
CENTRAL LICENSING SUB-COMMITTEE 23.02.2021

Present: **Councillors:** Elfed Williams (Chair), Anwen Hughes and John Brynmor Hughes

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

1. APOLOGIES

None to note

2. DECLARATION OF PERSONAL INTEREST

None to note.

3. URGENT ITEMS

None to note

4. APPLICATION FOR REVIEW OF PREMISES LICENCE – The Waverley Hotel, Bangor

Representing North Wales Police:

Inspector 2600 Chris Hargrave
PCSO Lis Williams

Representing the premises:

Ms Hayley Meek Licence holder for The Waverley Hotel, Bangor
Michael Strain Solicitor

Others invited:

Moira Duell-Parry – Environmental Health Officer
Robert Taylor – Licensing Enforcement Officer

The Chair welcomed everyone to the meeting.

The Chair highlighted that each party would be allowed up to ten minutes to make their observations.

a) The Licensing Department's Report

Submitted – the report of the Licensing Manager providing details of an application by Inspector Chris Hargrave on behalf of North Wales Police for a review of the premises licence for The Waverley Hotel, Bangor. The application had been made because of

- failure to comply with the premises licence conditions in respect of CCTV
- failure to request proof of age from individuals who appear to be under 18
- the failure of the licence holder to maintain control in respect of the Covid-19 crisis

The report highlighted that the Police had noted concern by the Public about the premises and its lack of management. There was also an on-line petition calling for the premises to

be closed down, which 'hundreds' of people had signed.

The manager reported that the Police had considered a proposal for the licence holder to submit an application for a Minor Variation to the premises licence. However, due to the circumstances, and the repeated failures of the licence holder to control the situation, the Police were eager to submit the application to the Sub-committee in order to secure a full review, and recommend amendments to the licence.

Attention was drawn to the issues that the Police had made recommendations upon to the licence holder. It was reported that there had been correspondence between the licence holder, the Police's licensing officer, and the Council because of a failure to implement the recommendations – a recommendation to ensure that door supervisors were present on the premises every Friday and Saturday night was generally ignored. It was argued that this should be included as a condition on the licence to enable compliance-monitoring.

The Manager referred to the problems that the Police had found, together with the licence conditions recommended by them for inclusion on the premises licence.

She drew attention to the responses that had been received during the consultation period. It was noted that the Public Protection Unit, the Licensing Enforcement Officer and the Fire and Rescue Service had presented observations and their support for the review.

The Public Protection Unit highlighted support for the review based on the licensing objectives of public protection and the prevention of public nuisance. The Licensing Enforcement Officer's concerns about disregard for social distancing rules under Covid restrictions were also grounds for supporting the review. The Fire Service had highlighted fire safety issues that required addressing by the licence holder.

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.

It was recommended that the Sub-committee considered and allowed a review of the premises licence by North Wales Police.

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 Police were invited to expand on the application
 - Members of the Sub-committee were given an opportunity to ask questions of the Police
 - The licence holder, or their representative, was invited to respond to the observations
 - Consultees were given an opportunity to present their observations
 - Members of the Sub-committee were given an opportunity to ask questions of the licence holder and consultees
- b) In expanding on the application, the Inspector noted that he was happy with what had been presented. He added that the CCTV system was a high-quality system, but it did not offer full visibility of the entrance or of areas within the public house. He noted that parasols on the tables in the car park created an obstruction and prevented clear visibility. He suggested that he would be happy to discuss and advise the licence holder on how to improve the CCTV provision. In relation to under-age drinking, the Inspector stated that a representative from The Waverley only very rarely attended the Pubwatch meetings. He noted that there was general lack of management of the premises, and that they were keen to see compliance and order.

- c) In response to questions by the Sub-committee regarding compliance before the lockdown, the Inspector noted that there was compliance with the closing hours, but people tended to be slow leaving the premises. He added that no complaints had been received regarding non-compliance with closing hours.
- ch) The consultees in attendance took the opportunity to expand on the observations they had submitted by letter.

The Solicitor representing Ms Meek argued the following:

- There had not been a serious incident on the premises
- No incident had been referred to the Court during 2020
- The licence holder had worked with the Police and provided CCTV recordings
- A third party individual was harassing Ms Meek, and the Police were aware of this
- He questioned the existence of the petition and whether the names on the petition were real or fake ones
- The CCTV was of reasonable standard
- The use of fake ID cards was a problem in Bangor
- The licence holder proposed using door supervisors at busy times only
- The names of individuals who had been banned by Pubwatch were circulated, but not their photographs

Ms Meek added

- That she did comply with closing hours
- That the costs of employing supervisors were high
- That many of the allegations were false
- That she cooperated with the public, the Police and the Council to run a good business
- That music was not a problem caused by the premises – the music was probably coming from a gym nearby
- That the premises had four licence holders.

Environmental Health Officer,

- A notice had been placed on the premises following evidence released by the Police of a breach of Covid-19 regulations.
- The Unit was continuing to advise Ms Meek on ensuring public safety
- The Unit intended to visit the premises to ensure compliance when Covid restrictions allowed
- The Unit was supporting Ms Meek in order to ensure the success of the industry

Licensing Enforcement Officer

- He had visited the premises (16 September 2020) jointly with the Police's Licensing Officer following complaints about noise from loud music coming from the building during a time when Covid restrictions were in force
- The licence holder felt frustrated because premises licence holders in Upper Bangor would send banned individuals down to The Waverley
- He had referred complaints about drugs to the Police
- Another visit on 25 September had revealed that a Covid Risk Assessment had not been completed
- Further visits and correspondence following complaints together with video evidence that had been shared on social media, showing a lack of compliance with Covid social distancing rules.

Reference was made to the observations received from the Fire Service

- d) In closing his case, the Inspector noted that he was happy with the contents of the written report, that the recommendations were clear and that he was happy to work with the premises licence holder to secure significant improvements.
- dd) The Police, the licence holder along with her legal representative, the Licensing Manager, the Environment Officer and the Licensing Enforcement Officer all withdrew from the meeting whilst the members of the Sub-committee discussed the application
- e) In reaching its decision the Sub-committee considered the Police's verbal report (including photographic and video evidence), written observations submitted by the interested parties, the Licensing Officer's report as well as the verbal observations received during the hearing. The Council's Licensing Policy and the Home Office guidelines were also 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 a review of the licence, amending Annexe 3 of the licence as follows:

CCTV – delete point 1 and replace with the following:

"A digital CCTV system shall be installed and work to the satisfaction of the Police and Local Authority, to monitor both the inside and outside of the premises. For the avoidance of doubt, the outside of the premises includes but is not limited to the premises car park and outside seating areas."

Door Supervisors – delete the current paragraph and replace with the following:

"The premises shall employ a minimum of 2 door supervisors, appropriately accredited by the Security Industry Authority, to be present on the premises every Friday and Saturday night from 18:00 until 30 minutes after the final hour of being open to the public. This requirement will also apply to any organised events where it is anticipated that a higher number of customers will attend the venue."

Insert 'Challenge 25' section

1. The premises shall adopt and operate a Challenge 25 policy, where customers who appear to be under the age of 25 will be required to provide proof of age when purchasing alcohol, otherwise the sale must be refused.
2. Acceptable forms of identification will include a passport, a current photocard driver's licence, or other identification as provided for by the Licensing Authority in its Licensing Policy.
3. The premises shall install signs notifying customers of the Challenge 25 policy
4. The premises shall train all relevant staff on the policy and keep a written record of that training.
5. The premises shall keep a written record of refused sales in a refusals book.
6. These written records shall be available for inspection on request by the Responsible Authority."

It was noted that most of the Police's recommendations regarding CCTV were already in force in Annexe 3 of the current licence.

Conditions, notices or orders in relation to compliance with Covid-19 regulations were not added, since a separate legal framework applied to the enforcement of these provisions.

Conditions relating to fire safety were not added, since a separate legal framework applied to the enforcement of fire safety standards.

All parties were thanked for making representations on the application. The Sub-committee gave due consideration to all the representations.

The Police submitted an application for a review, broadly based on 3 grounds:

1. The premises' failure to comply with mandatory Condition 1, paragraph 3 of the current licence (in relation to adopting a policy for checking age)
2. The premises' failure to comply with conditions in Annexe 3 of the current licence (relating to CCTV)
3. The general failure of the premises to maintain an orderly public house

In support of the under-age drinking ground, the Police claimed that alcohol had been served to at least two individuals who were under the age of 18 on 19 September 2020. The individuals had remained on the premises for a total of 21 hours. The Police showed a CCTV clip as evidence of these incidents.

In support of the CCTV ground, the Police stated that many areas were not covered appropriately. The car park and outside seating area were not covered, and the latter was hidden by parasols. These failures became apparent when the Police had asked to view a CCTV clip, following a serious assault on the premises on 19 September 2020. There was no recording of the incident because of a lack of appropriate CCTV coverage.

For the ground of public order, the Police claimed that there had been several incidents of failure by the premises:

- (i) On 19 September 2020, two individuals who were barred under the Pubwatch scheme at the time had been served by the premises. The individuals concerned had been identified in a CCTV clip.
- (ii) On 19 September there had been several breaches of the Health Protection (Coronavirus Restrictions) (Number 2) (Wales) Regulations 2020, as shown in CCTV clips. This led to Gwynedd Council's Environmental Health Section issuing a premises improvement notice on 23 October 2020, which included:
 - failure to adhere to 2m social distancing, as evidenced by the licence holder frequently embracing people and socialising with different people in the bar area;
 - failure to comply with guidelines relating to 6 people from the same household per table, as evidenced by the licence holder herself sitting at a table with 10 people;
 - customers queuing at a busy bar without any restriction on numbers or any social distancing;
 - no evidence of hand washing/use of sanitiser by customers or staff;
 - no evidence of test and trace information;
 - the layout of the tables did not support social distancing;
 - staff not wearing masks
 - customers not wearing masks when moving around the public house until they were sat at a table reserved for them.

- iii) There had been incidents of fighting/unruly behaviour on 16 August 2020 (20+ people involved), 16 September 2020 (a fight between two men) and 19 September 2020 (people fighting outside).

Consideration was given to the observations of the Licensing Enforcement Officer, who confirmed that between 23 September 2020 and 15 October 2020 he had received messages from members of the public alleging drug misuse on the premises, and had also seen social media posts revealing non-compliance with social distancing requirements and under-age drinking.

Observations were also provided by the Environmental Health Officer, giving details of the enforcement actions that the service had issued on the premises with regard to the Covid-19 regulations.

In response, Ms Meek (the premises licence holder) claimed through her solicitor (Mr Strain) that in relation to under-age drinking, the premises had suffered from the use of fake ID cards. In respect of the ground of CCTV, the licence holder stated that the provision was appropriate, but that improvements would be made. In respect of the grounds of public order, the licence holder claimed that other licensed premises in Upper Bangor would send troublesome customers down to her premises, however, she also accepted that the incidents should not have happened.

Having weighed up all representations, the Sub-committee found that all the grounds upon which the Police relied for conducting a review, were proven. The Sub-committee was satisfied that the incidents of under-age drinking breached the licensing objective of protecting children from harm. A lack of adherence in terms of CCTV constituted a breach of all four of the licensing objectives, whilst all the incidents under the grounds of public order (collectively and individually) breached the licensing objectives of preventing crime and disorder and ensuring public safety.

Whilst the Sub-committee noted that the licence holder had accepted that the incidents relating to public order should not have happened, the Sub-committee was not convinced or impressed by the claim that the premises' problems had come about as a result of premises in Upper Bangor encouraging unwelcome customers to attend the Waverley. No evidence had been submitted and even if the claim was true, it would be irrelevant: responsibility for management of the premises lies solely with the licence holder.

The Sub-committee noted that there had been reference to a petition that apparently had 2500 signatures, calling for the premises to be closed down. It was not clear why the petition had been referenced, as it did not form part of the Police's case. A copy of the petition had not been provided. It was reported that the Sub-committee's decision must be based on evidence of specific incidents that had undermined the licensing objectives, and although the existence of the petition was noted, that in itself it did not provide evidence of individual incidents. In the circumstances, the Sub-committee did not take account of the petition for the purpose of reaching a decision.

In the circumstances, the Sub-committee was satisfied that the contents of the added conditions as outlined above on the licence were agreeable for promoting the licensing objectives. The Sub-committee was satisfied that the application was in accordance with the four licensing objectives, and the application for a review was approved.

The Solicitor reported that the decision would be confirmed formally by letter to everyone 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 receives the letter (or a copy of the letter) confirming the decision.

The meeting commenced at 10.00am and concluded at 12.15pm