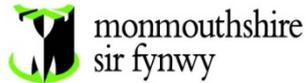


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Monday, 25 February 2019

Notice of Reports Received following Publication of Agenda.

Licensing and Regulatory Sub Committee

Tuesday, 5th March, 2019 at 11.00 am,
Council Chamber, County Hall, The Rhadyr USK - County Hall

Attached are reports that the committee will consider as part of the original agenda but were submitted to democratic services following publication of the agenda.

Item No	Item	Pages
3.	Application for a premises license under the Licensing Act 2003: Woodbank, Llanhennock	1 - 10

Paul Matthews
Chief Executive

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MONMOUTHSHIRE COUNTY COUNCIL REPORT

SUBJECT: Application for a Premises Licence for Woodbank, Llanhennock, NP18 1LU
DIRECTORATE: Social Care, Safeguarding and Health
MEETING: Licensing & Regulatory Sub-Committee
Date to be considered:
DIVISION/WARDS AFFECTED: Llanhennock

1. PURPOSE:

To consider an application for a Premises Licence under the Licensing Act 2003 for Woodbank, Llanhennock. A Copy of the application is attached as Appendix A.

2. RECOMMENDATION(S):

- 2.1 It is recommended that members consider and determine the application referred to in 3.1 below, based on the information provided.

3. KEY ISSUES

- 3.1 A new application for a premises licence under the Licensing Act 2003 was received from Mrs Bess Asprou of Duffryn House of 35 St Mary Street, Monmouth, NP25 3DD for Woodbank, Llanhennock for the following:-

- Supply of Alcohol (On and Off sales) Monday to Sunday 08.00hrs – 01.30hrs
- Live and Recorded Music – Monday to Sunday 08.00hrs – 01.30hrs (Indoors and Outdoors), marquee weddings a total of 15 inside marquee until 01.30 hrs, outside on the veranda up until 23.00hrs, Christmas Eve and New Years Eve until 02.00hrs
- Plays – Monday to Sunday 08.00hrs – 00.30hrs (Indoors and Outdoors)
- Late Night Refreshment – Monday to Sunday 23.00hrs – 01.30hrs
- Hours Open to the Public - Monday to Sunday 08.00hrs – 02.00hrs

- 3.2. The applicant has described the premises as a detached property accessible by a long drive approximately 400 meters in length. Situated in its own grounds of approximately 20 acres in the village of Llanhennock. Plan of the internal area is attached as Appendix B. A satellite view of the area is also attached as Appendix C.

The applicant within their operating schedule has outlined their arrangement under the four licensing objectives.

General

To promote all four licensing objectives we will keep strong management controls and effective training of all staff so that they are aware of the premises licence and the requirements to meet the four licensing objectives with particular attention to:

1. No selling of alcohol to underage people
2. No drunk and disorderly behaviour on the premises
3. No violent and anti-social behaviour
4. No harm to any children
 - (i) Designated Premises Supervisor to be in day-to-day control of the premises, to provide good training for staff on the Licensing Act (Training Record), to make or authorise each sale – clear “Challenge 25” information to prevent the supply of alcohol to under-age drinkers.
 - (ii) As a licensed premises we know that it is necessary to carry out our functions or operate the business with a purpose of promoting these objectives, We promise to support these objectives through staff training and qualifications, policies and strategic partnerships with other agencies.

The prevention of Crime and Disorder

Not selling of alcohol to drunk or intoxicated customers. Custom will not be sought by means of personal solicitation outside or in the vicinity of the premises. Staff will be well trained in asking customers to use premises in an orderly and respectful manner.

Public Safety

Training and implementation of underage ID checks. A log book or recording system shall be kept upon the premises (available for inspection by personnel authorised by the Licensing Act 2003, or associated legislation) in which shall be entered particulars of inspections made; those required to be made by statute, and information complied to comply with any public safety condition attached to the premises licence that requires the recording of such information.

The prevention of public Nuisance

Noise reduction measures to address the public nuisance objective. Deliveries of goods necessary for the operation of the business will be carried out, as far as possible (having regard to the nature of the events and times hosted) at such a time or in such a manner as to minimise nuisance and disturbance to nearby residents. The licensee will ensure that staff who arrive early morning or depart late at night, when the business has ceased trading, conduct themselves in such a manner to avoid causing disturbance to nearby residents. Customers will be asked not to stand around loudly talking outside the premises.

The protection of children from harm

“Challenge 25” sign which is a retailing strategy that encourages anyone who is over 18 but looks under 25 to carry acceptable ID (a card bearing the PASS hologram, a photogenic driving licence or a passport) if they wish to buy alcohol. Staff trained about the requirement for persons’ identification, age establishment etc all such details provided in Training Record Book. The Log Book will be kept at the premises at all times.

- 3.3 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, Immigration and departments of Monmouthshire County Council being the Environmental Health Section, Social Services, Planning, Licensing and Trading Standards Departments, which was carried out by the applicant. 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 businesses and residents to make a representation; Page 2 the applicant duly carried this out. The application is also advertised via the Council’s website, which gives details on how

a person can make a representation and this was carried out by the Licensing Authority.

- 3.4 On the 28th January 2019 the Planning Department submitted the following in relation to the application:

Planning have no comment on this as we have not yet received an application for the change of use. We therefore have not been able to assess this use of the site for this new purpose from a planning point of view.

Section 9.45 of the revised guidance issued under section 182 of the Licensing Act 2003 states:

Where businesses have indicated, when applying for a licence under the 2003 Act, that they have also applied for planning permission or that they intend to do so, licensing committees and officers should consider discussion with their planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs. The applicant has submitted a pre application to Planning for this use. However, this application has not indicated operating times and the Planning Section will be duly informed of the outcome of this hearing.

- 3.5 Representations were received against the application from Heddlu Gwent Police and Licensing. However, following mediation, the applicant agreed to amend the application and plan (revised plan attached as Appendix D) in line with the representations. The applicant also submitted a statement of operation, which is attached to this report (as Appendix E).

Heddlu Gwent Police and Licensing removed their representations after an agreement was reached by all parties to the following licensable activities and conditions:-

(a) Hours of Licensable Activities

Supply of Alcohol

Indoors (area 4 shown on the plan) to be granted
08:00hrs - 01:00hrs Monday to Sunday

Outdoors (areas 1 - 3 shown on the plan) to be granted
08:00hrs – 23:00hrs Monday to Sunday

Live Music and Recorded Music

Indoors (area 4 shown on the plan) to be granted
08:00hrs - 00:30hrs Monday to Sunday

Outdoors (areas 1 - 3 shown on the plan) to be granted
08:00hrs – 23:00hrs Monday to Sunday

Plays

Indoors (area 4 shown on the plan) to be granted
08-00hrs –00:30hrs Monday to Sunday
Outdoor (areas 1 - 3 shown on the plan) to be granted
08:00hrs – 23:00hrs Monday to Sunday

Late Night Refreshment

Indoors (area 4 shown on the plan) to be granted
23:00hrs - 01:00hrs Monday to Sunday
Outdoors – No late night refreshment

Opening Hours

Reduced to 01:30hrs

(b) Plan

Licensable activities to be restricted to the areas marked 1-4 on the plan attached to this report as (Appendix D).

(c) Conditions of the Licence as stipulated in the operating schedule

General

1. To promote all four licensing objectives we will keep strong management controls and effective training of all staff so that they are aware of the premises licence and the requirements to meet the four licensing objectives with particular attention to:
 - (i) No selling of alcohol to underage people
 - (ii) No drunk and disorderly behaviour on the premises
 - (iii) No violent and anti-social behaviour
 - (iv) No harm to any children
2. A challenge 25 policy will be in operation and all staff will receive training on the acceptable forms of I.D. A system will be in operation for everyone serving alcohol to record any refusals. Any refusal of alcohol due to the person being considered overly drunk or underage will be reported to the DPS or appointed responsible person for that event immediately. The Premises Licence Holder shall operate and maintain an up-to-date Register of Refusals of Sale of Alcohol, indicating the date, time and reason for refusal which shall be made available for inspection by any Responsible Authority under the Licensing Act 2003.
3. Staff training, qualifications, policies and strategic partnerships with other agencies will be documented, which shall be made available for inspection by any Responsible Authority under the Licensing Act 2003.
4. Anyone hiring the venue will be provided with a list of licensed minibuses firms/taxi firms for guests to prevent loitering at the premises. The hirer will be advised not to use coaches for transport.

The prevention of Crime and Disorder

5. CCTV cameras shall be installed both inside and outside the premises and these cameras shall be operational at all times the premises is trading. All recordings shall be retained for a minimum of 28 days and shall be made available for inspection by an Authorised Officer on request. The placement of the CCTV cameras are to include the top of the drive, within the library (bar area) and main hall. A notice will be displayed at the entrance to the premises advising that CCTV is in operation. The Premises Licence Holder will be registered as a data controller with the information commissioners office (ICO).
6. Polycarbonate glasses are to be used for any event outside other than a wedding or a corporate event outside of the main building.
7. When regulated entertainment takes place at the premises, door supervisors licensed with the Security Industry Authority (SIA) will be employed, with a ratio of 1 door supervisor per 250 persons. The ratio of door supervisors per number of persons present can be changed if deemed appropriate by the

Police and Licensing Authority, dependent on the size and nature of the event. The SIA staff will be positioned near any bar or area of dancing.

8. Anyone acting in a disorderly fashion at any event will be asked to leave the premises immediately.

Public Safety

9. In the absence of adequate daylight suitable and sufficient lighting is provided and maintained in any area accessible to the public. This outdoor lighting must be of low level and must include pathways and car park area.
10. Staff will monitor any outdoor drinking area or marquees when in use and ensure bottles and glasses are promptly collected from areas when empty or customers have finished them.

The prevention of public Nuisance

11. Deliveries of goods necessary for the operation of the business will be carried out, as far as possible (having regard to the nature of the events and times hosted) at such a time or in such a manner as to minimise nuisance and disturbance to nearby residents.
12. The licensee will ensure that staff who arrive early morning or depart late at night, when the business has ceased trading, conduct themselves in such a manner to avoid causing disturbance to nearby residents.
13. Customers will be asked not to stand around loudly talking outside the premises.
14. No outdoor stages may be erected on the licensable area outside of the main building or outside of any marquee without Monmouthshire's Event Safety Advisory Group approval for the required event.
15. Any outdoor music, which includes a marquee, will be monitored by the Designated Premises Supervisor (DPS) or appointed member of staff. This person will conduct a walk around every 2 hours when live and recorded music is being played outside. This person monitoring the music, will have access to the volume control and will request performer(s) to reduce the volume where necessary in order to prevent public nuisance.
16. Upon hire of the venue, all performers will be informed that the sound level will be set by the DPS or nominated responsible person. This will include all amplified, live or recorded music.
17. The DPS will provide a contact number to local residents prior to any outdoor music event (not including weddings or plays), which will take place between 21:00hrs and 23:00hrs. The DPS or a responsible person will consider any complaints made by local residents and will take action to remedy the complaint when applicable.
18. When conducting any outdoor live/ recorded music events, which includes a marquee, the speakers are to face away from the nearest residential property. This will be assessed depending on the field being used.
19. No flashing lights system will be installed outside the premises other than standard security lighting to reduce light disturbance to local residents.

The protection of children from harm

20. A challenge 25 policy will be operated at the premises at all times. All staff shall check identification of all persons who appear to be under 25 years old. Challenge 25 posters will be prominently displayed within the premises.
21. Children attending the premises should be accompanied by a responsible adult. Children attending a wedding function are allowed in the premises at all times. No children are permitted on the premises after 21.00hrs if attending a play.

- 3.6 If the licence referred to in 3.5 above is granted the licence would also be subject to Mandatory Conditions, which are attached to this report as Appendix F. Furthermore, if the sale of alcohol is granted the licence will also benefit from the Live Music Act 2012.
- 3.7 Representations were also received from Environmental Health and 18 other persons objecting to the application and conditions. Despite being informed of the agreed amendment referred to in 3.5 above, these representations were not withdrawn. However, there were also 5 representations in support of the application.
- 3.8 The following is the representation from Environmental Health:

It is my view that the application should be supported by an assessment of the noise impact of the proposals with regard to the nearby residential accommodation. The report should include measures to be taken to mitigate excess noise impact. The information should be prepared by a person(s) with appropriate acoustic qualifications and should be with full regard to relevant guidance.

There is potential for music levels to be generated at the proposed location which in my opinion could cause substantial disturbance to the residents living in the locality and for a statutory noise nuisance to be caused with regard to the provisions of the Environmental Protection Act 1990.

On consideration of these factors in my opinion there is the significant potential for the key Licensing Act 2003 objective 'prevention of public nuisance' not to be met and on this basis I therefore object to this application.

The applicant has arranged for a person with the appropriate acoustic qualifications to carry out a report at the premises on Tuesday 19th February 2019. A copy of this report will be submitted to members, consultees and residents before the hearing on the 5th March 2019.

- 3.9 Representations from the 18 local residents objecting to the licence, are attached (as Appendix G). As there are numerous representations objecting to this licence, I have highlighted the main concerns as below:
 - Increase in traffic in narrow lanes
 - Noise pollution
 - Refuse/rubbish storage and disposal
 - Poor visibility through the lanes
 - Risk of public disorder and anti-social behaviour
 - Safety in narrow lanes compromised
 - Concerns for local children
 - Concerns for local wildlife and farm animals

- 3.10 Representations from 5 other persons in support of the licence, are attached (as Appendix H).
- 3.11 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 9.9 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.

- 3.12 When considering their decision members are asked to consider the licensing objectives guidance issued under the revised guidance under section 182 of the Licensing Act 2003 (attached as Appendix I)
- 3.13 In accordance with 9.2 of the Home Office Guidance issued under Section 182 of the Licensing Act 2003. A hearing is not required where an application has been properly made and no responsible authority or other person has made a relevant representation or where representations are made and subsequently withdrawn..... Licensing authorities should not hold hearings for uncontested applications, for example in situations where representations have been made and conditions have subsequently been agreed. No agreement was reached with the other persons who made a representation and 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 In section 13.10 of the Guidance issued under Section 182. It is important that a licensing authority should give comprehensive reasons for its decisions in anticipation of any appeals. Failure to give adequate reasons could itself give rise to grounds for an appeal. It is particularly important that reasons should also address the extent to which the decision has been made with regard to the licensing authority’s statement of policy and this Guidance.
- 4.4 Monmouthshire County Council’s Policy on Prevention of Nuisance are set out in Section 11 and read as follows:

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.

When addressing the issue of prevention of public nuisance in their operating schedule, the applicant may identify steps to show that those factors that impact on the prevention of public nuisance objective have been considered.

4.5 Monmouthshire County Council's Policy on Public Safety are set out in Section 12 and read as follows

Public safety

The Licensing Authority will expect operating schedules to satisfactorily address issues concerning public safety, and applicants are advised to seek advice from various organisations, such as the health and safety enforcement officers, South Wales Fire and Rescue Service etc., before preparing their plans and schedules, particularly where regulated entertainment is to be provided.

The Licensing Authority will encourage applicants to conduct a risk assessment of the premises and/or activity. The authority recommends that specialists, e.g. a qualified safety officer, should be consulted to assist with the assessment.

Heddlu Gwent Police is promoting the use of polycarbonate drinking vessels to reduce the injuries caused by glass drinking vessels. The council supports this initiative.

In order to prevent misunderstandings with conditions already imposed on licences that specify that toughened glass drinking vessels must be used in some circumstances. This condition will be taken to include approved polycarbonate drinking vessels. This will negate the need for licence holders to apply for variations to conditions on those licences.

5. RESOURCE IMPLICATIONS:

Nil

6. CONSULTEES:

Heddlu Gwent Police, South Wales Fire Service, Immigration 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 dated April 2018.

Monmouthshire County Council's Statement of Licensing Policy dated 1st July 2015. Live Music Act 2012

8. AUTHOR:

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