

**MONMOUTHSHIRE COUNTY COUNCIL
REPORT**

SUBJECT: Application for a Premises Licence for Premier Inn (Proposed), Portal Road, Monmouth
DIRECTORATE: Chief Executive
MEETING: Licensing & Regulatory Sub-Committee
Date to be considered: 20 th August 2015
DIVISION/WARDS AFFECTED: MONMOUTH

1. PURPOSE:

To consider an application for a Premises Licence under the Licensing Act 2003 for Premier Inn (Proposed), Portal Road, Monmouth. Copy of the application is attached as Appendix A.

2. RECOMMENDATION(S):

- 2.1 It is recommended that members consider and determine the application, on the basis of the information provided.

3. KEY ISSUES

- 3.1 The application is for the sale of alcohol Monday – Sunday 10.00hrs -00.30hrs, and Late Night Refreshment Monday – Sunday 23.00hrs – 00.30hrs
- 3.2 The Live Music Act 2012 came into force in October 2012 which permits live music in on licensed and workplace premises for 200 persons, which was later amended to 500 persons under the Legislative Reform (Entertainment Licensing) Order 2014.

It further allows live music between 08.00hrs – 23.00hrs without the need for a licence.

The Legislative Reform (Entertainment Licensing) Order 2014 also permits recorded music for 500 persons between the 08.00hrs – 23.00hrs in on licensed premises without the requirement of a licence.

The applicant has not indicated they intend to have live or recorded music but this is an option they are allowed to take if they so wish without the need of a licence

- 3.3 The applicant within the operating schedule has stated the following under the four licensing objectives:-

General – all four licensing objectives

We have undertaken our own risk assessment to propose the following steps:-

The steps which we have identifies in relation to the four licensing objectives are listed below.

The Prevention of Crime and Disorder

The use of door staff will be risk assessed on an ongoing basis by the licence holder of premises supervisor. Where engaged, door staff shall be licensed by the Security Industry Authority.

Alcoholic and other drinks may not be removed from the premises save for consumption in the hotel bedrooms.

Staff will receive training on matters concerning underage sales, drugs policies and operating procedures.

There shall be a zero tolerance policy in relation to drugs at the premises and there shall be regular checks by management to prevent the use of drugs by patrons. Drugs seized shall be stored securely and handed to the police.

The premises shall operate a proof of age scheme and will require photographic identification from any person who appears to be under the age 21 years.

The management of the premises will liaise with police on issues of local concern or disorder.

CCTV will be installed with recording facilities such recordings shall be retained for a period of 31 days and made available within a reasonable time upon request by the police, such as to cover the main entrance to the premises.

There shall be no drinks promotions at the premises which are inconsistent with the need to promote responsible drinking.

Public Safety

To comply with the reasonable requirements of the fire officer from time to time.

The premises will have adequate safety and firefighting equipment and such equipment will be maintained in good operational order.

Staff will be trained on matters of safety, evacuation and use of emergency equipment as required.

Spillages and breakages will be removed as soon as possible to reduce the risk to patrons and staff.

Toughened glasses will be used in the premises where appropriate.

Fire Exits and means of escape will be kept clear and in good operational condition.

Prevention of Public Nuisance

Where appropriate, prominent, clear and legible notices shall be displayed at all exits requesting the public respect the needs of local residents and to leave the premises and area quietly.

Patrons will be encouraged by staff to leave quietly and respect the interests of the occupiers of any nearby noise sensitive premises. Where appropriate the licensee or a suitable staff member will monitor patrons leaving at the closing time.

Noise or vibration shall not emanate from the premises so as to cause a nuisance to nearby properties.

Contact numbers for local taxi firm(s) shall be kept at the premises and made available to patrons requiring a taxi.

The Protection of Children from Harm

No films or videos of any description will be shown so that they can be viewed by persons under the age of any applicable BBFC/Local Authority certification.

Children under the age of 16 shall not be permitted to enter the premises after 21.00 unless dining with an adult or attending a pre booked function or resident in the hotel.

There shall be adequate controls in place including staff training to safeguard against the sale of alcohol to persons under 18 years.

The premises supervisor or appointed staff member shall ensure that when children are admitted to the premises their presence is not inconsistent with the style of operation of the premises at that time and the licensable activities that are being carried out.

Policies in relation to children shall be adequately communicated to patrons by staff or through appropriate signage.

- 3.4 The applicant has a statutory duty to send copies of his/her Premises application to the 'Responsible Authorities' namely Heddlu Gwent Police, South Wales Fire Service, The Local Health Board and departments of Monmouthshire County Council being the Environmental Health Section, Social Services, Planning, Licensing and Trading Standards Department. (A notice also has to be circulated in a newspaper within the area of the premises as well as a notice displayed at the premises to enable local businesses and residents to make a representation. The application is also advertised via the Council's website). This was duly carried out by the applicant.)
- 3.5 A representation however has been received from one resident and this is attached as Appendix B.
- 3.6 The main concerns from the representation are:-
- Potential to cause a nuisance from its customers during the early hours of the night for every night of the week
 - Increase in disturbance and calls to the police
 - Fear of reprisals from offenders of disturbance
- 3.7 Representations made under the Licensing Act 2003 must be made under the four key licensing objectives, namely:-
- The prevention of crime and disorder;
 - Public Safety;
 - The prevention of public nuisance; and
 - The protection of children from harm.

However, Section 9 of the Guidance issued by the Home Office 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.

- 3.8 In response to the representation the solicitors for the applicant John Gaunt & Partners submitted the following to the objector:
- This is an application for a Premier Inn, principally a hotel operation of which there are some 700 around the country, many in noise sensitive locations and all of which – without material exception – operate without difficulty or negative impact on their immediate vicinity.
 - Even if, which is not accepted, these premises were to be a source of noise or disturbance, those most affected would be the hotel residents themselves whose amenity is our clients paramount consideration and concern.
 - In any event our clients operating statement offers a condition that noise or disturbance shall not emanate from the premises so as to cause a nuisance to neighbouring property (I do not have the exact words in front of me but that is the thrust of what is offered).

- Most materially there is only one representation to this application. It is particularly significant that the police who have a responsibility for preventing possible crime and disorder and general nuisance and Environmental Health (ditto in respect of noise nuisance) have raised no concerns.

3.9 The objector then responded with the following:

I have stayed in Premier Inns around the country the majority of which have been located in “retail areas” away from residential areas (Leeds and Sheffield) or inner town areas where noise and disturbance is a way of life (Heathrow and Brentford).

This new development in the area has the potential to create a negative impact on the peace currently enjoyed by the neighbourhood. I can see what they are saying by them operating “without difficulty or negative impact on their immediate vicinity”. But, I’m not talking about the immediate vicinity but incidents involving noise, nuisance or disturbance outside and away from any of their premises.

The solicitor seems to have misunderstood my concerns – it’s not the premises being a source of noise or disturbance that would impact on our peace and enjoyment but noise and disruptive behaviour from its customers leaving the premises at night time disturbing our sleep on their journey to where ever they live in the town.

Surprising, but understandable I suppose, the solicitor feels the hotel residents are their paramount consideration and concern. This seems to be saying that once customers have left the premises any noise or disturbance they create is for their neighbours to deal with.

I may be the only representation received to the application but surely my concerns should be heard. There have been a couple more objections to noise, crime and disruptive behaviour but these were unwittingly made to the planning department at the time of the planning application. Perhaps people were “put off” making a representation by the fact that the application notice put up around the proposed site stated the application itself could not actually be viewed locally in Monmouth but at an address in Abergavenny. I myself, someone who is not familiar with navigating the Council’s website, found it difficult to find the application and instructions on how to make a representation.

I must assume the police authority and Environmental Health are invited to make comment on such applications. As the solicitor rightly says, “the police have a responsibility for preventing possible crime and disorder and general nuisance”. Assuming the police are consulted on such applications and in doing so they review past reported incidents, I am somewhat surprised they have not raised any concerns.

From the Council website, I see that the Licensing Committee is made up of councillors, some of whom will be keen to see this application approved.

I will therefore not be attending the hearing as I feel that I don’t have the confidence to present myself but hope that my representation will be given fair consideration.

Many thanks again for giving me the opportunity to make a further representation prior to the hearing.

- 3.10 In accordance with 9.2 of the Home Office Guidance issued under Section 182 of the Licensing Act 2003 a hearing is not required if no representations were received or such representations were withdrawn. Furthermore, a hearing is not required if conditions have been agreed and agreed by all parties. However, in this instance no agreement was reached and there a hearing is required.

4. REASONS:

- 4.1 The determination of an application is to be considered in accordance with Section 18 of the Licensing Act 2003.
- 4.2 In section 9.4 of the Guidance issued under section 182 of the Licensing Act 2003, the Secretary of State recommends that, a representation would only be “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.
- 4.3 Monmouthshire County Council’s Policy on Prevention of Nuisance are set out in Section 11 and read as follows:

Prevention of public nuisance

Licensed premises can have significant potential to impact adversely on persons in the vicinity and further afield through public nuisances that arise from their operation.

Subject to case law the Licensing Authority interprets ‘public nuisance’ in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in the vicinity of a licensed premises.

Applicants will be encouraged to demonstrate in their Operating Schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance.

The Licensing Authority recommends that licensees apply a high standard of control to minimise the potential for any public nuisance that may arise from their operation of the premises, particularly where:

- they are situated in a residential or noise sensitive area; or
- extended opening hours are proposed.

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.

5. RESOURCE IMPLICATIONS:

- 5.1 Nil

6. CONSULTEES:

Heddlu Gwent Police, South Wales Fire Service and the following departments from Monmouthshire County Council, namely, Environmental Health, Social Services, Planning, Trading Standards, Licensing and the Local Health Board

7. BACKGROUND PAPERS:

Licensing Act 2003

Guidance issued under Section 182 of the Licensing Act 2003

Monmouthshire County Council's Statement of Licensing Policy dated 1st July 2015.

Live Music 2012

8. AUTHOR:

Samantha Winn

Senior Licensing Officer

CONTACT DETAILS:

Tel: 01633 644221

Email: samanthawinn@monmouthshire.gov.uk