

LICENSING SUB COMMITTEE

Minutes of a meeting of the Licensing Sub Committee held in Conference Room 1a, County Hall, Ruthin on Tuesday, 30 August 2016 at 9.30 am.

PRESENT

Councillors Bill Cowie, Hugh Irving and Cefyn Williams

ALSO PRESENT

Head of Legal, HR and Democratic Services (GW), Public Protection Manager (EJ) 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 personal or prejudicial interest had been raised.

3 LICENSING ACT 2003: APPLICATION FOR A NEW PREMISES LICENCE - PB'S, 17 - 19 WATER STREET, RHYL

A report by the Head of Planning and Public Protection was submitted (previously circulated) upon –

- (i) an application having been received from Mr. Jonathon Ashley Benbow for a new Premises Licence in respect of PB's, 17 – 19 Water Street, Rhyl together with an Operating Schedule (Appendix A to the report);
- (ii) following objections from the North Wales Police the Applicant having amended the proposed opening hours originally requested for the provision of licensable activities as follows –

LICENSABLE ACTIVITY	DAYS	ORIGINALLY APPLIED	AMENDED HOURS
Provision of Live Music (Indoors only) Occasional Live Band Nights	Monday	– 08:00 –	Sunday – 11:00 –
	Sunday	03:00	Thursday 00:00
Provision of Recorded Music –			Friday – 11:00 –
	Monday	– 08:00 –	Saturday 02:00
			Sunday – 11:00 –

during opening hours (Indoors only)	Sunday	03:00	Thursday	00:00
			Friday – Saturday	11:00 – 02:00
Supply of Alcohol (for consumption on and off the premises)	Monday – Sunday	08:00 – 03:00	Sunday – Thursday	11:00 – 00:00
			Friday – Saturday	11:00 – 02:00
Hours that the premises will be open to the public	Monday – Sunday	08:00 – 03:00	Sunday – Thursday	11:00 – 00:00
			Friday – Saturday	11:00 – 02:00

- (iii) one written representation (Appendix B to the report) having been received from a member of the public living near the premises – whilst much of the representation referred to premises already operating within the vicinity, the resident objected to the application being granted unconditionally;
- (iv) the North Wales Fire and Rescue Services having submitted representations (Appendix C to the report) regarding outstanding matters relating to fire safety provisions at the premises;
- (v) the North Wales Police having submitted representations to the application together with a number of proposed conditions to be incorporated within the premises Operating Schedule should the application be granted (Appendix D to the report) – whilst the Applicant had confirmed he was willing to accept the additional conditions no final agreement had yet been reached;
- (vi) the Council’s Pollution Control Section having submitted representations (Appendix E to the report) raising concerns regarding the close proximity of the premises to residential properties and proposed a number of conditions (which had been agreed by the Applicant) to be imposed should the licence be granted to assist in the prevention of public nuisance;
- (vii) the Applicant having indicated his willingness to work with Responsible Authorities and had so far agreed to all conditions proposed;
- (viii) the need to consider the application taking due account of the Council’s Statement of Licensing Policy; Guidance issued by the Secretary of State; other relevant legislation and relevant representations received, and
- (ix) the options available to the committee when determining the application.

The Public Protection Manager guided members through the report and provided an update on the latest position. Members were advised that the North Wales Fire and Rescue Service had withdrawn their representations following a recent inspection of the premises which confirmed that all the deficiencies previously

identified had been addressed and the fire safety provisions affecting public safety were now considered satisfactory.

APPLICANT'S SUBMISSION

The Applicant, Mr. Jonathon Benbow was in attendance in support of his application accompanied by his wife, Mrs. Holley Benbow and legal representative Ms. Rebecca Boswell from Gamlins, Solicitors. The proposed Designated Premises Supervisor – Mr. Ryan Hassett was also present.

Ms. Boswell reminded members that the Fire Service's representations had since been resolved. In terms of concerns over noise nuisance the Applicant had agreed to comply with all conditions proposed by the Council's Pollution Control Officer in order to minimise noise emanating from the premises and she detailed works which had already been undertaken in that regard including the installation of self-closing doors and air conditioning. She also submitted that the Applicant had fully co-operated with North Wales Police and had agreed to all measures proposed by them in order to promote the licensing objectives and address any areas of concern to their satisfaction. One outstanding concern related to the suitability of the Designated Premises Supervisor (DPS) in place. Given the Applicant's lack of experience in the licensed trade it was proposed that the newly recruited Mr. Ryan Hassett would be appointed DPS following completion of the relevant application of his Personal Licence. To provide assurance regarding Mr. Hassett's suitability as DPS Ms. Boswell elaborated upon relevant training courses attended and detailed his wealth of experience in the licensing trade, both in this country and abroad.

NORTH WALES FIRE AND RESCUE SERVICE SUBMISSION

Members noted that the fire safety works identified by the North Wales Fire and Rescue Service had since been addressed to their satisfaction. Consequently those representations had been withdrawn.

NORTH WALES POLICE SUBMISSION

Mr. Ian Williams, Police Licensing Officer (Gwynedd/Anglesey) was representing North Wales Police in place of Mr. Aaron Haggas, Police Licensing Officer Conwy/Denbighshire who had been unable to attend.

The Police had expressed some concern that the Applicant (currently proposed as Designated Premises Supervisor (DPS) on the application) did not have the relevant experience and knowledge to ensure promotion of the licensing objectives, particularly given the locality of the premises which was within close proximity to a number of other licensed premises. However the Police had recognised that each application must be treated on its own merits and there was no evidence pertaining to the premises subject of the application. Following the Police's concerns the Applicant had reduced the proposed hours of operation as applied for and had agreed to all conditions put forward by the Police to further promote the licensing objectives (as detailed in Appendix D to the report). With regard to the position of DPS the Police had recently been advised of the proposal to put Mr. Hassett's name forward for that role. The Police noted that Mr. Hassett had not yet obtained

his Personal Licence which was a requirement of the DPS and that the Applicant was currently proposed as DPS on the application. Consequently if members were minded to grant the Premises Licence a subsequent variation application would be required to change the DPS which would provide the Police with a further opportunity to make representations regarding the suitability of the proposed DPS. The Police had requested that, if members granted the application, they consider incorporating the conditions, as agreed, within the Operating Schedule in order to help alleviate their concerns regarding the application.

In response to a member's question Mr. Williams confirmed that the Police were as satisfied as they could be with the proposed agreed measures to address areas of concerns and promote the licensing objectives.

POLLUTION CONTROL SUBMISSION

Mr. Sean Awbery from the Council's Pollution Control Section referred to his written representations (Appendix E to the report) proposing a number of conditions to be imposed on the licence, if granted, in order to minimise the risk of public nuisance. Since submission of those proposed conditions further discussions had taken place with the Interested Party (Mr. N.G.Moorcroft) and the Applicant regarding noise concerns and Mr. Awbery reported upon a number of conditions which had been revised and reworded in order to better reflect the intended measures for addressing noise nuisance which had also been agreed by the Applicant. If members granted the application work would then be undertaken to set the noise limiter level as appropriate.

The Applicant and his representative responded to members' questions as follows –

- conceded that the Applicant was relatively new to the licensed trade but had obtained all the necessary qualifications to secure his Personal Licence – his intention was to be designated DPS as a temporary measure pending recruitment of a more experienced individual
- clarified that the Applicant had agreed to amend the application in line with the Police request that no children be allowed on the premises after 17:00 hrs (21:00 hrs had been specified on the original application)
- advised that the premises was a new venture for the Applicant who had worked with all responsible authorities and agreed terms to ensure the premises operated effectively and appropriately for all concerned
- explained the reasoning behind the original permitted hours as applied for (8:00 a.m. – 3:00 a.m.) in order to cater for specific special events advising that the Applicant had never intended to operate to those hours on a regular basis – as those generic opening times had proved a concern to the Police they had been amended accordingly
- the premises had historically been used as a pub/club but had been disused for approximately three years prior to being purchased by the Applicant in December 2015 with significant investment having been made to ensure it was suitable and fit for purpose to the satisfaction of all responsible authorities.

INTERESTED PARTY SUBMISSION

One written representation had been received (Appendix B to the report) from Mr. N.G. Moorcroft detailing his concerns regarding current noise nuisance experienced in the area arising from licensed premises, and his specific concern regarding noise emanating from the premises should the application be granted without conditions to prevent noise nuisance.

Mr. Moorcroft referred to his written representations and explained his personal and business connections to the area and long term problems experienced by both himself and his tenants arising from particular licensed premises in the vicinity, and from when the said premises was formerly operated as a bar/club, highlighting a wider issue of public nuisance. He advised that he had been involved in discussions with the Applicant and the Council's Pollution Control Officer regarding his concerns. He had found Mrs. Benbow to be genuine in her assurances regarding noise nuisance and had been happy to note the comprehensive noise control measures which had been proposed by the Council's Pollution Control Officer in order to address noise concerns. However, if those noise conditions were breached he would be making further representations.

The Sub Committee noted Mr. Moorcroft's ongoing problems in terms of noise nuisance from licensed premises in the area which was a matter he was taking up with the Council's Pollution Control Section, and members also acknowledged his concerns regarding the application given his past experience in that regard. However it was noted by all parties that each application must be treated on its own merits and that the Sub Committee would only consider issues relevant to the application under consideration when determining the application.

In responding to members' questions the Council's Pollution Control Officer confirmed that he was satisfied that the proposed noise control measures would be effective if managed appropriately. He explained how the noise limiter would operate in practice and how noise levels would be assessed from the property of a nearby resident in order to set an appropriate level to the satisfaction of nearby residents. The Applicant would be responsible for ensuring appropriate management of the equipment inside the premises and Mr. Benbow provided assurances in that regard.

APPLICANT'S FINAL STATEMENT

In making a final statement Ms. Boswell reported upon the significant investment in the premises and the Applicant's willingness to work with the relevant authorities and meet their requirements. She submitted that the Applicant wished to make a success of the business and it was not in his interests to breach any of the agreed conditions and put the business at risk. An application to change the DPS would be submitted following the issue of a Personal Licence to Mr. Hassett and the Police would have the opportunity to make representations on the suitability of the proposed DPS at that time. In addition the Police had the powers to seek a review of the Premises Licence at any time. Finally assurances were given on behalf of the Applicant regarding the management of the premises and members were asked to look favourably on the application.

ADJOURNMENT TO CONSIDER THE APPLICATION

At this juncture (10.30 a.m.) the Licensing Sub Committee adjourned to consider the application.

DECISION AND REASONS FOR THE DECISION

RESOLVED that, subject to the conditions as set out below, a Premises Licence be granted for the amended hours as set out in the report and reproduced as follows –

LICENSABLE ACTIVITY	DAYS APPLICABLE	TIMES
<i>Provision of Live Music (Indoors only) Occasional Live Band Nights</i>	<i>Sunday – Thursday Friday and Saturday</i>	<i>11.00 – 00:00 11:00 – 02:00</i>
<i>Provision of Recorded Music – during opening hours (Indoors only)</i>	<i>Sunday – Thursday Friday and Saturday</i>	<i>11.00 – 00:00 11:00 – 02:00</i>
<i>Supply of Alcohol (for consumption on and off the premises)</i>	<i>Sunday – Thursday Friday and Saturday</i>	<i>11.00 – 00:00 11:00 – 02:00</i>
<i>Hours that the premises will be open to the public</i>	<i>Sunday – Thursday Friday and Saturday</i>	<i>11.00 – 00:00 11:00 – 02:00</i>

CONDITIONS

As put forward by the North Wales Police and agreed by the Applicant –

Prevention of Crime and Disorder

1. CCTV

- a) *A tamper proof CCTV system will be installed and maintained at the premises and be in operation for 24 hours a day, 7 days a week.*
- b) *The CCTV system will have sufficient cameras monitoring the interior and exterior of the premises. In the case of the interior of the premises there will be sufficient cameras installed to cover all areas to which the public have access, including the bar area and with the exception of the toilet areas. All entry and exit points to be covered and must provide a clear head and shoulders view.*
- c) *The CCTV system will be of a standard capable of providing images of evidential quality and capable of facial recognition in all lighting conditions.*
- d) *The CCTV system will have a facility to record the images from all cameras and these images will be retained for a minimum period of 28 days.*
- e) *The CCTV system will include a facility whereby the correct date and time are included within the images recorded.*
- f) *The CCTV system will have a facility whereby images can be downloaded onto some form of removable media. It is the responsibility of the premises licence holder to provide the removable media and that should removable media be seized, it is the responsibility of the premises to ensure that there are additional formats of removable media available.*
- g) *Images from the CCTV system will be made available to Police or Local Authority officers on demand.*

- h) *At least one member of staff trained in the use of the CCTV system and capable of providing the recorded images from the CCTV system will be on duty at all times the premises are open.*
 - i) *The Designated Premises Supervisor must ensure daily checks of the operation of the CCTV system will be made at the start of business each day - any defects in the system will be addressed immediately. This check must include the operation of the cameras, the recording facilities, the facilities for providing footage and the accuracy of the time & date. A written record of these checks must be kept, including a signature of the person carrying out the check. This written record must be kept on the premises at all times and made available to a representative of any responsible authority on request.*
 - j) *The CCTV system should be serviced/maintained a minimum of every twelve months, with the CCTV installation company or suitable qualified professional. A documented log from the company will be produced documenting the service of the CCTV system, this will be available to any responsible authority upon request.*
 - k) *Suitable signage informing customers that a CCTV system is in operation must be placed in prominent positions within the premises, including information on the Data Protection Act and the Human Rights Act.*
 - l) *In the event of a system malfunction, the Designated Premises Supervisor or premises licence holder must immediately notify the licensing authority and police. Arrangements must be made immediately to rectify the malfunction and document steps undertaken within the premises incident book.*
2. *PRIOR to being permitted to undertake the sale of alcohol all staff without a personal licence, including any unpaid members of staff, family members and casual persons who may be involved in the sale of alcohol at the premises, will be trained in their responsibilities under the Licensing Act 2003 and any subsequent amendments to that Act - in particular they will receive training with regard to the service of alcohol to persons who are drunk.*
 3. *Refresher training in relation to the initial training at 2) above will be undertaken by all members of staff involved in the sale of alcohol every six months.*
 4. *Records of the initial training received and subsequent refresher training will be maintained and will be produced to Police or Local Authority officers on request.*
 5. *Incident and Refusals Book- an incident and refusals book (with the pages numbered sequentially) must be kept on the premises and be made available for inspection by responsible authorities. The incident and refusal book must be used to record the following:*
 - a) *Any incident of violence or disorder on or immediately outside the premises.*
 - b) *Any incident involving drugs (supply/possession/influence) on the premises.*
 - c) *Any other crime or criminal activity on the premises.*
 - d) *Any refusal to serve alcohol to persons who are drunk.*
 - e) *Any refusal to serve alcohol to under 18's or anyone who appears under 18.*
 - f) *Any call for police assistance to the premises.*
 - g) *Any ejection from the premises.*
 - h) *Any first aid/other care given to a customer.*

6. *The details to be recorded within the incident and refusals book must include the following:*
 - a) *Time, day & date of incident or refusal.*
 - b) *Person making the entry.*
 - c) *Staff witness.*
 - d) *Name & address of customer (if given).*
 - e) *Description of customer.*
 - f) *Reason for refusal or Nature of incident.*
 - g) *If police, ambulance or fire service were called.*
7. *The incident and refusals book must be made available for inspection by responsible authorities on request. This information may also be recorded electronically by the use of a till based or similar system.*
8. *The incident and refusals book to be reviewed every two weeks by premises management and signed/dated to confirm compliance.*
9. *The incident and refusals book record will be made available for inspection on demand by North Wales Police or Local Authority officers on request.*
10. *On every Friday and Saturday night, all Bank Holidays, Christmas Eve and New Year's Eve a minimum of two SIA registered door staff will be employed from 21.00hrs until such time as the premises close for business and all customers have vacated the premise. These persons will be employed solely in the management of the entry and exit of customers and the maintenance of order at the premise.*
11. *On Every Sunday night the premises will employ a minimum of two SIA door staff from 20.00hrs until such time as the premises close for business and all customers have vacated the premise.*
12. *On nights when the premises is open beyond 00.00 a minimum of two SIA registered door staff will be employed from 21.00hrs until such time as the premises close for business and all customers have vacated the premise. These persons will be employed solely in the management of the entry and exit of customers and the maintenance of order at the premise.*
13. *The premises shall consult with North Wales Police and the Licensing authority the appointment and any change in door security companies used at the premises.*
14. *A Door Supervisor Log shall be correctly maintained at the premises. This will include the following details:*
 - a) *The door staff names, dates of birth and home addresses;*
 - b) *Full details, name, address and contact number of employment agency used*
 - c) *And for each individual period of trading:*
 - d) *The name of the individual member of door staff*

- e) *His/Her Security Industry Authority licence number*
- f) *The time and date He/She starts and finishes duty*
- g) *The time of any breaks taken whilst on duty*
- h) *Each entry shall be signed by the door supervisor, DPS or nominated person.*

15. Drugs Policy -The management of the premises must introduce a strict “zero tolerance” policy in respect of the use and/or supply of illegal drugs on the premises. The policy to include checks of the toilet areas every 30 minutes whilst the premises are open and suitable signage to be placed in prominent areas within the premises.

16. Toilet check sheet- A toilet check sheet will be visible at the interior entrance door to the male & female toilets documenting checks every 30 minutes. Toilet check sheets will be retained for a minimum of 6 months.

The Protection of Children from Harm

- 1. The age verification policy that the premises will operate will be Challenge 25. The premises to keep a record of all challenges made. This will include:
 - a) *Date*
 - b) *Time*
 - c) *Member of staff,*
 - d) *If the person challenged could provide valid identification and what form.*
 - e) *Action taken if refused sale.**
- 2. All staff, including any unpaid members of staff, family members and casual persons engaged in the sale of alcohol will be trained in the Challenge 25 policy PRIOR to being permitted to undertake the sale of alcohol and will undertake refresher training every six months as a minimum.*
- 3. Records of the Challenge 25 training will be maintained and will be made available for inspection on request by North Wales Police or Local Authority officers on request.*
- 4. Children (under 18yrs of age) will only be allowed on the premises if they are accompanied by an adult and are supervised at all times.*
- 5. Children not to enter the premises without an adult.*
- 6. Children are not allowed or to be served at bar area*
- 7. No children to use or play gaming machines. Gaming machines to be monitored by staff to ensure compliance.*
- 8. No children (under 18yrs of age) will be allowed on the premises after 17.00hrs*

As put forward by the Council’s Pollution Control Section and agreed by the Applicant –

Prevention of Public Nuisance

- 1. All entrances and exits, including any smoking area doorway shall have lobby entrances fitted, each with 2 sets of self-closing doors, to minimise the break-out of noise; both sets of doors will remain closed other than for access and egress whenever regulated entertainment is being played at a level considered to be above 'background'.*
- 2. All doors and windows shall be kept closed whenever music is being played at a level considered to be above 'background' to minimise the break-out of noise.*
- 3. If additional ventilation is required, the premises shall be fitted with acoustically treated ventilation / air conditioning to avoid the need to open doors and windows whenever music is being played at a level considered to be above 'background'.*
- 4. Noise limiters shall be fitted to amplification equipment and be set at a level agreed with Denbighshire County Council Pollution Control Officers. Limiters shall be used at all times amplified equipment is being used for regulated entertainment (noise limiters to be fitted and noise levels set before trading commences).*
- 5. The playing of live / recorded music externally is not permitted.*
- 6. The smoking area shall be closed to the public for the consumption of alcohol before 09:00 hrs and after 23:00hrs.*
- 7. The placing of bottles into receptacles outside the premises shall only be permitted to take place between the hours of 09:00hrs and 21:00hrs to minimise disturbance to nearby properties.*
- 8. Prominent, clear and legible notices shall be displayed at all exits requesting patrons to respect the needs of local residents and to leave the premises and the area quietly.*
- 9. No flashing or bright lights shall be positioned on or outside the premises and any security or access lighting shall be installed and operated so as not to cause a nuisance to nearby properties.*

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

Members had considered very carefully the issues raised by the Responsible Authorities and Interested Party and thanked all those involved for their participation and contribution.

The Licensing Sub Committee had at the forefront of its mind the four licensing objectives –

- Prevention of Crime and Disorder
- Public Safety
- Prevention of Public Nuisance
- Protection of Children from Harm

The Sub Committee had taken into account that the North Wales Fire and Rescue Service had withdrawn their representations.

The Sub Committee had also taken into account the fact that the conditions proposed by North Wales Police and the Council's Pollution Control Section had been agreed by the Applicant and were such that they would promote all four licensing objectives and deal with the concerns raised. On this basis the Sub Committee granted the Premises Licence on the amended hours as set out in the report subject to the agreed conditions and on the basis that the noise limiter was fitted and set before trading commenced.

The meeting concluded at 10.40 a.m.