
CENTRAL LICENSING SUB-COMMITTEE 05.01.2021

Present: **Councillors:** Elfed Williams (Chair), Eryl Jones-Williams and Jason Wayne Parry

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

1. APOLOGIES

Apologies were received from Lis Williams (North Wales Police) and Jonathan Evans (local consultee)

2. DECLARATION OF PERSONAL INTEREST

None to note.

3. URGENT ITEMS

None to note

4. APPLICATION FOR PREMISES LICENCE – Abersoch Diner, High Street, Abersoch

On behalf of the premises: Gavin Hancock (Applicant)

Others invited: Moira Duell-Parry – Environmental Health Officer
Cllr Dewi Roberts (Local Member)
Patricia Meyrick, Einir Wyn, Mary Marsden, Terry Evans, Paul Evans, Donna Jones and Cherry Steele (Local consultees)

The Chair welcomed everyone to the meeting.

The Chair highlighted that all parties would be allowed up to 5 minutes to make their representations.

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

Submitted – the report of the Licensing Manager giving details of the application to vary the premises licence for Abersoch Diner, High Street, Abersoch. The application was made in relation to extending the opening hours, hours of the sale of alcohol on the premises and providing recorded music on the premises.

Attention was drawn to the details of the licenseable activities and the proposed hours in the report. It was highlighted that the applicant, after receiving comments and conditions from the Public Protection Department and several objections to the application, had agreed to compromise and not use the outdoor area after 6:00pm, and agreed that windows and doors shall be closed when music is playing (to be played at background noise level only). 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 that had been recommended by the applicant to promote the licensing objectives, and it was highlighted that these measures would be included on the licence. The officer drew attention to the responses received during the consultation period, and noted that neither the Police nor the Fire Service had objections.

In considering the application, the following procedure was adhered to:-

- Members of the Sub-committee and the applicant were given the opportunity to ask questions of the Licensing Manager
- The applicant was invited to expand on the application
- Consultees were given an opportunity to present their observations
- The licensee, or his/her representative, was invited to respond to the observations
- Members of the Sub-committee were given an opportunity to ask questions of the licensee
- Members of the Sub-committee were given an opportunity to ask questions of the consultee

- b) In expanding on the application, the applicant noted that he was happy with what had been presented.

He added the following observations:

- He had agreed on a compromise following discussions
- He had agreed not to use the outdoor area after 6:00pm
- He was aware that the conditions would be included on the licence should it be granted
- That he needed these licence variances to be able to compete with similar businesses on Abersoch High Street

In response to questions from the sub-committee, he noted that the boundary wall was some 10 - 15m from the nearby property and he had not received complaints about litter and noise in the past.

- ch) The consultees in attendance took the opportunity to expand on their objections to approving the licence and reiterated observations that were submitted by letter.

Environmental Health Officer,

- That the applicant, following discussions, had agreed not to use the outdoor area after 6:00pm, and agreed that the windows and doors must be closed when music is playing (to be played at background noise level only).
- That the restaurant already provided food, but the addition to the back garden would release more space
- That a recommendation to refuse a similar planning application to a premises behind this building due to an inadequate ventilation system and right of way had highlighted concerns for this application
- That the restaurant is close to nearby houses – the premises to the rear of the restaurant was on higher ground than the garden, therefore noise would carry. Although music noise could be controlled, voices could not. The applicant would have to manage this effectively.
- That the road behind the restaurant was very narrow
- She had assessed the application as a restaurant – providing meals/light refreshment to families, and not as a public house
- There would be no food provided after 11pm – bar only after this

- That they were supportive of the business and therefore imposed conditions so that the timings and use of the outside area could be managed – it was an opportunity for the applicant to demonstrate his ability to manage noise
- The site was a designated 'business area'

Councillor Dewi Roberts (Local Member)

- There was a lot of noise on the High Street on the weekend
- That the use of the rear garden extended into a domestic area which would seriously impact on the neighbours' privacy – use of the garden was unsuitable
- Difficulties arose when people became rowdy as they drank alcohol
- There were enough restaurants and pubs in the village
- It was likely that complaints would be issued to him and the local Police

Patricia Meyrick

- The premises had been founded for the purpose of selling ice-cream
- The building was unsuitable for use as a public house
- She would not permit use of the road to the rear of the building for vehicles or business – she would lock the gate if necessary

Terry Evans

- The application for a licence was until 00:30 – a significant increase in opening hours
- He lived back to back with the premises, and highlighted concerns about noise from using the garden

Mary Marsden

- The road to the rear measured 9 feet
- Noise would carry over the walls, and smoke if there were customers smoking
- Was it necessary to have a licence until midnight? Could this perhaps be permitted for specific events only? The restaurant could close at 10:30pm
- Her concerns had been alleviated slightly with the knowledge that the outside area would have to close at 6:00pm
- How would use of the garden be managed? We need to see concrete arrangements for site management
- Concerns about increased noise within a residential area

Cherry Steele

- Nothing to add to the concerns that had already been highlighted

Donna Jones

- The noise would carry up towards her parents' property
- Her parents were of retirement age and wanted to relax without being disturbed by noise
- There was too much coming and going along the back road to the building

Paul Evans

- A business had always existed on the site, but the back yard / garden had never been used
- He objected to the proposal to have tables in the back garden
- The noise would carry
- His parents were getting older – concern about the effect this will have on their privacy and retirement

Einir Wyn – Llanengan Community Council Clerk

- She endorsed the observations that had already been expressed
- There were already too many public houses in the village
- Lack of management
- The area to the rear was very small
- There was no reason to have this located amongst houses
- The business had been run as a café over the years
- The building is not large enough to be a public house

d) In summarising his case and responding to the observations, the applicant noted that access to the garden and the back yard would close at 6:00pm by locking the entrance. He added that there was no access to the garden and yard from the narrow lane, therefore they could only be accessed through the front door which was on the High Street. The lane would only be used for refuse collection. He highlighted that there were similar businesses in the area that may generate noise. In response to supervision of the back area, he confirmed that the door would be locked.

dd) In response to the comments, the Licensing Manager made the following comments:

- She accepted the concerns of the local residents and the community council
- The venue was very restricted and located within a sensitive area
- The Sub-committee had the right to impose conditions to secure what had been promised by the applicant, and that those conditions could be worded to include the concerns so that they could be managed

The applicant, the consultees, the Licensing Manager and the Environment Officer withdrew from the meeting whilst the members of the Sub-committee discussed the application

ff) In reaching its decision the Sub-committee considered the applicant's application form, written comments submitted by the interested parties, the Licensing Officer's report, and 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 the application and vary the licence as follows:

- **Opening hours: Saturday - Sunday 08:00-00:30**
- **Supply of alcohol on the premises: Saturday - Sunday 11:00 – 00:00**
- **Recorded music indoors: Saturday - Sunday 11:00 – 00:00**
- **No change to mandatory conditions**
- **The conditions in the Schedule of Operation to include the following: in part (d), the following words to be added, "In order to reduce noise, the premises shall not use the outdoor area after 6pm, the premises shall keep windows and doors shut when music is played, and the noise shall be background level noise only."**

All interested parties were thanked for submitting observations on the application. The Sub-committee gave due consideration to these observations, noting that they had been made in response to the original application to vary the licence.

Observations were received from local residents expressing concern that crime and disorder was likely to increase should the application be approved. While the Sub-committee appreciated that these were genuine concerns, no evidence beyond speculation had been submitted to support these concerns. In the absence of the evidence, the Sub-committee did not consider that approval of the application would undermine the objective of preventing crime and disorder.

Whilst the Sub-committee accepted that the premises was close to the main road, and that parking space was possibly limited, it was not of the opinion that these factors necessarily constituted a risk to public safety. Consideration was given to the fact that the café already existed on the site with many other nearby businesses. No reliable evidence had been submitted showing that there were public safety concerns currently associated with the premises. The Sub-committee did not consider that approval of the application would undermine public safety.

It was accepted that there was a possibility that noise originating from the premises could lead to public nuisance. These were considered to be genuine concerns since no objective evidence had been submitted with regard to the likely number of events, their frequency, the expected noise level or the number and percentage of people who would be affected in the area. Consequently, there was insufficient evidence for the Sub-committee to be satisfied that the approval of the application was likely to lead to noise that would be so problematic such that it would reach the legal threshold of "public nuisance". It was considered that amendments made to the application meant that the risk of any noise from the premises disturbing the local area was low, and that the amendments responded to the noise concerns in a reasonable and proportionate manner. In the circumstances, the Sub-committee was of the view that the amended application conformed to the objective of preventing public nuisance.

Although accepting and understanding the suggestion that there were too many licensed premises in the village, individuals' opinions about the numbers of licensed premises in a particular area was not a relevant consideration for the Sub-committee in considering an application under the Licensing Act 2003. Consequently, these comments were disregarded when discussing the application.

The Sub-committee was satisfied that the application to vary the licence as amended, was in line with the licensing objectives.

The Solicitor reported that the decision would be confirmed formally by letter and sent to all 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 2.20pm and concluded at 4.00pm.