

LICENSING SUB COMMITTEE

Minutes of a meeting of the Licensing Sub Committee held in the Council Chamber, County Hall, Ruthin on Wednesday, 16 September 2015 at 1.00 pm.

PRESENT

Councillors Bill Cowie, Win Mullen-James and Cefyn Williams

ALSO PRESENT

Head of Legal, HR and Democratic Services (GW), Licensing Officer (NJ), Senior Community Safety Enforcement Officer (TWE) and Committee Administrator (KEJ)

1 APPOINTMENT OF CHAIR

Councillor Cefyn Williams was appointed Chair for the meeting.

The Chair welcomed all parties to the meeting and all present were introduced. The hearing procedures had been circulated previously to all parties and copies of the Statement of Licensing Policy were made available at the meeting.

2 DECLARATION OF INTERESTS

No declarations of interest were raised.

3 LICENSING ACT 2003: SUBMISSION OF A TEMPORARY EVENT NOTICE - DENBIGH KEBAB AND BURGER HOUSE, 2 BRIDGE STREET, DENBIGH

The Licensing Officer submitted a report by the Head of Planning and Public Protection (previously circulated) upon –

- (i) a Temporary Event Notice having been received from Mr Kuddusi Demir in respect of an extension of hours to the existing Premises Licence (provision of late night refreshment) proposed to take place on 19 and 20 September 2015 at Denbigh Kebab and Burger House, 2 Bridge Street, Denbigh;
- (ii) the premises currently having a Premises Licence allowing the provision of late night refreshment for the following times –

Monday to Thursday	23:00 hrs to 01:00 hrs
Friday and Saturday	23:00 hrs to 01:30 hrs
Sunday	23:00 hrs to 00:00 hrs

- (iii) late night refreshment becoming a licensable activity between the hours of 23:00 hrs and 05:00 hrs with no licence required outside those hours;

- (iv) the Applicant having submitted a Temporary Event Notice to extend the hours during which late night refreshment could be provided from 01:30 hrs to 02:30 hrs on 19 and 20 September 2015;
- (v) the North Wales Police having submitted an Objection Notice under Section 104(2) of the Licensing Act 2003 (Appendix 1 to the report) on the grounds that allowing the premises to be used in accordance with the Temporary Event Notice would undermine the licensing objectives, specifically (1) the Prevention of Crime and Disorder; (2) Public Safety and (3) Prevention of Public Nuisance – the Police considered the premises did not have sufficient control measures in place to promote the licensing objectives and had knowingly breached their licensed hours;
- (vi) the need to take into account Guidance and the Council's Statement of Licensing Policy when considering the submissions, and
- (vii) the options available to the committee when considering the Notice.

The Licensing Officer summarised the report and outlined the facts of the case.

PREMISES USER'S SUBMISSION

Mr. Kuddusi Demir was in attendance together with his son Mr. Osman Demir who also acted as his interpreter. Mr. Demir addressed the Sub Committee in support of the Temporary Event Notice and confirmed the extension of hours as detailed within the Notice.

NORTH WALES POLICE SUBMISSION

Mr. Aaron Haggis, Police Licensing Officer represented the North Wales Police. He referred to the Police's written objection which had been largely based on the events of 31 August 2015 when a local Police Sergeant had attended the premises. The Police Sergeant witnessed anti-social behaviour of a large crowd congregating at the premises with customers being served after permitted hours. It was argued that, had the premises closed at 1.30 a.m. in line with permitted hours, people would not have been congregating in the area. A summary of the anti-social behaviour was provided and Mr. Haggis detailed the Police's concerns over the lack of control measures to deal with customers entering and exiting the premises and insufficient processes in place to reduce anti-social behaviour. The attitude of Mr. Demir when approached by Police during the incident was also questioned. The Police had subsequently requested the Council's Licensing Section to investigate the breach of permitted hours and ascertain whether additional controls could be put in place. In closing Mr. Haggis reported upon the commitment of the Police to support all licensed premises to maximise business generation when Temporary Events Notices were issued. However the Police felt that to allow the Temporary Event in this case would cause large scale disorder at a licensed premises.

Mr. Demir was given the opportunity to respond to the issues raised by the Police and through his interpreter confirmed he accepted the Police's version of events. However in mitigation he explained that he had returned from overseas the day

before the event and so had been unable to submit a Temporary Event Notice to extend the licensing hours on 31 August 2015 in line with his usual practice. He also explained that he wanted to close at 1.30 a.m. but a large group entered the premises. He decided to stay open because he wanted to avoid any fights or confrontation and believed to close at that time would have caused more problems. In response to concerns raised over litter, Mr, Demir explained that staff went out and cleared up any rubbish after closing time. He also argued that regardless of whether the premises was open or closed people would congregate in the vicinity and if trouble occurred outside it was not his responsibility to deal with.

The Applicant responded to members' questions as follows –

- his application for a temporary extension to opening hours coincided with Denbigh Beer Festival on 19 September
- he had been in business for thirty two years and therefore knew how to deal with drunken customers and how to act to defuse the situation
- he had been operating in Denbigh since February 1995
- he had some dealings with the Police in the past but nothing specific for over ten years
- explained his meaning when responding to Police on the night in question – advising that whether the Police reported the incident or not was up to them and outside of his control.

In response to questions, including the Police's expectations, Mr. Haggis advised –

- the Police did not attend the premises on a regular basis
- whilst appreciating the cost implications the use of door supervisors would aid with admitting and dispersing customers
- Mr. Demir should be aware of the number of people frequenting the premises near to closing time and should be able to manage the situation
- in the event of difficulty and to ensure compliance with permitted hours, a call should be made to the Police seeking assistance to disperse patrons
- the premises had operated in breach of its hours for a significant time before closure, some 50 minutes
- when instructed to do so the premises had shut immediately without incident
- it was Mr. Demir's responsibility to manage food orders and customers in time for closure of the premises in line with permitted opening hours.

PREMISES USER'S FINAL STATEMENT

In making a final statement Mr. Demir advised that he closed the premises as soon as he had been instructed to do so by the Police Sergeant and with his assistance. He reiterated that he thought he was defusing a potentially volatile situation by serving after hours but was able to close without incident with the help of the Police.

ADJOURNMENT TO CONSIDER THE APPLICATION

At this juncture (1.30 p.m.) the Licensing Sub Committee adjourned to consider the application.

DECISION AND REASONS FOR THE DECISION

RESOLVED that a Counter Notice be issued to Mr. Kuddusi Demir to prohibit the event, as detailed in the Temporary Event Notice, taking place.

The Head of Legal, HR and Democratic Services conveyed the Sub Committee's decision to the parties present and reported upon the reasons for the decision as follows –

The Licensing Sub Committee carefully considered all the evidence placed before them by the Police together with Mr. Demir's representations and explanation of events. Members concluded there was sufficient evidence in the Police's Objection Notice that allowing the event to take place would undermine the licensing objectives of the Prevention of Crime and Disorder, Public Safety and Prevention of Public Nuisance.

The Sub Committee was concerned that on the occasion referred to by the Police it took 50 minutes over the allotted time for Mr. Demir to close, and that although Mr. Demir said he would have applied for a Temporary Event Notice if he had been back in the country in time, he did not, and as an experienced operator he should have been able to close on time or within a short period thereafter.

On behalf of the Licensing Sub Committee the Head of Legal, HR and Democratic Services thanked Mr. Demir and his son for appearing before them and answering questions openly and honestly. He also advised that the decision did not preclude Mr. Demir from applying for a Temporary Event Notice in the future.

The meeting concluded at 1.45 p.m.