

<b>COMMITTEE:</b>	<b>CENTRAL LICENSING SUB-COMMITTEE</b>
<b>DATE:</b>	<b>29 July 2022</b>
<b>TITLE:</b>	<b>APPLICATION FOR PREMISES LICENCE - LAND AND SEAFOOD BAR</b>
<b>PURPOSE:</b>	<b>FOR DECISION</b>
<b>AUTHOR:</b>	<b>HEAD OF ENVIRONMENT</b>

## **1. APPLICATION RECEIVED**

- 1.1 An application is attached for a premises licence for Land and Seafood Bar, the area outside Abersoch Land and Sea, Royal Garage, Abersoch, LL53 7AH, by Zobra Limited; of Manchester Hall, 36 Bridge Street, Manchester. The applicant is seeking a premises licence for a restaurant outside the building of the Abersoch Land and Sea boat sales and repairs business. The location of the proposed licensed plot is shown on Plan 1, which is attached with the application. Plan 2 shows the location of the airstream catering van where it is intended to serve food and drink to customers on the tables and chairs which have been already sited in the location. Plan 3 shows the location of the toilets on the site. Permission is sought for the sale of alcohol from 11:00 until 21:30, and within the property; seven days a week, and an additional half an hour is requested in order to give customers time to finish and leave.
- 1.2 No request is made for permission to hold regulated entertainment; but should the licence be approved, the applicant would be able to take advantage of the exceptions under the Live Music Act 2012 to play amplified music until closing time at 22:00.
- 1.3 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.

See the attached table for details of the proposed hours:

### **Oriau Agor / Opening Hours:**

Dydd Sul/Sunday	11:00 - 22:00
Dydd Llun/Monday	11:00 - 22:00
Dydd Mawrth/Tuesday	11:00 - 22:00
Dydd Mercher/Wednesday	11:00 - 22:00
Dydd Iau/Thursday	11:00 - 22:00
Dydd Gwener/Friday	11:00 - 22:00
Dydd Sadwrn/Saturday	11:00 - 22:00

### **Gweithgareddau Trwyddedadwy / Licensable Activities:**

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

Dydd Sul/Sunday	11:00 - 21:30
Dydd Llun/Monday	11:00 - 21:30
Dydd Mawrth/Tuesday	11:00 - 21:30
Dydd Mercher/Wednesday	11:00 - 21:30
Dydd Iau/Thursday	11:00 - 21:30
Dydd Gwener/Friday	11:00 - 21:30
Dydd Sadwrn/Saturday	11:00 - 21:30

## **2. Measures recommended by the applicant to promote the licensing objectives**

- 2.1 The applicant has not included measures to promote the licensing objectives in part M of the application; instead, it includes a proposed Operating Schedule and Dispersal Policy as a part of the application (see appendix).
- 2.2 It is suggested that members of the Committee challenge the applicant in terms of how they intend to implement all of the recommendations noted in the Operating Schedule and the Dispersal Policy, considering that the business operates outdoors, in the curtilage of another busy business. See below a summary of some of the recommended measures -

- A CCTV system is in operation
- Competent door supervisors will be employed in accordance with the Risk Assessment of the need that will be undertaken by the Designated Premises Supervisor.
- Open containers of alcohol will not be permitted to be taken off the premises
- Training to manage underage sales - with refusals being recorded in a register
- Regular safety checks undertaken by staff
- Work with the Fire Authority
- Noise from amplified music or voices not to cause a public nuisance to nearby residents
- Rubbish to be cleared off the premises on a regular basis
- Customers who ignore signs or an order to quieten down will be asked to leave the premises or move indoors
- A Dispersal Policy will be implemented - and customers will be encouraged to leave gradually and quietly, and not convene outside the premises.
- The contents of bins will not be transferred into skips between 23:00 and 07:00 in the morning.
- A 'Challenge 25' policy will be implemented
- Staff training on underage sales
- Notices to be displayed regarding acceptable types of ID cards
- Notices to be displayed in prominent locations noting that a 'Challenge 25' Policy is being implemented

See full details of the recommended measures attached with the application in the Operating Schedule and Dispersal Policy

## **3. CONSULTATION**

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

<b>RESPONSES</b>	<b>REPRESENTATIONS</b>
North Wales Police	Observations
Planning Service - development control	observations
Planning - enforcement	Objection and observations
Public Protection - Health and Safety	Objection
Public Protection - Pollution Control	Observations
Traffic Enforcement Service	Objection
Community Council	Objection
Members of the Public	7 objections

### **3.2 Representations from North Wales Police**

- 3.3 The Police express concern regarding the applicant's ability to ensure compliance with the four licensing objectives, but specifically regarding the objectives of ensuring public safety and the protection of children from harm. Note that the rope fence that has been installed to surround the seating area is an insufficient barrier to ensure a sufficient separation between the dining area and the rest of the Land and Sea boat business activities.
- 3.4 Tractors and boats will be a natural draw for curious children and the ropes will not prevent a child from stepping into the path of a tractor.
- 3.5 Alcohol affects the ability of adults to perceive the distance and speed of vehicles, and the location of the food area is in very close proximity to the busy road and boat business.

### **3.6 Representations of the Development Control Unit, Planning, Gwynedd Council**

- 3.7 Observations were received, noting that Planning Permission has already been refused for a similar development on the site in 2021. (application no C21/0140/39/LL) The officer noted that the latest development at the premises is essentially the same as was refused in 2021; consequently, no permission has been established for the proposed use
- 3.8 The officer attached a decision notice for the refused planning permission in 2021, and one of the main refusal reasons were public safety concerns due to the busy nature of the business and the highway.

### **3.9 Representations of the Planning Enforcement Unit**

- 3.10 Further to the original representations of the Planning service, further comments and an objection were received from the Enforcement Unit, noting that the Unit's officers were also investigating a planning breach on the site. It is noted that the two mobile Catering Units currently situated on the site now require planning permission as they are located within the curtilage of the Abersoch Land & Sea building. No appeal was lodged against the decision to refuse planning permission for a Café - Bar on the site; and therefore it is noted that the decision made on the application still stands, and is relevant to the latest development.
- 3.11 It was confirmed that the Unit was in the process of commencing formal enforcement steps to prevent the current unapproved use; to ensure that the mobile catering units and any associated equipment are moved completely off the land.

### **3.12 Representations of the Health and Safety Unit, Public Protection**

- 3.13 An objection was received from the Unit in relation to the licensing objective of ensuring public safety. It was noted that no information such as Risk Assessments had been included with the application, despite the reference to a Risk Assessment in the Operating Schedule that was submitted.
- 3.14 It was noted that the applicant had not fully considered the public safety implications in relation to the sale of alcohol on the site. 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, and that no consideration had been included with the application in respect of traffic hazards on both sides of the site.
- 3.15 Furthermore, it is noted that no explanation has been proposed in terms of how the Land and Sea boat business would manage the safety risks on the site whilst alcohol is being sold for consumption on the premises.

- 3.16 Concern was expressed that no information was included in the application on when the door supervisors would be employed; and how staff would be expected to manage the behaviour of individuals who have convened near the site after closing time.
- 3.17 A question was asked about what the applicant meant by the reference to conducting regular safety inspections; as no details were included in the application or the associated documents.
- 3.18 **Representations of the Pollution Unit, Public Protection**
- 3.19 Observations were received from an officer from the service in relation to the licensing objective of preventing public nuisance. It is noted that a discussion has been held with the applicant's solicitor as the Operating Schedule refers to the control of amplified music; although the application does not seek the right to play recorded music or host live music events.
- 3.20 Confirmation has been received that the applicant is not seeking permission for regulated entertainment; but it is noted that the applicant has permission to play music under the Live Music Act 2012, if the licence is permitted for the site. It was confirmed that the intention would be to play music at background levels only. **Nevertheless, it can be confirmed that the service's officers have received two complaints about noise coming from the location over the first weekend when the business sold food and alcohol on a Temporary Event Notice between 8 and 10 July.** ( Information is current at the date of writing the report - 12/07/22)
- 3.21 The officer also noted that the plan shows 12 tables seating 8 persons on the site, with space for a maximum of 96 people to sit down. Therefore, there is potential, since this is an open site, for noise to carry from customers in large groups, and/or under the influence of alcohol, and affect nearby residents. Such behaviour and noise is very difficult to control in an open location.
- 3.22 **Representations of the Transportation Unit - Environment Department**
- 3.23 Observations and an objection was received to the application from an officer from the Unit, noting that the applicant had not addressed any of the concerns noted when an objection was submitted against a Planning application on the site for a similar development in 2021.
- 3.24 Specifically, reference was made to the fact that there were concerns that the proposed development would be 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 noted that the restricted nature of the site was likely to lead to groups of customers convening around the site, leading to road safety problems.
- 3.25 Furthermore, it was noted that the lack of parking spaces on the site is likely to cause parking problems in places along the highway, thus undermining pedestrian and vehicle driver safety.
- 3.26 **Representations of Llanengan Community Council**
- 3.27 Observations were received incorporating the Council's concerns in relation to the 4 licensing objectives, and the main points are as follows -
- **Crime and disorder prevention** - concerns that the permission to sell alcohol 7 days a week until 21:30 would lead to anti-social behaviour and noise. The development is located outside the centre of the village, in a quiet location, therefore it affects the area's character

- **Public safety** - concern that customers need to cross a busy road to attend the restaurant; and that the site is located on a busy junction, access road to housing estates, and another two restaurants. It is also noted that the development adds to the busy nature of the main business activity, i.e. transport and return of boats from the beach with tractors. No parking spaces have been noted for the proposal, and there are concerns that more people will park on the yellow lines on the nearby road as is currently happening with the patrons of the two food premises located nearby.
- **Prevention of public nuisance** - Concern about the location of another dining site in a relatively quiet location outside the main destination in the village for restaurants and pubs, causing noise nuisance for residents. Furthermore, concerns were noted regarding the potential of noise for residents as customers arrive and leave, and as the business prepares food and clears up at the end of the day.
- **Protection of Children from Harm** - many children and families use the location to go back and forth to the beach during the holidays. Also note the concern due to the location of a school bus stop opposite the site

### 3.28 **Objections from local residents**

- 3.29 Seven e-mails were received from residents, objecting to the licence application due to concerns in relation to the four licensing objectives, and specifically in terms of the unsuitable location in terms of public safety and the potential of public nuisance. See below a summary of the residents' main concerns -
- **Crime and disorder prevention** - concerns that the permission to sell alcohol 7 days a week until 21:30 would lead to anti-social behaviour and noise. Note that the development is outside the main centre for food and drink businesses in the centre of the village, and that there is concern that this will cause difficulties for the Police when they seek to keep control of crime and disorder. The development is in a quiet location, which affects the character of the area.
  - One responder questioned how the Designated Premises Supervisor was able to control the licensable activities considering that he lived in Aston Under Lyne.
  - **Public safety** - Note that two catering trailers and two export containers have appeared on the site, despite the fact that this was not included on the application Plan. Many of the responders note that the tables and chairs have been located close to the highway with only a low boundary wall located between the area and the road. Many of the responders note concerns since the location is on a dangerous corner on a junction between the busy A499 road and Lôn Garmon, with access for many businesses, including for the Land and Sea boat business as well as two restaurants. Concern was expressed that pedestrian access to the location is dangerous, on a busy junction and that tractors travel to and from the location all day, towing trailers and boats back and forth to the beach. It is noted that children are drawn to the location to see the tractors and boats.
  - Concern was expressed that the tractors regularly move trailers and boats very close to the site used to serve food and drink to children and families, and that those concerns escalate due to people drinking alcohol.
  - There are concerns that more people will park dangerously on yellow lines on the nearby road, as currently takes place with the patrons of the two nearby food premises.
  - Concern was expressed that the increase in cars parking on double yellow lines in the nearby area would increase the risk that the emergency access from the RNLI Lifeboat building will be restricted
  - Many responders noted that planning permission was refused last year for a Café Bar on the premises.
  - **Prevention of public nuisance** - Concern was expressed by each of the responders, noting that approving a licence for the outdoor location would disrupt nearby residents. It is noted

that the location is relatively quiet outside of the main commercial area in the village and that around 20 residences are located in a very noise-sensitive location from the premises.

- Furthermore, concerns were noted about the potential of noise for residents as customers arrive and leave, and as the business prepares food and clears up at the end of the day.
- The business has started to trade on a Temporary Event Notice since Friday, 7 July, and one responder noted that he had been disturbed by loud music being played at the premises on the night of Sunday 10 July.
- Furthermore, many responders noted that such activities in the outdoors, seven days a week, are unsuitable for this location.
- Many responders expressed their concern that the business' activities will increase the volume of rubbish being left in the village and on the beach.
- **Protection of Children from Harm** - Many responders noted that many families and children were drawn to the location, with the children being curious and coming to the location to see the tractors and boats. Concern was expressed that an increase in the busyness of the location will increase the risk of an accident around the busy business and junction.

3.30 See full details of all observations received in the appendix to the report.

#### 4. Planning Considerations

4.1 Although licensing procedures permit licence applications to receive a decision before an applicant receives planning consent, the Planning considerations cannot be removed from the licensing process. In this case, a Planning Application for a Café - Bar on the site has been refused, and one of the main reasons given for refusing the planning application in 2021 was the public safety concerns on the site.

4.2 Concerns regarding public safety are as relevant to the application for a proposed premises licence, and therefore it is relevant to consider the fact that planning permission for a similar development has already been refused; and that the Planning Enforcement Unit is considering enforcement steps to prevent the current unauthorised use on the site.

### 5 RECOMMENDATION

It is recommended that this Committee **refuse the application** in accordance with the provisions of the Licensing Act 2003 - and mainly for the following reasons –

- The site is an open one in a dangerous location for customers and others; near a busy highway and junction and on the curtilage of a busy boat business
- It will not be possible for the applicant to prevent risks to customers and others from traffic from cars, and tractors with trailers and boats through mitigation and control measures as the site is unsuitable and inherently unsafe as a licenced premises.
- It will not be possible to control noise from this open location; despite the measures being proposed by the applicant.