

**MONMOUTHSHIRE COUNTY COUNCIL
REPORT**

SUBJECT: Application for a Premises Licence for The Old Station, Tintern, Chepstow, NP16 7NX
DIRECTORATE: Social Care, Safeguarding and Health
MEETING: Licensing & Regulatory Sub-Committee
Date to be considered: 7 th September 2021
DIVISION/WARDS AFFECTED: Tintern

1. PURPOSE:

To consider an application for a Premises Licence under the Licensing Act 2003 for The Old Station, Tintern, Chepstow, NP16 7NX. A copy of the application and plan 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 Ms Katie Burton for The Old Station, Tintern, Chepstow, NP16 7NX for the following:-

- Supply of Alcohol (On & Off sales): Monday to Sunday 10.00hrs – 23.00hrs
- Open Hours (Standard timings): Monday to Sunday 10.00hrs – 17.00hrs

3.2. The applicant has stated within the application that the premises is a visitor attraction, comprising of a tearoom and carriages. The site also has a green area where people can explore and walk. The tearoom and shop within the carriages will both sell alcohol as gifts to visitors. Alcohol would also be sold for consumption within the café area and picnic seating area. Alcohol may also be consumed within the carriages if there is a wedding or event.

3.3 A map of where the premises and site is in situ, along with surrounding area is attached as Appendix B.

3.4 The applicant has stated the following when asked in the application to describe the steps intended to take to promote the licensing objectives:

General

- 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. The DPS shall check the book once a month ensuring that it is complete and up to date. The DPS will sign the book each time it is checked.
- The Premises Licence Holder shall operate and maintain an up-to-date incident book, detailing the time/date/individual involved /incident that has taken place. This shall be made available for inspection by any Responsible Authority under the Licensing Act 2003. The DPS shall check the book once a month ensuring that it is complete and up to date. The DPS will sign the book each time it is checked.

The Prevention of Crime and Disorder

- The CCTV equipment shall be maintained in good working order and continually record when licensable activity takes place.
- The premises licence holder shall ensure images from the CCTV are retained for a period of 31 days. This image retention period may be reviewed as appropriate by the Licensing Authority and any other authorised person.
- The correct time and date will be generated onto both the recording and the real time image screen.
- If the CCTV equipment (including any mobile units in use at the premises) breaks down the Premises Licence Holder shall ensure the designated premises supervisor, or in his/her absence other responsible person, verbally informs the Licensing Authority and the Police as soon as is reasonably practicable. This information shall be contemporaneously recorded in the incident report register and shall include the time, date and means this was done and to whom the information was reported. Equipment failures shall be repaired or replaced as soon as is reasonably practicable and without undue delay. The Licensing Authority and the Police shall be informed when faults are rectified.
- The premise licence holder shall 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 any authorised officer of the Licensing Authority or a constable.
- There shall be clear signage indicating that CCTV equipment is in use and recording at the premises.

Public Safety

- The premises will conduct a suitable risk assessment and implement the necessary control measures.
- Arrangements are in place at the premises to enable the safe movement within the premises of disabled people and their safe evacuation in the event of an emergency.
- Adequate and appropriate First Aid equipment and materials are available on the premises.
- The premises has suitable valid Public Liability insurance, which will be displayed at the premises.
- The designated premises supervisor or a responsible person nominated by them, not being a person under eighteen years of age, shall be in charge of and present in the premises at all times during events where the public are on the premises and there shall also be during that time a sufficient staff of attendants in the building for the purpose of securing safety.

Prevention of Public Nuisance

- Signage shall be displayed requesting customers to leave the premises quietly and to have regard for neighbouring premises.
- Staff shall ensure that all litter is collected from outside the premises.

Protection of Children from Harm

- The premises shall operate a Challenge 25 policy and signage will be displayed to indicate this is in operation. The age check shall be made by examining either a passport, photographic driving licence or a PASS approved proof of age card. No other form of identification shall be accepted.
- Fully documented staff training, to include training on the Premises Licence conditions as well as the premises' Challenge 25 Policy must be given. Training must be undertaken at regular intervals throughout the calendar year, at a minimum every 6 months. Staff must sign and date documentation at the conclusion of their training session, acknowledging that they have received and fully understood the

training provided to them. This can be made for inspection by any Responsible Authority under the Licensing Act 2003.

- 3.5 If granted the licence would also be subject to Mandatory Conditions, which are attached to this report as Appendix C. Furthermore, if the sale of alcohol is granted the licence will also benefit from the Live Music Act 2012. The relaxation of amplified live/recorded music can only take place if alcohol is sold on the premises. The relaxation states that it has to be between the hours of 08.00hrs and 23.00hrs and not exceed 500 people. In this instance it would mean that should the on-licence be granted then the music can be played between 10.00hrs and 23.00hrs providing numbers do not exceed 500. Further information on the Live Music Act is attached as Appendix D.
- 3.6 The applicant has a statutory duty to send copies of his/her Premises application to the 'Responsible Authorities' namely 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, 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; again, 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.
- 3.7 No representations were received by any statutory consultee. A response from the statutory consultees advising they have no representations, were received by 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.
- 3.8 Representations were however received during the consultation period by other persons. As a result of these representations Licensing mediated with the applicant. On 13th August 2021 the applicant e-mailed the Licensing Authority to confirm they wish to amend their original application to change the hours for the sale of alcohol from 10.00hrs till 23.00hrs to 12.00hrs till 17.00hrs as a result of the objections raised. This change of hours would then also change the relaxation hours for the live music if the on licence is granted, as referred to in 3.5 above. It would now permit amplified live/recorded music between the hours of 12.00hrs – 17.00hrs without the need of a further licence.
- 3.9 As a result of the amended application, Licensing informed the 'other persons' of the new hours proposed. Licensing enquired with the objectors if they still wished to continue with their representation in light of the amended hours for the sale of alcohol.
- 3.10 14 of the 'other persons' still wished to object and their objections are summarised as follows:-
- The site is used mainly by families for picnics ect. The addition of alcohol may change the use of the site and make it unviable for families to use the site as they have done historically
 - There will be no residential landlord at the premises to ensure the entire site is closed when the premises is shut
 - There is limited car parking at present and with the addition of alcohol this may exacerbate the issue, causing vehicles to be parked dangerously and cause obstructions
 - There may be an increase in traffic on an already dangerous road, with a dangerous exit from the site
 - The existing footpaths are inadequate and full of debris. This causes pedestrians to walk on the road and with alcohol being consumed could present dangerous situations
 - Due to the rural nature of the site, customers may be tempted to drink drive as public transport is limited

- Music will be applicable under the Licensing Act 2012 in certain circumstances and may lead to noise pollution
- There may be an increase in litter, mainly glass bottles which could also be hazardous if left where children play
- The area is secluded and close to a river and so children require constant supervision, however alcohol could hinder this
- There are already sufficient local businesses selling alcohol in the area
- The area has current and historical issues with anti-social behaviour, drinking, drugs and vandalism. These issues may be exacerbated by sale of alcohol till 11pm

3.11 The representations in full can be viewed in Appendix E and the message of support for the premises licence application can be seen in Appendix F of this report.

3.12 Those who continued with their objections, relate to the following areas

- Main Road A466 , Tintern
- Trellech Road
- Mill Hill, Brockweir
- Glyn View, Tintern
- Loop Road, Beachley
- Park Glade

3.13 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.

3.14 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 G)

3.15 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. As such, 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:

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.

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.

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 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 - [Licensing Act 2003 \(legislation.gov.uk\)](http://legislation.gov.uk)

Guidance issued under Section 182 of the Licensing Act 2003 dated April 2018 - [Revised Guidance issued under section 182 of the Licensing Act 2003 \(publishing.service.gov.uk\)](http://publishing.service.gov.uk)

Monmouthshire County Council's Statement of Licensing Policy dated 1st July 2015 - [Statement-of-Licensing-Policy-2015-1.pdf \(monmouthshire.gov.uk\)](http://monmouthshire.gov.uk)

Live Music Act 2012 - [Live Music Act 2012 \(legislation.gov.uk\)](http://legislation.gov.uk)

8. AUTHOR:

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