



## LICENSING AND GAMBLING SUB COMMITTEE – 13TH AUGUST 2021

SUBJECT: DETERMINATION OF PREMISES LICENCE APPLICATION

REPORT BY: LEE MORGAN LICENSING MANAGER

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### 1. Application Details –

<u>Applicant</u>	<u>Premises</u>	<u>Application Type</u>
Nakendram Piratheepan	Rhymney Garage Victoria Road, Rhymney NP22 5NU	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 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 initial application for the grant of a Premises Licence sought the sale of alcohol via off sales, 24 hours a day, Monday to Sunday.

Following the application process, the applicant subsequently amended his application to reflect the sale of alcohol via off sales, between the hours of 05.00hrs until 02.00hrs Monday to Sunday.

- 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:-

*The premises will be managed and controlled by a responsible person at all times.*

*Staff will be fully trained before start working and the training will be refreshed regularly.*

*The Designated Premises Supervisor will be on the premises or contactable during the operating hours.*

*Police will be reported for any incidents of a criminal nature.*

*A comprehensive Internal & External CCTV will be installed, and the recordings will be kept for minimum of 30 days. Also, these recordings will be available for any responsible authorities.*

*Adequate bins will be available for customers to dispose of their litter.*

*EPOS terminal with till prompt for alcohol & tobacco sale.*

*The Challenge 21 Policy will be strictly followed, and the relevant signs will be on display.*

*A register of refusal of sales will be kept and maintained on the premises.*

*Spirits will be located behind the counter Area.*

#### **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:**

##### **Trading Standards**

Document	Date Received	Appendix Reference
<b>Initial Representation</b>	<b>22/06/2021</b>	<b>Appendix 5</b>

##### **Police**

Document	Date Received	Appendix Reference
<b>Initial Representation</b>	<b>19/07/2021</b>	<b>Appendix 6</b>
<b>Supplementary comments</b>	<b>26/07/2021</b>	<b>Appendix 6a</b>

## Licensing Authority in role as Responsible Authority

Document	Date Received	Appendix Reference
<b>Initial Representation</b>	<b>19/07/2021</b>	<b>Appendix 7</b>
<b>Supplementary comments</b>	<b>26/07/2021</b>	<b>Appendix 7a</b>

The following responsible authorities, Fire & Rescue Service and Children's Services have indicated that they have no representations in respect of the proposed new premises licence. There were no resident representations received in relation to the application.

### **1.6 SUMMARY OF REPRESENTATIONS**

Trading Standards have proposed conditions requiring 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 is put in place and publicity materials promoting the same to be on display at the entrance and where practicable at each point of sale. A requirement is also advocated for Staff be vigilant regarding proxy sales.

Gwent Heddlu Police have raised an Objection to the initial application and revised hours proposed by the applicant in view of existing alcohol and anti-social behaviour issues within the Rhymney area. The Police have suggested hours of 07.30hrs – 23.00hrs to be appropriate for a premise of this type in the Rhymney area. The Police introduce evidence from the local Policing Inspector detailing recent calls in respect of anti-social behaviour in the vicinity of High Street and Victoria Road since 1<sup>st</sup> April 2021. The Police reference the detrimental impact of a 24hour alcohol outlet and the potential for increased antisocial behaviour and crime.

Should a licence be approved, then the Police advocated conditions in relation to CCTV, specifying the period for which footage should be retained as well as that training of staff in relation to providing footage from the same. The Police comment upon the refusals register condition advocating strengthening of the same. The Police also advocate a condition in relation to provision of adequate bins for waste.

The Licensing Authority have raised an objection to the application for 24hour off sales identifying the nature of the application, its location and problems associated in the area as detailed by the Police. Reference is made to the lack of safeguards to mitigate a 24hour alcohol outlet and lack of consideration of the council's statement of licensing policy. The Licensing Authority in its role as a responsible authority details a failure of the applicant to discuss his application prior to submission. The Licensing Authority comment that if the applicant had done so then he would have been aware of issues in the local area and to tailoring operating schedules to the local area.

### **1.7 APPLICANT RESPONSE**

The applicant has responded to Trading Standards comments and has agreed the conditions proposed in respect of Challenge 25 and proof of age. The applicant has indicated that they agree to the conditions proposed by Gwent Police, however, do not agree with the Police and Licensing Authority position in relation to proposed hours i.e 7.30hrs – 23.00hr, Monday to Sunday. The applicant revised their application, seeking the retail sale of alcohol between 05.00hrs to 02.00hrs, Monday to Sunday.

Both the Police and Licensing Authority have maintained their position in relation to their view on suitable retail sale of alcohol hours, namely 7.30hrs – 23.00hrs, Monday to Sunday.

## **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 for a convenience store and small petrol filling station located at Victoria Road, Rhymney. The initial application sought the ability to sell alcohol 24 hours a day, Monday to Sunday. The applicant subsequently revised their proposed hours to reflect 05.00hrs to 02.00hrs Monday to Sunday following formal objection to the hours proposed in the application by Gwent Police and the Licensing Authority in its role as a responsible authority.

Formal Representation during the 28day consultation process was also received from Trading Standards, who made no objection to the application but advocated a number of conditions linked to Staff Training in relation to the sale of alcohol and Challenge 25. It is noted that the applicant has agreed the conditions proposed by Trading Standards.

Gwent Police detail in their objections concern in relation to 24hour alcohol provision at the premises identifying that the area has been identified for help via the Safer Streets Fund initiative. Reference is made to anti-social behaviour in the area and that secondary crime

rates for the area are higher than the force rate generally. The Police describe existing high levels of ASB in the vicinity of Victoria Road, where the proposed premises would be located. Reference is made by the Policing Inspector to the area being made an existing Problem Orientated Policing Plan area and provided maps detailing the same.

The Police are acknowledged as the lead source of advice in relation to the prevention of crime and disorder licensing objective. 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.*

Paragraph 2.1 of the Section 182 Home Office National Guidance advocates that '*Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP)*'

It is noted that the Licensing Authority in its role as a Responsible Authority has identified the failure of the applicant to engage with Responsible Authorities to seek pre-application advice where any local issues could be addressed with the applicant.

Paragraph 5.4 of the council's statement of licensing policy offers advice in this respect and states '*The Licensing Authority notes that the Government's Section 182 Guidance states that "Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours". However, because of the problems experienced in some local communities in the county borough arising from the availability of alcohol for sale at local shops for consumption off the premises this Licensing Authority has decided that it will not adopt this general position but instead will expect applicants and licence-holders to trade alcohol at hours which are appropriate to their particular local environment. Therefore applicants should very carefully consider the hours they seek when devising their operating schedule and it is recommended to discuss such application with the appropriate Responsible Authorities.*'

The Licensing Authority expresses concern that the applicant has failed to tailor their application, proposed hours and queries the quality of the operating schedule given the prevailing issues within the local area. Paragraph 5.7 of the council's statement of licensing policy provides advice to Members and details '*Applicants and existing licensees should be mindful of local areas where there may be a concentration of problematic drinkers or where it is known that groups of people congregated and have caused anti-social behaviour. Applicants should very carefully consider the appropriateness of selling alcohol during early morning or late evening hours.*' The Police have identified such an area within their representations and their concerns if a 24 hour alcohol outlet was permitted.

Paragraph 26.2 of the council's statement of licensing policy states *'In completing an operating schedule, applicants are expected to have regard to this statement of licensing policy and to demonstrate suitable knowledge of their local area when describing the steps that they propose to take in order to promote the Licensing Objectives.'*

Paragraph 8.42 of the Section 182 Home Office National Guidance echoes the above requirements by licensees and states - *'Applicants are, in particular, expected to obtain sufficient information to enable them to demonstrate, when setting out the steps they propose to take to promote the licensing objectives, that they understand:*

- the layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children may congregate;*
- any risk posed to the local area by the applicants' proposed licensable activities; and*
- any local initiatives (for example, local crime reduction initiatives or voluntary schemes including local taxi-marshalling schemes, street pastors and other schemes) which may help to mitigate potential risks.'*

Paragraph 5.5 of the council's statement of licensing policy highlights the effect on applications where alcohol hours have not been properly considered and states *'In the event that applications are submitted which have not demonstrated that appropriate alcohol trading hours have been properly considered, it is likely that representations will be made by the relevant responsible authorities and the public. This will delay the determination of the application and result in it being referred to a Licensing Sub-Committee for determination.'*

Paragraph 7.4 of the council's statement of licensing policy states *'The intent of the Licensing Act 2003 is to regulate the supply of alcohol. Licensing is therefore the key mechanism by which the availability of alcohol can be regulated, through regulating the times and days of the week alcohol can be sold, premises which can supply alcohol and the conditions of sale.'*

Paragraph 10.15 of the Section 182 Home Office National Guidance provides advice to Members *'Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours.'* In this instance, Gwent Police have articulated their concerns in respect of the hours proposed by the applicant given current issues being experienced in Rhymney.

Paragraph 10.4 of the council's statement of licensing policy advocates that applicants demonstrate knowledge of customers / locations, the failure to do so may lead to representations and states

*'The Licensee/applicant should also use their own experience and knowledge of their customers and locations when drafting their operating schedule, which subsequently becomes the basis of conditions on the licence. Failure to do this may lead to a representation from the Authority, a responsible authority or other person. Applicants may wish to consider the following and are advised to refer to the Authority's 'Model Pool of Conditions' when considering an application.*

- Is there CCTV, and, if so what are the areas covered, does it have the ability to see clear full face recording of patrons entering, does it record the patron search area at the entrance. What is the retention period of recordings, how easy it to access, produce copies or download images if requested by Police and Licensing.*

- Are Security Industry Authority (SIA) door staff employed and what checks are made to the validity of the SIA licence? What records are kept of SIA checks, search policy, entrance policy, restriction of patrons using outside areas, such as smoking areas, employment times of SIA and their training?
- Is there ID scanning on entry to the premises? Will there be 'No ID No Entry' policy in place?
- Is there a clear drug and weapon policy? Is there a regular documented training of this policy carried out with staff when drugs/weapons are seized or stored. Are areas or surfaces designed to prevent the likelihood of drug use at the premises?
- Has the use of plastic or toughened glass for serving of alcohol been considered, will glass bottles be handed over the bar? Are there restrictions of drinks being taken outside?
- Is there a proof of age scheme, do the premises have a challenge 25 policy? Are staff trained regularly on this policy and is it documented?

Paragraph 1.17 of the Section 182 Home Office National Guidance states – *Each application must be considered on its own merits and in accordance with the licensing authority's statement of licensing policy; for example, if the application falls within the scope of a cumulative impact policy. Conditions attached to licences and certificates must be tailored to the individual type, location and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should be avoided and indeed may be unlawful where they cannot be shown to be appropriate for the promotion of the licensing objectives in an individual case.*

Neither Gwent Police nor the Licensing Authority in role of responsible authority have changed their position following the applicant's decision to effectively cease alcohol sales for a period of 3 hours between 2am-5am. The Responsible Authorities have maintained their stance in respect of proposed hours advocating the retail sale of alcohol 7.30am to 11pm.

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 it is recommended that the application for a Premises Licence to permit the retail sale of alcohol be granted between the hours of 07.30hrs to 23.00hrs, Monday to Sunday, subject to the conditions as set out at **Appendix 8**.

Background Papers:

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

Date of this report: 30<sup>th</sup> July 2021

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