
CENTRAL LICENSING SUB-COMMITTEE, 28.05.28

Present: Councillor W. Tudor Owen (Chairman);
Councillors Peter Read, W. Gareth Roberts.

Also present: Sion Huws (Propriety Officer), Amlyn ab Iorwerth (Licensing Manager), Geraint B. Edwards (Solicitor), Ffion Muscroft (Environmental Health Officer) and Gwyn Parry Williams (Committee Officer).

Others present at the Meeting:

Applicant: Mr David Williams (applicant's representative) and Mr G. Lovell (owner of Market Hall).

Representing the Police: Mr Ian Williams (Police Licensing Co-ordinator) and Sergeant Steve Williams.

North Wales Fire and Rescue Service Representatives: Messrs Alan Williams and Brian Williams.

Objectors: Mrs Rita Geary, Mr Brian Geary, Mrs Lorna Gannon, Mr John Tyrrell, Ms Gilly Harradance and Mr Jonathan Smith (solicitor on behalf of Cofi Roc)

1. APPLICATION FOR A PREMISES LICENCE – MARKET HALL, PALACE STREET, CAERNARFON

Submitted – the report of the Licensing Manager on behalf of Market Hall, Palace Street, Caernarfon for a premises licence to permit dramas, films, live music, recorded music and dance between 09.00 and 24.00, boxing or wrestling between 09.00 and 23.00, supply of hot food between 23.00 and 01.00, supply of alcohol between 09.00 and 01.00, with the premises open to the public between 08.00 and 01.30. These hours would be relevant to every day of the week.

He noted that a response had been received from the Police, Fire Service and the Environmental Health Department offering observations/conditions along with several letters objecting to the application. No observations had been received on the application from Caernarfon Town Council or local members.

When considering the application, the following procedure was followed:-

1. Members of the Sub-committee were given an opportunity to ask questions of the Council's representative.
2. The applicant was invited to ask questions of the Council's representative.
3. Every consultee was given an invitation to support any written observations.

4. The applicant was given an opportunity to expand upon his application and then call witnesses.
5. Members of the Sub-committee were given an opportunity to ask questions of the applicant.
6. The Council's representative was invited to ask questions of the applicant.
7. The Council's representative and the applicant were given opportunities to summarise their case.

The consultees were invited to support any observations submitted by letter and Ian Williams, Police Licensing Co-ordinator, reported that as this was a new application, he did not have any direct evidence against the premises to object to the application but it was suggested that conditions should be attached to the licence should it be granted. As the premises did not have a current licence, there was no evidence in respect of crime and disorder relating to the premises. He drew attention to two occasions during 2009 when the premises had submitted temporary event notice applications and no complaints had resulted from those events. He had held a meeting with the applicant's representative and he confirmed that there was no intention to open a nightclub and had agreed to the suggestions regarding CCTV and prior notice of any event and the number of door supervisors for such events.

Alan Williams, North Wales Fire and Rescue Service, informed the Sub-committee that he had held discussions with the applicant but he was dissatisfied with the application as no suitable and adequate fire risk assessment was in place for the premises. Whilst there was a suitable assessment relating to the premises' current use, there wasn't one in respect of the proposed use set out in the application.

The Environmental Health Officer reported that there was no objection to the application but should the licence be granted, it should contain conditions relating to noise and vibration, lighting and odours that could create a nuisance. In response to a question from a member, she confirmed that if it were not possible to undertake sound proofing work, it would be necessary for the applicant to ensure that the noise did not reach a level so as to be heard outside and create a nuisance.

Attention was drawn by the solicitor on behalf of Cofi Roc that the applicant was not present at this meeting or present at the meeting that had to be postponed in March 2010 and he asked the members whether or not they were willing to continue with the case in the absence of the applicant. In response, the applicant's partner informed members that it was not possible for the applicant to be present because of illness and as a consequence she had asked him to represent her. The Propriety Officer informed the Sub-committee that it was unfortunate that the applicant was unable to attend but the regulations allowed an applicant to be represented and consequently, as the applicant's representative was present the application could not be refused to be considered. The solicitor representing Cofi Roc enquired further whether or not the Council had received prior notice from the applicant that she would be represented at the meeting. In response, the Licensing Manager informed the Sub-committee that he was not personally aware of any notice having been received from the applicant stating that she would be represented at the meeting. The applicant's partner referred to the fact that he had informed the Licensing Department orally a few days beforehand that he would be representing her at the meeting. The solicitor on behalf of Cofi Roc confirmed that he had no objection to continue with the hearing.

All the objectors present took advantage of the opportunity to endorse the observations noted in letters and specifically referred to the following points:

- Should the licence be granted, the consumption of alcohol should be confined to the ground floor area shown hatched on the application plan
- There were several differences between the current application and the previous one, which cast doubt on the applicant's exact intentions as to the use of the premises
- The bar shown on the plans did not have planning permission
- Why were the hours requested for the supply of alcohol an hour later than those for licensed entertainments, bearing in mind that the applicant had stated her intention to hold tourism and cultural events?
- That the application was for the supply of alcohol for consumption on and off the premises
- That the conditions suggested by the applicant were those which in his experience were typical for nightclub applications and this reinforced fears regarding the eventual use of the premises
- The application did not address the safety and nuisance issues of customers standing on the road and smoking outside the premises
- No noise assessment or sound survey had been submitted and the fact that it was a listed building would limit the work that could be undertaken at the premises to seal them acoustically
- It was unclear as to what constituted an 'event' referred to in the condition suggested by the police and that door staff would not have to be present if the premises were open for the supply of alcohol only
- It was unclear as to exactly what the applicant's intentions were as there were considerable inconsistencies between what was contained in the application and what the applicant had described as the kind of events that would be held at the premises
- If the applicant wanted only to hold a small number of cultural/tourism events during the year, then she could do so under the temporary events notice procedure
- There was case law confirming that the Licensing Authority could take into account the disturbance caused by customers once they were away from the premises
- The concerns of some of the residents of Hole in the Wall Street that approving this application would add to the problems that already existed, such as noise, affray, vomiting, smoking and urinating in the street along with glasses being broken on the street. Reference was made also to loud music that was heard from other public houses nearby that disrupted the amenities of residents of the street
- There was much coming and going in Palace Street during the early hours with people creating a noise when leaving nearby public houses and creating a nuisance for residents of the street. Recently, there had been occasions when bands had been practising in the Market Hall and the noise emanating from there had been unbearable. It was noted also that on several occasions, flower pots outside some properties in the street had been vandalised
- Concerns that the application asked for the activities to be held every day of the week and it had been alleged that it was to be turned into a nightclub.

In support of the application and in response to some of the above observations, David Williams, on behalf of the applicant, informed the Sub-committee that it was proposed to place the Market Hall on the tourist trail and to hold cultural and tourist events. His intention was for the town to benefit and also the retail tenants in the hall. He confirmed that the application was in respect of the premises as they were. When they were in a position to proceed with the development of the hall, for which planning permission had recently been granted, they would have to submit a new licensing application. There was no intention of turning the premises into a nightclub and he would be willing to accept any condition imposed by the Licensing Authority. There was no intention either of holding events on the first floor or in the cellar. He stated that the shop tenants used the hall's central open area and, therefore, they could not hold any

licensable entertainment during the day. There was no intention of opening on Friday, Saturday or Sunday nights. Currently, there were six proposed events, with four having been held last year.

The licensee's representative, Police and Fire and Rescue representatives, Licensing Officer, Environmental Health Officer and objectors left the meeting and the application was discussed by Sub-committee members, considering all evidence submitted and giving due consideration to the principles of the act, namely:

- Prevention of Crime and Disorder – the Sub-committee considered the fact that the Police had no evidence to object to the application and that they had suggested a condition relating to installing and using CCTV and requiring them to receive prior notice of any event. However, they were mindful of the fact that the notice condition did not relate to the opening of the premises for the supply of alcohol when no 'event' was being held.
- Public Safety – the sub-committee were extremely concerned that there was no satisfactory fire risk assessment in place for the proposed use. Consequently, it was felt that it could not be satisfied as to the safety of the public in the premises were it to grant the licence. The Sub-committee took into account the applicant's explanation that the retail tenants used the premises during the day and, therefore, licensable events could not be held whilst the shops were open. Nevertheless, the application was for licensable activities from 09.00 onwards, seven days a week and, therefore, had to be considered as such. In such circumstances the activities, particularly the presence of people consuming alcohol, would be likely to have an adverse effect on the safety of customers that would be in the shops in the premises at the same time. On the basis of the application and the information submitted to the Sub-committee, it was not satisfied that the public safety objective would be promoted by granting the licence.

No satisfactory proposals had been put forward by the applicant for dealing with customers standing and smoking outside the premises, especially in view of the presence of customers from the premises on the other side of the street doing the same. The Sub-committee felt that the situation could endanger customers and road users.

- Prevention of Public Nuisance – the Sub-committee considered the concerns of nearby residents that had suffered noise problems when a band had been practising in the premises. It had taken into account the 'open' nature of the premises that was likely to create problems with noise. Furthermore, as the building was listed Grade II, it could restrict the noise insulation measures that could be undertaken. No noise survey or acoustic report had been undertaken and the sub-committee could not be satisfied that granting the licence would not create noise problems or that satisfactory measures could be taken to deal with such problems if they arose. The Sub-committee was mindful of its role in the prevention of public nuisance and, therefore, it could not be satisfied that this licensing objective would be promoted by granting the licence.
- Protection of Children from Harm - no evidence regarding this objective had been submitted.

Following careful consideration of the application, and taking account of all the evidence received, having regard to the Council's Licensing Policy and considering the licensing objectives of the Licensing Act 2003, **it was resolved to refuse the application because of the reasons detailed above, particularly from the perspective of public safety and the prevention of public nuisance.**

The Propriety Officer reported that a letter would be sent within five working days informing the applicant of the decision of the Sub-committee, with a copy to those individuals that had made observations and it was explained that any party would have the right to appeal against the decision of the Sub-committee within 21 days of receipt of that letter.

The meeting commenced at 10.30am and concluded at 1.00pm