

STATUTORY LICENSING SUB-COMMITTEE

Minutes of a Remote meeting held on 12th October, 2021.

The Committee agenda is available [here](#).

The recording of the meeting is available [here](#).

Present: Councillors P. Drake, R. Nugent-Finn and J.W. Thomas.

Also present: Y. Witchell (Vale of Glamorgan Council Licensing Officer), PC T. Boley, S. McCarthy and S. Powell (South Wales Police), Councillors J.E. Charles, V.P. Driscoll, M.J.G. Morgan and S.T. William, M. Thomas (Vale of Glamorgan Council Democratic and Scrutiny Services Officer), R. Price (Vale of Glamorgan Council Legal Officer), S. Panchal and R. Singh.

The Democratic and Scrutiny Services Officer explained the procedure to be used for the hearing and advised that a copy of the procedure was available within the agenda.

(a) Announcement –

Prior to the commencement of the business of the Committee, the following statement was read out: “May I remind everyone present that the meeting will be live streamed as well as recorded via the internet and this recording archived for future viewing”.

(b) Appointment of Chair –

Councillor J.W. Thomas was elected Chair for the duration of the hearing.

(c) Declarations of Interest –

No declarations were received.

(d) Licensing Act 2003 – Application for the Grant of a Premises Licence – Sea View Convenience Store, Unit 1 Esplanade Buildings, Friars Road, Barry, CF62 5TJ –

The Chair welcomed those present to the Sub-Committee hearing and invited each person to introduce themselves.

The Chair then invited the Licensing Officer to present the report, who advised this was an application under the Licensing Act 2003 ("the Act") for the grant of a Premises Licence at Sea View Convenience Store, Unit 1 Esplanade Buildings, Friars Road, Barry, CF62 5TJ.

The report papers included a committee report with the application from Mr. Singh, background papers / representations from South Wales Police, and nine other representations from Other Persons. Subsequently, South Wales Police had shared additional bundles of documents, such as statements, photographs and a copy of the Section 35 Order for consideration. These had been distributed to all parties prior to the meeting who confirmed that they had sight of these documents and had considered these.

The reason it was before this Licensing Sub-Committee was that the above representations had not been withdrawn and therefore a full hearing was required.

The Licensing Officer went on to say that this was an application for a grant of a new premises licence and although there was a licence already in force it was within the powers of the Licensing Act to consider a grant of this new application.

The Licensing Officer explained by way of background that the Applicant had previously opened the premises selling alcohol and had received the relevant advice as to the correct type of licence he should apply for.

Following the Licensing Officer's presentation of the report, the Chair invited Mr. Panchal (the Applicant's representative) to present the case.

The Applicant's representative explained that the Applicant had been a trader on Barry Island for five years with no issues nor breaches of law and had co-operated with the Police and Licensing Officers over this issue and about the change of use for the premises from an on-licence to an off-licence premises.

In order to manage the potential risks and objections raised through the representations, the Applicant's representative stated that the Applicant would be prepared to reduce the hours originally applied for, with the shop now close at 10pm (rather 11pm) in the summertime and at 8pm in the wintertime. The Applicant would also accept a condition that no glass bottles, nor 'miniature' glass bottles of alcohol would be sold from the premises nor single cans. The applicant was, due to the above conditions, his experience of the area and as a local businessman, able to manage the risks associated with running the off-licence.

PC McCarthy, a representative from South Wales Police (a Responsible Authority) asked if the Applicant had carried out any additional research on siting an off licence within the local area and also had an understanding of the issues faced within the locality. The Applicant stated they had not had time to research having an off licence within the locality and this was his first off licence business. PC McCarthy then asked if the Applicant understood that there was a Public Spaces Protection Order (PSPO) in force within the area and what it entailed, to which the Applicant replied that no, he was not aware of this Order.

Councillor Nugent-Finn asked for clarification on whether glass bottles of alcohol would continue to be sold at the premises, to which the Applicant's representative replied that they had advised the Applicant, in order to avoid alcohol issues within the locality, that glass bottles should be removed from the off-licence going forward.

The Chair asked for clarification if this included spirit glass bottles as well, with the Legal Officer and PC McCarthy also querying if wine and soft drinks in glass bottles would also be excluded. The Applicant agreed that no glass bottles of any sort would be sold on the premises.

Following the presentation by the Applicant's representative, the Chair invited the Responsible Authority's representative (PC Scott McCarthy) to present their case.

PC McCarthy (in conjunction with other police officers in attendance) outlined a number of reasons why the licence should not be issued to the premises in question and referred to the evidence they had shared with all parties previously. PC McCarthy stated that in his two years as being a Licensing Officer for South Wales Police, this was the first time he had lodged an outright objection to an application for an off-licence premises.

Concerns were raised that alcohol had been sold to the public without the appropriate licence at the premises and of the potential for the increase of alcohol-related anti-social behaviour and disorder within the locality of the premises should this application be granted (a Public Spaces Protection Order (PSPO) had recently been renewed locally which enforced restrictions on alcohol within the area) and the subsequent impact on local people and visitors to the area, as well as on resources for policing and the Council's waste management (i.e. clearing up large quantities of used cans and glass bottles of alcohol).

The Police felt that the primary function of the premises would be selling alcohol as opposed to general convenience sales and the conditions suggested by the Applicant in order to deal with the concerns raised were insufficient to address these.

The Police also detailed a list of offences committed in the area in the recent past. Written evidence was also received from British Transport Police regarding offences committed in the railway stations and on trains in the area for which they had responsibility.

The Police showed various video clips of alcohol-related and antisocial behaviour on Barry Island. Although these could not be attributed directly to the application before the Committee, they demonstrated the levels of antisocial behaviour which excess alcohol could induce within the area the premises were located.

PC Powell, the neighbourhood Police Officer for the area, stated that he feared the Police would be unable to control the situation if large quantities of alcohol were readily available on the promenade and the impact this would have on the local community and businesses.

The Police therefore requested that this application be rejected completely.

Councillor Nugent-Finn asked if South Wales Police had issued any fines as a result of the alcohol and anti-social behaviour shown in the evidence and recordings provided. PC McCarthy replied that he did not have that information to hand and

was only aware of the arrests made concerning drunk and disorderly behaviour etc. seen in the footage presented.

The Applicant's representative asked if the Police had liaised with local businesses in order to see how they could help (including the Applicant's food business) such as any 'Pub watch' organisations and referred to two other businesses he believed were local and also sold alcohol. PC McCarthy stated that there were no bars or public houses in the immediate vicinity. The two shops alluded to selling alcohol were approximately 10-11 minutes' walk uphill and therefore away from the locality and there was no evidence that they were contributing to the alcohol related activity or disorder. The Police acknowledged that the Applicant's proposed off-licence premises had not been selling the alcohol seen seized in the video footage shared.

With there being no further questions and / or Responsible Authorities present, the Chair invited the Other Person to make their representations, this being the local ward member, Councillor S.T. Wiliam, who would be speaking for the Other Persons who had made written representations enclosed within the report.

Councillor Wiliam stated that the application was both anti-social and dangerous, thereby breaching the Licensing Objectives under the Licensing Act. He stated it would undo 20 years of work to improve the Island as a family friendly destination. Having an off licence in the local area could only exacerbate the current issues faced, undermine the PSPO, and would put increased pressure on both Police resources and those of the Council (such as through increased littering).

Councillor Wiliam acknowledged that there were two other outlets within the local area for off sales, but these could be distinguished from this application as the sales were not directly onto the local promenade nor close to the local beach.

The Chair provided all parties with the opportunity to sum up or add to their representations. There being no further discussions, the Licensing Sub-Committee retired to consider the application in private.

On returning, the Chair confirmed that the application was for a Grant of a Premises Licence at Sea View Convenience Store, Unit 1 Esplanade Buildings, Friars Road, Barry, and that the Application sought the following licensable activity: the sale of alcohol to the public as an off-licence Monday to Sunday 08:00 – 23:00.

In delivering the decision of the Licensing Sub-Committee, the Chair summarised the verbal and written representations received by all parties and comments received during the hearing as set out in the minutes above.

The Chair advised that following consideration of the Application, the representations from the Local Authority's Licensing Department, the Applicant's representative, South Wales Police and Other Persons, and having considered the Home Office Guidance along with the Council's Statement of Licensing Policy, as well as taking into account the Licensing Act 2003 (As Amended) and the Licensing Directives, the Licensing Sub-Committee

RESOLVED – T H A T the application be rejected.

Reason for decision

In reaching the decision the Licensing Sub-Committee had considered the application along with all those who have made both written and oral submissions. The Licensing Sub-Committee had taken into account the Licensing Act 2003 as amended, in particular the licensing objectives and the Home Office Guidance under s.182 along with the Council's Statement of Licensing Policy.

The Council's statement of Licensing policy reinforces the legal requirement of the Licensing Act that applications should only be approved if they promote the Licensing objectives namely:

The Prevention of Crime and Disorder,
Public Safety,
The Prevention of public nuisance, and
The protection of children from harm.

The Statement of Licensing Policy also states that

"The Council wishes to encourage greater community involvement in Licensing decisions and give local residents the opportunity to have their say regarding licensing decisions that may impact upon them."

With regard to Off Licenses the Statement of Licensing Policy states:

"Some shops and supermarkets selling Alcohol have been a focus for antisocial behaviour, disorder and disturbance. This can be caused by street drinkers and underage drinkers who try to obtain, or have obtained alcohol from such premises. Due to these concerns the licensing authority will consider seriously any representations made by Responsible Authorities or other persons in relation to the effects of granting such licenses on the immediate vicinity of the premises."

Responsibility for administration of licensing was entrusted to Local Authorities rather than justices or some other body, because, according to the White Paper (Cm 4696, 2000, para 123) there were three compelling reasons for doing so

"Accountability: we strongly believe that the licensing authority should be accountable to local residents whose lives are fundamentally affected by the decisions taken

Accessibility: many local residents may be inhibited by court processes, and would be more willing to seek to influence decisions if in the hands of local councillors

Crime and Disorder: Local authorities now have a leading statutory role in preventing local crime and disorder, and the link between alcohol and crime persuasively argues for them to have a similar lead on licensing."

The Home Office s.182 guidance in para 9.3 states:

“Where a representation concerning the licensing objectives is made by a responsible authority about a proposed operating schedule and it is relevant the licensing authority’s discretion will be engaged. It will also be engaged if another person makes relevant representations to the licensing authority, which are not frivolous or vexatious.”

The guidance goes on to say in para 9.12

“.....the police should usually therefore be the licensing authority’s main source of advice on matters relating to the promotion of the crime and disorder licensing objective.....”

Para 9.40 states:

“Alternatively the licensing authority may refuse the application on the grounds that this is appropriate for the promotion of the licensing objectives.....”

The Licensing Sub-Committee were also aware of the Council’s obligations under s.17 (1) of The Crime and Disorder Act 1998 which states:

“Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent,

- (a) crime and disorder in its area (including antisocial and other behaviour adversely affecting the local environment),
- (b) the misuse of drugs, alcohol and other substances in its area, and
- (c) re-offending in its area.”

The Licensing Sub-Committee had read and heard today the representations of South Wales Police and the British Transport Police and from other persons mainly living in the vicinity who have grave concerns that the granting of this application could not possibly promote the licensing objectives particularly the crime and disorder objective.

The Licensing Sub-Committee heard details of the PSPO which had recently been renewed in the vicinity, before adopting the PSPO the Local Authority had to evidence the fact that alcohol related antisocial behaviour was a serious issue in the vicinity.

The Licensing Sub-Committee considered whether any conditions could help to alleviate these concerns but felt that it would not be possible to condition this application to make it acceptable.

These were the reasons the Licensing Sub-Committee unanimously resolved to refuse the application.

The Chair advised the Applicant that they had the right of appeal against the decision of the Licensing Sub-Committee. The appeal must be made in writing and within 21 days to the Cardiff and Vale of Glamorgan Magistrates Court. Should the applicant be in any doubt as to their legal rights and or responsibilities they should take independent legal advice.