
CENTRAL LICENSING SUB-COMMITTEE 26.01.2021

Present: **Councillors:** Anwen Hughes (Chair), Gareth Jones and Edgar Owen

Officers: Geraint B Edwards (Solicitor), Gwenan M Roberts (Licensing Manager) and Lowri H Evans (Democracy Services Officer).

1. APOLOGIES

Apologies were received from Lis Williams (North Wales Police) and Sharon Dysart (Local Consultee)

2. DECLARATION OF PERSONAL INTEREST

None to note.

3. URGENT ITEMS

None to note

4. APPLICATION FOR PREMISES LICENCE – Red Lion, Porthmadog

On behalf of the premises: Darren Kelly (Applicant – Admiral Taverns Ltd)
Peter Ashcroft (Solicitor on behalf of Admiral Taverns Ltd)

Others invited: Ffion Muscroft - Environmental Health Officer
Cllr Nia Jeffreys - Local Member

The Chair welcomed everyone to the meeting.

The Chair highlighted that each party had the right to up to ten minutes to present their observations

a) The Licensing Department's Report

Submitted – the report of the Licensing Manager giving details of the application to vary the premises licence for Red Lion, Porthmadog. The application was made in relation to changes to the interior plans of the public house, and to include an external area as a licensed area. It was reported that although the beer garden was already licensed, the application was made to extend the licensed area of the premises to include structures in the form of beach huts with alcohol ordered and served via a window in the rear of the premises.

It was noted that the Licensing Authority Officers had sufficient evidence that the application had been submitted in accordance with the requirements of the Licensing Act 2003 and the relevant regulations. It was noted that a recent planning application (C20/0076/44/LL) to provide five beach huts and a 'hatch' door to the main building had been approved in accordance with conditions that included:

- The use of the wooden huts hereby permitted (with the exception of the smoking shelters shown on the existing site plans) shall not be open to customers outside the following times 9:00 am to 21:00 pm in any one day.
- The new bar serving hatch shall be closed outside the following times 9:00 am to 21:00 pm in any one day.

Reference was made to the measures that had been recommended by the applicant to promote the licensing objectives, and it was highlighted that these measures would be included on the licence.

Attention was drawn to the responses received during the consultation period. It was noted that one objection had been received from a member of the public expressing concern regarding anti-social matters in terms of noise, public nuisance, sanitary issues and crime and disorder. The objection was supported with relevant up-to-date evidence which included short video clips, as well as screenshots showing the time and date. The Local Member expressed concerns about noise and public nuisance on behalf of neighbouring residents and the Environmental Health Service noted the need for the alcohol sales outside and the use of beach huts to cease at 21:00. The Town Council, the Police and the Fire and Rescue Service had no objections.

It was recommended that the Committee considered whether any additional precautions needed to be imposed on the licence's conditions, if it determined to approve the application in accordance with the observations of Public Protection and the requirements of the 2003 Licensing Act.

In considering the application, the following procedure was adhered to:-

- Members of the Sub-committee and the applicant were given the opportunity of ask questions of the Licensing Manager
 - The applicant was invited to expand on the application
 - Consultees were given an opportunity to present their observations
 - The licensee, or his/her representative, was invited to respond to the observations
 - Members of the Sub-committee were given an opportunity to ask questions of the licensee
 - Members of the Sub-committee were given an opportunity to ask questions of the consultee
- b) In expanding on the application, the applicant noted that he was happy with what had been presented. In response to questions from Sub-committee about the management of the rear door, the gate to the beer garden and the maximum number using the huts (need to anticipate safe numbers), it was noted that the gate was a fire exit - it was not used as a public entrance / exit. There was uncertainty about the maximum numbers allowed in the huts, but he highlighted that the situation would be regularly monitored, with a Covid-19 assessment implemented during the period of the crisis. He suggested that the use of the huts was a response to social distancing regulations during the Covid-19 crisis. He added that he would discuss the video evidence with the tenant of the public house.

The solicitor on behalf of Admiral Taverns noted that the external area would be managed by CCTV, with staff walking around the area and using the serving hatch to keep an eye on the situation. He added that the company operated responsibly, and that it would consider the safety of customers by mitigating any possible risks. It was noted that the sub-committee had the right to propose a maximum number that could use the huts, or a practical agreement could be considered. He suggested that there was no valid reason for refusing the application.

- c) In response, the Sub-committee noted that it wished to see a risk assessment completed after the lockdown period ended, and encouraged the tenant to make good use of the CCTV, and to retain the recordings for a six-month period.
- ch) The consultee in attendance took the opportunity to expand on the observations that were submitted by letter.

Environmental Health Officer,

- That it was not possible to investigate the noise concerns by installing a monitor on the site due to Covid-19 restrictions.
- Effective management was required – close doors and windows to minimise noise
- A suggestion to close the beer garden at 21.00

Councillor Nia Jeffreys (Local Member)

- The public house's location was surrounded by streets of terraced houses - consequently any noise would travel far
- The Covid-19 period had been challenging for local businesses - she stated her support for local businesses that were overcoming an extremely difficult period
- Admired an innovative scheme for providing a service through the use of beach huts
- She was duty-bound as a Local Member to highlight the concerns of nearby residents about complaints relating to noise and public nuisance.
- She accepted the suggestion to consider controlling the numbers using the beer garden
- Need to ensure that the gate to the beer garden was kept closed so that the public could wander back and forth
- In response to an observation that there was no need for a place to facilitate the sale of drugs, it was noted that the Police did not object to the application.

- d) In summarising his case and in response to the observations, the applicant noted that
 - Managing and supervising beer gardens was difficult, but he was confident that Admiral Taverns could address the matters that were raised
 - The Police would have submitted observations if they had any concerns
 - CCTV would be used effectively
 - Music would not be played outside
 - The doors and windows would be closed after 21:00
 - The gate would only be used as a fire exit
- dd) The applicant and the company's legal representative, the consultees, the Licensing Manager and the Environment Officer withdrew from the meeting whilst the members of the Sub-committee discussed the application
- e) In reaching its decision, the Sub-committee considered the application form, written comments submitted by interested parties, the Licensing Officer's report (including video and photographic evidence), and verbal comments from the applicant at the hearing. The Council's Licensing Policy and the Home Office guidelines were also considered. All considerations were weighed up against the licensing objectives under the Licensing Act 2003, namely:
 - i. Prevention of crime and disorder
 - ii. Prevention of public nuisance
 - iii. Ensuring public safety
 - iv. Protection of children from harm

RESOLVED to approve the application to vary the licence, subject to the inclusion of the conditions in the Schedule of Operation below;

In section (b) the following were added:

- **"The property will run and maintain a CCTV system to observe the internal and external areas. The premises will retain the recordings on the system for up to 28 days. The premises will provide copies of the recordings upon request to the Licensing Authority or the Police.**
- **The premises will keep a sensor on the rear fire door located in the outdoor area, that will sound an alarm inside the public house if the door is opened without permission.**
- **A zero tolerance approach will be taken towards drugs."**

In section (d) the following were added:

- **"The bar 'hatch' outside will close at 21:00**
- **The beach huts outside will not be used by customers after 21:00**
- **The premises will install appropriate signage requesting customers to respect nearby property by not causing any noise nuisance when leaving the premises.**
- **The property will hold undertake regular site inspections to ensure compliance with the licence conditions."**

In section (e) the following was added:

- **"Each child must be accompanied by an adult at all times."**

It was noted that the expansion of the licensed area to include the outside area was not part of the plan included with the application form, as this area was already part of the licensed area under the existing licence.

All interested parties were thanked for submitting observations on the application. The Sub-committee gave appropriate consideration to all the observations.

It was noted that the Environmental Health Service, Porthmadog Town Council, the Fire Service and the Police had not objected to the application.

Given the concerns regarding anti-social behaviour in relation to noise, sanitary issues and crime and disorder, reference was made to incidents when customers using the beach huts were noisy and drinking until 22:00, alleging that this was contrary to a planning condition. It was noted that this had happened on five occasions, (evenings of Friday 20/11/20, Saturday 21/11/20, Friday 27/11/20, Saturday 28/11/20, Thursday 03/12/20). Evidence was submitted in the form of mobile phone video recordings and photographs to support the observations. Additionally, observations were received from the Local Member, voicing concern on behalf of nearby residents in relation to the outside use of the beer garden.

While the Sub-committee appreciated that these were genuine concerns, they referred to concerns regarding the use of the beach huts in the beer garden until 22:00 and later. However, the application requested restricting the use of the cabins until 21:00. If the application was approved, it was not considered that there would be future problems due to noise late at night as the huts would not be in use after 21:00. Consequently, the observations objecting on the grounds of noise were not really relevant to the application.

Video clips of approximately 30 seconds in length were viewed. The quality of the videos were not sufficiently clear to show distances, and it was not clear on which dates the videos were filmed. The Sub-committee did not have an opportunity to question the people who recorded them as they were not present in the hearing. Consequently, the Sub-committee felt that the videos were of limited value as evidence.

It was accepted that there was a possibility that noise originating from the premises could lead to public nuisance, but even with relevant observations, "public nuisance" was a technical term with a specific meaning in case law. Having received legal advice, the Sub-committee came to understand that a few hours of noise no more frequently than twice a week, in a densely populated residential area, with only one direct objection having been submitted, was not likely to cross the necessary threshold to be considered as a "public nuisance".

In relation to concern about crime and disorder and sanitary issues, no evidence had been received of specific incidents to support these observations.

Under the circumstances, the Sub-committee was satisfied that the application was in accordance with the licensing objectives, and the application to vary the licence was approved.

The Solicitor reported that the decision would be confirmed formally by letter and sent to all present. He added that all parties to the application had the right to submit an appeal to Caernarfon Magistrates' Court against the Sub-committee's decision. Any such appeal should be lodged by giving notice of appeal to the Chief Executive, Llandudno Magistrates' Court, Llandudno within 21 days of the date that the appellant received the letter (or a copy of the letter) confirming the decision.

The meeting commenced at 11.00am and concluded at 12.40pm.