
CENTRAL LICENSING SUB-COMMITTEE 21-04-23

Present:

Councillors: Annwen Hughes (Chair), Elfed Williams and Huw Rowlands

Officers: Siôn Huws (Solicitor), Gwenan Mai Roberts (Licensing Manager), Nicola Williams (Licensing Officer - observing) and Lowri Haf 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 PREMISES LICENCE - Cariad Gelato Ltd, The Kiosk, High Street, Porthmadog, Gwynedd LL49 9LP**

Others invited:

- Elizabeth Shone – Cariad Gelato
- Olivia O'Neill - Cariad Gelato
- David W Lindsay – Cariad Gelato
- Cllr Gwilym Jones – Local Member
- Elizabeth Williams (Licensing Officer, North Wales Police)

The Chair welcomed everyone to the meeting.

a) **The Licensing Department's Report**

Submitted – the report of the Licensing Manager giving details of the application for a premises licence for an ice cream kiosk and some outside tables. It was explained that Cariad Gelato was a family-run business manufacturing and selling ice cream produced in accordance with the Italian method. The applicant was requesting permission for the sale of alcohol side by side with the core business, enabling customers to enjoy an alcoholic drink within a defined outdoor seating area; or to allow customers to buy alcohol for consumption off the premises.

Permission was requested to sell alcohol from 12 in the afternoon until 9 at night every day – with the premises open for the sale of ice cream between 10 and 21.00 every day.

Reference was made to the standard proposed hours for opening hours and the hours of alcohol sale on and off the premises.

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 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 received during the consultation period. It was noted that objections had been received to the application by the Local Member and the Community Council referring to concerns in relation to the Licensing Objectives of Public Safety and Protecting children from harm. It was highlighted that North Wales Police, following a meeting with the applicant, had no evidence to justify an objection to the application. They were satisfied that an assurance had been given that the ethos of the business would continue to focus on the production and sale of Italian ice cream to families, rather than the sale of alcohol.

A meeting was held with the applicant, the Police, and the Licensing Officer on 7 March 2023 to try and address the concerns of the Local Member and the Town Council. It was highlighted that the applicant was willing to compromise by agreeing,

- To the sale of alcohol after 17:30 only, as this was the period when trade to families and children came to an end
- Alcohol to be sold with deserts/ice cream only after 17:30
- No alcohol to be sold for consumption off the premises
- Alcohol to be served limited to the decking area directly in front of the Kiosk's serving counter only. No alcohol to be consumed at the tables on the pavement

The Licensing Department recommended to approve the application in accordance with the Licensing Act 2003, and the compromise agreement received from the applicant

- b) In considering the application, the following procedure was followed:-
- Members of the Sub-committee were given an opportunity to ask questions of the Council's representative.
 - At the Chair's discretion, the applicant or his representative may ask questions to the Council's representative.
 - The applicant and / or his representative were invited to expand on the application and to call witnesses
 - Members of the sub-committee were given the opportunity to ask questions of the applicant and / or his representative.
 - At the Chair's discretion, the Council's representative may ask questions to the applicant or his representative.
 - Every Consultee was given an invitation to support any written observations.
 - The Council's representative and the applicant or his representative were given the opportunity to summarise their case.
- c) Elaborating on the application, the applicant's representative noted:
- That the details of the report were accurate
 - That two applications for a Temporary Event Notice (TENS) had been made for Mothering Sunday and the Easter Weekend where special events were held to celebrate. There were no problems and both events were successful
 - There was no intention to lose focus of the main aim of the business i.e. selling ice cream
 - That there was a wish to arrange special events offering puddings and pancakes
 - There was no intention to sell alcohol without food
 - That there was an intention to extend the working day - making use of nice summer evenings and to offer a glass of alcohol to adults whilst children enjoy ice cream

In response to a question regarding the type of alcohol that would be sold, it was noted that local beer M&W's Piws would be sold as well as prosecco and cocktails. In response to a question regarding the opening times, it was noted that this would depend on the weather and how busy the town was.

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

Cllr Gwilym Jones (Local Member)

- That he was worried about normalising alcohol
- That he had considered the offers of compromise in detail
- That he was ready to retract his objection on condition that the situation was monitored by the Police and the Licensing Department

Elizabeth Williams (North Wales Police)

- A discussion was held with the applicant and that the applicant had responded to every concern raised

- d) In concluding the case, the applicant noted that there was no intention to disrupt the community - that any negative opinion or behaviour would affect the business. It was considered that the support of the local community was very important to the venture, and he didn't want to break that good relationship - he didn't want anything to affect the good name of the business that was already established locally.

The Licensing Manager added that she understood the concerns presented bearing in mind that children and families were central to the success of the business. Everyone was reminded that the Act allowed the licence to be reviewed if the applicant didn't adhere to their word. It was also confirmed that no problems had been received during the two TENS events.

- dd) 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 and Home Office guidelines were considered. The Sub-committee considered all the observations and 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

The Sub-committee disregarded observations that had been submitted, on the basis that they were not relevant to the objectives above.

RESOLVED: Approve the licence as follows:

1. **Opening hours**
Sunday - Saturday: 10:00 – 21:30

2. **Alcohol to be consumed on the premises
Sunday - Saturday: 17:30 – 21:00**
3. **Alcohol to be served with puddings and ice cream bought from the premises only**
4. **Alcohol to be sold in front of the shop only on the decking.**
5. **Matters prescribed in the Schedule of Actions (Section M) of the application are incorporated as conditions on the licence.**

Reasons

In the context of **preventing Crime and Disorder** no relevant evidence of problems was presented in relation to the premises. Although the Police had no evidence to justify objecting the application, discussions took place between the applicant and the Police and Licensing Officers to discuss concerns raised and as a result the applicant had adapted the application.

In the context of **Public Safety**, the local member had expressed concerns as there was an intention to licence an area outside the curtilage of the building that was close to a busy junction on the high street. As a result, the applicant had adapted the application to exempt this part of the property.

In the context of **preventing Public Nuisance**, no evidence associated with the property was presented

In the context of **Protecting children from harm**, the Local Member had expressed concerns that permitting the sale of alcohol would encourage and normalize alcohol drinking at a premises unsuitable for the purpose. Also, the premises was very close to a children's play park. The applicant had adapted the application in response to these concerns by limiting the sale of alcohol in terms of time, limiting it to the premises only, adapting the location and limiting it sale to only with puddings/ice cream.

On a general note, it was noted that the applicant had previously used Temporary Event Notices on two occasions and there was no evidence that these events had caused any problems from the point of view of licensing principles.

The Sub-committee was pleased to see cooperation from everyone in this case and that the applicant had considered the observations presented and that they were willing to compromise. Under the circumstances, the Sub-committee was satisfied that the application was in keeping with the four licensing objectives, and therefore the application was approved.

The Solicitor reported that the decision would be formally confirmed by letter to all 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.

The meeting commenced at 10.00am and concluded at 11.30 am.