



LICENSING AND GAMBLING SUB COMMITTEE – 19TH 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>
Chef Ceylon Limited	Chef Ceylon 10 Bridge Street, Blackwood, NP12 1AX	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**.

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

Photographs of the location are reproduced as **Appendix 2a**

1.3 Proposed Trading Times and Licensable Activity

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

- **Supply of Alcohol (on sales only)** Monday to Sunday, 11:00 to 24:00.
- **Late Night Refreshment (LNR) – (Indoors only)** Monday to Sunday, 23.00 to 24.00

The Applicant subsequently revised their application following representations received during the 28day consultation process to reflect the following amended position:-

- **Supply of Alcohol (on sales only)**
Monday to Wednesday 12.00 to 22.00
Thursday to Saturday 11.00 to 23.30
Sunday 12.00 to 20.30
- **Late Night Refreshment (LNR) – (Indoors only)**
Monday to Sunday 23.00 to 24.00

Members will note that Late Night Refreshment applies to the supply of hot food or drink between the hours of 23.00-05.00hrs.

A general description of the proposed premises has been provided as *'This is a restaurant which serve food and drinks and takeaways for food. We serve alcohol in 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:-

The use of the outdoor area be restricted to 21:00 hours

Will make sure all food allergies are displayed and mention every time before they place the order

A 'Challenge 25' policy will be in place for checking persons suspected of being underage

We do not use loud music and wont disturb the neighborhood.

We would be happy to say that we provide food with better quality and the condition as it's our main objective to serve the best quality food all the time. (provide proper training to the staff for food - labeling/expiry date check /temperrature check etc.

The premises licence holder will ensure that a clearly visible notice will be placed on the premises advising those attending, that the Police will be informed if anyone is found in possession of controlled substances or weapons An incident report/refusals logbook is always be held at the premises and shall be produced to an authorized officer of the Licensing Authority or a constable immediately upon request

CCTV system is to be installed which will be to an appropriate standard as agreed with the Licensing Authority in consultation with the Police

The management will necessary action any outdoor area to ensure that customers do not behave in a noisy, rowdy or offensive manner Any person working in the premises will be trained with respect to underage sales and in how to refuse sales to difficult customers

We will make sure to clear any broken glasses in the premises immediately to prevent children prevent from cuts /harms.

The manager is responsible for children when buying drinks if it doesn't contain alcohol

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, Environmental Health (Commercial Safety Officer) and Public Health Wales.

Trading Standards

Document	Date Received	Appendix Reference
Initial Representation	30/062021	Appendix 5

Environmental Health Pollution

Document	Date Received	Appendix Reference
Initial Representation	27/07/2021	Appendix 6

Police

Document	Date Received	Appendix Reference
Initial Representation	21/07/2021	Appendix 7

Licensing Authority in role as Responsible Authority

Document	Date Received	Appendix Reference
Initial Representation	27/07/2021	Appendix 8

1.5.2 Other Persons:

Residents

Document	Date Received	Appendix Reference
Resident A Representation & Supplementary comments	08/07/2021	Appendix 9
Resident B Representation & Supplementary comments	22/07/2021	Appendix 10
Resident C Representation	24/07/2021	Appendix 11

1.6 SUMMARY OF REPRESENTATIONS

Trading Standards have not objected to the application and have proposed conditions which would require staff/members who serve alcohol to be 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 including display of signage at the entrance of the premises. The Trading Standards officer advocates that Staff be vigilant regarding proxy sales.

Gwent Heddlu Police have made no objection to the application following a site visit during the consultation period. The Police advocated a number of conditions to promote the licensing objectives including a 30minute drinking up time in order that the premises is cleared. The Police advocated an enhancement of the CCTV condition proposed by the applicant, specifying that footage can be retained for 28 days and the ability of staff to download images at the request of any authorised officer of the Licensing Authority or a constable. The Police also propose that the applicant keep an incident log at the premises. The Police tailored the proposed condition that required the outside area to be vacated by 21.00hrs save for persons that wished to smoke.

The Environmental Health Pollution Officer makes no objection to the application but advocates a number of conditions including a requirement for windows and doors to be closed, a restriction on times when waste can be moved to external areas, regular patrols to check noise levels and ensuring the any lights on the premises are do not cause a nuisance to residents.

The Licensing Authority in its role as a Responsible Authority acknowledged the revised retail sale of alcohol times as detailed by the applicant during the consultation period and made no objection to the application. Despite references from residents to historic nuisance and anti-social behaviour, the Licensing Authority noted an absence of a recorded complaint history to that effect. A rewording of the condition was proposed by enhance the Police condition, in relation to a 12month time period for keeping the incident book.

There were a number of resident representations objecting to the application during the 28day consultation period. These were forwarded to the applicant for comment. The applicant subsequently revised their retail sale of alcohol hours as a result (as detailed in paragraph 1.3) There are 3 remaining residents that have made an objection to the application.

Resident A raises concerns about the hours sought and references concern about previous noise, damage and disruption caused by drunken people. Following an amendment to the proposed hours the resident concerns remained about the noise that could arise when people were leaving the premises.

Resident B details concern about the midnight stop tap on weekends and identified that patrons could leave the premises at 00.30hrs and 01.00hrs. Concern is also expressed regarding the usage of the outside area and general noise and persons shouting.

Resident C references that they have resided in the vicinity for over 20 years and their concerns related to a time when the premises was trading as the Masons Arms and was operating as a pub. The resident described anti-social behaviour that arose despite assurances offered by the then licence holder which included a 9pm restriction on the beer garden.

The revised position of the applicant was provided to the resident objectors, who to date have maintained their objections to the granting of a Premises Licence.

1.7 APPLICANT RESPONSE

The applicant has responded to a number of the resident representations and to that of the Police and other responsible authorities. The applicant response to residents and Police is reproduced as **Appendix 12**. The applicant following receipt of resident objections and representations from responsible authorities determined to amend their retail sale of alcohol times, as detailed at Paragraph 1.3 of the 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 relates to the granting of a new premises licence. A prior premises licence held for the site, when known as Sam's Brasserie was surrendered in September 2020. The previous licence held permitted the retail sale of alcohol Monday – Wednesday 10.00 to 23.00hrs, Thursday to Saturday 10.00 to 00.00hrs and Sunday 12.00 to 23.30hrs. The premises was also previously known as the Mason's Arms.

No objections were received from any of the Responsible Authorities (RA's) to the application made by Chef Ceylon Ltd. It is noted that the Police, Licensing Authority in role as responsible authority, Environmental Health, (Pollution Team) and Trading Standards have all advocated conditions, which have been agreed by the applicant.

The Fire Authority and Environmental Health Commercial Safety Officer offered no representation comments in relation to the application.

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 residents. Three resident objections remain following mediation during the application consultation process. 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 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. The Environmental Health Officer has made no objection and has sought only conditions having considered the application. It is noted that the applicant limited use of the outside area to 21.00hrs which the Police have endorsed, save for provision of smokers.

Some of the 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 or confidence in the management issues in respect of the applicant.

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.*

Some of the concerns expressed by residents are understandable, however the applicant cannot be held responsible for any historic issues that have arisen as a result of activities under different management at the premises. It is worth noting that there would be no licence requirement for a food business (without an alcohol provision) similar to the model proposed by the applicant until 23.00hrs and therefore no control afforded by a licence. Should a licence be granted, based on the revised application being considered, that would in effect permit an extra 1 hour per night trading over 3 days Thursday to Saturday only.

The Late Night Refreshment (LNR) hours for indoors only were not specifically addressed by the Responsible Authorities, however in view of the revised hours proposed in the application and acceptance of the proposed Police condition i.e 'The premises shall be cleared of customers within 30 minutes of the last supply of alcohol on any day' late night refreshment i.e sale of hot food /drink could only take place indoors until Midnight Thursday-Saturday. The premises could not be used for takeaway facilities beyond 11pm on any day.

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 times and conditions as set out Appendix 13.**

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

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 13**.

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: 5th August 2021

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