

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO SPECIAL LICENSING ACT 2003 SUB-COMMITTEE

17 JUNE 2016

REPORT OF THE CORPORATE DIRECTOR OPERATIONAL AND PARTNERSHIP SERVICES

**LICENSING ACT 2003: SECTION 34
APPLICATION TO VARY A PREMISES LICENCE
SAX BAR AND NIGHTCLUB, DERWEN ROAD, BRIDGEND**

Purpose of report

- 1.1 This is an application made by Richard Hopkins, premises licence holder, to vary a premises licence in force at the above-mentioned venue.
- 1.2 This application must be determined by a sub-committee as relevant representations have been received from the South Wales Police and Licensing Enforcement team, and the Council as the licensing authority has adopted a special cumulative impact policy in respect of the area in which this premises is located.
- 1.3 At the time this report was prepared, the licensing authority had not received confirmation from all parties that a hearing of this application would not be necessary.
- 1.4 The legislation provides for the promotion of the four statutory licensing objectives which must be addressed by the authority when licensing functions are undertaken:

The prevention of crime and disorder
Public safety
The prevention of public nuisance
The protection of children from harm.

2. Connection to Corporate Improvement Plan / Other Corporate Priority

- 2.1 None.

3. Background

- 3.1 The application has been advertised in accordance with Regulations.
- 3.2 The application seeks to:
 - Extend the opening hours of the premises
 - Extend the permitted hours for the sale by retail of alcohol
 - Remove conditions on the current licence

The application is attached at Appendix A.

- 3.3 A copy of the current premises licence is attached at Appendix B.
- 3.4 A copy of the plan attached to the premises licence is attached at Appendix C.
- 3.5 A copy of a location plan is attached at Appendix D.
- 3.6 In brief, the application seeks to increase the licensable activity of the sale by retail of alcohol from 1000-0300 hours Sunday to Friday and 1000-0430 hours Saturday to 1000 -0430 on all days of the week.

The application seeks to extend the terminal hour for the provision of late night refreshment from 0300 hours Sunday to Friday and 0430 hours on Saturday to 0500 hours on all days of the week.

The application seeks to extend the terminal hour for the performances of dance to 0430 hours throughout the week and add the category of regulated entertainment of a similar description to live music, recorded music and performances of dance from 1000 to 0430 hours on all days of the week. The applicant has not indicated what activities are proposed under this category.

- 3.7 The applicant is requesting that conditions be removed relating to the external area, which include the provision of seating and the use of the external seating area.
- 3.8 The applicant is also seeking to remove a condition which states that there shall be no admission or readmission to the premises after 0230 hours, and for the removal of the non-standard timings which apply to the licence on Good Friday and Christmas Day.
- 3.9 For the information of the Sub-Committee, the proposed Operating Schedule is contained within the application marked Box M for reference. These contain the additional steps which the applicant intends to take to promote the four licensing objectives of:
 - The prevention of crime and disorder
 - Public Safety
 - The prevention of public nuisance
 - The protection of children from harm

4. Current situation / proposal.

- 4.1 Representations have been received from the South Wales Police and are attached at Appendix E.
- 4.2 Representations have been received from the Licensing Enforcement Officer acting on behalf of the licensing authority. These are attached at Appendix F.
- 4.3 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 also consider each application on its own merits

having regard to the application, the operating schedule submitted and the representations made.

4.4 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 Derwen Road 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."

4.5 Sections 2, 8, 9, 10, and 13.20 to 13.39 of the Home Office statutory Guidance are relevant to this application.

4.6 Paragraph 9.37 of the Statutory Guidance states that in

"determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:

- The steps that are appropriate to promote the licensing objectives
- The representations (including supporting information) presented by all the parties
- [The] Statutory Guidance
- Its own statement of licensing policy

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 licensing objectives, operating schedule, the representations received, together 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.

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Corporate Director Operational and Partnership Services

Date: 13 June 2016

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Background documents

Application
Representations

Council's Statement of Licensing Policy available at www.bridgend.gov.uk
Amended Guidance issued under Section 182 of the Licensing Act 2003 – March 2015
Available at www.homeoffice.gov.uk