



LICENSING AND GAMBLING SUB COMMITTEE – 8TH JULY 2021

SUBJECT: DETERMINATION OF PREMISES LICENCE APPLICATION

REPORT BY: LEE MORGAN LICENSING MANAGER

1. Application Details –

<u>Applicant</u>	<u>Premises</u>	<u>Application Type</u>
Nicola Richardson Anderson	Huntersmoon Holistic Services r/o Dynevor Terrace Nelson CF46 6PD	New Premises licence

1.1 Application for Grant of a New Premises Licence

An application has been submitted to apply for a new premises licence for the above premises. 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&1a**.

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

Photographs of the Premises are reproduced for Members as **Appendix 2a**.

1.3 Proposed Trading Times and Licensable Activity

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

- **Supply of Alcohol (on and off sales)**

Monday to Sunday, 08:00 to 23:00.

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. No tolerance of anti social behaviour.
2. Join Pub Watch scheme.
3. Operate a Challenge 25 policy.
4. Ask clients to leave quietly on time.
5. Monitor level of alcohol units.
6. If drunk and disorderly refuse serving.
7. Correct training for staff.

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:

The following responsible authorities have indicated that they have no representations in respect of the proposed new premises licence:-
Fire & Rescue Service, Planning, Environmental Health (Commercial Safety Officer) and Public Health Wales.

Trading Standards

Document	Date Received	Appendix Reference
Initial Representation	05/05/2021	Appendix 5

Children's Services

Document	Date Received	Appendix Reference
Initial Representation	17/05/2021	Appendix 6

Environmental Health

Document	Date Received	Appendix Reference
Initial Representation	01/06/2021	Appendix 7

Police

Document	Date Received	Appendix Reference
Initial Representation	04/06/2021	Appendix 8

Licensing Authority in role as Responsible Authority

Document	Date Received	Appendix Reference
Initial Representation	11/06/2021	Appendix 9

1.5.2 Other Persons:

Residents

Document	Date Received	Appendix Reference
Resident A Representation	08/06/2021	Appendix 10a
Resident B Representation	08/06/2021	Appendix 10b
Resident C Representation	26/05/2021	Appendix 10c
Resident D Representation	28/05/2021	Appendix 10d
Resident E Representation	05/06/2021	Appendix 10e
Resident F Representation	08/06/2021	Appendix 10f
Resident G Representation	10/06/2021	Appendix 10g

1.6 SUMMARY OF REPRESENTATIONS

Trading Standards have proposed that staff/members who serve alcohol are trained in the prevention of underage sales and that training be updated when necessary and documentation of said training be available for inspection by an authorised Licensing Officer or constable. The Trading Standards Officer advocates that a 'Challenge 25' policy to be in place and that Staff be vigilant regarding proxy sales.

The Child Protection Officer, like Trading Standards have proposed conditions requiring staff/members who serve alcohol are trained in the prevention of underage sales and that training be updated when necessary and documentation of said training be available for inspection by an authorised Licensing Officer or constable. The Child Protection Officer advocates 'Challenge 25' policy to be in place and Staff to be vigilant regarding proxy sales.

Environmental Health (Pollution Team) have proposed that disposal of bottles and recyclable materials should only take place between 09.00 and 22.00 and no consumption of beverages in the outside areas after 22.00.

Gwent Heddlu Police have proposed a condition to prevent consumption of alcohol to outside the front of the main building. The Police advocate CCTV to be in use at the premises which covers the outside areas and specify coverage of the system in place and the ability of staff to download images at the request of any authorised officer of the Licensing Authority or a constable. Clear signage must be in place regarding CCTV.

The Police propose conditions to prevent Glass bottles to be taken from persons leaving the premises and no consumption of beverages in outside area after 22.00 with notices displayed to this effect, the exception being smokers using the outside area.

The Police advocate that the premises supervisor, manager or other competent person shall manage any the outdoor areas to ensure that customers do not behave in a noisy, rowdy, or offensive manner and a requirement for Notices displayed asking customers to leave premises quietly. Furthermore, the Police have advocated an Incident/refusals book to be kept with details of incidents recorded. The records shall be kept for a period of 12 months.

The Licensing Authority have proposed that the premises be cleared of customers within 30 minutes of the last supply of alcohol.

Resident A (and residents below) oppose the application and expresses a view that a licence for the sale of alcohol between the hours of 08.00 – 23.00, 7 days a week is a contradiction of what the surrounding area is for. Reference is made to the entrance to the property being shared with 2 residential properties and an all-day alcohol sales licence does not fit with a residential area.

Resident B expressed a concern that a new licensed premise may increase public nuisance for residents and a risk of public disorder from intoxicated members leaving the premises. Furthermore, access to a private driveway, an increase of footfall and traffic to a quiet area resulting in parking issues and an increase of refuse will increase in an increase of pests.

Resident C commented that the licensing objectives could not be promoted by granting a licence to this premise, in particular the prevention of crime and disorder. Concern is expressed about existing noise nuisance, littering and anti-social behaviour. Comment is made about the applicant's intention to sell alcohol 8.00 to 23.00, 7 days a week at the premises, which the resident alludes would be detrimental to its aims and objectives.

Resident D detailed concerns that if a licence is granted it will result in excessive noise and disturbance during the evening being detrimental to sleep and the Public right of way/lane being used as a toilet. Comment was expressed that Holistic Services (healing services) being in 'opposition' to the sale of alcohol.

Resident E feels that enabling this premise to sell alcohol would be detrimental to the licensing objectives, and would add additional crime and disorder, noise, littering and anti-social behaviour. The resident expresses concern in respect of opening hours and urges council to refuse licence.

Resident F commented upon the proximity of this premises to their property which could increase public nuisance and possibly put childrens' safety at risk as they play in the lane adjacent to the property.

Resident G raised a concern about public safety in relation to joint usage of the driveway leading to the premises and access to emergency vehicles.

1.7 APPLICANT RESPONSE

Document	Date Received	Appendix Reference
Response to Resident c	28/05/2021	Appendix 11a
Response to Resident d	03/06/2021	Appendix 11b

Response to Resident b	17/06/2021	Appendix 11c
Response to Resident e	17/06/2021	Appendix 11d
Response to Resident a	29/06/2021	Appendix 11e
Response to Resident g	29/06/2021	Appendix 11f

The applicant has responded to a number of the resident representations. In responding to resident c, the applicant details the success with businesses setting up such as Yoga, Thai Spa, Education Spiritual events etc during the pandemic and details that they wish to offer Conference room Meetings, Local Farm Style Cafe Shop, Activities and events such as Psychic fares, Social groups Christmas parties and Fine Ale or wine with meal as opposed to being a walk in pub.

Responding to resident d the applicant comments that there are no intentions to revert the use of the premises back to a social club.

The applicant responded to Resident b's concerns on 17th June 2021. In this response, the applicant detailed that she would adhere to all objectives put forward by the responsible authorities. The applicant detailed that the property has been upgraded to what was a very run down premises and believes that this has added value to other properties. The applicant comments on the location of the Wellness centre not being in a cul-de-sac and detailed that there was approximately 60 meters of land between the business and resident B's property.

The applicant indicated that Public disorder issues will be dealt with as per objectives put forward and in accordance with the law. The applicant acknowledged an increase in traffic but that guidance from highways/planning was being adhered to. The applicant indicated that no issues had been reported, the premises is located within its own boundaries. The applicant stated she had sought legal advice and detailed that she is the owner of the land and allows resident B the right of way access only, resident B has a responsibility to contribute to the maintenance of access allowed to them. The applicant states that a fire risk assessment/fire evacuation will be carried out by a competent person to conform to fire regulatory reform (fire safety) order 2005.

Responding to Resident e, the applicant indicated that the premises would not be a public house, the alcohol consumption will be an option for the Spa area as well as conference and retreat area along with cafe. The same comments are made to Resident a, together with an offer to visit the premises to view the same. The applicant indicates that there are no plans to return the premises to that resembling activities of former social club.

Responding to Resident g, reference is made to the site being a wellness centre and responds to concerns in relation to access to the site and rear lanes to neighbouring premises.

The Applicant has responded and agreed to the proposed conditions by the Police, Licensing Authority in role as a responsible authority, Environmental Health, Trading Standards and Child Protection Officer, as such these would form the basis of conditions, should a premises licence be granted.

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 relates to the granting of a new premises licence. No objections were received from any of the Responsible Authorities (RA's). It is noted that the Police, Licensing Authority in role as responsible authority, Environmental Health, (Pollution Team), Trading Standards and Child Protection Officer have all advocated conditions, which have been agreed by the applicant.

The Fire Authority offered no representation comments in relation to the application and therefore appear to be satisfied for the purpose of access to the premises. (Access to emergency vehicles being an issue raised by objectors)

The Responsible Authorities (RA's) therefore appear to be 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.

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.

Representations making objections to the granting of the premises licence have been received from 7 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.'*

However, Paragraph 14.5 of the council's licensing policy provides advice to Members when considering representations and states *'Unreasonable, frivolous and vexatious representations will be disregarded. Representations that have been made and considered elsewhere, for example as an objection to a planning application, may also be disregarded where consideration of such representations would be duplication.'*

Paragraph 16.2 of the council's licensing policy also states *'Therefore, any person is able to make representations in relation to certain types of applications as an "Other Person" However; all representations must relate to the licensing objectives and may not be frivolous or vexatious.'*

Whilst reference is made to the number of licensed premises already in the vicinity of the village, the Council does not currently have any cumulative impact areas and therefore the number of other licensed premises in the vicinity would not ordinarily be a consideration for Members of the Sub Committee. The same principle would apply in relation to the 'need' or otherwise for a new, licensed premises. Paragraph 6.1 of the council's licensing policy supports this and states *'The commercial demand for additional premises licences (as distinct from cumulative impact) will not be a matter for the Licensing Authority. These matters would be a specific consideration for the local Planning Authority taking into account the demands of the licensed trade and market demands.'*

Whilst crime and disorder concerns have been raised by residents, the Police have made no objection to the application and have instead sought, a number of conditions, that would be attached to a licence (if granted).

Concerns have been raised in respect of possible noise nuisance that could arise if a licence were to be granted, it is noted that the location of the premises lies within a mix of existing commercial and residential premises accessed by a main road. The Environmental Health Officer has made no objection and has sought only conditions having considered the application. It is noted that the Police have advocated the restriction on use of the outside area for the consumption of alcohol after 22.00hrs which has been accepted by the applicant.

Whilst it is understood that residents will be concerned by the potential for increased traffic and the lack of parking it will not be a consideration for Members of the Sub-Committee, as they are not considerations under the Licensing Act 2003.

A number of resident concerns appear to be anticipatory in nature about behaviour or issues which could arise, should a licence be granted. At this time, no concerns have been brought forward by the Responsible Authorities in respect of current anti-social behaviour in the vicinity.

Advice is offered in this respect by Paragraph 2.21 of the Section 182 Home Office National Guidance which states that *Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.*

The premises historically, a former social club however has not been licensed since the introduction of the Licensing Act in 2005 and converted into domestic usage. The applicant in her responses to residents as part of the application alludes to usage connected to persons attending the wellbeing centre, conference facility and on-site separate café as opposed to usage as a pub.

Some of the concerns expressed by residents are understandable, however the applicant cannot be held responsible for any existing or historic issues that have arisen as a result of activities held other licensed premises in the vicinity. Should any residents have concerns in relation to noise / nuisance or anti-social behaviour linked to already licensed premises, then these matters should be reported to the Licensing Team for investigation.

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.

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 the conditions as set out Appendix 12.**

In reaching this conclusion it is noted that there are no objections to the application from Responsible Authorities.

Whilst there are objections from members of the public which give rise to concerns, as identified above, some of the concerns are in the main either outside of the control of applicant or outside of the scope of the Licensing Act regime. 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 12.**

Background Papers:

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

Date of this report: 29th June 2021

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