



LICENSING AND GAMBLING SUB COMMITTEE - 5TH MARCH 2024

**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>
Savers Health and Beauty Ltd Hutchinson House, 5 Hester Road, Battersea London SW11 4AN	Savers 83 Cardiff Road, Caerphilly, CF83 1FQ	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 applicant has provided the following description of the premises, *'A retail shop selling a range of health and beauty products plus household goods and food.'*

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 to Saturday 08.30hrs to 19.00hrs**
- **Sunday 09.00 to 17.00hrs**
- **Monday - Saturday 14th November to 24th December until 20:00**

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: -

The Company maintains comprehensive regulatory compliance procedures and all aspects of the four licensing objectives are covered by these procedures. We work with Slough Borough Council in a Primary Authority Partnership for age restricted products.

A CCTV system is installed that is capable of continuously recording for a period of not less than 31 days meeting Home Office Guidelines and is maintained in good working order.

Recordings will be made of all trading periods.

The correct date and time will be generated onto both recording and real time image screen.

The system is able to produce copies of recordings on site.

The system is capable of facial image recognition of all persons both entering and exiting the store. At least one camera from the system covers the doorway and another covers the till area.

Copies of recordings shall be provided on request to an office under the direction and control of the Police or an officer of the Licensing Authority.

The DPS will ensure that there are trained members of staff available during licensable hours to be able to reproduce and download CCTV images into a removable format at the request of an authorised officer of the Licensing Authority or the Police.

There is a clear signage indicating that CCTV equipment is in use and recording at the premises. The DPS will take such steps as necessary to ensure that the system is operated and maintained in accordance with these conditions.

High Strength spirits (20% abv or above) will only be displayed behind the till area.

Fire safety measures and procedures are in operation at the store in accordance with Fire Safety Regulations.

Provision will be made for the disabled to ensure safe evacuation in the event of fire or other emergency and general access to the store.

All planning requirements will be met and procedures established to prevent noise nuisance from deliveries. Measures will be in place to ensure the proper disposal of all waste.

A written log will be kept of all refusals including refusals to sell alcohol. This will be maintained and checked weekly which will be recorded by signing and dating the log.

The store will operate a Challenge 25 Policy. Challenge 25 posters will be displayed in prominent parts of the premises.

Staff will receive training not less than every 6 months in respect of Challenge 25 and records will be kept of all training and refresher training.

Training will include the refusal of service to any person appearing under 25 unless they can produce an acceptable means of identification to show they are 18 or over. Acceptable means of identification will include passport, photo driving licence or PASS accredited photo ID.

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:

Gwent Police

Document	Date received	Appendix Reference
representation	18/01/2024	Appendix 6

The Fire Authority, Child Protection Officer, Licensing Authority in its role as a responsible authority and Environmental Health (Health and Safety) responded to indicate that they had no representations in respect of the premises licence application submitted.

1.5.2 Other Persons:Residents

Document	Date Received	Appendix Reference
A White representation	06/02/2024	Appendix 7
T Elsworth representation	06/02/2024	Appendix 8

1.6 SUMMARY OF REPRESENTATIONS

Heddlu Gwent Police do not object to the application but have advocated the rewording of some conditions and an additional condition that would support the applicant in the promotion of the licensing objectives. These related to refusal / incident recording, Challenge 25 signage and encouragement to move patrons away from the front of the premises.

There were two relevant resident objections to the application, reference by one is made to recently opened shops and off licensed premises that have been a source of antisocial behaviour. Concern is expressed about drunkenness and teenagers loitering

in the street and participating in anti-social behaviour. Fear is expressed should more off licence shops open the worse behaviour will become.

A second resident disagrees with more off licence shops that will fuel the debauchery and untoward social problems.

1.7 APPLICANT RESPONSE

The applicant's representative has responded to agree conditions proposed by Gwent Police. A copy of this response is reproduced as **Appendix 9**.

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 Caerphilly town centre, for the provision of 'off sales' of alcohol.

The applicant seeks to provide the retail sale of alcohol between the hours 08.30 hrs to 19.00hrs Monday to Saturday and Sunday 09.00hrs to 17.00hrs. The following non-standard timings were also sought namely Monday - Saturday 14th November to 24th December until 20:00.

Relevant representations making objections to the granting of the premises licence have been received from 2 residents.

Paragraph 9.9 of the Section 182 Home Office National Guidance provides the following guidance when considering the merits or relevance of representations and 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.'*

The residents will be able to amplify their concerns about the merits of this application given reference to "antisocial behaviour" and "debauchery and untoward social problems" to Members at the hearing.

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.

It is noted that aside from Gwent Police seeking amendment to suggested conditions and one other condition, no other Responsible Authority (RA) has commented on this application.

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 28.9 of the council's statement of licensing policy 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.'*

Other Parties have referenced existing alcohol fuelled anti-social behaviour in the area 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 selling alcohol from the premises. There is no information offered by objectors to suggest that a 'new' alcohol outlet, if appropriately managed will add to the issues that are being reported.

Paragraph 2.27 of Section 182 Home Office National Guidance provides advice to Members *'Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in antisocial 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 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.'*

Guidance for Members in relation to hours' is offered in the Home Office Section 182 Guidance at Paragraph 10.15 which details '*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'*

Furthermore, 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 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.

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

If Members determined to refuse the application to permit the sale of alcohol, then it would not prevent the applicants' ability to sell other food and non-alcoholic drink products.

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 noting the position taken by the Responsible Authorities, given the absence of their comments. It is recommended that the application to permit the sale of alcohol for off sales as set out in paragraph 1.3 of the report, **be granted** subject to the conditions as set out in **Appendix 10**. 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 the same.

Background Papers: Statutory Guidance issued under S182 of the Licensing Act
Caerphilly CBC Statement of Licensing Policy

Date of this report: 21st February 2024

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