

LICENSING SUB COMMITTEE B

Wednesday, 29 November 2017

PRESENT: Councillor A. Davies (Chair)

Councillors:

P.M. Edwards and J.G. Prosser

Also present as Observers: Councillors R. Evans and H.I. Jones

Present as Representatives of a responsible Authority:-

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

Mr A. Morgan – Environmental Health Practitioner, Carmarthenshire County Council

The following Officers were in attendance:

R. Edgecombe, Legal Services Manager

A. Rees, Licensing Officer

K. Thomas, Democratic Services Officer

Chamber, County Hall, Carmarthen - 10.00 am - 4.50 pm (Site inspection 10.00 a.m. – 11.50 a.m. Chamber County Hall 1.30 p.m. – 4.50 p.m.)

1. DECLARATIONS OF PERSONAL INTEREST.

There were no declarations of personal interests.

2. APPLICATION FOR THE VARIATION OF A PREMISES LICENCE, STRADEY PARK HOTEL, FURNACE, LLANELLI, SA15 4HA

The Sub Committee having convened at 10.00 a.m. in the Council Chamber, County Hall, Carmarthen, adjourned at 10.10 a.m. to undertake a site visit to the Stradey Park Hotel, Furnace, Llanelli in connection with a variation application received for the Hotels Premises Licence. The Sub Committee arrived on site at 11.00 a.m. and viewed the Hotels roof top lounge area, being that part of the premises subject to the variation application. It also viewed from the Hotel Balcony the location of the objectors properties, following which it proceeded to the highway fronting the properties at 'The Dell' to view the proximity of that development to the hotel. Following conclusion of the site visit at 11.20 a.m. the Sub Committee reconvened at the Council Chamber, County Hall, Carmarthen at 1.30 p.m. to consider the application

The Legal Services Manager briefed all present on the procedure for the meeting and advised the Sub Committee that an application had been received from Gryphon Leisure for the grant of a variation of the premises licence in respect of the Stradey Park Hotel Furnace, Llanelli as follows:-

“Annexe 3 – 1. Only residents of the hotel will be permitted to purchase alcohol in the rooftop lounge”.

The Legal Services Manager advised that as the nature of the variation was specific to the roof top lounge area only at the Hotel, the granting of the application would enable non –residents attending the lounge to purchase alcohol. If the

application were to be granted any conditions to be imposed on that variation could only be applied to that lounge and not to the general operation of the hotel or in respect of a Late Night Refreshment Licence.

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

Appendix A – copy of the application

Appendix B – copy of the existing premises licence

Appendix C – representations submitted by the Licensing Authority

Appendix D – representations submitted by the Public Health Services

Appendix E – representations submitted by other persons.

In addition to the above the Sub Committee received, with the consent of all parties, the following additional documentation and adjourned for a period of 10 minutes to afford all parties the opportunity of reading the material:-

- Plan detailing the location of the Stradey Park Hotel and the objectors properties
- Note dated 20th October from Gryphon Leisure in response to representations received
- Letter dated 23rd November, 2017 from Mr E. Jones, Carmarthenshire County Council to Gryphon Leisure
- Letter dated 23rd November, 2017 from Mr A. Morgan, Carmarthenshire County Council to Gryphon Leisure
- E-mail dated 28th November from Mr T Byrne, Gryphon Leisure to the Licensing Division at Carmarthenshire County Council
- E-mail dated 27th November, 2017 from Mr Morris to public protection at Carmarthenshire County Council
- Letter dated 28th November, 2017 from Nia Griffith M.P.

The Licensing Authority Representative referred to his representations, as detailed within Appendix C to the report and advised that subsequent thereto he had visited the premises on the 8th November, 2017 together with Mr A Morgan from Environmental Health to discuss the application with the applicants. As a consequence of that visit, he had on the 23rd November, 2017 written to the applicant proposing the inclusion of the following three additional conditions (page 5 of the additional documentation refers) to the premises licence should the Sub Committee be minded to grant the variation application.

- In the rooftop lounge, alcohol will only be served or sold to persons having a meal in that lounge;
- A CCTV system will be installed and maintained in the rooftop lounge area and will be operational throughout permitted hours;
- Children will only be allowed in the rooftop lounge when they are accompanied by a supervising adult.

Subsequent to that letter, confirmation had been received from Gryphon Leisure on the 28th November, 2017 accepting those additional conditions (page 9 of the additional documentation refers).

All parties present were afforded the opportunity of questioning the Licensing Authority representative on his submission.

The Public Health Services representative referred to his representations, as detailed in Appendix D to the report, and advised that they had been produced in response to some 15 complaints received by the Public Health Services on the operation of the Stradey Park Hotel since 2007. Subsequent to that representation, he had, on the 8th November, 2017, together with Mr E Jones of the Licensing Authority, met with the applicants to discuss the application. As a consequence of that visit, he had, on the 23rd November, 2017 written to the applicant proposing the inclusion of the following three additional conditions (page 7 of the additional documentation refers) to the premises licence should the Sub-Committee be minded to grant the variation application.

- Use of the rooftop lounge terrace external area will cease for all customers at 11.00p.m. Should customers require to smoke after 11pm then they will be required to use alternative areas to smoke;
- Only background music will be played at the roof top lounge. The levels of background music will be set in agreement with the Environmental Health Section;
- The upstairs roof top lounge shall have a management plan which shall be agreed in writing by the Environmental and Licensing Section prior to its use. A copy of the management plan shall be kept for reference at the roof top lounge

In addition to those conditions he had also listed within his letter of the 23rd November some 8 recommendations he considered should be included within aforementioned management plan i.e.

- The roof top lounge will be a fine dining restaurant for adults and children over 12 years of age,
- Children will only be allowed in the roof top lounge when they are accompanied by a supervising adult,
- No group bookings larger than 12 people will be accepted at the roof top lounge.
- Individuals or groups cannot “block book” the roof top lounge
- Mechanical ventilation is available at the roof top lounge. Therefore windows and doors shall not be opened for ventilation purposes. This is to minimise noise escaping from the building
- Notices advising customers of the 11.pm closure of the terrace to be displayed on terrace doors
- No Tables/Chairs to be made available on the balcony
- Notices requesting patrons to keep noise to a minimum to be placed on the balcony.

He reported that subsequent to that letter, confirmation had been received from Gryphon Leisure on the 28th November, 2017 accepting the additional conditions and bullet points, save for the bullet point relating to no tables/chairs to be made available on the balcony which they had requested should be the subject of further discussion. However, he was of the view that should be retained within the management plan.

All parties present were afforded the opportunity of questioning the Public Health Services' representative on his submission.

Representations were received from a number of local residents objecting to the proposed variation re-iterating the points detailed within their written representations and including, but not exhaustive to, the following:-

1. Amplified music could be heard emanating from the roof top lounge as a consequence of it not being sound proofed
2. Noise emanating from the hotel impacted upon the human rights of local residents, particularly Article 8 and Article 1, 1st Protocol.
3. Peoples' voices could be heard on the roof top terrace until 11.00 p.m.
4. Public use of the roof top lounge was currently a frequent occurrence e.g. Baby Showers and afternoon teas etc where alcohol was supplied
5. Concern on how food would be carried to the roof top lounge from the downstairs kitchens
6. Lack of car parking at the hotel resulting in guests parking their vehicles on the street
7. Light pollution emanating from the hotel
8. Systematic failure by the hotel to adhere to its licensing conditions over the previous 10 years
9. Anti social behaviour from guests at the hotel impacting on the local community
10. General noise disturbance from other areas of the hotels operation eg brasserie as a result of windows doors being left open
11. Granting the requested variation could result in an increase in noise disturbance and disruption for local residents.

All parties present were afforded the opportunity of questioning the objectors, individually, on their respective submissions.

The applicants in response to the representations received advised that the Hotel did recognise residents' concerns and tried to alleviate those where possible. However an unfortunate side effect of the very nature of its business was that occasionally anti social behaviour could occur from its guests/operations. The proposed use of the roof top lounge would be for the provision of fine a la carte dining only. No alcohol could be purchased in the bar, and all such sales would be via waiter service provided from other bars in the premises. Any music played at lounge would be at background level only to enable normal conversations to take place. It was accepted additional car parking was required at the hotel and that, on occasions, on street parking was adversely impacting on local residents with those instances having been reported to the police. It was confirmed the roof top lounge would not be used for parties.

All parties present were afforded the opportunity of questioning the Licensing Authority representative on his submission.

The Sub Committee thereupon

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

Following the adjournment, the Sub-Committee reconvened to advise of its decision and, having regard to the 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 that the application for a variation of the Premises Licence for the Stradey Park Hotel, Furnace, Llanelli be granted subject to the following conditions:-

1. In the rooftop lounge, alcohol will only be served or sold to persons having a meal in that lounge
2. A CCTV system will be installed and maintained in the rooftop lounge area and will be operational throughout permitted hours.
3. Children will only be allowed in the rooftop lounge when they are accompanied by a supervising adult
4. Use of the rooftop lounge terrace external area will cease for all customers at 11pm. Should customers require to smoke after 11pm then they will be required to use alternative external areas to smoke.
5. The upstairs rooftop lounge shall have a management plan which shall be agreed in writing by the environmental and licensing sections prior to alcohol being sold to non-hotel residents in the rooftop lounge. A copy of the management plan shall be kept for reference at the rooftop lounge.

The Sub Committee had not imposed the requested condition by the Public Health Services regarding the playing of background music as such a condition would be unenforceable. It instead recommended that issue be included within the management plan.

REASONS

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

1. Recent changes to the Licensing Act 2003 allowed the licence holder to provide live and recorded music in the rooftop lounge to anyone (whether or not a hotel resident) between 8am and 11pm
2. Nothing prevented alcohol consumption in the lounge by non-residents
3. Nothing prevented the lounge being used as a restaurant by non-residents before 11pm
4. The Premises Licence Holder had previously been cautioned in 2010 for carrying on unlicensed entertainment in the rooftop lounge.
5. That unauthorised entertainment gave rise to noise complaints from local residents
6. There was a history of noise complaints and other public nuisance relating to the premises.
7. None of the responsible authorities objected in principle to the application
8. The responsible authorities believed that any public nuisance arising from the grant of the application could be adequately dealt with by specific additional licence conditions and the use of other statutory powers by public health services.
9. The applicants agreed to the additional licence conditions put forward by the responsible authorities

The Sub Committee had attached weight to the views of the responsible authorities, as it was legally obliged to do so.

The Sub Committee found that the evidence of the local residents, although credible and compelling, was insufficient to justify it departing from the views of the responsible authorities on this point.

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

On the evidence provided the Sub Committee was satisfied that to have granted the variation on the grounds originally set out in the application would have undermined the licensing objective of preventing public nuisance.

However the Sub Committee accepted the evidence of the responsible authorities that the issues of potential public nuisance arising from the sale of alcohol in the rooftop lounge to non-hotel residents could appropriately and proportionately be addressed by the imposition of the additional licence conditions agreed between the responsible authorities and the applicants and the use of separate legal powers by Public Health services to tackle statutory nuisance.

The committee was therefore satisfied that;

1. To grant the application subject to the agreed additional licence conditions was appropriate in order to promote the licensing objectives
2. That those conditions were a proportionate response to the issues identified in the evidence
3. That to grant the application on this basis would not undermine the licensing objectives.

The Sub Committee noted that the application has the potential to impact upon the human rights of the residents, particularly Article 8 and Article 1, 1st Protocol. However those were not absolute rights and the committee was satisfied, based on the evidence of the responsible authorities that the additional licence conditions imposed were sufficient to protect those rights.

Notwithstanding the above, the Sub Committee was concerned about the impact the hotel was having on local residents and would therefore urge the hotels owners to work closely with Public Health Services and local residents to address those issues.

CHAIR

DATE