

LICENSING SUB COMMITTEE A

TUESDAY, 19 JULY 2022

PRESENT: Councillor J.M. Charles (Chair)

Councillors (Virtually):

M.D. Cranham

S.A. Curry*

A. Evans

W.T. Evans*

Also Present (In Person):

C. Jones, Legal Adviser

E. Jones, Licensing Lead

A. Morgan, Environmental Health Practitioner

K. Smith, Licensing Officer

A. Rees, Licensing Officer

S. Rees, Simultaneous Translator

J. Owens, Democratic Services Officer

Also Present (Virtually):

M. Evans Thomas, Principal Democratic Services Officer

[Notes:

- Due to technical difficulties, the meeting was adjourned at 10:13hrs and reconvened at 12:57hrs. *Cllr. S. Curry and Cllr. T. Evans were not present during the reconvened meeting.
- At 15:56hrs the Sub-Committee's attention was drawn to Council Procedure Rule 9 as the duration of the meeting had been underway for nearly three hours. Accordingly, the Sub-Committee resolved to suspend standing orders, in accordance with CPR 23.1, to enable the Sub-Committee to conclude the item of business on the agenda].

County Hall, Carmarthen. SA31 1JP and remotely - 10.12 am - 4.16 pm

1. DECLARATIONS OF PERSONAL INTEREST.

There were no declarations of personal interest.

2. TEMPORARY EVENT NOTICES - GLANRANNELL PARK, CRUGYBAR, LLANWRDA, CARMARTHENSHIRE, SA19 8SA.

The Legal Adviser briefed all present on the procedure for the meeting, which had been convened to consider an objection notice submitted by the Environmental Health Officer of Carmarthenshire County Council, in relation to 5 Temporary Event Notices submitted by Mr David Drinkall, of Glanrannell Park House, Crugybar, Llanwrda, SA19 8SA. The Temporary Event Notices related to the sale by retail of alcohol between 14:00 – 23:30hrs and the provision of regulated entertainment between 18:00-22:30hrs at the premises as follows:

Temporary Event Notice 1 – Friday 22nd July and Saturday 23rd July 2022.
Temporary Event Notice 2 – Friday 29th July and Saturday 30th July 2022.
Temporary Event Notice 3 – Friday 5th August and Saturday 6th August 2022.
Temporary Event Notice 4 – Friday 12th August and Saturday 13th August 2022.
Temporary Event Notice 5 – Friday 19th August and Saturday 20th August 2022

The Environmental Health Officer clarified the distinction between the factors which would constitute a public nuisance in accordance with the Home Office Guidance issued under section 182 of the Licensing Act 2003 and the factors which would constitute a statutory noise nuisance enshrined within the Environmental Protection Act 1990.

The Environmental Health Officer referred to his written submission and detailed the objection to the notices on the grounds that the Authority considered that the Public Nuisance objective would not be met for the reasons set out within Appendix A to the report.

At this point the Sub-Committee was provided with a selection of audio recordings captured by local residents by way of a 'Noise App', together with those recorded using professional equipment by the Authority's Pollution division during the monitoring of noise levels undertaken at previous events held by the applicant. It was reported to the Sub-Committee that the activities from Glanrannell Park House were both audible at the properties visited and in the wider community. The Environmental Health Officer further confirmed that whilst the noise witnessed during the Authority's monitoring exercise was not sufficient to be considered as a statutory noise nuisance, it was clarified the determination could change based on factors relating to the duration, frequency, type and volume of noise, in addition to factors pertaining to reasonableness and the nature of the locality. The Environmental Health Officer therefore concluded that the main basis of the objection related to the frequency of Temporary Event Notices applied for over a short duration.

The Sub-Committee thereupon considered written and oral witness statements from local residents in support of the objections put forth by the Environmental Health Officer. The objections related to the following areas:

- The adverse health and well-being implications on local residents, caused by the frequency of events and taking cognisance of the distance of the venue from its neighbouring properties.
- The duration of events, including the noise ancillary to events held there caused by vehicle noise, noise generated by the setting up of an event and noise from individuals attending events, particularly when leaving.
- An unquantifiable adverse impact pertaining to the loss of trade for neighbouring businesses.
- A disruption of peace, and an invasion on the lives of local residents, which was not considered to be in keeping with the locality of the rural area.

All parties were afforded the opportunity of questioning the Environmental Health Officer and witnesses on the representations made.

The applicant thereupon addressed the concerns and issues raised and advised that mitigations would be implemented in terms of a proposed reduction to the end time of music and the format of the music. It was reported that the live artists would also be placed in an alternative location on the site and no music would be played in between live sets in an endeavour to reduce noise levels. An assurance was also provided that the number of Temporary Event Notices submitted would not exceed the Welsh Government Policy stipulations.

With the consent of the Chair, the Sub-Committee also considered a selection of recordings submitted by the applicant to the Authority on the 18th July 2022 which demonstrated that the activities from a neighbouring property was audible at Glanrannell Park House.

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.

The Sub-Committee having had regard to relevant paragraphs of the Licensing Authority's Statement of Licensing policy and to Guidance issued by the DCMS and Home Office identified in the agenda item, and those to which it had been referred by the parties (which included the Guidance issued pursuant to Section 182 of the Licensing Act 2003),

UNANIMOUSLY RESOLVED that, having considered all the evidence before it, the sub-committee finds that the Temporary Event Notices should be dealt with as follows:-

Temporary Event Notice 1 (22.07.22 – 23.07.22) -	Counter Notice Issued.
Temporary Event Notice 2 (29.07.22 – 30.07.22) -	No Counter Notice Issued.
Temporary Event Notice 3 (05.08.22 – 06.08.22) -	Counter Notice Issued.
Temporary Event Notice 4 (12.08.22 – 13.08.22) -	No Counter Notice Issued.
Temporary Event Notice 5 (19.08.22 – 20.08.22) -	Counter Notice Issued.

REASONS

The Committee recognised that its decision must be based upon real evidence, and that concerns and fears about what might happen, where unsupported by such evidence, are not matters which they can properly take into account. The Committee felt that any future grant of planning permissions, for instance, fell into this latter category.

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

The main concern expressed by the Responsible Authority was that the prevention of public nuisance licensing objective was undermined by noise which amounted to a public nuisance.

The main concern expressed by way of witness evidence called by the Responsible Authority was also noise generated at the premises, both from music but also noise ancillary to events held there, including vehicle noise, noise generated by the setting up of an event and noise from individuals attending events, particularly when leaving.

That the best evidence available to them in relation to the levels of noise generated at the premises was the audio recordings made via the 'Noise App' and the professional equipment installed at local resident's properties.

That evidence from witnesses in relation to sound levels was broadly consistent with the above referred to recordings.

That the duration, nature and in particular the frequency and repetition of noise at the levels apparent from the recordings and detailed by witnesses in their evidence was a nuisance to those living in the vicinity of the premises sufficient to present a public nuisance.

The Sub-Committee felt that the Temporary Events Notices submitted would, due to their frequency (spanning as they do every weekend from the 22nd July 2022 to the 20th August 2022) result in no respite for those in the vicinity from noise generated at the premises, and that such frequently repeated events without break did not promote the licensing objective of the prevention of public nuisance.

The Sub-Committee considered all of the options available to it in relation to the Temporary Events Notices pursuant to the Licensing Act 2003.

The Sub-Committee was cognisant of the need to promote the licensing objectives and that an appropriate balance must be struck between the negative impact on Mr. Drinkall in issuing Counter-Notices in relation to all Temporary Event Notices and the impact on residents in not issuing such Counter-Notices.

It was felt that in order to achieve that promotion and balance Counter-Notices should be issued in relation to the Temporary Event Notices as follows:

22nd and 23rd July 2022

5th and 6th August 2022

19th and 20th August 2022

However, the Sub-Committee felt that given the Counter-Notices referred to above, Notices were not necessary in relation to the Temporary Event Notice relating to the 29th July and 30th July and that relating to the 12th and 13th of August 2022 as sufficient respite between events for residents was afforded.

The Sub-Committee noted the suggested measures in terms of reduction proposed by Mr. Drinkall in relation to the end time of music and the format of the music, and expressed the hope that those measures would be implemented by him in relation to the events which will go ahead.

CHAIR

DATE