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## CENTRAL LICENSING SUB COMMITTEE 29/07/22

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**Present:**

**Councillors:** Edgar Owen (Chair), Gareth Morris Jones and Huw Rowlands

**Officers:** Siôn Huws (Solicitor), Gwenan Mai Roberts (Licensing Manager) and Lowri Haf Evans (Democratic Services Officer)

**1. APOLOGIES**

Apologies were received from Councillor John Brynmor Hughes, Wendy Lloyd Jones and John Gwilym Jones (local residents) for item 4, and Councillor Gwynfor Owen (Local Member) for item 5

**2. DECLARATION OF PERSONAL INTEREST**

None to note

**3. URGENT ITEMS**

None to note

**4. APPLICATION FOR A PREMISES LICENCE**

Submitted – the report of the Licensing Manager giving details of the application for a premises licence for a restaurant with the right to sell alcohol and serve meals from a catering van on a section of land outside the building of a boat sales and repairs business between the hours of 11:00 and 21:20, seven days a week and an additional half-hour to allow customers time to finish up and leave. It was reported that no application had been made to hold entertainment, but should the licence be permitted the applicant would be able to benefit from exceptions under the Live Music Act 2021 to play amplified music until closing time at 22:00.

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 a number of objections had been received to the application in relation to the four licensing objectives - Crime and disorder prevention, public nuisance prevention, ensuring public protection and the protection of children from harm.

It was recommended that the Committee should refuse the application in accordance with the requirements of the Licensing Act 2003 and for the following reasons in particular:

- That the open site was in a dangerous location on the side of a busy highway and junction, and on the curtilage of a busy boat business.
- It would not be possible for the applicant to prevent the risks to customers or others due to traffic from cars and tractors with trailers and boats through control measures as the site was not safe or suitable as a licensed premises.
- It would not be possible to control noise from this open location; despite the measures proposed by the applicant.

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

- Members of the Sub-committee and the applicant were given an opportunity to ask questions to the Licensing Manager
- The applicant was invited to expand on the application
- Members of the Sub-committee were given an opportunity to ask questions of the licensee.
- The Licensing Manager was given an opportunity to ask questions of the licensee.
- The consultees were given an opportunity to support any written observations
- The Licensing Manager and the applicant were given an opportunity to summarise their case

Elaborating on the application, the applicant noted:

- That the front of the building was empty and it was a suitable location to offer food and drink to customers
- That a risk assessment had been completed - parking space arranged and fencing installed to establish a boundary
- The venture was for the summer holidays only - would benefit the local economy and would be an additional element for the business
- That he had experience of running restaurants in Liverpool, Manchester and Chester. The restaurant in question (had been operational for four weeks under a Temporary Event Notice) provided quality food, with a focus on only serving alcohol with food.
- That following a Temporary Notice hearing (15-07-22), he had installed a crossing for pedestrians and intended to compromise with further conditions relating to the safety of the public.
- It was possible to add 'cable ropes' to the fence to prevent children from pushing through it.
- He had received a number of e-mails supporting the enterprise
- There was no evidence that the restaurant was responsible for noise and traffic problems - two other restaurants nearby
- He hoped to hold discussions with the Planning Department regarding their concerns
- That music would not be played on site
- There were other restaurants in the village that were located at the side of a dangerous road with no safety barriers
- The site was on private land and therefore control measures would make it safer than other locations
- Food service would end at 21:30
- Did not anticipate crime and prevention problems - not a restaurant that appealed to rowdy customers
- That staff wore high viz jackets on the site to assist customers to cross the road safely

- That the tractor drivers were aware of the 5mph speed limit on the site

In response to a question regarding compliance with the licensing objectives of public safety and protecting children from harm (who would see tractors and boats as a natural attraction), the applicant noted that the tractor drivers had received additional training and an update on the reviewed risk assessment. He reiterated that yellow lines had been painted to prevent parking, a footpath had been allocated to cross to the toilets, staff were monitoring the situation and it was intended to add cabling to the fencing to improve safety.

In response to a question regarding the number of staff who were employed in the restaurant, it was noted there were six members during the day and another four who joined in the evenings at peak times. It was added that this was in addition to the number of staff who worked in Land and Sea and monitored the tractors

In response to an observation from the Licensing Manager who noted that having no music did not mean there would be no noise, the applicant noted that there was no intention of being open after 21:30 and that he did not wish to disturb local residents. He reiterated that the majority of customers were Land and Sea customers who took advantage of the opportunity to meet and converse over food at the end of their day.

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

Elizabeth Williams - North Wales Police

- The applicant had responded to the Police's concerns by erecting a fence and recognising that additional cables would be added to reduce the spacing in the fence. Nevertheless, it was considered that children would be able to squeeze through the space and that a more substantial structure would be more acceptable. This was a planning matter.

Keira Sweeney - Planning Manager, Gwynedd Council

- It was only very rarely that the Planning Service objected to licensing applications - the situation was very disappointing
- That an application had been refused in 2021 for an permanent café/bar for a number of reasons
- Although different legislation applied to Licensing and Planning, the considerations were similar - in this situation, protecting the safety of the public in relation to holding activities e.g. lack of pavement, was the main consideration.
- Accepted and noted the efforts made within the site, but improvements were required beyond the ownership of Land and Sea
- Objected to the application on grounds of lack of parking, the site was within a flood zone, it was the site of a former garage and there was no assurance that the tanks had been emptied.
- Confirmed that a further planning application had been received for the siting of mobile vans on the site.

Alun Evans - Public Protection Manager (Welfare, Health and Safety)

- Public safety must be prioritised
- That Land and Sea were using an area that extended beyond the site
- Unlike other restaurants, the business was located within a busy boat yard - the risks were obvious
- A risk assessment had been submitted, however it was not sufficient

- Despite the erection of a crossing and a fence, it was not sufficient to protect staff and customers

Ffion Muscroft - Public Protection Officer

- Highlighted concerns about noise from the site - noise from music and people
- During the time since the Temporary Event Notice had been approved, the department had received complaints about the music - accepted that the speaker had been removed, but concerns about social noise remained
- Difficult to control voices - the site plan noted space for around 52 people - this was substantial noise given there were houses adjacent to the site

Community Council

- Highlighted concern about public safety and noise
- It was a busy junction - there were two other businesses nearby and an access to a housing estate
- A tractor and boat garage did not coincide with a space to serve food and drink
- This area was extremely busy
- That a planning application had already been refused
- Must consider the impact of the proposal on local residents

Mr Wyn Williams

- Historically, there had been a bar on the site which was closed on appeal
- No recognition of the environment
- Lack of compliance with licensing policies - the applicant had an attitude that regulation and legislations only applied to other people
- That the recommendation to refuse was strong and set a clear message that people must adhere to planning and licensing arrangements if they wished to set up a business.

Mr Robert Kennedy

- Although there was a restaurant operating on the site - noise and safety concerns had arisen
- It was a busy road with pedestrians forced to walk on the road
- Approving a licensed restaurant would aggravate the situation
- More information was required about the situation regarding the petrol tanks
- That the site was dangerous - an accident was inevitable
- Approving it would undermine the four licensing objectives

Mrs Margot Jones

- That the site included various 'buildings' - glazed pods, food vans and storage containers
- It would be possible to hold 100 people on the site - the site was not suitable for this
- There was an obvious increase in the need for parking spaces
- That the situation was dangerous - accidents were inevitable - cars, tractors, boats and delivery vans reduced visibility
- Two restaurants nearby - another development would add to an already dangerous situation

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

- Despite the response from the applicant, the safety risks still remained

- It was not possible to control all aspects
- An accident was inevitable

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

- That he was willing to compromise
- That he accepted the observations and was willing to go beyond what was needed
- That this would be operational during the summer months only
- It was possible to correct the arrangement, consider the application and accept conditions until the end of September
- That he had met with some of the respondents and had discussed their concerns
- That the customers did not arrive by car and therefore parking was not relevant
- There was documentation available pertaining to the fuel tanks which noted that there was no risk to people or to the environment
- It would be disappointing not to approve it - visitors were in favour of the location

The applicant, the respondents and the Licensing Manager withdrew from the meeting while the Sub-committee discussed the application.

In reaching its decision, the Sub-committee considered the applicant's application form along with written comments submitted by interested parties, the Licensing Officer's report, and the oral comments from each party at the hearing. 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.

Observations that were irrelevant to these objectives were disregarded. All parties were thanked for making representations on the application. The Sub-committee gave due consideration to all the representations.

### **RESOLVED to refuse the application**

Specific consideration was given to the following.

Observations were received from North Wales Police. They had no evidence of problems relating to crime and disorder, but they did have concerns in terms of Public Safety and Protecting Children from Harm. In particular, they were concerned that the suggested measures would not guarantee sufficient separation between the dining area and the activities of the Land and Sea boat business; children were inquisitive by nature, and boats and tractors would be an attraction for them; alcohol affected adults' judgement in terms of vehicle distance and speed, with the location within such close proximity of a busy business and

the main road into Abersoch.

Observations were received from Gwynedd Council's Development Control Unit noting that Planning Permission has already been refused for a similar development on the site in 2021. It was explained that the latest development is in essence the same as the one refused in 2021 and that one of the main reasons for refusal was concern relating to public safety due to how busy the business was and its location near the highway. To reach the site, customers would be required to cross a very wide entrance or, to cross from the pavement on the opposite side of the road they would have to cross a very busy road with no pavement on that side.

Observations were received from Gwynedd Council's Enforcement Unit confirming that they are in the process of commencing formal enforcement steps to prevent the current unauthorised use. It was confirmed at the hearing that the applicant has submitted a planning application for temporary change of use to approve the siting of vans on the existing site.

Observations were received from Gwynedd Council Public Protection's Health and Safety Unit objecting to the application as the proposal did not coincide with the licensing objective of ensuring public safety. It was noted that although the applicant has taken action to seek to improve the situation, this did not change the fact that Land and Sea continues to use the roads around the site, and that it is not possible to change this basic direction and flow. With the business located within a busy boat yard, it was not possible to compare it with similar businesses in Abersoch. In their opinion, the Risk Assessment and the mitigation measures submitted by the applicant were not adequate enough to safeguard staff and customers.

Concern was expressed that there was potential for a substantial number of people to gather outside Abersoch Land and Sea, under the influence of alcohol.

Observations were received from the Pollution Unit within Gwynedd Council Public Protection. It was noted that the applicant has now ceased playing music and that this responds to one of the concerns in terms of preventing public nuisance. Nevertheless, it was considered that a substantial number of people would convene outdoors (that would include a number under the influence of alcohol), causing noise pollution for nearby residents and it was confirmed that they have received complaints of the customers causing noise nuisance.

Observations objecting to the application were submitted by Gwynedd Council's Transport Unit as the applicant did not address any of the concerns noted when objections were submitted against a Planning application on the site for a similar development in 2021. It was considered that the proposed development was likely to attract a number of people to convene close to the highway, and that this would affect visibility for residents and customers leaving the Land and Sea boat business. It was also noted that the restricted nature of the site is likely to lead to groups of customers convening around the site, leading to road safety problems. Furthermore, it was noted that the lack of parking spaces on the site was likely to cause further parking problems (on the highway) thus undermining pedestrian and vehicle driver safety.

Llanengan Community Council submitted observations objecting to the application on the grounds that it would lead to antisocial behaviour; concerns about safety due to its location near a busy junction, access road to housing estate, and two other restaurants, noise nuisance for residents, and the risk to children who would use the site with their families to cross back and forth to the

beach.

E-mails were received from local residents objecting to the licence application with concerns relating to the four licensing objectives, which included:

- Serving alcohol would lead to antisocial behaviour
- The location is on a dangerous corner with access to several businesses including the Land and Sea boat business in addition to two restaurants.
- That pedestrian access to the location is dangerous as it is on a busy junction and tractors travel back and forth to and from the location all day, towing trailers and boats back and forth to the beach.
- There would be more people parking illegally and dangerously.
- Noise from an outdoor site like this would affect nearby residents.
- Any increase in the busyness of the location will increase the risk of a road accident

Consideration of the evidence in the context of the licensing objectives:

#### Prevention of Crime and Disorder

Concern was raised there would be an increase in anti-social behaviour. Nevertheless, the Police has confirmed that it has no evidence of crime and disorder problems to object the application and no evidence was submitted by anyone else who submitted observations. On grounds of the lack of evidence to support these concerns, and especially the lack of objection from the Police, the Sub-committee was not persuaded that permitting the licence would undermine the objective of preventing crime and disorder.

#### Public Safety

The Sub-committee gave careful consideration to the expert opinion of the professional officers that approving the application would undermine this objective. The officers were of the firm view that the location and nature of the site, and the fact that it would be shared with another business would lead to a dangerous situation. Considerable attention was given to this opinion as a number of various departments within the Council have submitted their opinion in a consistent and strong manner. The Sub-committee was therefore concerned about the safety of staff and customers in addition to the general users of the road due to the activities. Careful consideration was also therefore given to the measures the applicant has already taken, and those he proposed to implement to seek to mitigate the risks. Although the Sub-committee notes and appreciates the intention to make changes it was not considered that it would be possible to adequately address the concerns as those measures would not overcome the fundamental problems that were created by the nature and the location of the site and its use.

#### Preventing Public Nuisance

It was accepted that the applicant had ceased to play music, nevertheless, based on the evidence and the opinion submitted (including complaints that had been received) the sub-committee was of the opinion that noise nuisance would be inevitable for nearby residents due to the open nature of the location and the site and its proximity to nearby houses.

#### Protection of Children from Harm

Everyone had concerns in terms of public safety. Nevertheless, with children present with their families going back and forth to the beach along with the fact that tractors would tow boats back and forth, and that this could be an attraction to them, which would highlight specific risks under this heading.

Consequently, the Sub-committee was of the opinion that approving the application would undermine three out of the four licensing objectives, and therefore the application was refused.

The Solicitor reported that the decision would be formally confirmed by letter to everyone who had submitted written observations. It was 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 receives the letter (or a copy of the letter) confirming the decision.

## 5. APPLICATION FOR A PREMISES LICENSE

### 1. Caffi Llew Glas, 3, Plas y Goits, Stryd Fawr, Harlech

**Representing the premises:** Ms Harriet Brown (applicant)

**Respondents:** Mr Dafydd Thomas (Snowdonia National Park Planning Officer)

The Chair welcomed everyone to the meeting. The Chair highlighted that all parties would be allowed up to five 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 a light refreshment café / bar with seating areas inside and outside the property.

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 response that had been received during the consultation period. It was noted that Snowdonia National Park Authority objected to the application because it was contrary to the rights of planning application number NP5-61-T2E-DN but if the applicant were to amend the hours to comply with the conditions of the application, it would be acceptable.

It was recommended that the Committee should approve the application in accordance with the observations of Snowdonia National Park Authority and the requirements of the Licensing Act 2003 and the following reasons in particular:

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

- Members of the Sub-committee and the applicant were given an opportunity to ask questions to the Licensing Manager
- The applicant was invited to expand on the application
- Members of the Sub-committee were given an opportunity to ask questions of the licensee.
- The Licensing Manager was given an opportunity to ask questions of the

licensee.

- The consultees were given an opportunity to support any written observations
- The Licensing Manager and the applicant were given an opportunity to summarise their case

Disappointment was noted that the Harlech Community Council had not submitted their opinion and that including photos of the property and/or photos of the square / street would have been beneficial.

In response to a question regarding the recommendation of the Licensing Unit, it was confirmed that it recommended approving the application in accordance with the observations of the Snowdonia National Park Authority, and not the observations of Public Protection, as noted in the report.

Elaborating on the application, the applicant noted:

- That she had a small, light enterprise in mind
- She would not venture with anything bigger as it was difficult to recruit staff
- Happy to amend the opening hours to coincide with the planning application

In response to a question regarding how the applicant intended to alleviate noise concerns in future, she noted that she had no intention of holding entertainment or late evenings. She reiterated that her father lived in the flat above and was critical of any noise! She also noted that the staff had been trained to deal with unpleasant customers.

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

Mr Dafydd Thomas (Snowdonia National Park Planning Officer)

- That the application had been refused as it was contrary to planning conditions
- Accepted that the applicant had agreed to change the hours
- If she wished to use the outdoor area, there would be a need to submit a planning application to amend conditions

Cllr Annwen Hughes (Local Member) - no observations and had declared an interest as she was the Chair of the Snowdonia National Park Authority

Cllr Gwynfor Owen (Local Member) - observations submitted by e-mail outside the consultation period:

- He apologised that he could not be present
- Supported the application
- The owner had invested heavily in this business along with the remainder of Llew Glas square. The applicant is a business woman who would create something with a special atmosphere in the centre of Harlech - this application fitted neatly within those plans.
- Believed that the applicant would ensure that she complied with everything to ensure a successful business.

The applicant, the respondents and the Licensing Manager withdrew from the meeting while the Sub-committee members discussed the application

In reaching its decision, the Sub-committee considered the applicant's application form along with written comments submitted by interested parties, the Licensing Officer's report, and the oral comments from each party at the hearing. The Council's Licensing Policy was considered along with the Home Office guidelines.

All the 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.

Observations that were irrelevant to these objectives were disregarded. All parties were thanked for making representations on the application. The Sub-committee gave due consideration to all the representations.

**RESOLVED to approve the application in accordance with the conditions set out by Snowdonia National Park planning application NP5/61/T2E**

The meeting commenced at 10.00 am and concluded at 12.40 pm

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**CHAIRMAN**