



LICENSING AND GAMBLING SUB COMMITTEE - 27TH FEBRUARY 2023

**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>
Mr Premakanthan Nadarajah	Elliot Stores 54-56 Queens Road Elliotstown New Tredegar NP24 6DZ	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.

The premise has been described as a convenience store and off licence, at the location of the former Cwmsyfiog Ex Servicemen's club, in Elliotstown.

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**.

Photographs of location are reproduced as **Appendix 3**.

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 (Off Sales only)**

Monday - Sunday 07.00 – 23.00hrs

- 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: -

*ID Checks
Regular Staff training
No ID no sale policy
Refusal logs
CCTV operation
Under 18 not allowed to enter alcohol room*

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	16/01/2023	Appendix 6
Supplementary Comments	26/01/2023	Appendix 6a

Trading Standards

Document	Date received	Appendix Reference
Initial representation	25/01/2023	Appendix 7

Children Services

Document	Date received	Appendix Reference
Initial representation	31/01/2023	Appendix 8

Environmental Health (Health & Safety)

Document	Date received	Appendix reference
Initial representation	01/02/2023	Appendix 9

Environmental Health Pollution Team

Document	Date received	Appendix reference
Initial representation & Supplementary Comments	16/01/2023 & 31/01/2023	Appendix 10

Licensing

Document	Date Received	Appendix Reference
Initial representation	31/01/2023	Appendix 11

1.5.2 Other Persons:Residents

Document	Date Received	Appendix Reference
J. Aston	23/01/2023	Appendix 12
C Loveridge	23/01/2023	Appendix 12a
A Mathews	23/01/2023	Appendix 12b

1.6 SUMMARY OF REPRESENTATIONS

Heddlu Gwent Police have detailed a visit to the premises on the 13th January 2023, along with members of Caerphilly Council Licensing and Environmental Heath teams. The Police describe the premises as a three-storey building on the site of the former Ex- Servicemen's club.

The Police do not object to the application but have advocated the rewording of and the addition of conditions relating to CCTV, Challenge 25, documented staff training and incident recording. The Police advocate conditions which they believe to be robust and fair, which support the licensing objectives.

The Police have detailed that the area does not suffer from high levels of Anti-Social Behaviour, having liaised with the Crime and Disorder Officer (Cadro). The Police records indicating that any Anti-Social Behaviour identified in the area was not associated to youth disorder or any business premises in the area.

The Trading Standards Officer and the Children Services Officer have not objected to the application and has supported the comments and conditions proposed by Gwent Police.

The Licensing Authority Officer in its role as a responsible authority has not objected to application but has proposed an additional condition, in relation to adequate measures in place to remove litter or waste arising from customers and to prevent such

littering taken place. Furthermore, comment is made that in view of the Applicants confirmation that 3 Members of Staff would undertake the Personal Licence qualification, that no further conditions would be advocated in relation to day-to-day control at the premises.

Environmental Health Officers (Pollution team) has indicated no objection to the application and has supported the comments proposed by Licensing Authority in its role as a Responsible Authority. The Environmental Health (Health & Safety) Officer acknowledged the representations of Gwent Police, Trading Standards and Licensing Authority.

Three residents submitted their objection to the application. One resident attached a petition containing 45 signatories who indicate that they object to the grant of the new application. Reference is made to the degeneration of an already deprived area and deep concerns regarding anti-social behaviour which will be exacerbated further, noise and litter pollution, parking chaos and the encouragement of excess alcoholism and the non-promotion of healthy lifestyles.

A second resident echoes the concerns above and references the numerous off licences in the village of New Tredegar.

Another resident opposes the application in relation to the proposed hours, the noise and nuisance outside the shop at night, along with littering and anti-social behaviour. Parking is raised as a concern, the resident also details concerns regarding the location of the premises on the corner of the street and its potential to cause disruption to buses.

1.7 APPLICANT RESPONSE

Document	Date Received	Appendix Reference
Response to Police representations	17/01/2023	Appendix 13
Response to Licensing Authority representations	01/02/2023	Appendix 13a
Petition of support of application	01/02/2023	Appendix 13b

The applicant has responded and accepted the proposed conditions advocated by the Police along with the conditions advocated by the Licensing authority in its role as a Responsible Authority.

The applicant has also provided a petition in support of his application which contains 194 signatories, who indicate that they are in support of the application in its present form.

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 54-56 Queens Road, Elliotstown, New Tredegar NP24 6DZ. The proposed premises is the former Cwmsyfiog Ex-Servicemens Club. The Club Premises Certificate for this premises was surrendered in 2019 and therefore there is no current authorisation in place.

The applicant has detailed the general description of the premises as a Convenience store selling a range of goods. The application proposes the retail sale of alcohol between the hours of 07.00hrs to 23.00hrs Monday to Sunday, for off sales only.

Representations making objections to the granting of the premises licence have been received from 3 residents. It is noted that one of the residents has submitted a petition indicating opposition to the granting of a premises licence by 45 signatories.

The council sets out in its Statement of Licensing Policy at Paragraphs 14.6 and 28.4 how it will deal with petitions and states '*Petitions may be accepted if the Authority believes all those that signed the petition understood the implications of what they were signing.*'

Furthermore '*The Licensing Authority will accept petitions, but there are some important factors to consider before organising a petition*

- *We ask that the organiser of the petition identify himself or herself as a central point of contact. We may need to make contact in order to verify certain matters if we are unable to do this it could invalidate the petition.*
- *Each page of the petition should contain information as to the purpose of the petition so that all persons know what they are signing.*
- *Full names and addresses must be supplied*
- *All signatories must be made aware that a copy of the petition will be supplied to the applicant and a copy will be contained within the committee papers, so their personal details will become public knowledge.*

We will not write to each signatory separately, but instead assume that the organiser will advise each signatory of the hearing date and the final outcome of the application. It is expected that the organiser will represent the signatories at the hearing and to speak for them. When making a decision, the Licensing Authority will give appropriate weight to a petition. Those wishing to make representations should appreciate that the quality of the representations we receive is an important consideration when making a decision.

The Applicant has submitted his own petition in support of the grant of the licence which contains details of 194 signatories. Examination of these documents shows that in at least four instances, individuals have signed both in support of, or in opposition to the grant of the application.

It is noted that some of the objections detailed by the residents are not specifically linked to the licensing objectives, the provision of parking would not ordinarily be a consideration for Members. Furthermore, whilst comments for the promotion of a healthier lifestyle in the area are noteworthy, Health is not currently a Licensing objective detailed within the Licensing Act 2003.

Paragraph 28.14 of the council's statement of licensing policy states '*The Licensing Authority recognises that, although public health is not a licensing objective, health bodies may hold information which other responsible authorities do not, but which would assist the Licensing Authority in exercising its functions.*'

It is noted that there has been no response to the application from the Local Health Board in its role as a Responsible Authority in respect of this application.

Residents have expressed concerns about the hours proposed by the applicant i.e 7am to 11pm. Guidance for Members in relation to hours is offered in the council's statement of Licensing Policy, paragraph 22.1 states '*Shops, stores and supermarkets should generally be permitted to sell alcohol for consumption off the premises during the normal hours they intend to open for shopping purposes. However, in the case of individual premises, which are known to be a focus or cause of disorder and disturbance then, subject to representations from the police and other responsible authorities, a limitation on licensing hours may be appropriate.*' In relation to this application, no adverse comments as to proposed hours have been received from the Responsible Authorities.

Reference is made by residents to the degeneration of an already deprived area and concerns about existing anti-social behaviour. It is noted that this application proposes the redevelopment of the currently empty, former Ex Servicemen's club. The comments of the residents in relation to existing anti-social behaviour are not shared by Gwent Police nor the Environmental Health Pollution team within their representations.

Information provided by Gwent Police details checks undertaken by Crime and Disorder Officers (Cadro) for the period 1st Jan 2022 to 1st Jan 2023. It is detailed that there were 46 calls to Police reported for Queens Rd, Elliotstown. 23 were classified as Anti-Social Behaviour (ASB) in their type. However, the Police detail that these reports were not linked

to specific youth disorder or any business premises. Clarification was sought with the Police, who confirmed that the reports to them included ongoing issues between neighbours and a dog barking in a back garden.

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.

Advice for Members in relation to need, is provided within the Section 182 Home Office National Guidance, Paragraph 14.19 states '*There can be confusion about the difference between the "need" for premises and the "cumulative impact" of premises on the licensing objectives, for example, on crime and disorder. "Need" concerns the commercial demand for another pub or restaurant or hotel and is a matter for the planning authority and for the market. This is not a matter for a licensing authority in discharging its licensing functions or for its statement of licensing policy.*'

The table below details shows, the licensable hours of off licences located in the New Tredegar area.

Name	Permitted Hours	Approx Distance from proposed premises
Mount View Stores, 54/56 Commercial Street	08.00-23.00 Mon-Sat 08.00-22.30 Sun	0.7km / 0.43miles
VG Stores, Jones Street	08.00-20.00 Mon-Sun	1.3km / 0.80miles
Village Mini Mart & Diner 10 James Street	07.00-21.00 Mon-Sun	1.1km / 0.68miles
3 S News & Booze 14 James Street	08.00-23.00 Mon- Sat 10.00-22.30 Sun	1km / 0.62miles
Best One Stores Victoria Buildings, 1 Rose Villas	08.00-23.00 Mon – Sat 10.00-22.30 Sun	0.8km / 0.49miles
Brithdir Stores 28 Station Terrace, Brithdir	08.00-23.00 Mon – Sat 10.00-22.30 Sun	1.7km / 1.05miles
Elliots Stores 16 Elliott Street	08.00-21.30 Mon-Fri 08.30-21.30 Sat 09.30-21.30 Sun	0.05km / 0.03miles
Evans Stores	08.00-23.00 Mon-Sat	1.3km / 0.80miles

34 Jones Street, Phillipstown	10.00-22.30 Sun	
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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 residents' can be mediated in relation to this application.

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, along with the Children Services Team. There were additional representation responses received from Licensing authority advocating a condition to be attached should a licence be granted, which was supported by Environmental Health (Pollution Team).

Following a site visit and discussion with the applicant, the Police 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 RA's appear to be satisfied with the applicant's ability to promote the licensing objectives.

Paragraph 28.9 of the council's statement of licensing policy provides advice in relation to the above and states '*Whilst all responsible authorities may make representations regarding applications for licences and club premises certificates and full variation applications, it is the responsibility of each Responsible Authority to determine when they have appropriate grounds to do so.*'

Licensing records held detail that the applicant has been the Premises Licence holder for Elliotts Stores, an existing off licence located at 16 Elliot Street, Elliotstown since the 20th September 2021. No confidence in management concerns have been raised by any of the Responsible Authorities in their representations in relation to the applicant.

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 the objections made by residents and considered the position of the Responsible Authorities, it is recommended that the application to permit the sale of alcohol for off sales, between the hours of 07.00hrs to 23.00hrs, Monday to Sunday **be granted** subject to the following conditions as set out in **Appendix 14**.

In reaching this conclusion, it is noted that there are no objections to the application from Responsible Authorities nor confidence in management concerns. 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 14**.

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: 15th February 2023

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