

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO SPECIAL LICENSING ACT 2003 SUB-COMMITTEE

27 FEBRUARY 2015

REPORT OF THE ASSISTANT CHIEF EXECUTIVE LEGAL AND REGULATORY SERVICES

**LICENSING ACT 2003: SECTION 17
APPLICATION FOR PREMISES LICENCE
33 MARKET STREET, BRIDGEND**

1. Purpose of Report

- 1.1 This is an application made by Zahid Rasul and Saima Rasul, for a new Premises Licence for the above premises. The premises is a two storey building described as a wine bar, café and nightclub. The plans indicate that the premises will comprise a ground floor and first floor areas with seating areas and designated areas for either dancing or dining.
- 1.2 At the time this report was drafted, some representations had not been withdrawn and a hearing is therefore required.

2. Connection to Corporate Improvement Plan / Other Corporate Priority

- 2.1 None.

3. Background

- 3.1 A copy of the application form is attached at Appendix A together with a location plan. A full sized copy of the plan indicating the proposed licensed area will be available at the meeting.
- 3.2 The application is for a Premises Licence which authorises the supply of alcohol on and off the premises, plays, films, indoor sporting events, boxing or wrestling entertainment, live music, recorded music, performances of dance and anything of a similar description to that falling within live music, recorded music and performances of dance.
- 3.3 The timings applied for licensable activities are; Sunday to Wednesday from 1130 to 2330 hours and Thursday to Saturday from 1130 to 0200 hours. There are no non-standard timings. The application states that the premises will close to the public at 0000 hours Sunday to Wednesday and 0230 hours Thursday to Saturday. These are revised timings from the original application and have been agreed by the applicants and circulated to the responsible authorities.
- 3.4 The application has been advertised in accordance with Regulations.

3.5 For information, the applicants have been advised to contact the Building Control Section regarding obtaining the necessary consent for works being carried out at the premises.

4. Current situation / proposal.

4.1 Representations have been received from the South Wales Fire and Rescue Service, Public Protection Department, Chief Officer of Police and a person living within the vicinity of the premises.

4.2 Copies of the representations are attached at Appendix B, C D and E. Copies of the representations received have been forwarded to the applicants for consideration.

4.3 The applicants have indicated that measures identified in some of the representations are accepted and they are willing to submit an amended operating schedule. However, some issues are still under discussion. Therefore, without prejudice to the outcome of the hearing, the elements of the operating schedule and representations which have been agreed will be drafted for consideration at the meeting.

4.4 The applicants and the Public Protection Department are in discussion regarding the representations submitted, in particular relating to noise management generally and the management of the external area.

4.5 As outlined above, the South Wales Fire and Rescue Service has made representations that the application as submitted, does not promote the public safety licensing objective. At the time this report was prepared, the South Wales Fire and Rescue Service had asked the applicants to provide detailed calculations on how the proposed capacity figure was to be managed. The applicants were also required to provide exit widths and separate figures for the ground and first floor areas and advised that information is required to satisfy the representations relating to the safe evacuation of people from the above premises. The applicants have received an email setting out the precise requirements of the South Wales Fire and Rescue Service.

4.6 The South Wales Police has made representations that the application does not promote the crime and disorder, public nuisance and protection of children from harm licensing objectives.

4.7 They highlight that the Council has adopted a special licensing policy in respect of applications received for the Market Street area of Bridgend. The policy relates to the negative cumulative impact being experienced in certain Bridgend town centre streets as a result of a significant number of licensed premises concentrated in the area. The South Wales Police have made representations that the licensing objectives have not been adequately addressed, and that the grant of a licence to these premises will add to the negative cumulative impact already prevalent in the town centre.

4.5 Representations were also submitted by the Licensing Authority and have been withdrawn subject to the following additional conditions being incorporated into the operating schedule of a licence, if granted:

1. No children will be admitted to the premises unless accompanied by an

appropriate adult.

2. No children shall be permitted to remain in the premises after 2100 hours.
3. All staff shall be trained in all aspects of the Licensing Act 2003 on the commencement of employment, then annually or more frequently if necessary. Signed records will be kept by the DPS and made available for inspection upon request by authorised officers and responsible authority officers.
4. A Challenge 25 policy shall form part of the premises age verification policy, a copy of which shall be made available for inspection upon request by authorised officers and responsible authority officers.
5. The Premises Licence Holder and DPS will ensure that staff record any refusals of the sale of alcohol electronically or by way of a Refusals Register. The Register or records shall be made available for inspection upon request by authorised officers and responsible authority officers.
6. Electronic till prompts shall be installed and maintained on all tills in respect of alcohol sales, to support the Challenge 25 policy.

4.6 A local resident has submitted representations, which had not been withdrawn at the time this report was prepared.

4.7 The Planning Department has submitted the following information in the form of an observation only:

"P/98/555/FUL

The use hereby permitted shall not be open to the public between the hours of:-

24.00 Sundays – 07.00 Mondays

24.00 Mondays – 07.00 Tuesdays

24.00 Tuesdays – 07.00 Wednesdays

24.00 Wednesdays – 07.00 Thursdays

02.30 Fridays – 07.00 Fridays

02.30 Saturdays – 07.00 Saturdays

02.30 Sundays – 07.00 Sundays

Reason: in the interests of residential amenities".

In response, the applicants have amended the application to accord with the above consent.

4.8 In summary, there are a number of outstanding representations which require a hearing of this application.

4.9 The Sub-Committee must have regard to the Council's Statement of Licensing Policy and the Home Office Guidance issued under Section 182 of the Licensing Act 2003. However, the Sub-Committee must consider each application on its own merits having regard to the application, the operating schedule submitted and the representations made.

4.10 Sections 5, 6 and 9 of the Council's Statement of Licensing Policy are relevant to this application. Section 6 relates to a special policy in force in relation to the cumulative impact of premises in Bridgend Town Centre and specifically Market Street, Bridgend where this premises is located.

"6.4 The effect of adopting a special policy of this kind is to create a rebuttable presumption that applications for new premises licences or club premises certificates or variations which are likely to add to the existing cumulative impact will normally be refused, if relevant representations to that effect are received, unless applicants can demonstrate in their operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives. Whilst each case will be determined on its merits the term variation is taken to mean an increase in the hours during which licensable activities may take place, additional licensable activities, or an increase in the extent of the premises, insofar as these are likely to add to the negative cumulative impact.

6.5 Applicants will need to address the special policy issues in their operating schedules in order to rebut the presumption, i.e. that the operation of the premises would not add to the negative cumulative impact experienced. The licensing authority will give proper regard to the different types of premises and the differing impact they will have on the local community. However, if no relevant representation is received, the licensing authority will grant the application in terms which are consistent with the operating schedule.

6.6 This special policy will be kept under review and will not be used as grounds for revoking an existing licence or certificate.

6.7 Notwithstanding the special policy, applicants are asked to note that each application will be dealt with on its merits. Following receipt of representations in respect of a new application in the above mentioned streets, the licensing authority will and must consider whether it would be justified in departing from its special policy in the light of the individual circumstances of the case."

4.11 Sections 2, 8, 9, 10, 13.56 & 13.57 of the Home Office Guidance are relevant to this application. Paragraph 13.19 to 13.40 relates to the cumulative impact of a concentration of licensed premises.

5. Effect upon Policy Framework & Procedure Rules.

5.1 None

6. Equality Impact Assessment.

6.1 A full Equality Impact Assessment has not been undertaken in relation to this service, however due regard has been given to the implications on persons protected by equality legislation and human rights. Adverse impact of this Legislation on the equality protected groups is very unlikely. Consideration has been given to the guidance issued to accompany the Licensing Act 2003 relating to need to eliminate duplication and conflict with existing disability legislation and to reference and highlight the Council's Race Equality Scheme, policies and codes of conduct to applicants. We do not consider, on the basis of the above, that a detailed Equality Impact

Assessment is required for this service. In line with our Inclusive Equalities Scheme we will monitor for any adverse impacts that may develop.

7. Financial Implications.

7.1 None

8. Recommendation.

8.1 The Sub-Committee is asked to determine the application having regard to the operating schedule, the representations received, along with the Council's Statement of Licensing Policy and Special Policy, and statutory Guidance issued by the Home Office.

8.2 The Sub-Committee is requested to confirm whether any additional conditions are to be imposed or only those which are consistent with and set out in the operating schedule. Sections 10.8, 10.9 and 10.10 apply to the imposition of conditions. Mandatory conditions will apply to the licence, if granted, in respect of the specification of a Designated Premises Supervisor, age verification policy and authorisation by personal licence holders.

Andrew Jolley

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Date: 23 February 2015

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Background documents

Application for Premises Licence

Representations from Licensing Authority, Public Protection Department, South Wales Fire and Rescue Service, Chief Officer of Police & a Person living within the vicinity of the premises

Observation from Planning Department

Council's Statement of Licensing Policy available at www.bridgend.gov.uk

Amended Guidance issued under Section 182 of the Licensing Act 2003 – October 2014

Available at www.homeoffice.gov.uk