
CENTRAL LICENSING SUB-COMMITTEE, 12.01.12

Present: Councillor Evie M. Jones (Chairman)
Councillors W. Tudor Owen, Ieuan Roberts

Also present: Sion Huws (Propriety Officer), Amlyn ab Iorwerth (Licensing Manager), Gwenan M. Williams (Public Protection Manager), Moira Duell-Parri (Environmental Health Officer, for application 2) and Gwyn Parry Williams (Committee Officer).

1. 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: Mr Ian Williams (Licensing Co-ordinator, North Wales Police)

On behalf of Star Kebab: Mr Mehmet Kabadayi and Mrs Elaine Kabadayi (Licence Holders)

Local Member: Councillor Dewi Llewelyn

Submitted – the report of the Licensing Manager, providing details of the application submitted by North Wales Police to review the licence of Star Kebab, 323 High Street, Bangor. They were requesting the Licensing Authority to impose additional conditions on the licence and also to reduce the hours the premises were open to the public. The Fire and Rescue Service had no observations to offer on the application.

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 licence holder, 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 licence holder
- v. The Applicant and licence holder, or his representative, were given an opportunity to summarise their case

On behalf of the Police, Sergeant Bill Coppack informed the committee that the City of Bangor experienced an influx of students during the second and third week of September 2011. The students were starting or returning to the university during what was called 'Freshers Week'. Bangor's night-time economy was a great attraction for these students, some of whom were as young as 17 years old. North Wales Police were aware that the licensing authority was taking

its responsibilities for these students and everyone frequenting the licensed premises, seriously.

He noted that this application was being submitted in light of the above information and the relevant CCTV evidence which showed the Star Kebab's intentional negligence in terms of non-compliance with the conditions imposed by the authority in 2005 and the officer drew the attention of the Sub-committee to those conditions. There was evidence to show that the premises did not have sufficient suitable containers to store waste and piles of waste had been created by failure to comply with this condition of the licence. In addition, by means of a DVD, the officer referred to the complete failure of the premises to keep control of people on the street outside the premises along with keeping an eye on nearby streets as stipulated in the conditions of the licence. Neither was there any sign of supervision outside the premises to prevent people from eating on the street there. The officer provided details of several incidents of disorder at the premises which showed that nobody was keeping control of customers inside the premises. He also referred to 18 offences that had taken place in, or associated with, the premises since 1 January 2010. He noted that the premises had never complied with one of the conditions of the licence that stipulated that it was a requirement to provide the Police with CCTV film footage when a request was made for it. The failure of the premises to conform to this condition had prevented the Police from investigating at least six assaults and incidents of damage. The officer noted that on two occasions it was a member of staff that had been injured and there had been one incident of damage to the premises. The officer referred to an assault at 02.42 on 23 September 2011, when one of the customers fractured his nose during trading hours. In relation to this case, the officer noted that he had been part of the investigation and he had realised at that time that officers had difficulties in obtaining CCTV evidence regarding offences that took place in the premises. He noted that after investigating the previous problems and in order to gather evidence on this occasion, he received a warrant from the Magistrates' Court, under Section 8 of the Police and Criminal Evidence Act 1984, to enter and inspect the premises. Then it was possible to enter the premises and the CCTV system's hard drive was seized. This was inspected by staff of the North Wales Police imaging unit and it became clear that the system only recorded the previous seven days and, therefore, once again, evidence of this offence and other offences had been lost.

The officer noted that the premises were also in breach of the licence conditions in terms of trading hours because customers had been seen leaving the premises with take-away meals at 03.40 on 23 October 2011, which was after the closing time.

The officer noted that these premises had the longest opening hours permitted on a licence for the provision of late night refreshments in Bangor. This created its own problems, not because the licence permitted the premises to open until late but because it coincided with the closing hours of local night clubs. When the night clubs which stayed open the latest closed, the premises in question was the only place still open and this monopoly meant that crowds of people who had been drinking gathered around one small shop and this lead ultimately to incidents of crime and disorder. The officer requested for the conditions referred to in the report to be imposed on the licence, namely, to restrict the opening hours; to employ a door supervisor registered with the Security Industry Authority; to keep a register of door supervisors; CCTV provision and to submit the CCTV evidence. The conditions were discussed with the Licence Holder and he agreed with them except for the condition restricting the opening hours.

It was further noted, since the application had been submitted, the premises had employed a door supervisor and on the nights when those supervisors were employed, it was noticed that the situation had improved. However, there had been two incidents of assaults during December 2011 and there was no door supervision when those incidents took place.

The licence holder replied to some of the points raised, namely:-

- The Police were asked to remove and arrest the person who had been creating problems when a member of staff had been injured at the premises but it appeared that this did not take place.
- Damage had been caused to the window of the premises on more than one occasion and CCTV evidence had been submitted to the Police following those incidents.
- There had been problems with the CCTV system at times. Now, five CCTVs had been installed within the premises and two installed outside and he hoped that this would improve the situation.
- As the premises was currently open until 03.00 on Friday and Saturday evenings, business was created by those who frequented some of the pubs nearby which closed a little earlier.
- He was unwilling to accept the condition to close the premises an hour earlier because the future of some of the staff would be at risk. He asked for the existing conditions of the licence to be retained for, say three months, to prove that the situation had improved.
- The incident when an individual's nose had been fractured was as a result of an argument that had started elsewhere.
- The premises sold much food to students.

The relevant parties left the meeting and the application was discussed by the Sub-committee members, considering all evidence submitted and giving specific attention to the principles of the act, namely:

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

RESOLVED to modify the conditions of the licence by adding the following conditions:

a) That the hours these premises are open and authorised to hold activities that require a licence are reduced as follows -

- **Sunday to Thursday – 23.00 until 02.00**
- **Friday and Saturday – 23.00 until 02.30**

b) That the premises employs door supervisors registered with the Security Industry Authority (SIA) from 23.00 until the business closes every Thursday, Friday and Saturday evening and on the Sunday prior to any Monday Bank Holiday, to comply with the premises' licence conditions.

c) That the premises keep a register, obtained from the local authority, of every door supervisor employed to work in the premises and that the register is available to be inspected on request by any Police Officer or anyone who represents North Wales Police or any authorised member of the local authority.

Ch) That the premises installs and maintains a digital CCTV system that is fully operational that records every part of the premises open to the public. The system must include at least one camera that records the facial features of everyone that comes into the premises. The system must record and store images for at least 31 days on a format that will allow the retrieval of the images on request.

d) At the request of any Police Officer, or anyone else representing North Wales Police, or any authorised member of the local authority, the staff of the premises will transfer digital images in the form of a disk, along with any software necessary for them to be viewed, to the officer or the representative that requests them immediately. If it is not possible, for whatever reason, to transfer the images at the time of the original request, the premises will send the images within 24 hours of receiving the request to the nominated office of that authority, which in the case of North Wales Police, is Bangor Police Station.

ii) To suggest to the Police that they should monitor the premises to ensure that the

CCTV system is operating.

The Propriety Officer reported that he would aim to send a letter within five working days, informing the applicant of the Sub-committee's decision, and to inform him of the right to appeal against the decision within 21 days of the date of that letter.

2. APPLICATION TO VARY THE PREMISES LICENCE - ROYAL OAK, LLANLLECHID**Others invited to the Meeting:**

On behalf of the Royal Oak, Llanllechid: Mr John Coen and Mr Michael Witten (Solicitors on behalf of the applicants) and Mrs Alison Jones (Designated Premises Supervisor).

Submitted - the report of the Licensing Manager, providing details on the application on behalf of the Royal Oak, Llanllechid, to vary the licence to permit live music and dancing and to extend the hours for recorded music and the sale of alcohol. Each activity is requested to be between the hours of 11.00 and 23.00 on Monday to Wednesday; between the hours of 11.00 and 01.00 Thursday to Saturday and between 12.00 and 22.30 on Sunday. He noted that the notice which had appeared in the press and on the site referred to extending the current opening hours also but the applicant had not completed the relevant section of the application form, namely paragraph O, with regard to this. However, part 3 of the application form (variation) referred to extending the hours and in view of this he was of the opinion that paragraph O should be included as part of the application.

It was reported that, following the appropriate consultation period, neither the Police nor the Fire and Rescue Service had objections to the application. However, the Environmental Health Section had conditions to be included on the licence.

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 licence holder, 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 licence holder.
- 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.

Supporting the application, the solicitor on behalf of the Designated Premises Supervisor apologised that paragraph O of the application had not been completed but it had been

completed in part 3 of the application form. He referred to the permitted hours on the existing licence and he provided details of the hours that were requested now. He confirmed that a CCTV system had already been installed in the premises. He noted that one of the conditions on the existing licence was that children were not permitted in the premises and he was eager to delete this condition from the licence and impose a condition where children were not permitted on the premises after 22.00. He noted further that a shop was located adjacent to the premises and it closed daily at 19.00 and consequently requests were received from children to purchase products such as crisps and soft drinks from the pub.

He referred to the fact that the Designated Premises Supervisor had been employed at the premises since August 2009 and she was familiar with the area and the type of customers that frequented the premises. He was of the opinion that the premises were well run and of a high standard. He noted that neither the Police nor the nearby residents had an objection to the application. He provided details of the various weekly activities held on the premises. He confirmed that it was not intended to convert the premises into a night club. Regarding the observations of the Environmental Health Section, it was understood that the section had not received complaints about the premises during the previous year and this proved that the premises were well run. If entertainment was to be provided on the premises, then it was assured that the music would be turned down and there would be no detrimental impact on the amenities of the residents of neighbouring houses. Signs had been placed near the doors of the premises requesting customers to leave quietly. Reference was made to the four conditions that the Environmental Health Section was eager to impose on the licence. In terms of the first condition regarding noise levels, he was of the opinion that it was excessive because the fact that the noise was audible in a nearby property did not necessarily mean that it was tantamount to a public nuisance. He referred also to the relevant paragraphs of Section 102 of the Government's Licensing Guidelines and the relevant sections of the Council's Licensing Policy which referred to protecting residents in the vicinity of the premises. However, he agreed with the second condition, namely that the doors and windows of the premises were to be closed during entertainment, say after 21.00. With regard to condition 3 and 4, he was of the opinion that they were illegal and inappropriate as they placed a 'penalty' for the breach of the first condition prior to any breach taking place. They fettered the discretion of the Sub-committee in future and they should consider any breach of condition on the basis of the circumstances at that time. He referred also to the cost of installing a noise control device.

The consultees were invited to support any observations submitted by letter and the Environmental Health Officer reported that the section did not have any objection to the application and no complaints had been received regarding the premises. It was noted that it appeared from the application that the type of entertainment would be changing to live music which required more control by the Designated Premises Supervisor. There were residential houses in close proximity to the premises and in view of that he was of the opinion that these conditions should be imposed in order to satisfy one of the objectives of the Licensing Act. He noted that the first condition was a general condition which the applicant could work to achieve. There was a need for a more robust control in terms of noise level because of the close proximity of the houses and it was expected that the doors and windows of the premises would be closed. He was of the opinion that conditions 1 and 2 were valid. He responded to the applicant's argument that three pieces of relevant legislation provided the means of dealing with any possible problems. In relation to conditions 3 and 4, these were grounds for responding should complaints be received. The purpose of these conditions was to avoid having to undertake a review involving the premises.

Regarding the condition prohibiting children from the premises, the Licensing Manager informed the committee that it appeared that the applicant's agent had asked for this condition to be imposed on the licence in 2005.

The relevant parties left the meeting and the application was discussed by the Sub-committee members, considering all evidence submitted and giving specific attention to the principles of the act, namely:

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

RESOLVED to vary the premises licence of the Royal Oak, Llanllechid as follows -

a) To permit live music (paragraph E); Recorded music (paragraph F); Provision of facilities for dancing (paragraph J); Provision of facilities for entertainment of a similar description to that falling within paragraphs I or J (K); and sale of alcohol (paragraph M):

- Monday to Wednesday – between 11.00 and 23.00 (as in the existing licence)
- Thursday to Saturday – between 11.00 and 01.00
- Sunday - between 12.00 and 22.30 (as in the existing licence)

b) To permit the premises to be open to the public (paragraph O) as follows -

- Monday to Wednesday – between 11.00 and 23.30 (as in the existing licence)
- Thursday to Saturday – between 11.00 and 01.30
- Sunday - between 12.00 and 23.00 (as in the existing licence)

c) To remove the condition on the licence that prohibits children from the premises

g) To impose the following conditions outlined by the Environmental Health Officer -

i) The noise levels of musical instruments and/or amplification systems shall be kept to a level which is inaudible in any neighbouring house (with the windows of the house partly open) during the following hours:

- Monday to Saturday - between 21.00 and 01.00
- Sunday – between 21.00 and 23.00

(The above to be amended to include an additional hour on the days noted as part of the licence)

On all other occasions, the level of noise over any five minute period as measured using the parameter L_{Aeq} outside any adjacent residential property shall not exceed 5dB(A) above the background noise level. For the purpose of this condition, the background noise level is described by using the L_{A90} parameter, T as defined in the British Standard 4142; 1997. In addition, any measurement to establish the sound level in L_{Aeq} , 5 minutes shall also follow the guidance contained in the standard.

ii) To prevent noise or vibration emanating from the premises, doors and windows at the premises shall be kept closed during the entertainment except to allow people access and egress from the premises.

The Propriety Officer reported that he would aim to send a letter within five working days, informing the applicant of the Sub-committee's decision, and to inform him of the right to appeal against the decision within 21 days of the date of that letter.

The meeting commenced at 11.00pm and concluded at 1.40pm.