

<b>COMMITTEE:</b>	<b>CENTRAL LICENSING SUB-COMMITTEE</b>
<b>DATE:</b>	<b>18 March 2022</b>
<b>TITLE:</b>	<b>REQUEST FOR VARIATION OF THE PREMISES LICENCE - THE MENAI, CRAIG Y DON ROAD, BANGOR, GWYNEDD, LL57 2BG</b>
<b>PURPOSE:</b>	<b>FOR DECISION</b>
<b>AUTHOR:</b>	<b>HEAD OF ENVIRONMENT</b>

## **1. APPLICATION RECEIVED**

- 1.1** An application is appended to vary the premises licence of The Menai (Menai Court Hotel), Craig y Don Road, Bangor LL57 2BG, by Marston's PLC. The application is made in relation to seeking the right to remove historical restrictions and conditions placed on the licence in relation to the use of the beer garden in the evening.
- 1.2** The current licence includes a condition that the use of the beer garden be restricted to drinking only (no entertainment) between 11:00 and 21:00 only.
- 1.3** The applicant proposes amended conditions as follows –
- No public access to the beer garden (except for emergency evacuation) between 23:00 and 08:00.
  - For a period between 21:00 and 23:00 when the beer garden is in use; checks to be made and recorded hourly, and if noise levels are audible above background noise levels, then steps will be taken to control the noise generated within the beer garden area.
  - The records will be kept for a period of 6 months and be made available to the Police and licensing officers for inspection.
  - In addition, it is recommended that the wording of Appendix 2 be removed so that no additional mandatory conditions are included, but rather a reference to the time the licence was transferred in 2005.
- 1.4** The applicant does not require any changes to the hours of operation, or hours of licensed activities, or any of the other conditions that are on the licence. The applicant believes that the conditions proposed will enable the licensing objective of preventing public nuisance to be promoted.
- 1.5** It is noted on the application, shown in the appendix, that the applicant has stated that live and recorded music can take place indoors and outdoors.
- 1.6** The officers of the Licensing Authority are satisfied that there is sufficient evidence that the application has been submitted in accordance with the requirements of the Licensing Act 2003 and the relevant regulations, and is therefore valid.
- 1.7** Several objections have been received from nearby residents; there are further details in the report.

See the attached table for full details of the proposed variation:

Trwydded Presenol/Current Licence	Trwydded Arfaethedig/Proposed Licence
<b>Oriau Agor / Opening Hours</b>	
Dydd Sul/Sunday 10:00 - 00:30	Dydd Sul/Sunday 10:00 - 00:30
Dydd Llun/Monday 10:00 - 00:30	Dydd Llun/Monday 10:00 - 00:30
Dydd Mawrth/Tuesday 10:00 - 00:30	Dydd Mawrth/Tuesday 10:00 - 00:30
Dydd Mercher/Wednesday 10:00 - 00:30	Dydd Mercher/Wednesday 10:00 - 00:30
Dydd Iau/Thursday 10:00 - 00:30	Dydd Iau/Thursday 10:00 - 00:30
Dydd Gwener/Friday 10:00 - 01:30	Dydd Gwener/Friday 10:00 - 01:30
Dydd Sadwrn/Saturday 10:00 - 01:30	Dydd Sadwrn/Saturday 10:00 - 01:30
<b>Gweithgareddau Trwyddedadwy / Licensable Activities</b>	
<b>Ffilmiau/Films: Dan do ac Awyr Agored :: Indoors and Outdoors</b>	<b>Ffilmiau/Films: Dan do ac Awyr Agored :: Indoors and Outdoors</b>
Dydd Sul/Sunday 11:00 - 00:00	Dydd Sul/Sunday 11:00 - 00:00
Dydd Llun/Monday 10:00 - 00:00	Dydd Llun/Monday 10:00 - 00:00
Dydd Mawrth/Tuesday 10:00 - 00:00	Dydd Mawrth/Tuesday 10:00 - 00:00
Dydd Mercher/Wednesday 10:00 - 00:00	Dydd Mercher/Wednesday 10:00 - 00:00
Dydd Iau/Thursday 10:00 - 00:00	Dydd Iau/Thursday 10:00 - 00:00
Dydd Gwener/Friday 10:00 - 01:00	Dydd Gwener/Friday 10:00 - 01:00
Dydd Sadwrn/Saturday 10:00 - 01:00	Dydd Sadwrn/Saturday 10:00 - 01:00
<b>Digwyddiadau Chwaraeon dan do/Indoor Sporting Events:</b>	<b>Digwyddiadau Chwaraeon dan do/Indoor Sporting Events:</b>
Dydd Sul/Sunday 11:00 - 00:00	Dydd Sul/Sunday 11:00 - 00:00
Dydd Llun/Monday 10:00 - 00:00	Dydd Llun/Monday 10:00 - 00:00
Dydd Mawrth/Tuesday 10:00 - 00:00	Dydd Mawrth/Tuesday 10:00 - 00:00
Dydd Mercher/Wednesday 10:00 - 00:00	Dydd Mercher/Wednesday 10:00 - 00:00
Dydd Iau/Thursday 10:00 - 00:00	Dydd Iau/Thursday 10:00 - 00:00
Dydd Gwener/Friday 10:00 - 01:00	Dydd Gwener/Friday 10:00 - 01:00
Dydd Sadwrn/Saturday 10:00 - 01:00	Dydd Sadwrn/Saturday 10:00 - 01:00
<b>Cerddoriaeth Fyw/Live Music: Dan do ac Awyr Agored :: Indoors and Outdoors</b>	<b>Cerddoriaeth Fyw/Live Music: Dan do ac Awyr Agored :: Indoors and Outdoors</b>
Dydd Sul/Sunday 11:00 - 00:00	Dydd Sul/Sunday 11:00 - 00:00
Dydd Llun/Monday 10:00 - 00:00	Dydd Llun/Monday 10:00 - 00:00
Dydd Mawrth/Tuesday 10:00 - 00:00	Dydd Mawrth/Tuesday 10:00 - 00:00
Dydd Mercher/Wednesday 10:00 - 00:00	Dydd Mercher/Wednesday 10:00 - 00:00
Dydd Iau/Thursday 10:00 - 00:00	Dydd Iau/Thursday 10:00 - 00:00
Dydd Gwener/Friday 10:00 - 01:00	Dydd Gwener/Friday 10:00 - 01:00
Dydd Sadwrn/Saturday 10:00 - 01:00	Dydd Sadwrn/Saturday 10:00 - 01:00

**Cerddoriaeth wedi ei Recordio/Recorded Music:  
Dan do ac Awyr Agored :: Indoors and  
Outdoors**

Dydd Sul/Sunday	11:00	-	00:00
Dydd Llun/Monday	10:00	-	00:00
Dydd Mawrth/Tuesday	10:00	-	00:00
Dydd Mercher/Wednesday	10:00	-	00:00
Dydd Iau/Thursday	10:00	-	00:00
Dydd Gwener/Friday	10:00	-	01:00
Dydd Sadwrn/Saturday	10:00	-	01:00

**Perfformiadau Dawns/Performance of Dance:**

Dydd Sul/Sunday	11:00	-	00:00
Dydd Llun/Monday	10:00	-	00:00
Dydd Mawrth/Tuesday	10:00	-	00:00
Dydd Mercher/Wednesday	10:00	-	00:00
Dydd Iau/Thursday	10:00	-	00:00
Dydd Gwener/Friday	10:00	-	01:00
Dydd Sadwrn/Saturday	10:00	-	01:00

**Cyflenwi Alcohol/Supply of Alcohol: Ar ac oddi  
ar yr Eiddo :: Both on and off the Premises**

Dydd Sul/Sunday	10:00	-	00:00
Dydd Llun/Monday	10:00	-	00:00
Dydd Mawrth/Tuesday	10:00	-	00:00
Dydd Mercher/Wednesday	10:00	-	00:00
Dydd Iau/Thursday	10:00	-	00:00
Dydd Gwener/Friday	10:00	-	01:00
Dydd Sadwrn/Saturday	10:00	-	01:00

Gwneir cais i amrywio'r Drwydded Eiddo.

Pan roddwyd y Drwydded Eiddo yn 2005, gosodwyd amodau a oedd yn destun Apêl a ddaeth i ben ar 27 Ionawr 2006. Ers y dyddiad hwnnw, yn dilyn fformatiau amrywiol y Drwydded Eiddo, bu cyfnodau o amser pan bu i'r drwydded fod yn aneglur ynghylch darpariaethau ei weithrediad ond mae'r cyfyngiad hanesyddol sy'n cyfyngu ar ddefnydd yr ardd gwrw bellach yn cael ei nodi nid yn ôl cyflwr ond o ran yr amseroedd sydd ar gael ar gyfer gweithgareddau trwyddedadwy er gwaethaf y ffaith nad yw'r defnydd yn dod o fewn y meini prawf hynny.

Gwneir cais i egluro'r sefyllfa ac ehangu'r defnydd posib o'r ardd gwrw.

Cynigir bod y datganiad a gynhwysir o dan gyflenwi alcohol ar safle ac oddi arno

**Cerddoriaeth wedi ei Recordio/Recorded  
Music: Dan do ac Awyr Agored :: Indoors and  
Outdoors**

Dydd Sul/Sunday	11:00	-	00:00
Dydd Llun/Monday	10:00	-	00:00
Dydd Mawrth/Tuesday	10:00	-	00:00
Dydd Mercher/Wednesday	10:00	-	00:00
Dydd Iau/Thursday	10:00	-	00:00
Dydd Gwener/Friday	10:00	-	01:00
Dydd Sadwrn/Saturday	10:00	-	01:00

**Perfformiadau Dawns/Performance of Dance:**

Dydd Sul/Sunday	11:00	-	00:00
Dydd Llun/Monday	10:00	-	00:00
Dydd Mawrth/Tuesday	10:00	-	00:00
Dydd Mercher/Wednesday	10:00	-	00:00
Dydd Iau/Thursday	10:00	-	00:00
Dydd Gwener/Friday	10:00	-	01:00
Dydd Sadwrn/Saturday	10:00	-	01:00

**Cyflenwi Alcohol/Supply of Alcohol: Ar ac  
oddi ar yr Eiddo :: Both on and off the  
Premises**

Dydd Sul/Sunday	10:00	-	00:00
Dydd Llun/Monday	10:00	-	00:00
Dydd Mawrth/Tuesday	10:00	-	00:00
Dydd Mercher/Wednesday	10:00	-	00:00
Dydd Iau/Thursday	10:00	-	00:00
Dydd Gwener/Friday	10:00	-	01:00
Dydd Sadwrn/Saturday	10:00	-	01:00

Application is made to vary the premises Licence.

On grant of the Premises Licence in 2005, conditions were imposed which were subsequently subject to an Appeal which was concluded on 27<sup>th</sup> January 2006. Since that date, following various formats of the Premises Licence, there have been periods of time when, the licence has been unclear as to the provisions of its operation but the historic restriction limiting use of the beer garden area are now set out not by way of condition but in respect of the times available for licensable activities despite, consumption not falling within that criteria.

Application is made to clarify the position and extend the potential use of the beer garden.

It is proposed that the recital contained under supply of alcohol on and off premises:

<p>“Gardd gwrw (yfed yn unig) Dydd Llun i Ddydd Sul 11:00 i 21:00 awr”</p> <p>Cael ei ddileu a chael amod o dan Atal Niwsans Cyhoeddus yn ei le:</p> <p>“Ni fydd mynediad cyhoeddus (ac eithrio at ddibenion gwagio mewn argyfwng) o’r ardd gwrw rhwng 23:00 ac 08:00”.</p> <p>Cynigir bod y geiriad yn nodi yn glir gweithrediad a ganiateir yn yr ardd gwrw. Cynigir na fydd defnyddio'r ardd gwrw tan 23:00 yn arwain at niwsans cyhoeddus yn codi.</p> <p>Mae ychwanegu amodau er mwyn monitro lefelau sŵn posibl fel a ganlyn.</p> <p>“Am gyfnodau rhwng 21:00 a 23:00 pan fydd yr ardd gwrw yn cael ei defnyddio, dylid cynnal gwiriadau bob awr a'u recordio, pe bai lefelau sŵn yn glywadwy uwchlaw sŵn cefndir, yna cymerir camau i liniaru sŵn a gynhyrchir yn y ardal gardd gwrw ”</p> <p>“Dylid cadw cofnodion o'r fath am gyfnod o 6 mis ac ar gael i'w harchwilio i'r Heddlu a Swyddogion Trwyddedu.”</p> <p>Yn ychwanegol, cynigir y dylid dileu'r naratif o dan Atodiad 2 yn gyffredinol heb ddarparu unrhyw amodau y gellir eu gorfodi ond mae'n ymwneud yn syml ag amser trosi'r drwydded yn 2005.</p> <p>Ni wneir cais i newid yr oriau gweithredu, yr oriau o weithgaredd trwyddedadwy na'r amodau a gymeradwywyd ar y drwydded. Credir, trwy ychwanegu'r ddau amod pellach, y gellir hyrwyddo'r amcan trwyddedu o atal niwsans cyhoeddus.</p>	<p><i>“Beer garden (drinking only) Monday to Sunday 11:00 to 21:00 hours”</i></p> <p>Be deleted and be replaced with a condition under Prevention of Public Nuisance as follows:</p> <p><i>“There shall be no public access (save for purposes of emergency evacuation) of the beer garden between 23:00 and 08:00”.</i></p> <p>It is proposed that the wording clearly identifies the permitted operation of the beer garden. It is proposed that use of the beer garden until 23:00 hours will not result in public nuisance arising.</p> <p>The addition of conditions so as to monitor potential noise levels are as follows.</p> <ul style="list-style-type: none"> <li>• <i>“For periods between 21:00 and 23:00 when the beer garden is in use, checks to be undertaken at hourly intervals and recorded, should noise levels be audible above background noise then, steps shall be taken to mitigate noise generated within the beer garden area”</i></li> <li>• <i>“Such records to be retained for a period of 6 months and be available for inspection to the Police and Licensing Officers.”</i></li> </ul> <p>Additionally, it is proposed that the narrative under general at Annex 2 should be deleted providing no enforceable conditions but simply relates to the time of conversion of the licence in 2005.</p> <p>No application is made to alter the hours of operation, hours of licensable activity nor the conditions endorsed upon the licence. It is believed that with the addition of the two further conditions, the licensing objective of prevention of public nuisance can be promoted.</p>
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## 2. Measures recommended by the applicant to promote the licensing objectives

2.1 The measures recommended by the applicant are identical to the current licence, except for the additional conditions recommended above in clause 1.3.

2.2 Full details of the control measures in relation to the licensing objectives can be found in the operating schedule for the current licence in the appendix to the report.

### **3. CONSULTATION**

3.1 The application was consulted upon and the following responses were received -

<b>RESPONSES</b>	<b>REPRESENTATIONS</b>
Local resident	Letter - objection
Public Protection Department	Objection
North Wales Police	No objection
Council Members	Two e-mails of objection

#### **3.2 Neighbouring resident**

A letter of objection was received from a neighbouring resident; with comprehensive details evidencing noise problems that have been associated with the property since 2001. It is noted that Marston's, the brewery company that owned the property at the time, commissioned a noise report and acted on the recommendations to make significant improvements in order to control the impact of noise from activities inside the building.

Furthermore, it is noted that there has been an improvement in noise control following the improvements; but there have been a few instances where a noise problem has arisen because the relevant licence conditions had not been implemented effectively. It is noted that significant noise problems have arisen in 2018 and that the resident and other neighbours have considered taking legal action.

The resident notes that use of the beer garden is the main source of noise problems that have arisen more recently since the beer garden was included on the licence. The resident accepts that it is reasonable to expect some noise when the beer garden is in use; but notes that there is a risk that the noise level will increase significantly by allowing the extension of the beer garden's hours of use to 23:00; which is likely to make the property more popular with customers.

The resident suggests that consideration can be given to compromising on the hours the beer garden is allowed to be used; as well as ensuring that effective and suitable licence conditions are in place to control the noise. It is recommended that licensed activities such as live music and entertainment should not be allowed outside as this will cause a noise nuisance. It is also recommended that access to the beer garden is controlled in terms of numbers, and that a specific area for smokers is ensured. It is noted that the proposed conditions offered by the applicant in respect of hourly checks are not going to ensure noise control.

#### **3.3 Public Protection Department**

A letter was received expressing objection to the application for a variation of the licence on the grounds that the service had received noise complaints in relation to the premises; and on the grounds that the proposed new conditions are not going to be sufficient in terms of noise control to ensure that the licensing objective of preventing a public nuisance is not undermined.

#### **3.4 North Wales Police**

There was no evidence from the Police to object to the application; nor were there observations.

### **3.5 Local members**

Two e-mails from local members have been received objecting to the application on the grounds that the extension of the beer garden's hours of use will cause a noise nuisance, and that the property is located in the centre of a residential area. One of the members has confirmed that there have been noise complaints while the property was in the applicant's ownership; and that a history of poor management has led to noise problems. The members do not feel that the recommended measures will ensure that noise is controlled.

## **4. UPDATE**

- 4.1** You will remember that the hearing for this application has been postponed since the 25th of February. The applicant noted that sufficient time had not been given in accordance with the regulations; to consider the representations of objectors and to allow for attempts at mediation on the proposed conditions to address the concerns of the objectors in respect of noise nuisance.
- 4.2** The applicant also noted that the official notice of hearing had not been received within the statutory time period; therefore it was agreed to postpone the hearing if it was not possible to progress the mediation process to its conclusion in good time .
- 4.3** At the time of writing this update ; it can be confirmed that the applicant continues to attempt to work towards amending the conditions with a view to attempting to reach an agreement with the responders.

## **5 RECOMMENDATION**

It is recommended that this Committee **refuse the application** on the basis of the evidence of historical noise complaints, the representations received; and in accordance with the requirements of the Licensing Act 2003.