

DRAFT MINUTES

ID	6528
Committee	Licensing Sub Committee
Date	11/06/2021
Attendees	<p>Councillor Bob Derbyshire (Committee Member)</p> <p>Councillor Lisa Ford (Committee Member)</p> <p>Councillor Susan Goddard (Committee Member)</p> <p>Graham Porter (Clerk)</p> <p>Amanda Jones (Officer)</p> <p>Clive Pursey (Officer)</p> <p>Davina Fiore (Monitor)</p> <p>Gary Jones (Monitor)</p> <p>Daniel Cook (Officer)</p> <p>Mark Roberts (Officer)</p> <p>Kate Rees (Monitor)</p> <p>Mandy Farnham (Notify)</p> <p>Andrea Redmond (Notify)</p> <p>Councillor Frank Jacobsen (Committee Member)</p>

Item ID	25003
Item Title	Declarations of Interest
Summary	

Item ID	25005
Item Title	Application for the Grant of a Premises Licence - 21a Castle Street
Summary	<p>Present</p> <p>Applicants: Ty Hanfodion Ltd represented by Bill Freeman</p> <p>Responsible Authorities: Tony Bowley, South Wales Police Lauren Idowu, Cardiff and Vale Health Board</p> <p>Interested Others: Cllr Norma Mackie, Local Member</p> <p><u>The Application</u></p> <p>An application for the Grant of a Premises Licence was received from Ty Hanfodion Ltd in respect of City 1Stop, 21a Castle Street, Cardiff.</p> <p>The applicant applied for the following:</p>

- (1) In respect of the following licensable activities:
 - (i) The sale by retail of alcohol for consumption off the premises
- (2) Description of Premises (as stated by applicant):

“A general convenience store situated at the western edge of the City Centre. Selling a modest amount of groceries, newspapers, cards, coffee and alcohol for consumption off the premises”.
- (3) Unless otherwise indicated the premises may be open to the public during the following hours and for any hours consequential to the non-standard timings:

Monday to Sunday: 08:00 to 21:00 hours
- (4) To provide licensable activities during the following hours:
 - i) The sale by retail of alcohol for consumption off the premises:

Monday to Sunday: 08:00 to 21:00 hours

Applicant's Representations

Jayne Harrington presented the application. Ms Harrington provided an overview of the premises and its day-to-day operation. Members were advised that the premises was a small retail unit situated in Castle Street. The premises are open from 0700 hours to 2100 hours and there is a team of 7 staff. The premises is a convenience store which currently offers hot and cold drinks, food items, confectionary, household items and toiletries. There is also a small tobacco and vape section. The applicants are seeking to add sale of alcohol to the range of products on offer.

Ms Harrington indicated that the applicants had agreed to accept the 30 conditions set out in the representations received from South Wales Police, although a number of the conditions would require further clarification. The conditions were considered when the site risk assessment and control measure was drafted by the applicants to promote the licensing objectives.

It was reported that there has been an increase in business at

the premises since the easing of the lockdown restrictions. The applicants have realised that two members of staff will be required to be present when licensable activities are taking place to minimise risk and control the sale of alcohol effectively.

The applicants have consulted with their existing customers regarding their intention to apply for a premises licence. The customer base consisted of local business owners, managers and staff of other licenced premises, city workers, transport workers, local residents, students and tourists. A director of City 1Stop also consulted with 20 local licensed premises to gauge best practice and what could be done to ensure that the premises did not negatively impact the licensing objectives.

When formulating training for staff the applicants considered the CIP Assessment for Cardiff City Centre, the Council Statement of Licensing Policy 2016-2021, the Secretary of State's Revised Guidance, HSE Guidelines for Staff Training and the College of Police Training Modules.

Ms Harrington noted the concerns raised by South Wales Police as part of their representations. Ms Harrington admitted an error of judgement on her part that resulted in a fixed penalty notice being issued to her. Ms Harrington provided an explanation of the circumstances in which the fixed penalty notice was applied. Ms Harrington advised that the matter has been referred to the DBS Dispute Team and an independent monitor to assess whether this information can be used to object as a standard DBS check its normally deemed sufficient. A standard check would not disclose the application of a fixed penalty notice. However, if Members considered that Ms Harrington is not a fit and proper person to act as DPS then an alternative DPS has been identified.

Ms Harrington considered that an objection to her being DPS should not affect the granting of a premises licence. She would still like to be considered as the DBS and has submitted over 25 years of good character references from previous employers in support of the application. Ms Harrington proceeded to read the character references.

Responding to questions, Ms Harrington advised that the premises were currently open. She had been a personal licence holder since 2015 but she recently reapplied for her personal licence. Ms Harrington confirmed that she had acted as DPS during her previous employment. These were major city centre hotels with 24-hours premises licences.

Ms Harrington confirmed that the application was a new

application and was unrelated to a previous application for these premises. Ms Harrington, as DPS, would be present at the premises on a part-time basis for 16 hours per week.

Responsible Authority Representations

Mr Tony Bowley addressed the Sub Committee on behalf of South Wales Police. Members were advised that South Wales Police (SWP) objected to the granting of a premises licence under the licensing objectives of the prevention of crime and disorder, prevention of public nuisance, public safety and the protection of children from harm.

The premises were located within the cumulative impact policy area but the application fell outside the policy due to the hours of operation. However, SWP considered that the cumulative impact policy area exists due to the disproportionate level of crime, disorder and public nuisance associated with outlets for the sale of alcohol in the city centre. It was the view of South Wales Police that the addition of another outlet in the City Centre would add to those existing problems.

SWP also objected to the application made by Jane Harrington to be DPS at the premises should the premises licence be granted. This objection was based on the position that Ms Harrington was not a fit and proper person to act as DPS.

Mr Bowley stated that this was the second application to sell alcohol from the premises this year. The previous application was refused by the Licensing Sub Committee in April 2021. The application at that time was made by Mr Taiyab Mohammed. This application was made by Tyhanfodion Ltd and the sole director of Tyhanfodion was Mr Taiyab Mohammed.

Mr Bowley referred to a statement circulated to the Sub Committee from Special Constable Hadley. The statement explains an incident that had occurred on 31 January 2021 when officers attended a house party at a residence and found a number of persons present who were in breach of the coronavirus regulations. Ms Harrington was present and she received a fixed penalty notice. SWP say that Ms Harrington has demonstrated disregard for the regulations in place at time when the country was in the grip of a pandemic. Mr Taiyab Mohammed was also at the house party and he was also issued with a fixed penalty notice. SWP asked members to consider whether Mr Mohammed is a fit and proper person to hold a licence.

Mr Bowley highlighted the letter submitted from Inspector

Darren Grady which explained the problems caused in the city centre, particularly from street drinkers. Mr Bowley also referred to the statistics provided on the number of alcohol related occurrences in the City Centre. Members were asked to note that the majority of incidents occurred between 0900 hours and 2100 hours and that there was a cluster of incidents in the Castle Street area.

The application was for a convenience store to sell alcohol to be consumed off the premises. The application was not exceptional and did not seek to provide anything that was culturally different. Unlike other licenced premises in the city centre, the management at these premises would have no control over how the alcohol is consumed or who drinks it once the alcohol has left the premises.

It was SWP's view therefore that the addition of another off licence premises within the cumulative impact zone policy area could only have a negative impact on the licensing objectives. The Sub Committee was asked to refuse the application.

The Chairperson invited questions. Responding to a question from Ms Harrington, Mr Bowley stated that he was unable to provide clarification on the statement provided by Inspector Grady or the statistics provided by the SWP analyst. The statistics produced to provide an up-to-date overview of the problems that exist in the city centre.

Ms Harrington highlighted a number of differences between the statistics produced and the police crime database. Mr Bowley reiterated that he was unable to explain the differences between the statistic provided in support of the representations and statistics from another source.

Ms Harrington asked why 45 premises licences and 42 variations have been granted within the cumulative impact policy area over a specified time period. Mr Bowley stated that every application is dealt with on its own merits.

Ms Harrington stated that she provided a clean DBS and personal licence in April 2021. She asked why SWP considered it was necessary to produce evidence of the fixed penalty notices issued when a basic search is deemed sufficient. Mr Bowley stated that the statistics provided to support SWP representations were sourced from the NICHE system. The details of Ms Harrington and Mr Mohommed being issued with a fixed penalty notice for Covid regulation breaches came from the same NICHE system.

Ms Harrington also made reference to the disclosure of

personal information in the additional information provided by SWP in support of their representations.

Lauren Idowu addressed the Sub Committee on behalf of Cardiff and Vale University Health Board (CAVUHB). Ms Idowu stated that CAVUHB as a responsible authority does not consider that the applicants have sufficiently demonstrated that their application to increase the availability of alcohol would not negatively impact on the licensing objectives of prevention of public nuisance, prevention of crime and disorder and public safety.

CAVUHB believe that if the premises licence application was granted then there would be an increase in the availability of alcohol in the city centre and this will contribute to a likely increase in the number of incidents of anti-social behaviour, crime and alcohol related hospital and alcohol treatment centre admissions. It is known from well-documented research that opening hours and the density of alcohol sales outlets influences alcohol consumption, drinking patterns and associated damage. It is also known that reducing the availability of alcohol is key to preventing alcohol related problems in the community.

Ms Idowu referred to data contained within the Cardiff Council night-time economy report that indicates that the city centre has the highest incidences of violence against the person and anti-social behaviour in the whole city, as set out in the appendix to the written representation received from CAVUHB. Members were also advised that in 2018/19 940 intoxicated members of the public attended the alcohol treatment centre in the city centre, at a cost of between £1,345 and £2,170.

Responding to questions Ms Idowu stated that the granting of a premises licence would increase the availability of alcohol. Ms Idowu accepted that CAVUHB have not objected to every premises licence application in the city centre in the past but they may need to consider doing so in the future.

Mr Freeman sought clarification on a number of issues in relation to the data included in the representations received from CAVUHB. Ms Idowu was unable to provide clarification but accepted that the Council Statement of Licensing Policy states that any representations made should relate to the premises licence application.

Other Persons Representations

Councillor Norma Mackie addressed the Sub Committee.

Councillor Mackie stated that the main change between this application and the previous application that was refused by the Committee is the change in the terminal hour which has taken the premises licence application outside of the cumulative impact area policy.

However, the problems associated with alcohol consumption in the city centre remain the same. It is accepted that there are higher levels of alcohol-related crime and anti-social behaviour in the city centre. Very often these incidents occur outside shops and off-licences that sell alcohol. Councillor Mackie stated that she lives in the city centre and she personally witnesses these sorts of incidents regularly taking place.

Councillor Mackie considered that although the cumulative impact area policy is in place these incidents still occur. Referring to the risk assessment provided in support of the application, Councillor Mackie stated that she considered the document to be 'naive' and she was unable to see how the licensing objectives would be promoted, particularly as there were no controls in place for the safety of members of the public in the premises.

Councillor Mackie stated that she was disappointed to hear that Mr Taiyab was involved in this application as she felt that Mr Taiyab was rude, offensive and aggressive during the Sub Committee's consideration of the previous premises licence application.

Councillor Mackie stated that incidents involving the homeless and street-drinkers occur regularly throughout the day. Another off-licence in the city centre was likely to require the police to attend. The Sub Committee was strongly recommended to refuse the application.

Councillor Mackie responded to a number of questions from Mr Bill Freeman in relation to the risk assessment, street drinkers and evidence to support the representations put to the Sub Committee.

Summing Up

Mr Tony Bowley stated that Ms Harrington was recently prosecuted for a breach of the coronavirus regulations. Managing an office licence requires adherence to a number of conditions, regulations and laws and Ms Harrington has recently demonstrated that she hasn't complied with laws intended to keep herself and other safe from harm. Neither did Mr Mohammed who would be the licence holder should the application be granted.

There is an unacceptable amount of crime and anti-social behaviour. The Sub Committee has received statistics covering 2 years of incidences and a written statement from the senior police officer responsible for the policing of the area. Mr Bowley considered that the granting of this application would only result in a negative impact upon the licensing objectives. Mr Bowley questioned whether a DPS being present at the premises for 16 hours per week was sufficient in such a challenging environment.

Mr Bowley considered that the applicants have not adequately demonstrated that the application would not have a negative impact on the licensing objectives and requested that Members reject the application.

Councillor Mackie supported the view of SWP. She was concerned about the applicants and how the premises would be managed.

Ms Harrington requested that the Sub Committee consider the application on its own merits. Members were requested to consider that there is an ongoing dispute with the Barring Services as to whether it was appropriate to disclose the issuing of fixed penalty notices in this instance. The decisions on the DPS and the premises licence should be considered separately.

Members were advised that Mr Mohammed is not the sole director of the business. The applicants have the knowledge and experience to ensure that there would be no negative impact on the licensing objectives and Members were invited to visit the premises at any time.

Mr Freeman stated that the applicants was independent local trader. Members were asked to note that there was no representation received from the Licensing authority. The applicant fell outside the cumulative impact area policy and the policy did not apply to this application. The application should be considered as a standard application and considered on its merits.

Mr Freeman questioned whether the representations received from SWP and CAVUHB related to the licensing objectives. The application has many positives which promote the licensing objectives, including the 30 conditions that had been accepted by the applicants and the risk assessment provided by the applicants. A petition was also submitted in support of the application.

Members were asked to disregard the statement made by Inspector Grady as he considered that it contained errors and Inspector Grady was not present to answer questions on his statement.

Mr Freeman considered that the application was a good applicant, included safeguards and promoted the licensing objectives. The Sub Committee was invited to grant the application.

RESOLVED: That the Sub-Committee having considered all the information, and in accordance with the requirements of the Licensing Act 2003, the Section 182 Guidance and the Licensing Authority's own Statement of Licensing Policy, **REFUSED** the application.

The Sub Committee heard from the applicant and listened to all the evidence and submissions and considered the written material and also considered the Licensing Act 2003 the Section 182 Guidance, our own Statement of Licensing Policy and Cumulative Impact Assessment document.

The Sub Committee heard the representations made by South Wales Police, Cardiff and Vale Local Health Board, and a local ward Member and considered all written representations made.

The premises is located in an area covered by a Cumulative Impact Policy that creates the rebuttable presumption that any new or full variation applications for Premises Licences will be refused or limited unless the applicant can successfully demonstrate that granting the application will not add to the cumulative impact in the area. However, as the application is within the core hours, the presumption of refusal created by the Cumulative Impact Policy will not apply to this application.

Members noted that the applicants were willing to accept the proposed conditions of South Wales Police in Appendix C of the report.

After carefully considering the representations made today, the Sub Committee accepted that there is evidence of crime and disorder and other anti-social behaviour within the area, and felt that the granting of this licence would cause additional crime and disorder. Members did not feel that the application has successfully shown that it would not undermine the Licensing Objectives. Members were concerned that the licence holder would not effectively deal with the issues associated with the sale of alcohol.

	<p>In light of the above, the Sub Committee did not consider that the applicants demonstrated that they would be able to deal with the issues associated with managing a licensed premises.</p> <p>The Sub Committee therefore resolved to refuse the application.</p>
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Item ID	25006
Item Title	Application for the Variation of a Premises Licence - Taco Bell, St Mary Street
Summary	

Item ID	25004
Item Title	Urgent Items (if any)
Summary	