



LICENSING AND GAMBLING SUB COMMITTEE MONDAY 25TH 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>
Kajanthan Nagaratnam 25 Church Street Rhymney NP22 5HL	KJ Convenience Store 20 The Green Abertysswg Rhymney NP22 5AA	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 convenience store.’

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 Sunday 07.00hrs to 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: -

All members of staff will receive training regarding the :-four licensing principles contained in the Licensing Act 2003; Responsible retailing of alcohol, and law regarding sales of alcohol;

Protection of children from harm and this must include how to competently check customers' identification where necessary;

Permitted hours during which licensable activities can take place, and the conditions attached to the premises licence.

The training provided to staff will be recorded and each member of staff will sign and date the training records to confirm they have received and understood the training provided.

The staff training records will be kept at the premises and made available to any

Responsible Authority upon request 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

Fire safety equipment are installed and will be maintained on the premises. The Emergency Exit will be kept free from obstructions at all times. Staff will be fully trained in alcohol sales and fire safety/evacuation procedures.

EPOS terminal with till prompt for alcohol & tobacco sale The Challenge 25 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.

EPOS terminal with till prompt for alcohol & tobacco sale

The Challenge 25 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 4**

National Guidance **Appendix 5**

1.5 RELEVANT REPRESENTATIONS RECEIVED DURING APPLICATION PROCESS

1.5.1 Responsible Authorities:

Document	Date received	Appendix Reference
Gwent Police	20/02/2024	Appendix 6
Childrens Services	02/02/2024	Appendix 7
Trading Standards	23/02/2024	Appendix 8
Licensing Authority in role as Responsible Authority	26/02/2024	Appendix 9

The Fire Authority and Environmental Health (Health & Safety) in their roles as responsible authorities responded to indicate that they had no representations in respect of the application.

1.5.2 Other Persons:Residents / Business

Document	Date Received	Appendix Reference
Mr & Mrs Bajwa - representation	21/02/2024	Appendix 10
H. Jones - representation	21/02/2024	Appendix 11

1.6 SUMMARY OF REPRESENTATIONS

Heddlu Gwent Police do not object to the application but have advocated the re-wording of some conditions and an additional condition that would support the applicant in the promotion of the licensing objectives.

These related to all staff being trained in the prevention of underage sales, which would be documented and retained for a period of a year. The use of an approved proof of age scheme namely Challenge 25 and display of signage. The Police advocated an amendment to the proposed CCTV condition requiring footage both inside shall be used at the premises both inside and out, be in good working order and images to be retained for 31 days and all staff to be trained the operation of CCTV. Furthermore, the Police advocated conditions to attempt to manage the front of the premises and persons congregating and the display of signage requesting that customers respect the neighbours.

Caerphilly CBC Childrens Services do not object to the application but have suggested additional wording that they put forward to the applicant. They also suggested that staff use the Challenge 25 scheme. Furthermore, that all staff with a responsibility for supplying or selling alcohol shall be vigilant in preventing adults buying alcohol on behalf of persons who are under 18 and will refuse such sales where they suspect that this may be about to occur.

Caerphilly CBC Trading Standards indicated that they had no objections as long as the applicant accepted the representations from Gwent Police and Childrens Services.

The Licensing Authority Officer in its role as a responsible authority advocated that a till prompt system to be installed to assist staff by reminding them to challenge for ID before an age restricted sale.

There were two relevant representations objections to the application during the consultation period.

The first is from the owner of a nearby Off licence who believed that this new proposed convenience store would affect footfall and have a detrimental impact on his business. Reference was made to three employees at his premises whose jobs would become at risk should a licence be granted. Comment was expressed that the new proposed premises seeking a licence should stay as a food takeaway outlet. Reference was made to the two existing social clubs in the village that also sell alcohol. Concern was expressed that public safety would be compromised with more alcohol being available for increased hours.

Reference was made to a children's play area directly opposite the proposed off licence and that people may not feel safe in bringing their children to the area and detrimental for children's social environment. Concern was expressed that a business selling alcohol will lead to noise and light nuisance and pollution from waste.

It should be noted that a petition which appears to have been submitted by the business owner has not been deemed to be 'relevant' objections as it did not contain any reference the Licensing Objectives, but only that the premises subject to the application should remain as a 'fish and chip' shop.

A resident also objects to the application and mentions that it might encourage anti-social behaviour and cause people to drink in the park and village. Reference is also made that there are two social clubs in the village.

1.7 APPLICANT RESPONSE

The applicant's representative has responded to agree conditions proposed by Gwent Police, Children Services and the Licensing Authority in its role as a responsible authority. These responses received are reproduced as **Appendix 12**.

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 the village of Abertysswg for the provision of 'off sales' of alcohol. The applicant seeks to provide the retail sale of alcohol between the hours of 07.00hrs to 23.00hrs Monday to Sunday.

The Responsible Authorities have considered this application and have not objected but sought conditions to be attached to the licence should the application be approved.

Representations objecting to the grant of a new premises licence have been received from a resident who provided details of their Street address but not their house name nor house number and by business owners of a premises which currently benefits from the ability to provide the retail sale of alcohol under the auspices of an existing premises licence.

The Section 182 Home Office National Guidance, at Paragraph 9.4 provides guidance in respect of Relevant, vexatious and frivolous representations and states:

'A representation is "relevant" if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. For example, a representation from a local businessperson about the commercial damage caused by competition from new licensed premises would not be relevant. On the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be relevant. In other words, representations should relate to the impact of licensable activities carried on from premises on the objectives. For representations in relation to variations to be

relevant, they should be confined to the subject matter of the variation. There is no requirement for a responsible authority or other person to produce a recorded history of problems at premises to support their representations, and in fact this would not be possible for new premises.'

Further guidance is offered at Paragraph 9.5 which states *'It is for the licensing authority to determine whether a representation (other than a representation from a responsible authority) is frivolous or vexatious on the basis of what might ordinarily be considered to be vexatious or frivolous. A representation may be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause or justification. Vexatious circumstances may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. Licensing authorities can consider the main effect of the representation, and whether any inconvenience or expense caused by it could reasonably be considered to be proportionate.'*

However, 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.'*

As the Business owners' comments touched upon the promotion of the Licensing Objectives, then the benefit of the doubt as to their relevance has been afforded and comments admitted in this instance. The business owner in objecting to the application expresses concern about the proximity of the applicant proposed premises to a children's play area. However, it is noted that the business owners existing licensed premises is also opposite the same children's playground area that is referred to.

There has been reference by 'Other Persons' to the number of 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. Furthermore, in this instance, two of the licensed premises referred to by Objectors are Club Premises Certificate holders and access is therefore should be restricted to Members/Guests only.

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.'*

Following a site visit and discussion with the applicant, the Police and Licensing Authority in role as responsible authority appear to be satisfied with the applicant's ability to promote the licensing objectives, subject to conditions agreed with the applicant. It is noted that the Trading Standards and Child Protection Officer have not objected to the application but have advocated conditions. Despite reference to concerns regarding noise and light nuisance by the business objector, it is noted that

no representations have been received from the Environmental Health Pollution Officer as a Statutory consultee.

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.*'

It is noted that no confidence in management concerns have been raised by any of the Responsible Authorities in their representations in relation to the applicant.

1.10 RECOMMENDATION

Having had regard to the objections made by the business owner and resident 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 13**.

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 13**.

Background Papers: Statutory Guidance issued under S182 of the Licensing Act
[Revised Guidance issued under section 182 of the Licensing Act 2003 \(publishing.service.gov.uk\)](#)

Caerphilly CBC Statement of Licensing Policy
[StatementOfLicensingPolicy.aspx \(caerphilly.gov.uk\)](#)

Date of this report: 18th March 2024

Author: Lee Morgan – Licensing Manager morgal16@caerphilly.gov.uk