



LICENSING AND GAMBLING SUB COMMITTEE – 18TH AUGUST 2022

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

REPORT BY: LEE MORGAN LICENSING MANAGER

1. Application Details –

<u>Applicant</u>	<u>Premises</u>	<u>Application Type</u>
Thakshya Yalendran	44 Attlee Court, Lansbury Park, Caerphilly CF83 1QU	Grant of Premises licence

1.1 **Application for Grant of a New Premises Licence - Licensing Act 2003**

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**.

An aerial plan of the location is reproduced as **Appendix 2**.

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 (Off Sales only)***

Monday - Sunday 07.00 – 22.00hrs

Following consultation with Heddlu Gwent Police, the Applicant subsequently determined to modify his application to reflect the following –

- **Supply of Alcohol (Off Sales only)**

Monday – Sunday 10.00 – 22.00hrs

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: -

Updating CCTV system to cover the front outside area and retain records for 30 days
Shutters on windows and doors outside the premises
Enforce challenge 25
Appropriate notices and records e.g. CCTV in operation and challenge 25 notice, refusals to serve and incidents log
Initial and refresher training for all staff on requirements on the appropriate sections of the licensing act
Spirits to be kept behind the counter

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 Fire Authority, Children’s Services and Environmental Health Pollution Team in their role as Responsible Authorities have responded to indicate no representations in respect of this application.

Police

Document	Date Received	Appendix Reference
Initial representation	30/06/2022	Appendix 5

Trading Standards

Document	Date Received	Appendix Reference
Initial representation	18/07/2022	Appendix 6

Environmental Health (Health & Safety)

Document	Date Received	Appendix Reference
Initial representation	21/07/2022	Appendix 6a

1.5.2 Other Persons: Elected Members

Document	Date Received	Appendix Reference
Elected Member A Initial representation	18/07/2022	Appendix 7

Document	Date Received	Appendix Reference
Elected Member B Initial representation	21/07/2022	Appendix 8

Residents/Other Persons:

Document	Date Received	Appendix Reference
Joanna Yates	18/07/2022	Appendix 9
Hazel Fitzell	05/07/2022	Appendix 9 A
Linda Phillips	18/07/2022	Appendix 9 B
Stephen Jones	18/07/2022	Appendix 9 C
Lisa Jones	18/07/2022	Appendix 9 D
Vikki Giles	18/07/2022	Appendix 9 E
Leanne Dyke	18/07/2022	Appendix 9 F
Kate George	18/07/2022	Appendix 9 G
Lisa Fletcher	19/07/2022	Appendix 9 H
Kelly Jones	18/07/2022	Appendix 9 I
Amanda Gill	21/07/2022	Appendix 9 J
Gemma Carter	19/07/2022	Appendix 9 K

1.6 SUMMARY OF REPRESENTATIONS

There have been responses from the Fire Authority, Children's Services and Environmental Health Pollution team in their role as Responsible Authority to indicate no representations in respect of the proposed new premises application.

Heddlu Gwent Police in their representations detailed that the area was an area of high demand for Police Resources due to Anti-Social Behaviour and crime and referenced a discussion with the applicant which resulted in a reduction in the proposed retail sale of alcohol hours. The applicant subsequently has adjusted the proposed hours for the sale of alcohol from 07.00hrs to 22.00hrs to 10.00hrs to 22.00hrs.

The Police have not objected to the application but have advocated a number of conditions relating to CCTV, Challenge 25, documented staff training and incident recording and a requirement operate regular patrols in the vicinity of the premises to collect and tidy any litter or refuse which has accumulated from the premises.

The Trading Standards Officer has supported the comments and conditions proposed by Gwent Police.

Representations in the form of Objections have been received from the 2 Elected Members for the Ward and 12 residents.

The Elected Members detail that the premises is located in an area of high anti-social behaviour, has residents with complex needs and concern that the premises is situated close to 2 children's play areas. Concern is expressed about the negative affect on the community, that is already experiencing difficulties.

A number of residents referenced concerns about the potential increase in anti-social behaviour from that already being witnessed. There are fears about increase in litter and broken glass which were already impacting on the estate and concerns that the nearby newly built park will attract drinkers to hang about and prevent children using the same.

Residents feared that drunkenness will become more common place and that previous good work undertaken in the community over the past 25 years would be undermined, should the application for a licence be approved.

A number of residents referenced a time when the estate had its own pub and an off licence and fears of a return to issues that these had brought to the estate. Residents also expressed concern that such a premises would make it easier for underage persons to obtain alcohol.

The representations generally encouraged the Licensing Authority to refuse the application to permit the sale of alcohol in view of the potential detriment to the estate and persons living in the vicinity of the premises.

1.7 APPLICANT RESPONSE

Document	Date Received	Appendix Reference
Response to Objections	18/07/2022	Appendix 10

The applicant has responded and accepted the proposed conditions advocated by the Police. The applicant has also amended the application to reflect a change in the retail sale of alcohol hours from 07.00 to 22.00hrs to 10.00 to 22.00hrs.

The applicant's agent has referenced that the applicant and her husband are very experienced licensees who have had a number of similar businesses over the past years.

Reference is made by the Agent to conditions relating to the patrol and collection of litter, the provision of CCTV would assist in identifying troublemakers

The applicant believes that with their knowledge in the trade, the conditions on the licence (if approved), the cooperation and support of the local community, the shop would play a vital part in the future development of the area.

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 in respect of 44 Attlee Court, Lansbury Park, Caerphilly, CF83 1QU. On submission of the application, the applicant described the general description of the premises as a small general store in residential area selling a range of goods. The initial application proposed for the retail sale of alcohol between the hours of 07.00hrs to 22.00hrs.

Following discussion with the Police, the applicant agreed to modify the application to reflect retail sale of alcohol hours from 10.00hrs to 22.00hrs Monday to Sunday.

Representations making objections to the granting of the premises licence have been received from Elected Ward Members and 12 residents. Often the concerns of objectors can be addressed through mediation during the consultation period or up until the time of any scheduled hearing. However, in this instance, it is not thought that the concerns of the Elected Members and residents' concerns can be mediated.

Gwent Police as the lead authority in relation to crime and disorder have not objected to the application but have advocated conditions should a licence be approved. The conditions proposed by the Police in relation to provision of CCTV, Staff Training, Incident and refusals book have been accepted by the applicant. The position taken by the Police has been supported by the Trading Standards Officer, the lead authority for the protection of children from harm and also the Environmental Health Officer (Health & Safety). There were no representation responses received from Childrens Services, Environmental Health (Pollution Team) and the Fire Service.

Gwent Police have in their comments referenced a demand placed on their service in relation to anti-social behaviour in the area but have not advocated refusal of the premises licence application but have sought conditions, should a licence be approved. Following discussion with the applicant, the applicant reduced the proposed sale of alcohol times sought by 3 hours. Having considered the history of the applicant and the application submitted, the Police therefore appear to be satisfied provided that the conditions put forward by them and the Applicant are applied to the licence.

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.*

In the absence of any other adverse representations from Responsible Authorities (RA's), the RAs appear to be satisfied with the applicant's ability to promote the licensing objectives.

Representations objecting to the grant of the premises licence have been received from 2 Elected Ward Members and 12 residents who express concerns about anti-social behaviour being experienced currently and the potential increase in anti-social behaviour that may arise as a result of the granting of this application for a premises licence.

Paragraph 28.1 of the Council's Licensing Policy states – *'When an application is made for the grant, variation or review of a premises licence or club premises certificate, representations about the application can be made by responsible authorities or other persons. 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.'*

The Licensing Authority is satisfied that the representations have been submitted by persons, who given the addresses provided may be directly affected by the licensable activity proposed.

However in relation to the personal actions, conduct or behaviour of individuals, Paragraph 24.4 of the Council's Licensing Policy States – *'The Council recognises that licensing law is*

not a mechanism for the general control of antisocial behaviour by people once they are beyond the direct control of the individual, club or business holding the licence, certificate or permission concerned. However the Council must consider the potential detrimental impact on the surrounding areas from the operation of either individual or accumulations of premises, where the premises are the predominant cause of resultant anti-social behaviour arising from drunkenness etc.'

Paragraph 14.5 of the Council's Licensing Policy States:

The Licensing Authority recognises that beyond the immediate vicinity of the 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.

This is echoed 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.*

Both Elected members and residents' reference existing anti-social behaviour, these issues appear to be prevalent in the community currently. If they are alcohol fuelled, then these or any historical issues will not be as a result of the actions of the applicant as they are yet to commence trading. There is no information to suggest that a new alcohol outlet if appropriately managed will add to the issues that are being reported.

No confidence in management concerns have been raised by Responsible Authorities in their representations in relation to the applicant.

The concerns of the local residents whilst understandable, appear to be largely anticipatory in nature about the increased levels of behaviour or issues which could arise, should a licence be granted for this premises. Case law in *Daniel Thwaites PLC v Wirral Magistrates Court 2008* has considered similar issues in relation to real evidence and weight to be afforded.

There has been reference to existing licensed premises in the area, however the Council does not currently have any cumulative impact areas and therefore the number or type 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.

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 objections from Elected Members and residents, it is recommended that the application to permit the sale of alcohol for off sales, between the hours of 10.00hrs to 22.00hrs,

Monday to Sunday **be granted** subject to the following conditions as set out in **Appendix 11**.

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 11**.

Background Papers: [Statutory Guidance issued under S182 of the Licensing Act](#)

[Caerphilly CBC Statement of Licensing Policy](#)

Date of this report: 8th August 2022

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