
CENTRAL LICENSING SUB COMMITTEE 16/06/21

Councillors: Annwen Hughes (Chair), John Brynmor Hughes and Dafydd Owen

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

1. APOLOGIES

Apologies were received from Paul and Deborah Peutrill and Dr Pamela Smith - local residents with regards to the application for Canolfan y Fron, Llandwrog, Caernarfon

2. DECLARATION OF PERSONAL INTEREST

None to note.

3. URGENT ITEMS

None to note.

4. APPLICATION FOR A PREMISES LICENCE – Canolfan y Fron, Llandwrog, Caernarfon

Representing the premises:

Mike Elsdon (applicant)
Eiriona Williams (applicant's representative)

Others invited:

Neighbouring Residents:

Edward Willcox
Jim Embrey

Local Member: Councillor Dilwyn Lloyd

The Chair welcomed everyone to the meeting. The Chair highlighted that all parties would be allowed up to 5 minutes to make their representations.

a) **The Licensing Department's Report**

Submitted – the report of the Licensing Manager giving details of the application for a premises licence for Canolfan y Fron, Llandwrog, Caernarfon. The application was made in relation to film showings, plays, indoor sports, boxing or wrestling entertainment, live and recorded music, dance performances and the sale of alcohol.

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. 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 that had been received during the consultation period. It was noted that several objections had been received from nearby residents and the Fron Residents Association, which included a petition signed by 36 residents noting conditions and acceptable times. No observations or objections had been received from the Police and the Fire and Rescue Service.

The objections referred to each of the licensing objectives. Concerns had been expressed regarding anti-social matters in terms of noise, public nuisance, sanitary issues, parking and crime and disorder. It was also noted that the Ganolfan Committee had not sought a public consultation beforehand, and the applicant's proposed hours raised concern.

It was recommended that the Committee carefully considered the concerns of nearby residents and approved the application in accordance with the requirements of the Licensing Act 2003.

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

- Members of the Sub-committee and the applicant were given the opportunity to 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 consultees

Elaborating on the application, the applicant's representative noted:

- No outdoor entertainment would be held after 22:00
- No alcohol would be sold from the shop after 21:00
- No alcohol would be sold from the restaurant after 21:00
- Usual hours would be 8:30 – 17:30
- It was hoped to hold events and therefore there was a need to extend the hours There was no certainty at the moment as no requests for events had been received
- It was intended to engage with the local community when an application for an event would be submitted

In response to a question regarding the number of staff, it was noted that part-time volunteers worked in the shop with a chef and another three staff members helping out in the restaurant. It was confirmed that the Chef who had his name on the existing licence had resigned and that a new Chef had been appointed. It was added that the new Chef had been successful with an application for a personal

licence and she was ready to accept the responsibility. It was noted there was a need to ensure that alcohol would not be sold until the current Chef had received the licence.

The consultees in attendance took the opportunity to expand on the observations they had submitted by letter.

Jim Embrey:

- A 'suitable' licence was acceptable
- Fron was a remote and quiet area with approximately 300 residents living there
- The proposed opening hours were extreme for the local community
- Local residents had met and had agreed to an extension of restricted hours - a few late nights were acceptable

Edward Willcox

- Astounded why Canolfan y Fron had not sought the opinion of the community before submitting an application
- Needed to consider the impact of selling alcohol on families living locally
- Needed to ensure that the licence was operated correctly

Local Member - Councillor Dilwyn Lloyd

- The main concerns were noise after 23:00
- There were bungalows for the elderly located next door to the centre
- Fron was a small sleepy village
- Parking had been highlighted as a concern
- A suggestion to impose a condition to close at 22:30 to satisfy local people
- No objection but important to share and express observations

Reference was made to the other observations received during the public consultation

Taking advantage of the right to conclude the case, the applicant's representative noted the following points:

- Although the application noted 8:30 - 23:30, this would only be for special occasions. The restaurant would otherwise close at 21:00.
- It was suggested that events would only be held occasionally
- The Ganolfan would contact the community before agreeing to hold an event

The Planning Manager reiterated that the hours submitted with the application provided flexibility to the licence and that the essence of the application was 'occasional intention'.

The applicant and his representative, the consultees and the Licensing Manager withdrew from the meeting while the Sub-committee members discussed the application.

In reaching its decision, the Sub-committee considered written observations that had been submitted by interested parties and the Licensing Officer's report. The Council's Licensing Policy and Home Office guidelines were 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

The licence was issued as follows:

1. Opening hours

- **Standard times: Sunday-Saturday 08:30-23:00**
- **Final hour 00:00 on Bank Holiday Weekends, Christmas Eve and Boxing Day**
- **Final hour 01:00 on New Year's Eve**

2. Plays

- **Indoors: Sunday-Saturday 08:30-23:00**
- **Outdoors: Sunday-Saturday 08:30-22:00**

3. Indoor films: Sunday-Saturday 08:30-23:00

4. Indoor sports: Sunday-Saturday 08:30-23:00

5. Indoor boxing or wrestling: Sunday-Saturday 08:30-23:00

6. Live music

- **Indoors: Sunday-Saturday 08:30-23:00 (with the final hour 00:00 on Bank Holiday Weekends, Christmas Eve and Boxing Day, and the final hour 01:00 on New Year's Eve)**
- **Outdoors: Sunday-Saturday 08:30-22:00 (with the final hour 23:00 on Bank Holiday Weekends, Christmas Eve, Boxing Day and New Year's Eve)**

7. Recorded music

- **Indoors: Sunday-Saturday 08:30-23:00 (with the final hour 00:00 on Bank Holiday Weekends, Christmas Eve and Boxing Day, and the final hour 01:00 on New Year's Eve)**
- **Outdoors: Sunday-Saturday 08:30-22:00 (with the final hour 23:00 on Bank Holiday Weekends, Christmas Eve, Boxing Day and New Year's Eve)**

8. Dance performances

- **Indoors: Sunday-Saturday 08:30-23:00**
- **Outdoors: Sunday-Saturday 08:30-22:00**

9. Anything of a similar description to live music, recorded music or dance performance

- **Indoors: Sunday-Saturday 08:30-23:00 (with the final hour 00:00 on Bank Holiday Weekends, Christmas Eve and Boxing Day, and the final hour 01:00 on New Year's Eve)**
- **Outdoors: Sunday-Saturday 08:30-22:00 (with the final hour 23:00 on Bank Holiday Weekends, Christmas Eve, Boxing Day and New Year's Eve)**

10. Supply of alcohol to be consumed on and off the premises

- **Standard times: Sunday-Saturday 08:30-21:00**
- **Times when a private event is held: Sunday-Saturday shop 08:30-21:00, café - bar 08:30-23:00**
- **Final hour 00:00 in the café - bar on Bank Holiday Weekends, Christmas Eve and Boxing Day**
- **Final hour 01:00 in the café - bar on New Year's Eve**

11. For the purpose of these conditions, Bank Holiday Weekends are defined as a period commencing on Friday and ending on the following Monday when a day within that period is a bank holiday.

12. Matters prescribed in the Schedule of Actions (Section M) of the application are incorporated as conditions on the licence.

All parties were thanked for making representations on the application.

The Sub-committee gave due consideration to all the representations. The Sub-committee disregarded observations that had been submitted, on the basis that they were not relevant to the licensing objectives, e.g. arguments that there was no need for a licensed premises for the hours requested or at all, or a lack of relevant planning permission. These matters are not premises licence application considerations.

Specific consideration was given to the following:

Observations had been received from Fron residents objecting to the application referring to the four licensing objectives. In summary, concerns were expressed that granting the licence would be likely to lead to an increase in crime, disorder, noise, sanitary matters and parking problems. In addition, observations had been received from the applicant's representative noting the intention to restrict some aspects of what had been requested in the application and, as a result, the Sub-committee dealt with these as amendments. For information, no objections had been received from the Police, the Fire and Rescue Service, the Council's Public Protection Unit or the Council's Highways Department.

The Sub-committee highlighted that it accepted that some concerns expressed regarding the application were genuine. However, the Sub-committee was of the opinion that insufficient evidence had been submitted to prove that these problems were likely to happen should the licence be granted, and that it would be contrary to the licensing objectives.

Concern was expressed that there would be an increase in anti-social behaviour. No evidence had been submitted to support the allegation beyond general allegations about drinking that could be attributed to any licensed premises. No reasons or evidence why these specific premises would be likely to cause anti-social behaviour problems had been submitted. It appeared that the observations had been submitted on the grounds of speculation and no evidence - this was not legal grounds to make a decision - according to the High Court in *R (on the application of Daniel Thwaites Plc) v Wirral Borough Magistrates Court* [2008] EWHC 838 (Admin).

No objection had been received from the Police. It was considered that if offending problems were likely to be increased that the Police would have highlighted this. Under the circumstances, the Sub-committee had not been persuaded that granting the licence would undermine the objective of preventing crime and disorder.

In the context of litter and noise concerns, should the licence be granted, the observations were considered as common concerns based again on speculation without the submission of robust evidence. No observations had been received from the Public Protection Unit reporting that granting the licence was likely to cause a noise problem - such observations would have become apparent should noise problems be likely. The Sub-committee rejected the allegation that restricting hours was necessary in order to ensure compliance with the Noise Act 1996. With a lack of evidence, there were no grounds for the Sub-committee to reach a conclusion that approving the licence would cause problems in terms of undermining the public nuisance objective.

In the context of road safety concerns and a lack of parking space with access for emergency service vehicles being affected, the concerns were accepted in relation to the licensing objective of ensuring public safety. However, the concerns were considered again as concerns based on speculation rather than evidence. The Police, the Fire and Rescue Service, any other emergency service or the Highways Department had not expressed any concern regarding road safety. It was expected that the official agencies would have observations highlighting this should there be a risk for the public. As a result of lack of evidence and observations from experts in the field, the Sub-committee had not been persuaded that granting the licence was likely to undermine the licensing objective of ensuring public safety.

The concerns submitted about child safety were common concerns, which were again based on speculation without robust evidence to support the allegation. The Sub-committee was of the opinion that the application did not undermine the objective of protecting children from harm.

The attention of the Sub-committee was drawn to a petition that had been submitted objecting to the application. Although a copy had been provided to the Sub-committee, it came to the conclusion that the petition was not acceptable as evidence. The number of people who objected to an application in itself was not proof that one or more of the licensing objectives were likely to be undermined.

While the Sub-committee appreciated that genuine concerns had been raised, it was also disappointed to find that these concerns had been tainted to an extent by 'village politics' with regards to the property. As a result, the Sub-committee would fully encourage the applicant and all parties associated with this application to hold a constructive dialogue with each other in relation to any future matters that could arise with the property.

While the Sub-committee understood and accepted the concerns of residents about the application, a decision had to be made on legal grounds and based on robust evidence that was relevant to one or more of the licensing objectives. Under the circumstances, the Sub-committee was satisfied that the amended application was in accordance with the four licensing objectives. The application was approved.

The Solicitor reported that the decision would be confirmed formally by letter to everyone who was 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.

5. APPLICATION FOR A PREMISES LICENSE - Y CROCHAN, 9 – 11 HOLE IN THE WALL STREET, CAERNARFON

Representing the premises:

Dewi Jones and Chris Summers - applicants

Others invited:

Neighbouring Residents:

Rita Geary
Mandy Matthews

Local Member: Councillor Cai Larsen

The Chair welcomed everyone to the meeting. The Chair highlighted that all parties would be allowed up to 5 minutes to make their representations.

a) The Licensing Department's Report

Submitted – the report of the Licensing Manager giving details of the application for a premises licence for Y Crochan, 9 – 11 Hole in the Wall Street, Caernarfon. The application was made in relation to the sale of alcohol on and off 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. 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 that had been received during the consultation period. It was noted that objections had been received from neighbouring residents, which referred to two of the licensing objectives. Concerns were expressed regarding anti-social matters in terms of noise, public nuisance and that the business tables caused an obstruction to residents.

It was recommended that the Committee approved the application in accordance with the requirements of the Licensing Act 2003.

In considering the application, the following procedure was followed:

- Members of the Sub-committee and the applicant were given the opportunity to ask questions to the Licensing Manager.
- The applicant was invited to expand on the application.
- Consultees were given an opportunity to present their observations.
- The licensee, or their representative, was invited to respond to the observations.
- Members of the Sub-committee were given an opportunity to ask questions to the licensee.
- Members of the Sub-committee were given an opportunity to ask questions to the consultees.

Elaborating on the application, the applicants noted:

- They had not been selling alcohol illegally - they had submitted and had been granted temporary event notices
- Tables would be located outside on one side of the street only
- Fire safety regulations were in accordance with Covid regulations

In response to a question about the licence holder, Mr Dewi Jones highlighted that he had now been granted a personal licence. It was also confirmed that there were no fire exit stairs from the first or second floors - there were only internal stairs with doors opening to the front and to the rear.

The consultees in attendance took the opportunity to expand on the observations they had submitted by letter.

Rita Geary (Mandy Mathews submitting observations on behalf of Rita Geary)

- Had lived on the street all her life - things becoming more difficult and causing concern
- Did not want to live with noise
- Difficult for the emergency services to gain access to the street after 16:00
- Too many tables outside on the street
- An additional licence would increase problems on the street

Mandy Mathews

- Lived next door to the premises - no 2m between her front door and the tables
- Did not feel safe - many similar establishments on the street
- No objection to a new venture but the proposal would add to existing problems
- Residents needed to be considered
- The right to park on the street between 16:00 and 11:30, which was ideal for her working hours, but difficult to get the car out / get onto the street at times as there were tables on the street - this caused more problems and concern
- The proposal was a restaurant, why was there a need to sell alcohol?
- Consider a compromise of 'bring your own alcohol'
- Needed to avoid drinking outside on the street

Local Member: Councillor Cai Larsen

- The applicants had run the Porthi Pawb Scheme, which had been very successful in Caernarfon during lockdown.
- He sympathised with the concerns of neighbouring residents
- The proposal was to establish a quality restaurant compared to other establishments on the street and therefore it would attract a different type of customer
- Permitting customers to 'bring their own alcohol' was likely to lead to more drinking with the purchase of cheaper alcohol
- Less control without a licence - the licence holder had discipline and a responsibility to maintain order

Taking advantage of the right to conclude their case, the applicant noted the following points:

- Permitting customers to 'bring their own alcohol' was likely to create more problems - no control over this

- It was intended to serve the last table at 20:30, therefore, did not anticipate people staying later than 22:00
- The restaurant would not contribute towards noise

The Planning Manager reiterated that the applicants had submitted an application for a temporary event notice to sell alcohol of which a few had been granted. No illegal sale of alcohol had occurred and no complaints had been received during this period.

The applicants, the consultees and the Licensing Manager withdrew from the meeting while the Sub-committee members discussed the application.

In reaching its decision, the Sub-committee considered written observations that had been submitted by interested parties and the Licensing Officer's report. The Council's Licensing Policy and the Home Office guidelines were considered. All considerations were weighed up against the licensing objectives under the Licensing Act 2003, namely:

- v. Prevention of crime and disorder
- vi. Prevention of public nuisance
- vii. Ensuring public safety
- viii. Protection of children from harm

RESOLVED to approve the application

The licence was issued as follows:

- 1. Opening hours: Sunday-Saturday 09:00-00:00**
- 2. Supply of alcohol to be consumed on and off the premises: Sunday-Saturday 09:00-23:30**
- 3. Matters prescribed in the Schedule of Actions (Section M) of the application are incorporated as conditions on the licence.**

All parties were thanked for making representations on the application.

The Sub-committee gave due consideration to all the representations. The Sub-committee disregarded observations that had been submitted, on the basis that they were not relevant to the licensing objectives, e.g. arguments that there was no need for a licensed premises for the hours requested or at all, or a lack of relevant planning permission. These matters were not premises licence application considerations.

Specific consideration was given to the following:

Observations had been received from members of the public objecting to the application referring to the licensing objectives of preventing crime and disorder, preventing public nuisance and ensuring public safety. In summary, concerns had been expressed that the premises had been serving alcohol without a licence; granting the licence would likely lead to an increase in noise and that business tables were an obstruction for neighbouring residents. For information, no objections had been received from the Police, the Fire and Rescue Service, the Council's Public Protection Unit or the Council's Highways Department.

The Sub-committee highlighted that it accepted that some concerns expressed regarding the application were genuine. However, the Sub-committee was of the opinion that insufficient evidence had been submitted to prove that these problems were likely to happen should the licence be granted, and that it would be contrary to the licensing objectives.

A concern was highlighted that the premises had been serving alcohol without a licence and, therefore, the applicant's willingness not to commit this offence in future was questioned. No details had been submitted in terms of dates, times or the circumstances of these alleged incidents and confirmation was received from the applicants and the Licensing Manager that temporary event notices had been submitted in relation to recent evenings at the premises. Presuming that any offence had been committed, no explanation had been provided as to how granting the licence would lead to more cases of selling alcohol without a licence when the existence of a licence would reduce the likelihood of offending in the first place - due to a lack of evidence, the Sub-committee had not been persuaded that granting the licence would undermine the objective of preventing crime and disorder.

A concern was highlighted that granting the licence would lead to an increase in noise problems. However, no evidence had been submitted to support the allegation beyond general allegations that could be attributed to any licensed premises nearby, and it was not explained why these premises in particular would be likely to cause a noise problem more than others. It appeared that the observations had been submitted based on speculation and no evidence - this was not legal grounds to make a decision - according to the High Court in *R (on the application of Daniel Thwaites Plc) v Wirral Borough Magistrates Court* [2008] EWHC 838 (Admin).

In the context of an objection on the basis that tables belonging to the premises would block road access, it was not explained why these premises in particular were likely to cause worse access problems than nearby licensed premises that had tables on the street. The Police, the Fire and Rescue Service, any other emergency service or the Highways Department had not expressed any concern regarding road safety. It was expected that the official agencies would have submitted observations highlighting this should there be a risk for the public. As a result of lack of evidence and observations from experts in the field, the Sub-committee had not been persuaded that granting the licence was likely to undermine the licensing objective of ensuring public safety.

While the Sub-committee understood and accepted the concerns of residents about the application, a decision had to be made on legal grounds and based on robust evidence that was relevant to one or more of the licensing objectives. Under the circumstances, the Sub-committee was satisfied that the amended application was in accordance with the four licensing objectives. The application was approved.

The Solicitor reported that the decision would be confirmed formally by letter to everyone who was 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 2.00 pm and concluded at 4.20 pm

CHAIRMAN