

No.

## LICENSING SUB-COMMITTEE

Minutes of a remote meeting held on 5<sup>th</sup> July, 2022.

The Committee agenda is available [here](#)

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

Present: Councillors L. Burnett, M.J.G. Morgan and J.M. Norman.

Also present: Licensing Officer (Vale of Glamorgan Council), Legal Officer (FTB Chambers), Democratic Services Officers (Vale of Glamorgan Council); Mr. C. Birch and Mrs. B. Pugh.

(a) Announcement –

Prior to the commencement of the business of the Committee, the Clerk 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 M.J.G. Morgan be elected as the Chair for the duration of the Sub-Committee hearing.

(c) Declarations of Interest –

No declarations of interest were received.

(d) Grant of a Premises Licence – Fredwell Café, Pant Wilkin Stables, Aberthin, Cowbridge -

The report under consideration was for an application under the Licensing Act 2003 ("the Act") for the grant of a Premises Licence at Fredwell Café, Pant Wilkin Stables, Aberthin, Cowbridge, CF71 7GX, submitted by Mr. Christopher Birch of Fredwell Café and Patisserie Ltd.

The Licensing Officer referred to the papers that had been circulated to all parties which outlined the purpose of the application to be determined by the Licensing Sub-Committee and drew attention to the Background section of the report.

There were some technical issues with the application that needed to be considered as part of the hearing, as referred to in paragraphs 1.6 and 1.7 of the report and concerned outside seating and off-sales.

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During the consultation period which ended on 7<sup>th</sup> June, 2022, two representations were received from other persons and the relevant representations within the emails received were attached to the report as Appendix D.

The Licensing Officer advised that both parties had received notices of hearing and had wished to attend the hearing to expand on their representation. As those representation had not been withdrawn, the matter had proceeded to be heard by Licensing Sub-Committee in order to determine the application. No further written representations had been received from either the Applicant or the persons making representations since papers had been distributed.

The Chair called upon the Applicant, Mr. Birch, to outline the reasons for the application, as well as some additional details which were stated as follows:-

- The coffee shop and patisserie had been quite successful, and patrons had enquired about the further catering of events and the provision of Sunday lunches.
- The application would allow the business to offer alcoholic beverages to accompany a meal served to patrons, sold only in conjunction with meals and not separately, adding to the offer available to customers at the premises.
- In terms of live music and events, Mr. Birch knew of a harpist that he wished to invite to play one a month on a Saturday evening to play as part of an event. He also wished to invite a small orchestral band (celloist and harpist) to play as it would fit in with the aesthetic of the venue.
- The outside seating area had not been included due to the impact on the local area and alcoholic drinks would not be allowed outside of the premises.
- With regards to sound, since the objections had been received the business had purchased a device to measure sound levels and the internal ambient noise from the café was not audible outside but would continue to be closely monitored.
- It was noted by the business from the objections received that there had been concern about potential added noise or raucous behaviour, but the venue was at the other end of the road to the two local public houses, the Hare and Hounds and Farmers Arms, which had been there for many years and posed no issues for local residents.

The Chair invited questions for the Applicant from Members.

Councillor Norman asked whether the sale of alcohol without purchasing a meal was proposed. Mr. Birch said that was correct and alcohol would be sold as an accompaniment to food orders and not sold individually. Councillor Norman asked if the intention was to sell spirits as well as wine and beer. Mr. Birch replied that the intention was for wine from the Loire Valley in France and beer from a local Treforest micro-brewery, but also an espresso martini as a link to the coffee shop.

Councillor Burnett said that prior to the hearing having been arranged, she had been to the premises whilst escorting representatives from the Twinning Association around various places in the Vale of Glamorgan. She asked about a

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number of holiday lets that were passed on the way to the premises and whether it was envisaged that the premise would supply those lets with evening meals, etc. in future as part of the customer base. Mr. Birch said that part of the appeal to start the café was due to the number of holiday homes near the site and had been directing patrons to the Hare and Hounds and Farmers Arms for evening meals and drinks. The application would potentially bring that traffic from those 8 holiday homes to Fredwell instead and lessen foot traffic along the main road.

The Chair said that the café was not an isolated business at that location and asked what other businesses were set up in the area. Mr. Birch said there were equine veterinary premises, a few warehouse units, a horse rug wash premises, some landscape gardeners and a 3D printing company. Mostly those businesses were Monday to Friday, 9 am-5 pm establishments so would not be part of any evening catering opportunities.

The Chair asked if to date there had been any complaints received about how the premises had been conducted. Mr. Birch said no complaints had been received, other than some people had found the premises difficult to find when using Satnav. Feedback received to date had been positive.

The Chair invited questions for the Applicant from the Objector, who made the following points:

- Mrs. Pugh said that the Applicant had always been helpful and obliging to her.
- She lived close to the application premises, around 50 yards from the café, which originally had all been farm premises which subsequently had been divided up and used for alternative purposes.
- She said that the noise from the yard had increased over the 24 years they had lived near the application premises and would no longer be deemed as usual rural noise.
- The thought of alcohol being sold on the application premises at any time would increase patronage and increase that noise.
- Mrs. Pugh said there was no way for Mr. Birch to police the noise from patrons leaving the premises.
- She objected to the possible increase in noise, which included the inclusion of live music at the premises, as increased patronage would inevitably overflow into the outside area.

The Chair asked the Objector if she had any questions for the Applicant. Mrs. Pugh asked how much control would Mr. Birch have over his customers. Mr. Birch said that customers would remain inside the premises and that alcohol would only be sold to a customer who had already ordered food and the till system was set up accordingly. Alcohol sales could not be made separately as a condition that was agreed with South Wales Police, as was additional CCTV to be able to police the outside area.

Mr. Birch said that the measurement from the café to the nearest property window using Google Maps was 180 yards. The café does play low volume background music currently which had no impact on the outside surrounding area. The

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majority of noise was general noise from the farm, farm traffic and the other businesses. The café was one of the furthest businesses from the Objector's home and Mr. Birch said that as the café was a destination business that people would have to travel to there was little chance of increased raucous noise due to alcohol sales as many patrons would have to drive to the establishment. Mrs. Pugh said that in any one car there would be one driver and the rest would be able to drink.

The Objector said that she appreciated that the Applicant wanted to increase his business, but not at the expense of her health.

The Legal Officer said that Mrs. Pugh would have the opportunity to put her objection in full at the appropriate time but currently it was the opportunity for Mrs. Pugh to ask questions of the Applicant.

Mrs. Pugh asked if a group visited the premises, whether would there be a limit on the size of that group. Mr. Birch said it would be difficult to limit the size of a group but would be happy to meet a limit if it were to be a condition of licence. There had been a hen party attend the premises recently that was made up of a group of 25 people for 3 hours and no noise complaints were received during their visit. The premises had also recently hosted 30<sup>th</sup> and 50<sup>th</sup> birthday parties of 70 to 80 people and no noise complaints had been received. The recent Twinning Association ceremony consisted of 18 people who sat outside, and no noise complaints were received. Mr. Birch felt that limiting the numbers of people would not necessarily equate to there being more or less noise, but that noise would continue to be monitored. He said it was a family business and it was in their interest to get along with their neighbours.

Mrs. Pugh appreciated that there had been various events held and that she had not experienced any excess noise during those events but suspected that the addition of alcohol would change that situation.

The Chair said that at this stage there were no responsible authorities involved with the application and that the Police had raised no objections concerning the application.

The Legal Officer asked some supplementary questions concerning the application, as follows:-

- It was stated that the till system at the premises would only permit the sale of alcohol if purchased with food. Mr. Birch said that was correct. The Legal Officer said that the conditions that had been agreed with the Police as contained in Appendix B and a letter dated 6<sup>th</sup> June, 2022 suggested there would be a relaxation for the sale of alcohol for pre-booked private functions and asked if that was correct. Mr. Birch said that was not correct and that private functions would still have to order food that would be served and then allow them to purchase alcohol as one complete order. Room hire was free of charge as long as a set number of meals was also ordered as part of the booking. The Legal Officer suggested therefore that

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condition 7 as agreed with the Police could be amended. Mr. Birch said that was correct.

The Chair invited the Objector to state her case for the objections which would be followed by an opportunity for others present to ask any questions, as required, and the following points were made:-

- Mrs. Pugh was unhappy about the increase in clientele at the café as it had continued to grow.
- The thought of music and sale of alcohol at the premises left her feeling apprehensive.
- She did enjoy sitting in her garden and did not want to be disturbed by the various increases in noise that now took place in the area as a result of increased activity.
- The area used to be an agricultural area and had changed into a kind of mini-industrial estate, with planning being granted retrospectively rather than in advance and with no communication.
- She felt that her opinion on matters had been disregarded over the last 14 years as the site use had changed.
- An alcohol licence would inevitably increase business for the Applicant, but she asked how well it would be monitored.

Councillor Noman raised an objection concerning planning matters as it was a Licensing Sub-Committee and not Planning Committee meeting. Mrs. Pugh said it was relevant as consideration should be given to residents living around the premises.

The Legal Officer reminded the Objector that should the licence be granted, that there was an opportunity to further raise issues if noise were to be an issue in the future at the premises. The licence could be reviewed were issues to be raised and brought back before the Committee for consideration. Mrs. Pugh was not aware of that possibility. The Legal Officer advised that it would take 28 days from the date of a received application for review and the Committee had to hear the matter within another 28 days.

The Chair invited questions for the Objector from the Members, Legal Officer and Applicant. There were no questions from Members or the Legal Officer. Mr. Birch asked Mrs. Pugh to understand that he appreciated the issues that she had raised, but that he was a leaseholder, not the landowner, trying to do the best for his business. He said that if the Objector had any issues she wished to raise, she had his contact details and was always able to contact him.

The Chair had no further questions and advised that the relevant parties would be given the opportunity to sum up their cases. He invited the Objector to speak.

Mrs. Pugh said everyone was welcome to come and see how close the premises were to her property and disputed the distance figure quoted earlier. She concluded that licenced premises would generate noise, no matter how well that was managed.

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Mr. Birch added that if there were to be any further conditions to be imposed that would be agreeable to the surrounding neighbours that he would look to comply with them.

The Chair asked if there were any points that required final clarification and asked the Legal Officer to comment on the application and give guidance as to the conditions sought by the applicant and whether they required any adjustment.

- Appendix B which contained a list of 7 conditions. Condition 2 referred to a 'Challenge 25' policy and the application stated that alcohol would only be served to persons over the age of 25. The Legal Officer advised that the more usual condition would be to adhere to the 'Challenge 25' condition and challenge those who looked under 25 as alcohol could legally be sold to persons over the age of 18. Mr. Birch was content with that position.
- The application referred to limiting the number of drinks sold to patrons to three. The Legal Officer suggested that in practice that may be an unworkable condition. Mr. Birch advised that the till system would allow for that condition to be followed. The Legal Officer asked if bottles of wine were to be sold, and how the three-drink limit would be enforced. Mr. Birch said they would sell bottles of wine. The Legal Officer proposed that the condition should be that alcohol sales be limited to those patrons purchasing a meal. Mr. Birch was content with that position.
- Condition 5 referred to at least 50% of the licensed area would be laid to tables and chairs. Mr. Birch said that it was actually 100% table. The Legal Officer asked if Mr. Birch would be happy for that figure for the licenced area for tables and chairs to be amended from 50 to 100%. Mr. Birch preferred to leave it as it was but would agree to the condition if so proposed. The 50% figure was proposed to be able to reconfigure the tables on request for one end of the room and enabled more people to stand rather than sit down. The Legal Officer was content to leave the figure unaltered.
- The Legal Officer referred to condition 6 and the Designated Premises Supervisor or a personal Licence Holder being present for the duration of a private event and asked if the Applicant was happy that condition. Mr. Birch was content with that position as he, his business partner, the manager at the café or a combination of those three persons would be present at those times where alcohol was being served.
- The Legal Officer asked if the Applicant had understood the outline given at the beginning of the application by the Licensing Officer and the impact of the 2015 Deregulation Act, as the premises was entitled to have live and recorded music. Mr. Birch said that he had understood the outline but wanted to be specific about what was being proposed for the premises. The Legal Officer advised that there was no need to apply for the inclusion of live and recorded music as it was already permitted as a matter of law and suggested that reference be removed from the application. Mr. Birch was content with that position.
- The Legal Officer asked to confirm if that was also the case in respect of late night refreshment, as the sale of hot food and drinks was already permitted as a matter of law until 11pm. Mr. Birch was content that the late night application also be withdrawn.

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The Chair asked if there were any other points of clarification from any party present.

The Objector extended an invitation to the Applicant to visit her house to see how close the premises were from her home and to appreciate that she could not sit in the garden and listen to other people's choices of music. The Applicant said he would be happy to accept that invitation.

The Chair asked if there were any further points to be raised before retiring to discuss the application. No further points were raised so the Chair invited all external parties to disconnect from the meeting and would be called back in to hear the outcome of the deliberations.

Once all parties had reconvened, the Chair summarised as follows:-

- That Members had listened carefully to both the Applicant and Objector and taken into account the information provided in the report papers.
- That Members were sympathetic to the views raised by the Objector.
- That the application itself was modest.
- That the Applicant had agreed to a number of conditions to protect the local environment and agreed that alcoholic beverages would only be supplied by table service and for private functions.
- That the Applicant had stated he had no intention of using the outside area for the supply or sale of alcohol.
- That the Applicant had agreed to the conditions of licence, subject to any amendments made in the final determination.
- That Members were appreciative of the relationship between the Applicant and Objector, hoped that would continue positively and that the Applicant would listen to the Objector should there be any issues in the future.
- That no objections had been received from the statutory authorities with regards the application.

The Chair advised that the final detailed decision would be issued within 5 working days and would set out the applicable conditions to which the Applicant had agreed. Should the Objector wish to appeal, an appeal could be lodged within a 28-day period after the date of the application decision. Local residents would also have the opportunity in future to apply to have the licence reviewed were it to be found to not be working as stated in the application.

RESOLVED – T H A T the application, with amended conditions, be approved.

#### Reasons for decision

In reaching the decision the Sub-Committee had listened carefully to the representations made during the hearing by all parties and taken into account the written representation of the resident who chose not to attend.

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It was noted that the Police representation was withdrawn upon the acceptance by the Applicant of the conditions contained in their letter dated 6<sup>th</sup> June, 2022 (Appendix B).

The Sub-Committee had regard to the statement of licensing policy; the DCMS Guidance issued under s.182 of The LA 2003; and The Human Rights Act 1998.

The Sub-Committee viewed this as a modest application. The premises were small and had had no historical impact. The Sub-Committee had no reason to believe that permission to sell alcohol as an ancillary to a table meal inside the premises would alter this position.

As a further safeguard the Sub-Committee attached further conditions to the licence which would limit its operation, as follows:-

1. A CCTV system would be installed to an agreed standard approved by South Wales Police and maintained and operated at all times when the premises were open to the public. The system would cover all areas of the premises to which the public had access (excluding toilets) including all public entrances and exits. The images would be available for a minimum of 31 days. The images would be produced to a Police employee, in a readily playable format, immediately upon request when the premises were open to the public and at all other times as soon as reasonably practicable. There would be sufficient trained staff to facilitate the above.

2. The premises would operate a 'Challenge 25' policy. This policy would be brought to customers' attention by staff and through the display of appropriate signage. The only forms of identification recognised would be photographic identification cards, such as a driving licence, passport, HM Forces Card or proof of age scheme with PASS logo.

3. An incident record would be kept at the premises. Any incident of crime or disorder witnessed by staff or any incident reported by customers was to be reported in the log. The following information should be recorded in relation to each incident:-

- Date and time of the incident
- Name of person making the report
- Names of the parties involved (if known) or description of the parties (in as much detail as possible)
- Nature of the incident
- Any action taken thereafter
- Refusal of sale.

Staff would be trained in relation to their responsibility to complete an incident report. Access to incident reports would be made available to South Wales Police on request.

4. All customer focussed staff would receive relevant training in relation to alcohol sales and the promotion of the licensing objectives. This training would be



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refreshed annually with a record held on the premises. The training record would be retained for a period of 12 months and would be available for inspection upon request by a South Wales Police Officer or other authorised person.

5. At least 50% of the licensed area would be laid to tables and chairs.
6. Whenever the premises was hired out for a private function or a pre-planned event was held and alcohol was being sold, the Designated Premises Supervisor or a personal Licence Holder would be present for the duration of the event.
7. (As amended) Intoxicating liquor should not be sold or supplied on the premises otherwise than to persons taking table meals there and for consumption by such a person as an ancillary to that meal.

The Sub-Committee was encouraged by the dialogue that already existed between Mrs. Pugh and the Applicant and urged that this would continue. Should issues arise in connection with the premises which cannot be resolved, Mrs. Pugh was reminded of her right to seek a review of the licence at a later date.

Any person who made a representation against the grant of this licence had a right of appeal against the decision. Any appeal must be made in writing to the Magistrates Court 21 days from the date of the decision.