

LICENSING SUB-COMMITTEE B

18 OCTOBER 2022

PRESENT: (In Person) Councillor D.E. Williams (Chair)

Councillors (In Person):

H. Jones, B.D.J. Phillips.

Present as observers (Virtually):

K. Madge.

Present as representatives of a Responsible Authority (Virtually):

D. Bizby, Dyfed Powys Police Authority Representative;

A. Morgan, Environmental Health Practitioner.

Present as representatives of a Responsible Authority (In person):

E. Jones, Licensing Lead;

Also Present (In Person):

R. Edgecombe, Legal Services Manager;

A. Rees, Licensing Officer;

K. Smith, Licensing Officer;

E. Evans, Principal Democratic Services Officer;

S. Rees, Simultaneous Translator

J. Owen, Democratic Services Officer [Minute Taker]

Chamber, County Hall, Carmarthen, SA31 1JP and remotely: 10:00am - 11:50am

1. APOLOGIES FOR ABSENCE

There were no apologies for absence.

2. DECLARATIONS OF PERSONAL INTEREST.

There were no declarations of personal interest.

3. APPLICATION FOR THE GRANT OF A PREMISES LICENCE. ZABKA SUPER MINIMARKET, 21 COWELL STREET, LLANELLI SA15 1UU

The Legal Services Manager briefed all present on the procedure for this item which had been brought to the Committee to consider an application received from Zabka Super Minimarket for the grant of a Premises Licence in respect of 21 Cowell Street, Llanelli SA15 1UU.

To allow:-

Supply of Alcohol/Opening Hours –

- Monday to Saturday 08:30-22:30,
- Sunday 09:00 – 21:00.

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

Appendix A – copy of the original application

Appendix B – representations submitted by Dyfed Powys Police

Appendix C – representations submitted by other persons.

Representations were received from the local ward County Councillor T. Davies. Councillor Davies re-iterated the points raised in his representations, as detailed within Appendix C to the report. In addition, Councillor Davies stated that he had been approached by residents who were concerned about alcohol related anti-social behaviour. The town centre has a Public Space Protection Order (PSPO) in place which was being flouted.

Councillor Davies reported that there had been a lot of problems with broken glass from alcohol bottles in the area. He stated that he had no objections to the pubs and clubs in the area as alcohol sales and consumption took place within the premises. Furthermore, he had no problems with Asda and other stores outside of the town centre. However, he raised that there was an issue with off sales in the Town Centre with one particular shop being the main cause.

Councillor Davies reported that there was one off-licence near the town park. When there was a licence at this premises, it was a source of problems.

All parties were afforded the opportunity of questioning Councillor Davies on his representation.

The applicant's agent responded on behalf of the applicant, who was present at the meeting, to the objection the local representation had made. The applicant's agent stated the shop had been in situ for 4 years and made reference to paragraph 10.15 of the Statutory guidance. The applicant's agent stated that his client understood the licensing objectives and would ensure that measures were in place including; detailed training records, refusal book and incident book. Outside of premises would be kept clear and off-sales would be encouraged to be taken home to drink. In addition, it was reported that his client had agreed to police licence conditions as stated in Appendix B. The applicant resides in the area of the premises and understands the local residents' concerns.

All parties were afforded the opportunity of questioning the applicant on the representations made.

In response to queries raised by Sub Committee Members, the applicants agent stated that the applicant would be happy to;

- reduce terminal hours to 22.00 during week;
- introduce measures to track alcohol sold;
- to display a notice advising customers of the Public Space Protection Order.

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.

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, having considered all the evidence before it, that the Sub Committee finds that the application should be granted as per the hours originally requested, subject to the licence conditions agreed with the police.

REASONS:

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

1. The premises is not itself located in a street identified in the Council's Statement of Licensing Policy as a crime and disorder hotspot, but is close to streets that are.
2. The police, in their representations, had not provided any evidence of a history of alcohol related crime and disorder at, or related to the premises
3. The premises had previously been licensed to sell alcohol.
4. None of the responsible authorities had objected to the granting of the application
5. The applicants agreed to the additional licence conditions requested by the police.

The Sub Committee had attached weight to the views of the responsible authorities as it was legally obliged to do so. That none of them object to the application must therefore weigh heavily on the committee.

The Sub Committee recognises 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, are not matters which they can properly take into account.

Having regard to the evidence presented, and relevant parts of statutory guidance and the council's own statement of licensing policy, the committee is satisfied that to grant the application, subject to the additional licence conditions agreed between the applicant and police, would not undermine any of the licence objectives. The Sub Committee was further satisfied that those additional licence conditions were necessary to promote those objectives and a proportionate response to the issues identified by the local Councillors.

4. APPLICATION FOR THE REVIEW OF A PREMISES LICENCE. BLUE BELL INN, 19 HIGH STREET, LLANDOVERY, CARMARTHENSHIRE SA20 OPU

The Legal Services Manager briefed all present on the procedure for this item which had been brought to the Committee to consider an application received from the Licensing Lead for Carmarthenshire County Council for the Review of a premises licence in respect of Blue Bell Inn, 19 High Street, Llandovery, Carmarthenshire where in addition to complaints received, monitoring by Environmental Health and compliance visits made by Dyfed Powys Police and Council Licensing Officers, the Licensing Authority had concerns that there was a lack of control and management at the premises.

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

Appendix A – copy of the original application

Appendix B – representations submitted by Dyfed Powys Police

Appendix C – representations submitted by Public Health Services.

Appendix D – representations submitted by other persons.

The Licensing Lead referred to his written representations, as detailed within Appendix A to the report, and outlined to the Sub Committee the events which had led to the submission of the review application.

He outlined the numerous incidents/complaints which had related to the premises over a long period of time and the investigations and compliance visits that had been made by the responsible authorities.

Repeated engagement with the previous premises licence holder Anna Reed had been made but with no consequential change or improvement and the issues persisted. A noise abatement notice had been served by Environmental Health Officers, which resulted in no change. In view of all the efforts made with no positive impact, it was therefore deemed necessary to review licence.

Since the submission of the application to review the licence, Ms Reed had left the premises and surrendered the licence. The same day the premises owner Mrs Colette Walsh submitted an application to transfer the licence which was granted, however the at this time the premises was closed and not trading.

The Sub-Committee was informed that whilst revocation was no longer being sought, additional licence conditions and removal of live music exemption at the premises was.

Primarily, the complaints received related to live entertainment in the beer garden under the live music exemption. The removal of the exemption would ensure that any live entertainment in the future was subject to the same conditions as the rest of the premises.

In light of the fact that the previous licence holder Anna Reed had left, a revised set of licence conditions that had been agreed with Police and the Public Health Services and had been exchanged with new licence holder was shared to the Members of the Sub-Committee. Members were afforded a few minutes to read and digest the revised conditions. The Applicant considered it appropriate that the conditions be added to the licence as it was unclear who would be running the premises in the future. Ms Walsh was previously the licence holder, during this period only a small number of complaints received.

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

The Police Authority representative referred to his written representations, as detailed within Appendix B to the report, and supported the position taken by Licensing Authority. He reported that the premises had been poorly managed by the previous premises licence holder Anna Reed which entailed numerous police visits with no subsequent improvement. It was emphasised that the conditions were necessary, as it was unclear who would run premises in future.

The Public Health Service representative referred to his written representations, as detailed in Appendix C to the report, regarding the site visits and noise monitoring undertaken. Advice was given to the premises licence holder Anna Reed but not followed up. The level of noise was at such a significant level that a Statutory Notice existed and an Abatement Notice was issued. Unfortunately, complaints continued to be received until Ms Reed left the premises.

For the benefit of the Sub-Committee members, the Environmental Services Officer played a selection of recordings to demonstrate the nature and extent of the issues even after an Abatement Notice had been served.

Given that Ms Reed had since left the premises, the Environmental Services Officer reported that he supports the suggested conditions.

Whilst Mrs Collette Walsh the new licence holder was present in the meeting, she was represented by a friend who explained that Mrs Walsh purchased the property in 2007 and managed it until 2015, during this time there had been no issues in relation to the property or licence was raised. An explanation as to why she had to give up running premises was provided. Mrs Walsh then rented out the premises, but unfortunately the tenants became a real problem then left owing rent and leaving considerable damage. The property would be placed on the market as soon as practicably possible.

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.

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, having considered all the evidence before it, that the Sub Committee finds that the application should be dealt with as follows:-

- 1. The provisions of s.177A Licensing Act 2003 (live music exemption) no longer apply to the premises;**
- 2. The amended/additional licence conditions agreed between the responsible authorities be added to the licence**

REASONS:

In coming to its decision, the sub-committee had made the following findings of fact;

1. Under its previous management the premises was a source of alcohol related crime and disorder and public nuisance.
2. The previous management had now left the premises.
3. Current licence conditions were not adequate to ensure proper management of the premises in the future.
4. The responsible authorities had agreed amended licence conditions that they consider were sufficient to promote the licensing objectives.
5. The new premises licence holder had agreed to the removal of the live music exemption from the licence.
6. The applicants no longer seek the revocation of the premises licence.
7. The premises was currently closed.

The Sub Committee had attached weight to the views of the responsible authorities as it was legally obliged to do so. That none of them now seek revocation of the premises licence must therefore weigh heavily on the Sub-Committee.

The Sub 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. In this case the Sub Committee was satisfied that there was real evidence that the operation of the premises under its previous management undermined the licensing objectives.

Having regard to the evidence presented, and relevant parts of statutory guidance and the council's own statement of licensing policy, the Sub Committee was satisfied that to add the additional licence conditions agreed between the new premises licence holder and the responsible authorities, would promote the licence objectives. The Sub Committee was further satisfied that those additional licence conditions were a proportionate response to the issues identified in the evidence.

The Sub Committee was further satisfied that given the evidence presented regarding the impact of past live music events on local residents, it was necessary and proportionate to remove the live music exemption from the licence in order to promote the licensing objective of preventing public nuisance.

CHAIR

DATE