
CENTRAL LICENSING SUB-COMMITTEE, 22.02.13

Present: Councillor W.Tudor Owen (Chairman)

Councillors Ann Williams, Elfed Williams (for application number 1) and Councillor Huw Edwards for applications numbers 2 and 3).

Also present: Geraint B. Edwards (Solicitor), Gwenan M. Williams (Licensing Manager) and Gwyn Parry Williams (Member Support and Scrutiny Officer).

1. APPLICATION FOR A PREMISES LICENCE – LIFESTYLE EXPRESS, 21 Ffordd ELIDIR, MAESINCLA, CAERNARFON

Others invited to the Meeting:

Representing Lifestyle Express, 21 Ffordd Elidir, Maesincla, Caernarfon: Messrs Raja Shajanur (Licensee), S. Ahmed, Shadek Ali.

Representing the Police: Sergeant Bill Coppack and Mr Ian Williams (Licensing Co-ordinator, North Wales Police)

Representing the objectors: Mr John M. Evans and Mrs Roma D. Evans

Representing Caernarfon Town Council: Councillor Hywel Roberts

Local Member: Councillor Huw Edwards

Submitted – the report of the Licensing Manager providing details of an application on behalf of Lifestyle Express, 21 Ffordd Elidir, Maesincla, Caernarfon for a premises licence to sell alcohol to be consumed off the premises between 07.00 and 21.00 from Monday to Saturday and between 09.00 and 20.00 on Sunday. The proposed opening hours of the business complied with the hours for the sale of alcohol.

She noted that the Police had discussed the application with the applicant at the beginning of the consultation period when the applicant's agreement had been sought to accept the conditions on the licence in relation to the installation and use of a CCTV system. Otherwise, the Police had no objections to the application.

Following the appropriate consultation period, it was reported (together with the responses that had been received) that the Police and the Fire and Rescue Service had no objection to the application. The local member and Caernarfon Town Council objected to the application and objections had also been received from some of the nearby residents. In addition, a petition had been received with the names and addresses of six neighbouring residents objecting to the application. In accordance with the relevant guidelines of the Licensing Act 2003 a petition could not be considered as a valid response to an application for a licence.

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

- i. The applicant was invited to expand on the application
- ii. Members of the Sub-committee were given an opportunity to ask questions of the applicant

- iii. The licensee, or his representative, was invited to respond to the observations
- iv. Members of the Sub-committee were given an opportunity to ask questions of the licensee
- vii. The applicant and licensee, or his representative, were given an opportunity to summarise their case.

In support of the application, the applicant's representative noted that he needed the licence to sell alcohol as it would be a way of creating work in the area. He owned two other similar shops, employing local people and had the experience to sell alcohol. There was no other convenience store in the area and consequently, people had to travel into the town to buy alcohol etc. He was satisfied with the conditions recommended by the police in relation to the installation and use of a CCTV system.

The consultee had been invited to support any observations submitted by letter and Ian Williams, Licensing Co-ordinator, North Wales Police, reported that there was no evidence to object to the application. A discussion was held with the licence holder and in terms of the hours requested, he was of the opinion that they were not unreasonable but that a condition involving CCTV needed to be included on the licence.

In response to a question from a member regarding antisocial behaviour in the Maesincla area, Sergeant Bill Coppack noted that there had been difficulties with children under 18 years old, but at the moment it was difficult to prove whether or not selling alcohol in the shop would be likely to add to this problem.

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

- That the main objection was to the intention of selling alcohol but there was no objection to the shop itself. They lived above the shop and had endured people misusing alcohol in the area for years.
- Approving the application would add to the antisocial behaviour in the area.
- That problems existed with children under the age of 18 drinking late at night, with the situation at its worst on weekends and mainly after midnight.
- That there were problems with litter and especially with drink cans being discarded in the gardens.

The representative for Caernarfon Town Council noted that the Council objected to the application because of the public nuisance and antisocial behaviour that would be created. The local residents were very concerned about the implications of the application. He referred to the campaign to install a CCTV system in the area which proved that there was a local concern about the situation.

The local member noted that he objected to the application on the grounds of antisocial behaviour and the risk of affecting the local residents. He noted that this area was relatively quiet which included a council housing estate and a home for the elderly and approving the application would be likely to have an effect on the amenities of residents.

In response to a question by a member, the representative on behalf of the licence holder noted that he was willing to reduce the hours to sell alcohol, namely from 9.00 onwards and that there was no intention to open the shop on Christmas day.

The relevant parties left the meeting and the application was discussed by the members of the Sub-committee, who considered all the evidence submitted and specifically addressed the principles of the act, namely –

- Prevention of Crime and Disorder
- Public Safety
- Prevention of Public Nuisance
- Protection of Children from Harm

The members were of the opinion that there was insufficient evidence of problems that were relevant to the licensing objectives and which were directly relevant to the premises so that it would be possible to justify disallowing the requested licence. It was noted that the applicant had agreed to the conditions of the police regarding CCTV and that they were willing to amend the hours to sell alcohol. Following the consideration of all the concerns of the residents and the observations of the police, it was decided to approve the application with the conditions noted below.

RESOLVED to approve a premises licence for Lifestyle Express, 21 Ffordd Elidir, Caernarfon as follows –

- a) To permit the supply of alcohol under paragraph J between 9.00 and 21.00, Mondays to Saturdays and between 9.00 and 20.00 on Sundays.**
- b) To permit the premises to be open to the public under paragraph L between 7.00 and 21.00, Mondays to Saturdays and between 9.00 and 20.00 on Sundays.**
- c) That the steps described in paragraph M of the application are to be included as conditions of the licence.**
- ch) That a digital CCTV system will be installed and will work to such a standard that satisfies the Police and Local Authority and they would be monitoring the location of the alcohol display and the public entrances in and out of the premises.**
- d) Lighting in the location must be of sufficient brightness and quality to identify persons within the premises on the CCTV system.**
- dd) The CCTV system will record and retain images of all times when members of the public are on the premises, for a minimum of 31 days.**
- e) Images will be surrendered on request to the police or local authority at the time the request is made and the premises will ensure that it has the appropriate software available to comply with this condition. If they are unable to comply with this condition the persons responsible for the premises must be aware of the possibility of having the premises licence reviewed.**
- f) There must be a minimum of one trained member of staff available to download evidence at the request of the police or an authorised officer when the premises are open.**
- ff) That CCTV warning signs shall be fitted in public areas of the premises.**
- g) That recordings of incidents must be kept secure for inspection by the police.**

The Solicitor reported that he would aim to send a letter within five working days, informing the applicants of the Sub-committee's decision, and informing them of their right to appeal against the decision within 21 days of receiving that letter.

2. APPLICATION TO REVIEW PREMISES LICENCE – STAR KEBAB, 323 HIGH STREET, BANGOR

Others invited to the Meeting:

Applicant: Sergeant Bill Coppack (North Wales Police)

Others representing the Police: Inspector Mal Roberts and Mr Ian Williams (Licensing Co-ordinator, North Wales Police)

Representing Star Kebab, 323 High Street, Bangor: Mr Mhemet Kabadayi (Licence holder), Mr Euren Karapinaz and Mr David Farley (Solicitor)

Local Member: Councillor Gwynfor Edwards

Submitted – the report of the Licensing Manager providing details of the application from North Wales Police to review the premises licence of Star Kebab, 323 High Street, Bangor due to the continued problems mainly involving crime and disorder on the premises and consistent breach of conditions in particular in relation to the closing hours on the premises' late night refreshment licence.

He noted that the premises had already been subject to a review by the Police in November 2011; and the sub-committee resolved to approve a review of the licence on grounds of evidence submitted by the Police on 12 January 2012. In January 2012, the sub-committee had decided to reduce the opening hours and licensed activity hours as follows –

- a) Sunday/Thursday – 23.00 until 02.00
- b) Friday/Saturday – 23.00 until 02.30

In addition to the above, the conditions in relation to maintaining a CCTV system on the premises were changed and conditions were added in relation to the presence of door supervisors and a door supervisors' register. The licence holder had appealed against the decision of the sub-committee which meant that it was not possible to implement the new hours until the court's decision on the appeal case was known. On the day of the appeal case on 28 August 2012 the court had been notified that the licence holder was withdrawing his appeal which meant that the sub-committee's decision became effective immediately.

On 15 and 16 September 2012; the Police had witnessed the premises being open beyond their licensed hours and the offence of a breach of licence conditions had been reported by the Police in accordance with the requirements of section 136 of the Licensing Act 2003. The licence holder had appeared at Caernarfon Magistrates' Court on 19 November and he had pleaded guilty to the offences.

The Police's application expanded upon the specific offences which were the basis of the evidence for this review. There were now 22 incidents of violence and disorder linked to this premises. It was noted that the premises was also responsible for over 80% of the violent incidents at late night refreshment premises in Bangor. Some of the violence and disorder incidents took place during a weekend in December 2012. At the time, the licence holder had been acting in accordance with an extension to opening hours that had been approved through Temporary Notices by the sub-committee on 29 November 2012. In addition, the Police submitted evidence of non-compliance with the licence conditions of providing door supervisors after 23.00 on Thursdays to Sundays and keeping a register of door supervisors. Incidents of non-compliance with these conditions were noted.

He noted that the Police were of the opinion that the sub-committee should use the powers authorised to it to suspend the premises licence for a period of three months, or any period considered appropriate by the sub-committee. A specific suspension would give the licence holder an opportunity to put steps in place to resolve the lack of control that had been observed by the Police on the premises.

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

- i) The applicant was invited to expand on the application
- ii) Members of the sub-committee were invited to ask questions of the applicant.
- iii) The licensee, or his representative, was invited to respond to the observations.
- iv) Members of the Sub-committee were given an opportunity to ask questions of the licensee.
- v) The applicant and licensee, or his representative, were given an opportunity to summarise their case.

Representing the Police, Sergeant Bill Coppack provided details of incidents that had taken place at the premises since the premises licence was reviewed in January 2012. In one common assault, a customer had been sitting on the doorstep of the premises when another customer exiting the premises struck her to the side of the head causing soreness and bruising. The incident had been discussed with premises staff and it had been found that they had no CCTV footage of the incident. He referred to another incident on 20 April 2012 when a young man had head butted a girl inside the premises causing serious injury to her nose. The Police had been called to the premises and requested CCTV footage of the incident but staff failed to complete the request until the premises was closed as they were too busy. When the request had been made, there were three customers in the shop with three staff members working at the time. As this had been a Friday, the shop would not have had to close until 03.00, which was approximately an hour and 50 minutes later. On the same day, Council CCTV had seen a young man urinating near the door of the premises. In another incident on 16 December 2012, a young man had turned on door staff after being ejected from the shop and trying to throw punches. He had been arrested as a second incident of disorder was taking place. On 22 December 2012, a minor incident and disorder had taken place at the premises with two young men issued with section 27 notices. On the following day, there had been disorder inside and outside the premises with two young men fighting and being arrested.

The sergeant noted that temporary event notices had been granted in the premises on weekends in December 2012 and that three of the above incidents had taken place during those notice periods. He drew attention to the fact that the Police had objected to these notices as they were concerned that disorder would inevitably occur.

On 28 August 2012, an additional condition came into force which required the premises to employ door staff from 23.00 until the shop closed on Thursdays, Fridays and Saturdays and on Sundays preceding Bank Holiday Mondays. The premises had also been required to keep a register of door staff who were employed which included their time starting and finishing work together with their SIA badge number. From this date, the premises had not complied with this condition. It could be seen from the register itself that a number of weekends were left blank and it had been evident on those that had a record that door staff had come on duty long after 23.00.

He reminded the members of the following conditions –

- a) That a sufficient number of suitable receptacles for refuse storage were provided that had fitted covers and were maintained in a clean condition.
- b) That nearby streets were monitored after 23.00 to ensure that customers did not litter the streets and/or residents' property, or caused a nuisance to residents.
- c) That customers were prevented from eating and drinking immediately outside the premises after 23.00.
- ch) That any queues inside or outside the premises would be monitored by a member of staff in order to ensure compliance with the licensing objectives.

By means of a DVD, the sergeant referred to different incidents that had taken place at the premises over a period of time.

It was noted that the premises was one of eight similar sized premises in Bangor licensed for the supply of late night refreshments. There were now 22 incidents of violence and disorder associated with this premises and it was responsible for 80% of violent incidents at late night refreshments premises in Bangor.

In response to a question by a member in relation to incidents during the first part of this year, the sergeant noted that an incident had taken place outside the premises on 13 January when a young man had been arrested.

In response to some of the above points, the solicitor on behalf of the licensee noted the following observations –

- That alcohol was not sold on the premises, therefore there were no incidents of drunkenness associated with the premises.
- That he received information about some of the public houses/clubs in the city that sold cheap alcohol in order to promote their businesses and that some of those visiting those establishments then came to the premises in question and caused trouble.
- That door staff employed at the premises came from a responsible company.
- That some of the conditions agreed by the Licensing Sub-committee on 12 January 2012 was that the premises installed and maintained a digital CCTV system; employed an SIA-registered door supervisor and maintained a register of all door supervisors employed to work at the premises. He was of the opinion that the licensee had complied with those conditions. An appeal had been lodged against the decision, but in August 2012 the appeal was subsequently withdrawn.
- That the licensee had been running the business for around 14 years and was an experienced person and able to deal with difficult situations. That suspending the licence for a period was likely to affect his business.
- That the licensee had no intention of causing any nuisance inside or outside the premises.
- That people convened outside the premises to eat food or wait for a taxi and that this created problems at times.
- That it was intended to submit an application to vary the licence so that the premises would be allowed to open for an additional hour.
- Although there had been three incidents during a weekend in December 2012 when extended hours had been approved through Temporary Event Notices, the nature of these were relatively small.

The local member noted that residents lived near the premises and that he noticed the aggressive mood surrounding the premises on one night in December 2012. He also drew attention to food waste and litter that were left outside the premises. He supported the police's application.

When summarising, Sergeant Coppack noted further that the licensee should pay more attention to incidents of crime and disorder. When Temporary Event Notices had been granted in December 2012, the conditions were breached on several occasions. He was of the opinion that perhaps suspending the licence for three months would be excessive and that suspending the licence for a fortnight or more would be more acceptable, and that a control and safety policy, agreed by both Police and local authority, should be in place when the premises would reopen.

When summarising, the licensee's solicitor noted that suspending the licence would have an impact on the continuation of the business. He recognised that action should be taken to ensure that too many people did not convene outside the premises.

The relevant parties left the meeting and the application was discussed by the members of the Sub-committee, who considered all the evidence submitted and specifically addressed the principles of the act, namely –

- Prevention of Crime and Disorder
- Public Safety
- Prevention of Public Nuisance
- Protection of Children from Harm

Having considered all the evidence submitted, the members were of the opinion that the incidents in 2012 in terms of their number, frequency and nature were not sufficiently serious to undermine the licensing objectives. When coming to this conclusion, particular consideration was given to the following matters –

- a) Since the Central Licensing Sub-committee meeting in January 2012, only five incidents of fighting or disorder had taken place and three of these occurred during the busy Christmas period and they did not form a general and regular pattern.
- b) The circumstances behind the premises opening beyond the licensed hours on 15 and 16 September 2012.
- c) No direct complaints had been received from local residents.
- ch) That suspending the licence was not considered as a reasonable response to the incidents that had taken place in 2012 and there was a doubt regarding what suspending the licence would achieve.
- d) That the Police had confused breaking the law on one or two occasions with undermining the licensing objectives. It did not follow that one always led to the other.
- dd) That the Police and the licensee were encouraged to hold a dialogue together on this matter in order to resolve any problems, especially in relation to the crowds convening outside the premises.

RESOLVED to refuse the application for a review.

The Solicitor reported that he would aim to send a letter within five working days, informing the applicants of the Sub-committee's decision, and informing them of their right to appeal against the decision within 21 days of receiving that letter.

3. APPLICATION TO VARY PREMISES LICENCE – CADWALADER'S ICE CREAM CAFÉ, CASTLE STREET, CRICCIETH

Others invited to the Meeting:

Representing Cadwalader's Ice Cream Café, Castle Street, Criccieth: Ms Jenny Fry (Licensing Consultant acting on behalf of the company)

Representing the objectors: Mr Peter Harlech Jones

Submitted – the report of the Licensing Manager providing details of an application on behalf of Cadwalader's Ice Cream Café, Castle Street, Criccieth to vary the premises licence to allow for the sale of alcohol on the premises between 10.00 and 21.30, seven days a week. There is no application to change the opening hours of the premises to the public; namely between 10:00 and 22:00 daily. It was noted in the application that the premises generally trades as a café/coffee shop and that the intention to sell alcohol was ancillary only to the main use, namely

the sale of food and drink, and that it was intended to offer coffee or desserts which contained liqueur, spirits, wine and specialist beer.

It was reported that, following the appropriate consultation period, that one letter had been received from a nearby resident objecting to the application. There was no objection to the application by the local member and the Public Protection Unit did not have any observations.

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

- i. Members of the Sub-committee and the applicant were given an opportunity to ask questions of the Licensing Manager.
- ii. The applicant was invited to expand on the application.
- iii. Consultees were given an opportunity to support their observations.
- iv. The licensee, or his representative, was invited to respond to the observations.
- v. Members of the Sub-committee were given an opportunity to ask questions of the licensee.
- vi. Members of the Sub-committee were given an opportunity to ask questions of the consultees.
- vii. The applicant or his representative was given an opportunity to summarise their case.

The licensing consultant, acting on behalf of the company, noted that jazz evenings had been held at the premises since 2009 on Thursday nights, between 19.00 and 21.00. It attempted to extend menu options by offering Welsh beers etc. to accompany food. There was a good relationship between them and the local residents and they were attracting a lot of customers. During the busiest period of the summer season, the premises was open until 22.00 and closed at 16.00 or 18.00 at other times of the year. She recognised that parking was a problem outside the premises, especially between Easter and the Autumn when parking orders would be in force. She confirmed that it was not intended to convert the premises into a licensed bar.

The local resident who was present took the opportunity to endorse the observations noted by letter and specifically referred to the following points –

- That he lived next door to the premises and that approving the application would add to the existing problems regarding noise and vehicles parking outside the entrance to his house and have an effect on the amenities of neighbouring residents. He noted that the company's vans parked outside his house at times and created difficulties for him.
- That litter and cigarette ends were being discarded in his front garden.
- That children and sometimes adults were trespassing along the alleyway between his property and the premises in question, and used indecent language at times.
- If the premises was allowed to sell alcohol, the clientele would change and it could also influence young people that would attend the premises.
- That plenty of licensed premises already existed in the town and that approving this application would change the nature of this part of the town.

In response, the licensing consultant, acting on behalf of the company, noted that they owned the alleyway between the premises and the objector's house, but arrangements could be made to close it.

The relevant parties left the meeting and the application was discussed by the members of the Sub-committee, who considered all the evidence submitted and specifically addressed the principles of the act, namely –

- Prevention of Crime and Disorder
- Public Safety
- Prevention of Public Nuisance
- Protection of Children from Harm

The members did not accept that the premises currently operated in a way that undermined the licensing objectives or accepted that granting a licence would be likely to undermine those objectives. When coming to these conclusions, particular consideration was given to the following matters –

- a) No details regarding specific incidents that could be attributed to the premises as detrimental to the licensing objectives had been received.
- b) Bearing in mind the nature of the premises and the potential clientele, it was unlikely that granting a licence would undermine the licensing objectives.
- c) Only one objection had been received and no application for a review in relation to the premises had been submitted.

RESOLVED to approve the variation to the licence of Cadwalader’s Ice Cream Café, Castle Street, Criccieth as follows –

a) To permit the sale of alcohol under paragraph J between 10.00 and 21.30, Monday to Sunday.

The Solicitor reported that he would aim to send a letter within five working days, informing the applicants of the Sub-committee's decision, and informing them of their right to appeal against the decision within 21 days of receiving that letter.

The meeting commenced at 12.30pm and concluded at 5.50pm.