

No.

## STATUTORY LICENSING SUB-COMMITTEE

Minutes of a remote meeting held on 4<sup>th</sup> May, 2022.

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

The Meeting recording is available [here](#).

Present: Councillors J.M. Norman, J.W. Thomas and M.R. Wilkinson.

Also present: Licensing Officer (Vale of Glamorgan Council), Legal Officer (Vale of Glamorgan Council), Democratic Services Officers (Vale of Glamorgan Council), Environmental Health / Neighbourhood Services Officer (Vale of Glamorgan Council); Mr. D. Abbott, Mr. J M Evans, Mr. J McQuade, Mr. A. Obaid and Mr. M. Phipps.

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 Democratic and Scrutiny Services Officer read the following statement: “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 –

RESOLVED – T H A T Councillor J.W. Thomas be elected as the Chair for the duration of the Sub-Committee hearing.

(c) Declarations of Interest –

No declarations of interest were received.

(d) Licensing Act 2003 – Application for the Grant of a Premises Licence – The Old Bank, 1 Elm Grove Road, Dinas Powys, CF64 4AA -

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 for the grant of a Premises

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Licence at The Old Bank, 1 Elm Grove Road, Dinas Powys, CF64 4AA, submitted by Mr. David Abbott on behalf of Roberts McQuade Ltd, in relation to the supply of alcohol for consumption on and off the premises, Monday to Saturday 10:00 – 22:45 and Sunday 10:00 – 22:15.

The report papers included a committee report, the application form from the applicant, plus representations from a Responsible Authority (Shared Regulatory Services - Environmental Health / Neighbourhood Services) and from Other Persons. Subsequently, the Applicant had shared additional information, including promotional material, an inspection of works document from Cerrig Property Developments, as well as an email transcript with South Wales Police, and an amplification of the representation from Mr. Evans, an Other Person had been provided.

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.

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

The Applicant's case was that the premises would offer a unique experience to the locality which was currently not offered by other licensed premises in the area. Reference was made to the décor, building layout, proposed clientele, sound (i.e. the use of low volume music at the venue, but no live entertainment) and the provision of alcohol mainly with food offerings, but to include off sales, as detailed in the application. An example of off sales was provided whereby a patron could leave the premises with an unfinished bottle of wine. Mr. Phipps addressed the concerns raised in writing by Mr. Evans (an Other Person) prior to the meeting and went on to further address those concerns by being directly questioned by Mr. Evans on those points. Mr. Phipps pointed out that the representations by the Responsible Authority were limited to complaints having been received with no definable outcome of the same. The Applicant pointed out that the representations by the Responsible Authority could not raise issues around smoking as these had not been raised as part of any prior relevant representation. The Applicant outlined the lack of relevance of matters pertaining to the planning regime that Mr. Evans raised in representations and in direct questions. It was acknowledged the premises had previously been operating under Temporary Events Notices (TENs). It was pointed out that representations, though not relevant to the licensing objectives, supporting the premises had been submitted, which did not form part of the papers.

The Responsible Authority indicated that the representations were to highlight complaints that had been received, but which had not been substantiated. Investigations by a colleague had been carried out but had not concluded the existence of a nuisance to date. Comment was provided on the quality of the conditions and operating schedule that had been produced. Sound proofing was confirmed to be a matter for determination by the Planning Authority.

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Mr. Evans asked questions of the Applicant's solicitor following their opening submission and addressed further questions to the Applicant's solicitor on points of clarification arising from the same. His concerns addressed who the agent was and why redaction had taken place as well as issues surrounding sound proofing of the building, the number of chairs and tables in the highway and provision for smoking. He questioned table layout within the premises. He addressed issues around amplified music and the deregulation of this was explained to him. He stated that the premises were in walking distance of his home. He confirmed he had said everything he wanted to. He expressed disappointment that the meeting had been conducted remotely but took on board the explanations given for this at the outset of the meeting. He stated he was leaving the meeting. Clarification was sought and Mr. Evans further confirmed he wished to leave before the conclusion of the same and left the meeting.

Following this, the Chair provided all parties with the opportunity to sum up or add to their representations.

Mr. Phipps stated that the Applicant was looking to have a positive relationship with the local community and was more than willing to address any concerns that the local community (such as Mr. Evans, the Other Person at the meeting today) had concerning this application. He added that in terms of the submission made by the Responsible Authority the complaints outlined around noise had not been substantiated and after the Authority had visited the location on two occasions, no issues had been found. He also referred to the comments raised by the Authority in respect to the operating schedule, which indicated these were comprehensive and all encompassing.

Following this, the Applicant and their representative(s), as well as the Licensing Officer, and the Responsible Authority disconnected from and vacated the meeting, and the Licensing Sub-Committee deliberated the application in private.

Committee, having considered the report and evidence presented and having taken into account all representations.

RESOLVED – T H A T the application, as applied for, be approved.

Reasons for the decision:

In reaching the decision the Sub-Committee had considered the application along with all the 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

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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 Authority 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.....”

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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 Councils 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 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.