

On New Year's Eve from the end of permitted hours to the start of permitted hours on the following day, which would be 11.00am if New Year's Day fell on a weekday or 12noon if a Sunday.

- 1.3.4** If the application were to be approved, then the following provisions on the Club Premises Certificate would then apply –

Supply of alcohol (on and off the premises)

Monday to Sunday 11.00am – 11.30pm.

New Year's Eve 11.00am – 02.00am

Live & Recorded Music

Monday to Sunday 7.00pm – 11.00pm (although provision already exists through live music exemption / deregulation between hours of 8am-11pm and this activity is therefore not licensable, so long as it takes place between the hours of 8am and 11pm whilst the premises are open for the sale of alcohol)
New Year's Eve 11.00pm – 0.30am

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:

Police

Document	Date Received	Appendix Reference
Initial Representation	26/5/2021	Appendix 6

Licensing Authority in role as Responsible Authority

Document	Date Received	Appendix Reference
Initial Representation	27/5/2021	Appendix 7

Environmental Health Officer Pollution Team

Document	Date Received	Appendix Reference
Initial Representation	27/5/2021	Appendix 8
Supplementary comments	1/6/2021	Appendix 8a

Child Protection Officer

Document	Date Received	Appendix Reference
Initial Representation	10/5/2021	Appendix 9

1.5.2 Other Persons: Local residents

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

Document	Date Received	Appendix Reference
Resident Objection a	26/5/2021	Appendix 10
Resident Objection b	21/5/2021	Appendix 11
Resident Objection c	26/5/2021	Appendix 12
Resident Objection d	24/5/2021	Appendix 13

1.6 SUMMARY OF REPRESENTATIONS

The Police make no objection to the application but raised a concern in respect of the use of the outdoor area late at night given the proximity of residential premises. The Police therefore advocated the use of the outside area be curtailed to 22.00hrs. The Police advocate the use of the Challenge 25 Proof of Age policy at the premises and training for staff members in relation to underage sales, dealing with difficult customers and safeguarding. The Police advocate the use of a refusal register and notices / signage in relation to persons found in possession of drugs / weapons and leaving the area quietly.

The Licensing Authority in its role as a responsible authority has not objected but has sought curtailment of the outside area to 22.00hrs. In addition, it was advocated that any live/recorded music held on New Year's Eve was brought back to 00.30hrs. A requirement to monitor the outside area on a regular basis was also proposed and accepted by the applicant.

Where regulated entertainment is held the Environmental Health Officer has advocated that the volume of amplified/unamplified live and recorded regulated entertainment must be at a level so as not to cause a nuisance at the nearest residential property. In addition, a requirement that windows/doors are closed except for access / egress. The Environmental Health Officer has also specified a requirement requiring the applicant to conduct perimeter checks during periods of regulated entertainment. A condition has been advocated to limit the numbers of persons smoking outside after 10pm to 5 persons.

The Child Protection Officer has advocated a condition in relation to documented staff training in relation to underage sales of alcohol.

Four residents have made objections to the variation application.

Resident a comments that they reside in the close proximity to the club and are concerned about the impact of increased hours and music noise, which they reference has been the case when functions are held. Reference is made to not being made aware of the application.

Resident b comments upon the impact upon the application upon members of their family in relation to possible sleep implications. Reference is made to the premises being kept as a bowls club. Concern is expressed about hearing about the application via Social Media.

Resident c expresses concern in relation to noise and increased footfall given her close proximity to the club. Concern is also expressed in relation to the notification of the application.

Resident d details concerns about noise and impacts upon sleep of family members. Reference is made to finding out about the application via Social Media and concerns in relation to parking of vehicles.

1.7 APPLICANT RESPONSE

The applicant has responded to the comments of the Responsible Authorities agreeing to their proposals in relation to use of the outside area and limiting of

entertainment until 23.00hrs. The applicant has also responded to resident concerns in a letter dated 28th May 2021. The applicant's response to residents is reproduced as **Appendix 14**.

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 for variation has arisen primarily as a result of a query to the licensing department in relation to the outdoor re-opening following the latest coronavirus restrictions and relaxations. The club were notified that its existing licensed 'footprint' related only to the pavilion building and not the wider bowling green (outdoor) area itself, whereas the club appears to have been using the same for the supply of alcohol over a number of years. The variation application appears to have been made to address this oversight.

Following the 28 Day consultation period on the variation application, four objections have been received from local residents. From the representations provided the residents premises and their gardens appear to border the bowling green.

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.'*

To provide some clarification in relation to the advertising of the application and comments in relation to finding out about the application via Social media. The Licensing Act requires the placing of a Notice on the premises, an advert in a local newspaper and the application to be advertised on the local authority's website. There is no requirement under the Licensing Act to individually notify local residents. The Licensing department is satisfied that the applicant has met their legal obligations in respect of advertising of the variation application.

The Responsible Authority's (RA's) in this instance Police, Environmental Health Officer and Licensing Authority in role as Responsible Authority have not objected to the increased hours sought by the applicant and the additional licensable area for alcohol consumption within the curtilage of the bowling green area. Instead they have collectively advocated curtailment on use of this outdoor area to 22.00hrs, which has been accepted by the applicant.

Whilst the applicant did initially apply for provision of live and recorded music on his application up to 23.30hrs, this would be afforded by virtue of live music exemption / recorded music deregulation until 23.00hrs. However, the applicant has brought his proposed hours for live/recorded music back from 23.30 to 23.00hrs. Having regard to the exemption and deregulation, live and recorded music at the hours proposed would not be a licensable activity and cannot be made subject to conditions. The only exception to the above is on New Year's Eve where entertainment would be permitted until 00.30hrs and can have conditions applied after 23.00.

The Environmental Health (Pollution) Officer has indicated the absence of service requests i.e complaints in relation to noise emanating from Pontymister Welfare Bowls Club and conditions that are proposed adequately address concerns held by them as a responsible authority and are suitable in supporting the licensing objective, Prevention of Public Nuisance.

The Child Protection Officer has not objected to the variation application and has advocated a proposed condition in relation to documented staff training in relation to underage sales of alcohol. This has been accepted by the applicant.

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.

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 parking issues or other activities unconnected to the bowls club. 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 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.'*

The Responsible Authorities in this instance appear to be satisfied that the operating schedule submitted by the applicant and conditions advocated and agreed will ensure that the licensing objectives can be promoted.

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 Responsible Authorities and local residents, 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 15** and as a result the variation application should be **approved**.

Links to Background Papers:

[Statutory Guidance issued under S182 of the Licensing Act](#)
[Caerphilly CBC Statement of Licensing Policy](#)

Date of this report: 11th June 2021

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