

CYNGOR SIR POWYS COUNTY COUNCIL

Licensing Sub-Committee

DATE: 25th January 2022 10am

Via TEAMS

REPORT BY: Senior Licensing Officer – Sue Jones

SUBJECT: Application for a New Premises Licence – Country Kitchen, Brecon

REPORT FOR: DECISION

1. APPLICATION

- 1.1 On 26th November 2021, an application for a Premises Licence was received from Mrs Sarah Ann Davies and Mrs Catrin Price for Country Kitchen, Pegasus Lane, Brecon.
- 1.2 A location map of the premises is set out at **Annex A**, and a copy of the application and a plan of the premises are reproduced at **Annex B**.
- 1.3 The Proposed Premises is currently a retail shop. The application is for off sales of alcohol in the shop on the ground floor and for a bistro/private function room with on sales of alcohol on the second floor. The downstairs delicatessen is currently operating and has been utilising Temporary Event Notices to authorise alcohol sales in the shop in the run up to Christmas. The proposed function room is not yet operational.
- 1.4 The applicant & The Licensing Authority satisfied procedural obligations by consulting the Responsible Authorities and advertising the application.
- 1.5 The Applicant has applied for a Premises Licence authorising

On and Off Sales of Alcohol:

Monday to Wednesday	07:30 to 17:00
Thursday to Saturday	07:30 to 00:00 (midnight)
Sunday	09:00 to 00:00 (midnight)

Late Night Refreshment:

Thursday to Sunday	23:00 to 00:00
--------------------	----------------

- The live and recorded music elements included on the application are in fact not licensable and can be ignored for the purposes of this application.
- The recorded music is intended to be ancillary background music and is therefore not considered regulated entertainment under The Licensing Act 2003
- The live music is all before 23:00hours and is exempt from licensing under the Live Music Act 2012

The application therefore only concerns the licensable activities sale of alcohol and late-night refreshment

2. REPRESENTATIONS

2.1 Responsible Authorities

Responses have come been received from:

- Dyfed Powys Police – no objections
- Mid and West Wales Fire Authority – no objections
- Licensing Authority – no objections
- Trading Standards – no objections
- Brecon Beacons National Park planning – comments made see below and **Annex C**

Following a planning constraints check it has been established that the use class of this property is currently A1- Retail. Regarding planning permission and the use of the building, whilst the delicatessen is considered to be within A1 use class, the proposed bistro is considered an A3 use and planning permission for mixed use (A1 and A3) is usually required. During the pandemic, a relaxation of the requirement for planning permission is being trialled and the above change of use is currently deemed Permitted Development (if in the Town Centre) for 6 months from the day the use begins, or until 29/04/2022;

The applicant has been notified of the comments made by planning. In order to operate lawfully the applicant would require both the required planning permission and licence in place. Planning and licensing regimes are separate.

A licence can still be granted without Planning permission.

2.2 Other Persons

Objections

Representations were received from one resident - **see Annex D**

Following receipt of the representations the licensing authority sought to mediate and seek a resolution to avoid the need for a hearing. The applicant offered to reduce the hours of the licensable activities to 22:00 hours however this amendment was rejected by the objector who maintains their objection on the grounds that there is no planning in place and because of the potential for noise nuisance. - **see Annex E**

3. OPTIONS

3.1 In determining the application for the Premises Licence, the Sub-Committee must take such steps as are considered appropriate to promote the licensing objectives;

- i) The Prevention of Crime and Disorder
- ii) Public Safety
- iii) The Prevention of Public Nuisance

iv) The Protection of Children from Harm

3.2 In addition regard must be made to government guidance and the authority's Licensing policy. These are the relevant extracts:

Home office Guidance [Revised Guidance issued under section 182 of the Licensing Act 2003 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk) :

Section 9 - Considering cases where licensing and planning applications are made simultaneously

9.45 Where businesses have indicated, when applying for a licence under the 2003 Act, that they have also applied for planning permission or that they intend to do so, licensing committees and officers should consider discussion with their planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs

The Councils' Statement of Licensing Policy :

Section 15 Planning

The licensing authority usually expects applicants to ensure that they have planning consent for the intended use and hours of application, or otherwise have lawful status, before making an application for a premises licence, to avoid any conflict between planning and licensing.

It is strongly recommended that prospective licence applicants contact the relevant Local Planning Authority in advance of making a licence application in order to check, or seek advice on, any planning consents or any conditions relevant to the use of the premises. It clearly makes operational sense to ensure that planning and licensing are compatible.

3.3 Officers from the Brecon Beacons National Park Planning Authority have been contacted about the hearing and invited to further comment or attend the hearing. Their response is contained at **Annex F**

3.4 The options available are to;

- a) grant the application as submitted by the applicant without modification, with the exception of the inclusion of mandatory conditions made under Section 19, Licensing Act 2003 (Supply of Alcohol); or
- b) grant a licence with modified conditions; or
- c) reject the whole or part of the application.

4. DETERMINATION

4.1 The Licensing Sub-Committee is requested to determine the application.