

LICENSING SUB COMMITTEE 'A'

Tuesday, 17 October 2017

PRESENT: Councillor J.M. Charles (Chair);

Councillors:

J.K. Howell and F. Akhtar;

Also present as observers: Councillors A. Fox and E. Williams;

Present as a representative of a Responsible Authority:-

Mr E. Jones – Principal Licensing Officer, Carmarthenshire County Council;

A. Morgan, Environmental Health Practitioner;

Mr M. Price – Dyfed Dyfed Powys Police Authority;

The following Officers were in attendance:

A. Evans, Assistant Solicitor;

K. Smith, Licensing Officer;

M.S. Davies, Democratic Services Officer.

Chamber, County Hall, Carmarthen - 9.30 am - 5.25 pm

1. DECLARATIONS OF PERSONAL INTEREST

There were no declarations of personal interests.

2. APPLICATION FOR THE GRANT OF A PREMISES LICENCE. THE BLACK MOUNTAIN INN, 126 MOUNTAIN ROAD, UPPER BRYNAMMAN, AMMANFORD SA18 1AN

The Sub-Committee was informed that the applicants had requested that consideration of their application be deferred to a later date.

RESOLVED to accede to the request.

3. APPLICATION FOR THE GRANT OF A PREMISES LICENCE. NATIONAL BOTANIC GARDEN OF WALES, LLANARTHNE, CARMARTHEN, SA32 8HG

The Sub Committee adjourned at County Hall, Carmarthen at 9.35 a.m. and reconvened on site at 11.15 a.m., passing a number of objectors' properties en route, at the National Botanic Garden of Wales, Llanarthne, in order to view the property where it was afforded the opportunity of examining both the internal and external facilities. Following conclusion of the site visit, the Sub Committee reconvened in the Council Chamber at County Hall, Carmarthen at 1.30 p.m. to consider the application.

The Assistant Solicitor briefed all present on the procedure for the meeting.

The Sub Committee was advised that an application had been received from the National Botanic Garden of Wales for a premises licence in respect of the above premises to allow.

Plays, Films, Indoor Sporting Events, Boxing & Wrestling,
Performance of Dance, Anything of A Similar Description Monday to
Sunday 08:00-23:00.

Live Music, Recorded Music and Supply of Alcohol Monday to Sunday
08:00-01:00.

Late Night Refreshment Monday to Sunday 23:00 – 01:00

The Sub Committee noted that the following documentation was attached to the report:-

Appendix A - copy of the application

Appendix B - representations submitted by the Licensing Authority

Appendix C - representations submitted by Dyfed Powys Police

Appendix D - representations submitted by the Public Health Services

Appendix E - representations submitted by other persons.

The Sub-Committee, with the agreement of all parties, was circulated with copies of additional documentation which included amendments to the hours applied for and additional conditions proposed by the Responsible Authorities and a plan detailing the location of objectors' properties in relation to the application premises/site.

The Licensing Authority representative referred to his representations as detailed within Appendix B to the report and the Draft Proposed Licence Conditions referred to above. All parties were afforded the opportunity of questioning the Licensing Authority representative on the representations made.

The Dyfed Powys Police representative referred to his representations as detailed within Appendix C to the report and the Draft Proposed Licence Conditions referred to above. All parties were afforded the opportunity of questioning the Dyfed Powys Police representative on the representations made.

The Public Health Services representative referred to his representations as detailed within Appendix D to the report and the Draft Proposed Licence Conditions referred to above. All parties were afforded the opportunity of questioning the Public Health Services representative on the representations made.

The Sub-Committee thereupon received representations from some of the other persons expressing concerns and/or objecting to the grant of a premises licence on the grounds detailed in Appendix E.

All parties were afforded the opportunity of questioning the evidence submitted. The applicants thereupon addressed the concerns and issues raised.

All parties were afforded the opportunity of questioning the evidence submitted.

The Sub-Committee thereupon

UNANIMOUSLY RESOLVED to retire into private session in order to receive legal advice pursuant to Paragraph 16 of Schedule 12A of the Local Government Act.

Following the adjournment, the Sub-Committee reconvened to advise of its decision and, having had regard to relevant paragraphs of the Licensing Authority's Statement of Licensing Policy and the guidance issued by the DCMS and the Home Office, it was

RESOLVED, having considered the evidence placed before the Sub Committee, that the application, as amended, be granted, subject to the additional licence conditions agreed between the applicant and the responsible authorities.

REASONS:-

The Sub-Committee had regard to the written representations made to it, as well as the evidence put before it. It also had regard to relevant paragraphs of the Licensing Authority's Statement of Licensing policy and the Guidance issued by the DCMS and Home Office, and those to which it had been referred by the parties.

In coming to its decision, the Sub-Committee has made the following findings of fact;

1. There was already a Premises Licence in place for part (but not all) of the area that the current application related to;
2. A number of Events had been held in outside areas falling within the scope of the application;
3. There had been no previous prosecutions or enforcement actions by the Licensing Authority, in respect of the premises;
4. There had been no complaints received by the Licensing Authority in relation to the premises;
5. The licensing authority had not received any referrals from the other Responsible Authorities in relation to the premises;
6. That the Applicants had amended their application and were applying for a premises license that permitted live music, recorded music and the supply of alcohol in indoor areas from 08:00 to 01:00 hours and outdoors from 08:00 – 23:00;
7. The maximum capacity for events at the premises would be 5,000;
8. The responsible authorities did not object in principle to the grant of the application and believed that the licensing objectives could be adequately promoted by conditions upon the premises licence;
9. The Applicants had agreed to those conditions being added to the licence.

The Sub Committee had attached weight to the views of the responsible authorities.

The Sub Committee recognised that its decision must be based upon real evidence, and that concerns and fears about what might happen if a licence were granted, where unsupported by such evidence, were not matters which it could properly take into account.

The Sub Committee noted the concerns expressed by the local residents, regarding the impact of the granting of the application upon the local community resulting from loud music and other noise from the licenses premises, increased

traffic on local roads, speeding and other traffic issues, and increased crime and disorder in and round the licensed premises. The Sub Committee accepted that these concerns were genuinely held by the local residents.

The members had regard to the license conditions agreed between the Applicant and the Responsible Authorities. They noted that they included detailed provisions relating to CCTV systems, door supervisors and alcohol sales. They also included conditions relating to the noise levels emanating from outdoor music concerts, as well a requirement to submit and agree a noise management plan with the local authority prior to each outdoor music concert. In addition, the agreed conditions also required the applicant:-

- (1) To prepare an Event Management Plan (EMP) for each event that included the provision of regulated entertainment that was held in the open air or within a temporary structure at the premises;
- (2) For events held outside the highlighted area, and for events held inside the highlighted area with an intended capacity greater than 2,500 persons, to submit the Event Management Plan to the Environmental Health and Licensing sections at least 4 months prior to the event taking place (unless this time limit is reduced by agreement with the licensing authority) for their approval and to operate these events in accordance with the approved plan.

Amongst other things, the Authority would expect these Event Management Plans to include a traffic management plan, a noise management plan, health and safety risk assessments, an alcohol and drug policy and details of the security and stewarding arrangements for example. These agreed conditions do much to address the concerns raised by local residents.

Whilst some of the local residents had given evidence of being able to hear events at the premises, of speeding and other traffic problems in the locality and of being told about unruly wedding events at the gardens, the evidence of previous problems at the premises was limited. The Sub Committee did not feel that this evidence was sufficient to show that the views of the Responsible Authorities in this matter are wrong.

In the absence of sufficient evidence that licensable activities at the Botanic Garden had in the past had a negative impact upon the local community, or expert evidence to show that the nature, location and duration of the proposed licensable activities will, on the balance of probabilities, cause a public nuisance, or an increase in crime and disorder, the sub-committee believed that to reject the application on the basis of residents' concerns would be would be disproportionate and inappropriate.

The Sub Committee was satisfied on the evidence presented that granting the application, subject to the licence conditions agreed between the applicant and the responsible authorities, would not undermine any of the licencing objectives. The Sub Committee was further satisfied that those conditions were appropriate in order to promote the licensing objectives and a proportionate response to the nature, location and timing of the licensable activities that were proposed.

CHAIR _____

DATE _____