

Additional Information Submitted to the Licensing Sub Committee hearing on 3rd July, 2020

Applicants Email

From: [REDACTED]
Sent: 02 July 2020 12:52
To: Witchell, Yvonne <ywitchell@valeofglamorgan.gov.uk>
Cc: Licensing <Licensing@valeofglamorgan.gov.uk>
Subject: Beachcliff Fish & Chips - Licensing Committee - 3 July

Dear Yvonne,

Thanks for your emails this morning, and for the photographs produced by objectors. I thought it would be helpful to, briefly, articulate, the primary points, in the applicants case, in advance of tomorrow's hearing. I have followed and referenced the documents produced earlier which form the agenda papers for tomorrow.

Premises Licence Application – Appendix A

The application seeks permission for supply of alcohol and late night refreshment 10:00am – 11:00pm Sunday to Wednesday and 10:00am to 12 midnight Thursday, Friday and Saturday.

The application seeks to permit the premises to be open to the public for an additional 30 minutes at the end of each trading day.

The Designated Premises Supervisor is proposed to be Carl [REDACTED], an experienced Licensee with 20 years' experience and premises throughout Cardiff and now The Vale. Mr [REDACTED] is resident above and behind the premises.

Conditions

There are a number of conditions proposed to attach to the Licence. These attend to the issues anticipated to covered in both the National Guidance, the Statement of licensing Policy and we'd suggest cover the issues raised in the representations. These are, in bullet point format:

- Food to be available throughout.
- Comprehensive CCTV system (and condition).
- An incident log.
- No super strength beer or lager.
- No self-service of alcohol at the premises.
- No noise from plant or equipment.
- No fumes, steam or odours from equipment.
- Litter and cleansing procedures.
- No collections of waste or recycling after 11:00pm and before 8:00am.
- No "bottling out" between 10:30pm and 8:00am.
- No deliveries between 10:00pm and 8:00am.
- Waste to be properly presented.
- Regular litter patrols.
- Smoking to be supervised.
- Challenge 21 Proof of Age Policy.

Plan of the premises

The plan of the premises discloses a number of tables and chairs and, but for the Covid imposed manner of operation, this could and would be the layout and manner of operation that one would ordinarily find.

Fish & Chips

This application is not about a Fish & Chip shop being permitted to operate in this location. That is already permitted by national Government and the premises has been trading since shortly before lockdown.

Whilst we are respectful of the concerns that are raised by the residents we would ask the committee to have at the forefront of their mind that the conditions that are proposed to attach to the Licence, if granted, attend to some of if not all of the issues that are raised. The grant of the licence would impose a regulatory burden on the applicant. A burden he is happy to shoulder, but the alcohol permission and the hours proposed, are, in effect, in consideration for that.

Temporary Event Notices

It is of very real significance that the premises applied for and obtained a number of Temporary Event Notices, earlier in the year. These were initially intended to operate in the period following the end of the Licensing Consultation period and were anticipated to be operated shortly before the matter came for determination before the Licensing Committee. Obviously with the Covid lockdown, it became difficult for the authority to hold a Hearing within the allocated timeframe. However the Licensing Authority will be aware that a permission for sale of alcohol across a series of Temporary Event Notices was granted and no part of any of the representations nor any part of the material now received, suggests that that was done anything other than compliantly. There is nothing in the papers to suggest that the licensing objectives were anything other than promoted.

Hours of Operation

The application does not seek (nor does it need to seek), permission to operate, until 11:00pm. The application seeks to permit the premises to sell alcohol and to conduct Late Night Refreshment.

We would ask the committee to consider which part of the representations can fairly be said to go to the question as to whether alcohol sales, until 11:00pm could and should be refused. In our respectful submission there is little part of the representations attending to the issues of alcohol sales alone, before 11pm.

Hours of Operation beyond 11:00pm

It appears to us that the focus of the representations is very much more about anti-social behaviour concerns that may arise from the late operation of the premises. First of all, therefore, it is fair we believe to suggest that the Sunday, Monday, Tuesday and Wednesday operation could and should be granted. All that is being asked for on those days is that alcohol be permitted to be sold at the same time as other soft drinks and hot and cold food.

Objections – Appendix B

Objection 1

This objection is directed toward late night anti-social behaviour and conduct. And particularly early morning refuse collections, albeit from other premises. This application specifically attends to and effectively criminalises, any such behaviours from this premises. Midnight, is not we'd suggest, an unreasonable timeframe for these premises, particularly when one considers that others in the vicinity have hours that extend to 1 and even 2 am. You as the Licensing Authority can provide that detail, of course.

Objection 2

We do not read this representation as objecting to anything up to 11pm.

Objection 3

The substance of the objection appears to be a late night off-licence. Whilst our clients believe that they can perfectly and properly conduct both on and off sales from this premises, without any of the articulated anxieties coming to pass, and candidly the Temporary Event Notice clearly evidences that, were the committee minded to restrict the Premises Licence such that the off sales element only, would be restricted to 11:00pm, then that it something that my client is prepared to countenance.

There is not, any real case made against on sales being permitted within the restaurant, certainly not up until 11pm.

Objection 4

As with the second objection it is clear that the objection here is to a late alcohol Licence and the comments above we would suggest, attend to those concerns. The suggestion that there are several dining establishments in the area, none of whom have a late alcohol Licence, is of course factually incorrect.

Objection 5

The commentary about the necessity for further business is not a legitimate Licensing consideration. But even if it were in this time of extraordinary economic uncertainty with widespread anxiety, business closures and redundancies we would suggest that a successful, high quality operation, as has clearly been evidenced by the operation across the last several months, could and should be welcomed.

To be fair to the objection the observation that until 11:00pm premises operate successfully, is one we are grateful to read. We do not read this representation as objecting to any part of the application before 11:00pm.

Whilst we believe that operation for the late night refreshment until midnight is perfectly fair and proper, (and in circumstances where a number of the neighbouring properties have hours permitted significantly beyond that), the point about off sales not being permitted beyond 11:00pm seems to be a particular focus (takeaway). As above all of those concerns can be attended to by restricting off sales of alcohol to 11:00pm only.

Responsible Authorities

None of the responsible Authorities have submitted a representation to this application. The National Guidance makes plain that, as an example, the Police will be the likely expert lead on issues of crime and disorder. Paragraph 9.12 of the National Guidance states *“the Police should usually therefore be the Licensing Authorities main source of advice on matters relating to the promotion of the crime and disorder Licensing objective”*. Paragraph 9.15 states *“likewise it is reasonable to expect the Local Authority exercising environmental health functions to make representations where there are concerns about noise nuisance”*.

The absence of representations from these Officers, who were fully consulted, and who had the opportunity to consider the Temporary Event Notices applied for and granted with their specific knowledge, speaks volumes.

Licensing Policy

The policy explains the matters that will need to be attended to by certain types of premises and we would suggest that this comprehensive application does just that.

Furthermore, we would remind the committee of the powers of review if any of the concerns articulated were to materialise. It does not appear from any of the representations nor any of the material produced that anyone could suggest that this premises would be reviewed, had it already the benefit of a Licence.

Litter

It may be suggested, based on the photos provided, that through the last couple of months more could and/or should have been done by the various premises operating in this location to assist with litter. It cannot fairly be suggested that these premises are responsible for significant concerns in this regard. Additionally a Premises Licence would impose a criminal obligation to ensure that these issues were attended to and so if the committee were minded to accept that the premises and or should do more in this regard then the best approach, we suggest would be to grant a Licence with the attendant conditions.

Photographs attached disclose collection by agreed contractor, where bins are stored after they have been cleaned, and members of staff undertaking clean-up operations in the vicinity, particularly around and about Vale waste bins. My client has collected and attended to waste, whatever the source. Without a licence, as he sees it as a duty. His character to deliver and to promote the licensing objectives, cannot we shall say, be impugned. He is a responsible licensee, and will remain so, following the grant of any licence.

I look forward to discussing these issues tomorrow.

Best wishes

Matthew

[REDACTED]

Partner

Head of Licensing England and Wales

for TLT LLP

[REDACTED]

[REDACTED]

[LinkedIn](#)

Applicants – Image 1



Applicants – Image 2



Applicants – Image 3



Applicants – Image 4



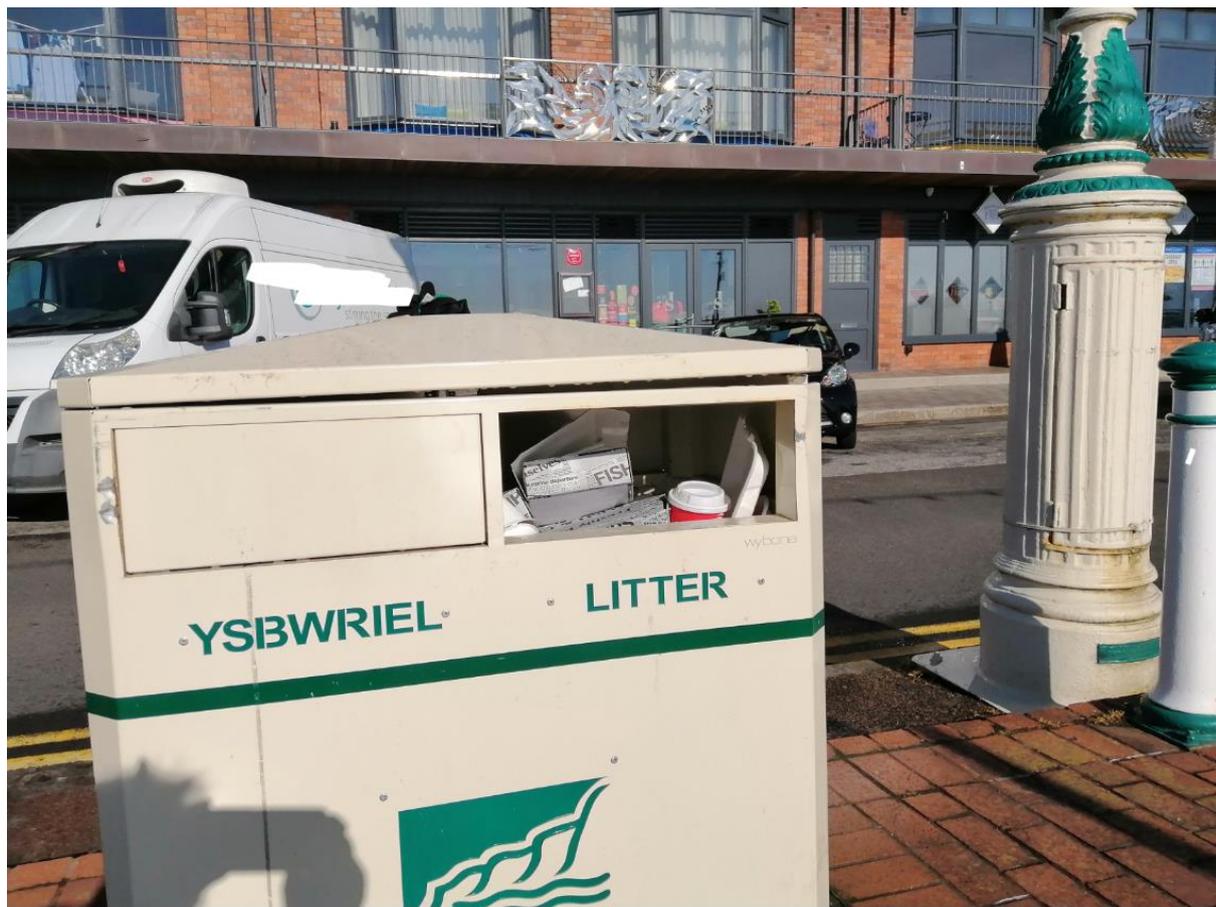
Applicants – Image 5



Interested Parties – Image 1



Interested Parties – Image 2



Interested Parties – Image 3



Interested Parties – Image 4



Interested Parties – image 5



Interested Parties – Image 6



Interested Parties – Image 7



Interested Parties – Image 8

