



## **Report of the Divisional Licensing Officer**

**Statutory Licensing Sub Committee - 3 May 2019**

### **Licensing Act 2003 Section 17 Application for a Premises Licence**

- 1. Premises: Bonymaen Local, 1 Llanerch Road, Bonymaen, Swansea, SA1 7AY**
- 2. Applicant : Elangainathan Thamilselvan**
- 3. Application For A New Premises Licence**
- 3.1 An application for a new premises licence was received by this authority on the 21<sup>st</sup> February 2019. The applicant has applied for a premises licence to allow the following licensable activity to take place.

#### **Supply of Alcohol off the premises**

##### **Monday to Sunday 0600 – 2300**

The proposed opening hours of the premises are Monday to Sunday 0600 to 2300.

#### **4. Background**

The premises relevant to this application is situated on the junction of Llanerch Road and Bonymaen Road.

The premises was previously used as a hair and beauty salon and prior to that operated as Bonymaen Stores, licensed to supply alcohol off the premises from 0800 to 2300 on weekdays and from 1000 to 2230 on Sundays. This premises licence was surrendered in 2008.

The premises is located in a predominantly residential area and forms 1 of 3 in a row of commercial units, the other two premises being a Post Office and a hot food takeaway.

Members will note from the location plan that 100 meters north to the property at 27 Mansel Road is a premises called Mansel News which

holds a premises licence authorising the supply of alcohol off the premises from 0800 to 2300 Monday to Saturday and from 1000 to 2230 on Sundays. The premises licence was issued in September 2005.

A location plan of the premises is attached at **Appendix A**.

A plan of the proposed premises is attached at **Appendix B**.

## **5. Promotion Of The Licensing Objectives**

5.1 The Licensing Act 2003 contains four licensing objectives, namely:-

- (i) Prevention of Crime and Disorder
- (ii) Public Safety
- (iii) Prevention of Public Nuisance
- (iv) Protection of Children from Harm

Each of these objectives is of equal importance and the application must demonstrate how they are to be promoted.

Conditions consistent with the operating schedule that will be attached to the licence if granted are at **Appendix C**.

## **6. RELEVANT REPRESENTATIONS**

### **6.1 Responsible Authorities**

- a) **South Wales Police**  
No representations.
- b) **Trading Standards**  
No representations.
- c) **Mid and West Wales Fire Authority**  
No representations.
- d) **Health and Safety**  
No representations.
- e) **Planning Authority**  
No representations.
- f) **Pollution Division**  
No representations.
- g) **Child Protection**  
No representations.
- h) **Primary Care Trust/Local Health Board**  
No representations.

**i) Licensing Authority**

No representations.

**j) Immigration**

No representations.

**k) Other Persons**

Representations have been received from:

**Councillor Paul Lloyd – Ward Councillor for Bonymaen on behalf of signatories of two petitions - Appendix D1.**

There were two petitions submitted with a total of 291 signatories in objection to the proposed licence.

A summary of the petitions is as follows:-

25 of the printed names were illegible and another 24 printed names were partially illegible.

26 addresses were illegible or blank.

244 of the signatories also provided a comment although only 13 were identified as being relevant to the promotion of the Licensing Objectives. 8 comments related to antisocial behaviour and 5 referred to the potential of children congregating in the area.

208 comments were in relation to the lack of interest in another shop opening in the area.

The list of numbers of signatories identified as residents of nearby streets totalled 151 can be broken down as follows:

9 in Llanerch Road  
22 in Bonymaen Road  
20 in Mansel Road  
24 in Ty Draw Road/Ty Draw Crescent/Ty Draw Place  
12 in Brokesby Road  
3 in Aeron Place  
7 in Gwendraeth Place  
5 in Wye Close  
3 in Kenfig Place  
4 in Dartford Place  
2 in Ogmore Place  
5 in Buckingham Road  
6 in Gwyndy Road  
9 in Talfan Road  
20 in Myrddin Road/Myrddin Gardens

**Councillor Mandy Evans – Ward Councillor for Bonymaen - Appendix D2.**

The Councillor is a resident of Jersey Road.

**1 resident of Llanerch Road who submitted an email and coordinated an online petition - Appendix D3.**

**1 resident of Jersey Road - Appendix D4.**

**23 other residents submitted identical letters of representation and one copy of the letter has been appended to the report for Members' consideration - Appendix D5.**

The 23 residents can be broken down as:

9 from Llanerch Road  
2 from Bonymaen Road  
10 from Mansel Road  
1 from Aeron Place  
1 from Ty Draw Crescent

## **7. Policy Considerations**

7.1 In considering this application Members should have regard to the Council's current statement of Licensing Policy adopted in July 2018. Specifically in relation to this application;

(i) Control – Section 4

Paragraph 4.4 The Licensing Authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public, living, working or engaged in normal activities in the area concerned. It will be expected that any representation made by "Other Persons" will indicate how the application will directly affect them in relation to one or more of the licensing objectives.

Paragraph 4.5 Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and beyond the direct control of the persons holding the relevant authorisation.

(ii) Licensing Hours – Section 7

Paragraph 7.1 When determining individual licence applications for premises the licensing hours will be decided having regard to the individual merits of each application. The presumption will be to grant the hours as requested unless there are objections to those hours raised by responsible authorities or other persons on the basis of the licensing objectives.

Paragraph 7.4 The Licensing Authority will closely examine the hours of business for premises which are situated in predominantly residential areas and will impose strict conditions relating to noise control where representations are received and it is considered necessary.

Paragraph 7.5 The Licensing Authority will allow shops, stores and supermarkets to sell alcohol, for consumption off the premises, at any time when the retail outlet in question is open for business. Limitations will only be imposed restricting the times alcohol can be sold from such premises if representations are received and there is evidence that the extended hours cause the premises to be a focus of disorder and disturbance.

(iii) Applications for licences, certificates, authorisations and reviews – Section 15

Paragraph 15.1 The Licensing Authority will consider each application received on its merits in the context of the four licensing objectives.

Paragraph 15.4 The Licensing Authority also accepts that Other Persons or responsible authorities, as defined in the Act, have the right to make representations in respect of an application, or to seek a review of a licence or certificate within the provisions of the Act. Such representations will be considered on their merits and how they relate to the likely effect of the grant of the licence or certificate on the promotion of at least one or more of the licensing objectives. Also, how the representations are relevant to the promotion of one or more of the licensing objectives in the case of a review of a licence or certificate. When a petition is submitted as a representation it will only be considered if it relates to one or more of the four licensing objectives and it is demonstrated that the details of the representation have been made clear to each signatory i.e. that the heading is included on each page of the petition. A relevant representation may be positive or supportive in nature as opposed to being negative but it must still demonstrate that the licensing objectives are being promoted.

Paragraph 15.6 Other Persons may request a representative to make representations on their behalf including a legal representative, friend, Member of Parliament, Member of the National Assembly for Wales, local Ward Councillor, Parish or Community Councillor. Detailed guidance for Other Persons making a representation or an application for a review of a licence or certificate can be obtained from the Home Office website [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk)

- (iv) Administration – Section 16  
Paragraph 16.6 Any Councillor who is a member of the Statutory Licensing Committee and who is making a representation on behalf of other persons, or in their own right in relation to an application, shall disqualify him or herself from any involvement in the decision making process regarding that application.

7.2 A full copy of the Authority's Policy has previously been circulated to Members.

An up to date copy of the Policy may be found via the following link:

<https://www.swansea.gov.uk/article/4280/Statement-of-licensing-policy>

## **8. Guidance Issued By The Home Secretary**

8.1 Members should also have regard to the relevant parts of the current guidance issued by the Home Secretary in April 2018, in particular;

- (i) Introduction – Chapter 1
- (ii) Licensing Objectives – Chapter 2
- (iii) Applications For Premises Licenses – Chapter 8
- (iv) Determining Applications – Chapter 9
- (v) Conditions attached to Premises Licenses – Chapter 10
- (vi) Promotion of Equality – Chapter 14 paragraphs 14.66 -14.67

Representations received include concerns regarding Crime and Disorder and Public Nuisance specifically in relation to the congregation of youths on the junction of Llanerch Road/Bonymaen Road.

Paragraphs 2.1 to 2.6 of the Guidance refer to Crime and Disorder and paragraphs 2.15 to 2.21 refer to Public Nuisance and in particular -

- (i) Crime and disorder  
Paragraph 2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).
- (ii) Public Nuisance  
Paragraph 2.15 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.

Paragraph 2.21 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.

Paragraph 14.19 There can be confusion about the difference between the “need” for premises and the “cumulative impact” of premises on the licensing objectives, for example, on crime and disorder. “Need” concerns the commercial demand for another pub or restaurant or hotel and is a matter for the planning authority and for the market. This is not a matter for a licensing authority in discharging its licensing functions or for its statement of licensing policy.

- 8.2 A copy of the Home Secretary’s Guidance has previously been circulated to Members.

An up to date copy of the Guidance may be found via the following link:  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/705588/Revised\\_guidance\\_issued\\_under\\_section\\_182\\_of\\_the\\_Licensing\\_Act\\_2003\\_April\\_2018\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705588/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_April_2018_.pdf)

## **9. Determination Of The Application**

- 9.1 The decision must be based on the individual merits of the application and the representations received, with a view to promoting the licensing objectives outlined in paragraph 5 above.
- 9.2 In addition in arriving at the decision Members should have regard to the relevant provisions of the Council’s Statement of Licensing Policy and the Secretary of State’s Guidance as previously provided. Reasons must be provided for any departures from the Policy or Guidance.
- 9.3 In reaching the decision the Committee must, having regard to the representations, take such steps mentioned below (if any) as it considers appropriate for the promotion of the licensing objectives:-
- a. Grant the licence subject to:
    - i) conditions that reflect the operating schedule, modified to such extent as the authority considers appropriate for promotion of the licensing objectives. Certain regulated entertainment

under the Licensing Act 2003 (as amended) has been deregulated. Where entertainment is deregulated, but licensable activities continue to take place on any premises, any licence conditions imposed on a grant of a licence in respect of any deregulated entertainment will be suspended.

- ii) any mandatory conditions relevant to the licence
- b. Exclude any of the licensable activities to which the application relates.
- c. Refuse to specify a person in the licence as the premises supervisor.
- d. Reject the application

**The Licensing Sub Committee's instructions are requested.**

Background Papers:	Licence Application
Contact Officer:	Becca John
Extension:	01792 635600