



**LICENSING AND GAMBLING SUB COMMITTEE
FRIDAY 21ST JUNE 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> |
|---|---|---------------------------|
| Blackwood Golf Club Lon Pennant Cwmgelli Blackwood NP12 1BR | Blackwood Golf Club Lon Pennant Cwmgelli Blackwood NP12 1BR | 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, '*Blackwood Golf Club is a long-established members golf club. There are two bar areas where alcohol can be purchased and consumed indoors. There are external patio areas for outside consumption as per existing licence, both are within 15 metres of the front door. The property is set back from the main thoroughfare at the end of its own road. We do not have passing trade. It is the intention to supply off sales on demand and we anticipate the call for this will be minimal.*'

1.2 Site Plan/Photographs

The plan of the licensed area is reproduced as **Appendix 1**.

Photographs of the premises are reproduced as **Appendix 2**.

An aerial view of the premises showing its location is reproduced as **Appendix 3**.

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: -

- **Provision of Live Music**
 - Monday to Sunday 12.00hrs to 00.00 midnight (indoors)
- **Provision of Recorded Music**
 - Monday to Sunday 10.00hrs to 00.00 midnight (indoors)
- **Supply of Alcohol**
 - Monday to Sunday 10.00hrs to 00.00 Midnight (on and off sales)
 - Seasonal variations – Christmas Eve and New Year's Eve until 01.00am and any major golf or other sporting events e.g. Masters/Ryder Cup until conclusion of the event.

The revised proposed hours for all Licensable Activities following the consultation / mediation are as follows:

Live Music, Recorded Music, Supply of alcohol

Monday to Thursday 12hrs (midday) to 11.00hrs
Friday and Saturday 11hrs to 0.00 (midnight)
Sunday 11hrs to 11hrs

Seasonal Variation New Years Eve 00.30am

- 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: -

Appropriate measures will be employed at the premises to verify the ages of customers obtaining alcohol. The smoking area is monitored by staff and covered by CCTV to ensure patrons do not cause a nuisance nor obstruct access. Post 22.00 the smoking area shall not exceed the capacity of 5 persons at any time. All functions have to be authorised by a Designated Premises supervisor and a named person will be responsible.

The Designated Premises supervisors, Members of the committee and Bar Manager have the authority to ask people to leave or to close the clubhouse if trouble occurs or is anticipated.

CCTV is installed at the premises and will monitor all areas used by premises patrons to monitor numbers and prevent crime and disorder. Images will be retained for a minimum of 31 days. The correct time and date will be generated onto both the recording and real time image screen.

The committee members shall ensure that there is a member of staff available in the premises when it is open for the provision of licensable activities who is trained in the operation of the CCTV system. Any CCTV recording taken within the premises shall be played to a police constable or any authorised officer of the

Licensing Authority upon their request. A copy of any CCTV recording shall be downloaded to a removable format and provided to a police constable or any authorised officer of the Licensing Authority upon their request.

There shall be clear signage indicating that CCTV equipment is in use and recording at the premises.

All doors and fastenings shall at all times be kept in proper working order. When approving a function the Designated premises Supervisor and committee can restrict the number attending.

All fire extinguishers, emergency lighting/exits are checked on a regular basis.

Outdoor lighting shall be positioned, so far as reasonably practical, so as to limit its intrusion into residential accommodation in the vicinity of Blackwood Golf Club whilst maintaining an adequate level of lighting for the safe access and egress of customers and people employed at the premises,

The licence holder/DPS or responsible person shall risk assess the need for polycarbonate or toughened glasses to be used for outdoor events/use.

Amplified music will not be played at a level so as to cause unreasonable disturbance to the occupants of premises in the vicinity.

All reasonable steps will be taken to ensure that patrons using any outside areas do so in a quiet and orderly fashion.

Notices to be displayed at all points where customers leave the building to instruct them to leave the premises and area quietly.

The burglar alarm to be regularly maintained and implemented.

The noise from functions is monitored and reduced if considered too loud. The manager, licence holder or other competent person shall carry out observations at the boundary perimeter during the periods of amplified/un-amplified recorded entertainment at regular intervals whilst the Premises Licence is being exercised, in order to establish whether there is a noise breakout from the premises. If the observation reveals noise breakout at a level likely to cause disturbance to the occupants of properties in the vicinity then the volume of music shall be reduced to a level that does not cause disturbance.

A record of such observations shall be kept in a book for that purpose, such a book shall be completed immediately after the observation detailing the time, location and duration of the observation, the level of noise breakout and any action taken to reduce noise breakout. Such book to be made available at all times upon request to an authorised officer of the Licensing Authority or a constable.

Adequate notices shall be displayed in appropriate locations to ensure that this information is brought to the attention of patrons.

The use of the outside licensed area of the premises is not permitted after 22.00, other than for access solely for the use of the smoking area. Adequate notices shall be displayed in appropriate locations to ensure that this information is brought to the attention of patrons.

The committee members, staff or other competent persons shall manage the outdoor areas to ensure that customers do not behave in a rowdy or offensive manner and measures put in place to monitor these areas on a regular basis.

All refusals and incidents will be kept in a refusal / incident book detailing the time, date, and the goods the person serving refuses and the name of the person who tried to purchase. If no name is given then a good description will be recorded.

This documentation should be available for inspection on request by an authorised officer of the Licensing Authority or a Constable. This should be kept for a period of 12 months.

All children under the age of 18 must be accompanied by a responsible adult. Karl Rudakov (Club Secretary) holds the safeguarding qualification.

1.3.2 Background / Existing Authorisation

Blackwood Golf Club currently benefits from a Club Premises Certificate (CPC) which was granted in 2005. This CPC currently permits the supply of alcohol to club members and their guests between 11hrs to 23hrs and live/recorded music until 23.45hrs.

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 | 20/05/2024 | Appendix 6 |
| Child Protection Services | 20/05/2024 | Appendix 7 |
| Licensing Authority in role as Responsible Authority | 24/05/2024 | Appendix 8 |
| Environmental Health (Pollution) Team | 24/05/2024 | 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

| Document | Date received | Appendix Reference |
|-------------------------------------|-------------------------|--------------------|
| Mr & Mrs Parsons - representations | 25/04/2024 | Appendix 10 |
| Mr J Curtis-Jones – representations | 13/05/2024 & 21/05/2024 | Appendix 11 |

1.6 SUMMARY OF REPRESENTATIONS

Following a site visit undertaken by Gwent Police, Environmental Health (Pollution) and Licensing Authority in role as a responsible authority. **Gwent Police** have not objected to the application but have advocated the re-wording of some of the conditions proposed by the applicant to assist in the promotion of the licensing objectives.

The revised conditions related to the provision of CCTV, use of Challenge 25 as an age verification procedure and keeping of incident refusals logs. Furthermore, the Police advocate the periodic monitoring and management of the outside area and use of clear notices reminding patrons to leave the area quietly.

The Police advocate a condition regarding the attendance of children on the premises being limited to 9.00pm unless there is a pre-booked function or sporting event taking place. The Police have further advocated that the use of any outside area be limited to 22.00hrs save for smokers, this number being limited to 5 persons. Lastly the Police advocate the training of all staff being trained in relation to the prevention of underage sales and records of the same being documented accordingly.

Childrens Services do not object to the application but have suggested additional wording to that submitted by the applicant and have advocated that staff use the Challenge 25 proof of age scheme.

The Environmental Health (Pollution Team) has initially objected to the application in its current form however comments upon the absence of any historical noise nuisance issues. The Officer has advocated a number of conditions relating to cessation of use of the outside area after 22.00hrs save for smokers and limiting this number of persons to 5.

The Environmental Health Officer advocates that a noise management plan be in place and that notices be displayed requiring patrons to respect the needs of local residents. There is a proposal that all windows and doors be kept closed to reduce noise impact and a requirement for regular patrols to ensure that noise nuisance does not take place. A condition is proposed regarding the removal of waste and bottles between the hours of 21.00hrs and 08.00hrs

The Licensing Authority in its role as a responsible authority has noted that the applicant has not allowed for any 'wind down' time at the end of the evening, in line with the council's statement of licensing policy and advocates that last sale of alcohol be 23.30 and premises to be cleared of customers within 30 minutes of the last supply of alcohol on any day.

Other Parties. There were two relevant representations received objecting to the application from local residents' persons during the consultation period.

There are two representations objecting to the grant of the premises licence from residents of Cwmgelli, Blackwood.

Mr & Mrs Parsons detail their main concern in respect of the hours sought, as it covers most of the day until midnight. Further concern is expressed regarding proposed hours on New Years' and Christmas Eve.

Comment is made about the opening of a Care Home close by and increased staff traffic and waste collections from and food deliveries to this premises. Added to this are the waste and alcohol deliveries to the golf club. Reference is made to noise experienced from a local hotel and firework displays.

Mrs Parsons expresses concern as to having to listen to live music until late.

Mr Curtis – Jones initial comments refers to the residential nature and that its residents enjoy coexistence with the club as the club operates on a membership basis and the number of late-night functions with loud music is low. Concern is expressed about anti-social behaviour in the form of patrons urinating in public, loud arguments and littering. Reference is made to the double doors of the premises which are fully opened during the summer.

Comment is made that to date these issues have not been reported to the club or licensing authority in view of their infrequent nature. Concern is expressed that a change to licensing arrangements will result in an increase in events. Comment is made about maintaining good relations with the club, however the council should consider restricting the number of late night music events and prohibiting opening of doors when music is played and the use of notices to prevent alcohol containers being taken off the premises.

Further comments received from Mr Curtis-Jones detail concerns about the change of use from a club to a premises licence with extended hours and music is wholly unsuitable.

Both residents have indicated that they would like the Elected Member for the area to represent them at the Sub Committee meeting.

1.7 APPLICANT RESPONSE

The applicant has responded to the comments of both Responsible Authorities and residents to reflect the following proposed hours.'

Monday to Thursday 12pm (midday) to 11pm,
Friday and Saturday 11am to 12am (midnight)
Sunday 11am to 11pm.

Seasonal Variation New Years Eve 00.30am

The applicant has indicated a willingness to accept the proposed conditions of the Responsible Authorities but is not in agreement with the Licensing Authority in its role as a responsible authority position in respect of hours and 30 minute wind down period.

A copy of the applicant's response is 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

Members will be aware of the three forms of authorisation, namely a premises licence, club premises certificate (CPC) and Temporary Event Notice (TEN) that must be obtained in order to provide licensable activities under the Licensing Act 2003.

Licensable activities can include the sale/supply of alcohol, regulated entertainment and late-night refreshment.

Blackwood Golf Club currently (and has since 2005) held a club premises certificate (CPC) which permits the club to supply alcohol and the provision of live and recorded music to Club Members and guests.

The applicant, Blackwood Golf Club has submitted to an application for a new premises licence for their existing premises. Such an authorisation, if approved would not limit access to members and guests only. Members of the public could legitimately access the premises, purchase alcohol and benefit from any entertainment to be held.

The applicant has revised their application from that initially submitted, following the conclusion of the application consultation period and now seeks the following times for Live Music, Recorded Music and Supply of alcohol (on & off the premises)

Monday to Thursday 12hrs (midday) to 11.00hrs
Friday and Saturday 11hrs to 0.00 (midnight)
Sunday 11hrs to 11hrs

New Year's Eve 00.30hrs.

It is noted that in line with the Council's Statement of Licensing policy the applicant sought pre-application advice from Responsible Authorities (RA's) prior to submitting an application. Paragraph 10.3 of the Council's Statement of Licensing policy states *'Applicants are recommended to seek advice from the Licensing Authority's licensing officers and the police, as well as taking into account, as appropriate, local planning and transport policies, tourism, cultural and crime prevention strategies, when preparing their plans and operating schedules.'*

Members will have noted the representations and initial objections of the Environmental Health (Pollution) Officer who comments upon the absence of any historical official noise nuisance issues and advocated the imposition of conditions which if accepted would satisfy his concerns. This involved a curtailment on the use of the outdoor area to 22.00hrs and management and monitoring by the applicant of entertainment noise. The proposed conditions as set out by the Environmental Health Officer were subsequently agreed by the applicant.

In view of the above, the Environmental Health Officer as lead Responsible Authority for the prevention of public nuisance appears to be satisfied with the applicant's ability to promote the licensing objectives.

Gwent Police as the lead responsible authority for the Prevention of crime and disorder, have made representations seeking conditions to be imposed should a licence be granted, as opposed to an outright objection. No specific concerns are raised in respect of current issues being experienced at the premises from a crime and disorder perspective.

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 provides guidance to Members in relation to the comments of Responsible Authorities 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.*'

The Licensing Authority in its role as a responsible authority acknowledges and supports the position taken by other RA's in relation to the proposed imposition of conditions.

Following a site visit and discussion with the applicant, the Licensing Authority in its role as responsible authority have advocated that in line with the council's statement of licensing policy that a wind down period be applied, should a licence be approved.

Paragraph 5.8 of the Statement of Licensing policy states '*Even though the traditional drinking up time was not carried over into the Act, the Council recommends that applicants of premises licensed for the on-sale of alcohol should consider a drinking up / cooling down period. During this time music volume may be reduced, customers may finish their drinks and make arrangements for transportation from the premises. The Council considers that a 30 minute drinking up time will assist in the gradual dispersal of customers and consequently reduce any potential negative impact on the area.*

Aside from the issue of the terminal hour for the sale of alcohol and provision of regulated entertainment and whether this should be 23.30hrs or midnight on Friday and Saturday, then Responsible Authorities appear to be content with the applicant's ability to promote the licensing objectives.

There have been representations from Other Parties in the form of two residents who reside in the vicinity.

The concerns of the two 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. One of the residents commented in their representation that to date they had not reported their concerns to the club nor the Licensing Authority.

Members will note Paragraph 28.5 of the Councils Statement of Licensing policy in relation to representations received from Other Parties namely '*Representations should relate to the impact of licensable activities carried on from premises on the Licensing Objectives*'. Therefore, Members should disregard any information relating to noise or traffic issues from other premises such as the local Care Home. Likewise, Members should not refuse the application based on noise from fireworks displays from a local hotel.

However, Members attention is drawn to Paragraph 28.21 of the council's statement of licensing policy which states '*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.*'

Members of the Licensing Sub 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.

If Members believe that the applicant can promote the licensing objectives, then the application should be approved. If Members have concerns or a lack of confidence about the applicants' ability to promote the Licensing Objectives, then the application should be refused. Members will note the apparent absence of complaint history in relation to Blackwood Golf Club whilst utilising their Club Premises Certificate.

1.10 RECOMMENDATION

Having had regard to the objections made by residents and position a put forward by responsible authorities, it is recommended that the premises licence be approved for the following hours and conditions as detailed in **Appendix 13**.

Live Music, Recorded Music and Supply of alcohol (on & off the premises)
Monday to Thursday 12am (midday) to 11pm
Friday and Saturday 11am to 11.30pm
Sunday 11am to 11pm
New Years Eve 0.30am

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**

Caerphilly CBC Statement of Licensing Policy

Date of this report: 13th June 2024

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