



LICENSING AND GAMBLING SUB COMMITTEE

MINUTES OF THE MEETING HELD AT PENALLTA HOUSE, YSTRAD MYNACH ON
WEDNESDAY, 13TH SEPTEMBER 2017 AT 10.00 A.M.

PRESENT:

Councillor D.W.R. Preece - Chair

Councillors:

M. Davies, J. Ridgewell

Together with:

A. Dicks (Assistant Licensing Manager), K. Hopkins (Senior Licensing Administrator),
T. Keohane (Senior Trading Standards Officer), S. Ead (Solicitor), R. Barrett (Committee
Services Officer), J. Tyler (Administrative Assistant)

Representing Pollution Control

A. Brown (Environmental Health Officer)

Representing the Applicant

Mrs A. Chidgey (Applicant)

Representing Other Persons

Mr T. Maddison (Local Resident), Councillor M.P. James (Local Ward Member)

1. APOLOGIES FOR ABSENCE

There were no apologies for absence received.

2. DECLARATIONS OF INTEREST

Councillor M.P. James advised those present that although he has been nominated to sit on the full Licensing Committee, he has not yet completed the required training or participated in any discussions with other committee members on licensing matters. He explained that he was speaking at the meeting as a local resident and in his capacity as a local ward member.

The Legal Advisor to the Sub Committee confirmed that Councillor James would not be deemed to be part of the full Licensing Committee (or any Sub Committee) at the present time, as he had not yet completed the requisite training. As such, he was able to speak at the meeting in his capacity as a local ward member and local resident.

3. APPLICATION FOR A NEW PREMISES LICENCE IN RESPECT OF BEECH TREE HOTEL, 43 BEDWLWYN ROAD, YSTRAD MYNACH

The Chair opened the meeting and introductions were made.

The Legal Advisor to the Sub Committee outlined the procedure for the meeting and reported that Members had previously familiarised themselves with the report of the Licensing Officer, the premises application and supporting documentation, together with the written representations of a Responsible Authority, and from local residents and elected representatives (as defined as Other Persons in accordance with the Licensing Act 2003) who were objecting to the application.

All parties were informed of a challenge that had been made by a local resident regarding the licensing process and requirements for the premises application. This related to the font size and positioning of the signage that had advertised the application. The Legal Advisor confirmed that Trading Standards had inspected the relevant signage in the vicinity of the premises to ensure it met relevant legislation, and had responded directly to the complainant. All parties present were invited to raise any issues regarding this matter. No comments were received, and so Mr Tim Keohane, the Senior Trading Standards Officer who had been in attendance to respond to any queries on this matter, then left the meeting.

Mrs Annette Dicks (Assistant Licensing Manager) advised the Sub Committee that the applicant (Mrs Adele Chidgey) had produced an additional document to assist as an aid memoir with her representations, and was seeking permission for it to be tabled at the meeting. Clarification was sought on its contents and it was explained that the document also responded to each of the objections raised by local residents regarding the application.

Mr Tim Maddison (a local resident) objected to the request in that he had not yet had sight of the document. It was suggested that all parties recess in order to read the document and for the Sub Committee to consider whether it should be included as part of the representations.

The Assistant Licensing Manager also offered to table a map of the premises and surrounding area so as to assist Members in their deliberations during the course of the meeting, but following discussion with other parties, this was declined by the Chair.

The Sub Committee adjourned at 10.18 a.m. to read the additional documentation from Mrs Chidgey.

The meeting reconvened at 10.28 a.m. and the Sub Committee confirmed that they would accept the additional written submission from the applicant.

The Assistant Licensing Manager was invited to present the report and outlined the application submitted by the Beech Tree Hotel, 43 Bedwlwyn Road, Ystrad Mynach for a new premises licence application, with the proposed operating hours as follows:-

Supply of Alcohol - on-sales only

- Monday to Wednesday inclusive 12.00noon to 12.00 midnight
- Thursday to Saturday inclusive 10.00 a.m. to 12.00 midnight
- Sunday 10.00 a.m. to 10.00 p.m.
- Bank Holidays 10.00 a.m. to 12.00 midnight
- New Years Eve 10.00 a.m. to 01.00 a.m. the following morning
- The broadcasting of live sporting events between the hours of 08.00 a.m. to 12 midnight

Late Night Refreshment - Indoor only

- Thursday to Saturday inclusive 11.00 p.m. to 12.00 midnight

Live Music - Indoors and Outdoors

- Friday and Saturday between the hours of 7.00 p.m. to 12.00 midnight
- Bank Holidays 5.00 p.m. to 10.30 p.m.
- New Years Eve 7.00 p.m. to 01.00 a.m. the following morning

Recorded Music - Indoors only

- Monday to Wednesday inclusive 12.00 noon to 11.00 p.m.
- Thursday to Saturday inclusive, 11.00 a.m. to 12.00 midnight
- Sunday 11.00 a.m. to 10.00 p.m.
- Bank Holidays 10.00 a.m. to 12.00 midnight
- New Years Eve 7.00 p.m. to 01.00 a.m. the following morning

The Assistant Licensing Manager referred to the proposals within the applicant's operating schedule as set out in paragraph 5 of the report which related to the promotion of the four licensing objectives. These were outlined in paragraphs M(a) to M(e) of the application and were referred to in the Council's Model Pool of Conditions (attached to the report), which can assist applicants in determining those steps that they consider are appropriate for the promotion of the licensing objectives in relation to their specific premises. The Assistant Licensing Manager advised members that whilst the applicant had included a condition (CE14) which related to film exhibitions, she had not applied for film exhibitions as a licensable activity and this could not be a valid condition should the Sub Committee approve the application.

Members were referred to the representations received in relation to the application from a Responsible Authority (Environmental Health) and from Other Persons (comprising of a petition from local residents, 6 letters from residents, and correspondence from a local ward member and from the Assembly Member for the constituency) that were set out in paragraph 6 of the Licensing Officer's report. Copies of the representations were attached to the report that was circulated with the agenda. It was noted that several parties who had made representations on behalf of Other Persons were unable to attend the meeting. Written confirmation had been received from three residents for Mr Tim Maddison (a local resident) to speak on their behalf. Councillor Martyn James a local resident and local ward member for Ystrad Mynach was also in attendance.

Attention was then drawn to the local policy considerations as set out in paragraph 7 of the report and to the way in which the Sub Committee would deal with the application. It was explained that the Sub Committee must have regard to all the representations made and to the evidence heard. It must take such steps as is considered necessary for the promotion of the licensing objectives and could:-

- Grant the application subject to any additional conditions specified in the operating schedule and, if appropriate, any mandatory conditions;
- Modify the conditions of the licence by altering, omitting or adding to them;
- Reject the whole or part of the application.

All parties present were afforded the opportunity to ask questions and the Chair sought clarification on whether the petition signatories (which had been redacted upon request) reside in the Ystrad Mynach area. The Assistant Licensing Manager explained that vicinity restrictions have been removed from the Licensing Act 2003 and that anybody who could be affected by a premises may sign such a petition. Councillor Martyn James (local ward member) gave assurances that the majority of the signatories live within 60-70 yards of the premises.

Representations were then invited from the Responsible Authority.

Miss Abbie Brown (Environmental Health Officer) referred the Sub Committee to the representations from Pollution Control as set out in the agenda papers. She explained that it

was the opinion of the Responsible Authority that the premises has the potential to cause a public nuisance, in view of previous noise complaints relating to live music at the venue and patron noise generated from the use of the rear car park late at night. Previous service requests were also received in relation to the noise generated from the collection of refuse (i.e. glass bottles) in the early hours of the morning. This could potentially undermine the Licensing Objective in respect of the Prevention of Public Nuisance, and for this reason it was strongly recommended that a number of conditions from the representations submitted (which were contained within the agenda papers) be added to any premises licence granted, to reduce the impact of the public house upon the nearby residential area.

All parties present were afforded the opportunity to ask questions and in response to a query from the Chair, it was confirmed that the rear car park is owned by the premises but that the licensable area would not extend to the car park. Queries were also received regarding historic noise complaints arising from the premises. The Environmental Health Officer confirmed that 14 complaints had been received at that time, with the most recent complaint being made in 2007, and that all complaints were investigated under the Environmental Protection Act. The Officer also outlined the noise complaint procedure that would have been followed at the time.

The Legal Adviser reminded all parties that the noise complaints being discussed occurred ten years ago, and explained that each application must be considered on its own merits.

The Sub Committee were asked to note recent changes to licensing for regulated entertainment, with it explained that there is no requirement for a premises to be licensed for the provision of amplified live or recorded music until after 11.00 p.m. (if they have an audience of under 500 people) or unamplified live music (no audience limit) until after 11.00 p.m. It was explained that even though the applicant had listed some earlier 10.00 p.m. finish times for amplified live or recorded music, and that if the Sub Committee were to place such a condition on the licence, this condition would be in effect suspended as it could not be applied until after 11.00 p.m.

Representations were then invited from interested parties.

Councillor Martyn James (local ward member for Ystrad Mynach) stated that there were no objections to the premises licence application itself, and that the main objections related to the amplification of music into the car park after 11.00 p.m. Noise nuisance of this nature has previously been experienced by local residents, several of who live within 20 feet of the premises. He explained that residents also had no problem with the playing of live music in principle and that it was the 11.00 p.m. to 12.00 midnight applied for within the licence that had generated the concerns.

Councillor James referenced the use of noise limiting measures such as noise monitors, double glazing and soundproofing, and expressed concern that these were not reflected in the application. He explained that noise nuisance has also previously been caused by patrons exiting the rear of the premises late at night to access the car park, which has included performers loading their cars with equipment up until 12.45 a.m. Councillor James expressed the right of local residents to a peaceful environment, and emphasised that although there were a number of historical issues with the premises, they were nothing to do with the current application. He also referred to a condition placed on the premises in 2015 where they were prohibited from emptying bottles in the bin skip after 10 00 p.m. due to ambient noise.

All parties present were afforded the opportunity to ask questions. Mr Tim Maddison (a local resident) informed the Sub Committee that he had made the complaint to Environmental Health regarding bottle noise. However, he explained that it had been the collection of the bottles by the Council around 5.00 a.m. which had been the problem (and not the pub emptying the bottles into the skip).

Mr Maddison was then invited to make his representations and spoke on behalf of three

residents who had made written representations regarding the application. He explained that all three residents are elderly and have a number of health issues, and that their sleep has been disturbed by noise coming from the premises in recent years. One of these residents sleeps in the rear of his house which overlooks the Beech Tree's car park. Mr Maddison explained that in addition to the music generated from the premises, previous noise nuisance has included the slamming of car doors and the starting of car engines late at night as patrons leave. Therefore residents were asking for a 11.00 p.m. finish time at the premises to minimise any future disturbances. Mr Maddison also referenced the lack of double glazing and soundproofing at the premises and encouraged the Sub Committee to visit the site to appreciate how close residents live to the premises. He added that residents appreciated that there might be special occasions or circumstances (such as New Year's Eve) when the premises is busier or noisier than usual.

All parties present were afforded the opportunity to ask questions and representations were then invited from the applicant (Mrs Adele Chidgey).

Mrs Chidgey referred to the additional document tabled at the meeting, which responded to the objections raised, and stated that she understood residents' concerns in view of previous issues at the premises. Mrs Chidgey explained that it was her intention to run the Beech Tree as a family pub, and she believed that the premises would improve employment prospects and benefit suppliers in the area. 15 staff will be employed at the premises, with 4 of the team having secured their personal licence, and all the staff have received hospitality training. Mrs Chidgey confirmed that the premises currently had two security cameras and that she intended to install these on all entrances and exits.

Mrs Chidgey explained that she was experienced in licensing matters, having previously managed a public house in Oakdale, and confirmed that staff at the Beech Tree would promote the licensing objectives by following a zero tolerance policy, operating Challenge 21 and carrying out due diligence regarding licensing processes. Patrons would be permitted to wait in the pub after closing time for their taxi, in order to minimise the noise from people leaving the premises. The Sub Committee were advised that several events had already been planned for the premises, including coffee mornings for local community groups and a gallery showcase for local artists. Mrs Chidgey explained that her previous pub had been heavily involved in charity fundraising and hoped that this would be continued by the Beech Tree. The premises also hoped to expand into hosting functions such as weddings, christenings and family celebrations.

Mrs Chidgey was asked whether there were any conditions proposed by Pollution Control that she would be unwilling to accept. She explained that she had concerns around the proposal that only a maximum of ten people be permitted in the smoking area after 10pm. She explained that this would be very difficult to monitor or manage, especially when patrons had been drinking, and feared that her staff would be subject to verbal abuse if they tried to enforce this rule late at night. Discussions took place regarding steps to control numbers such as placing notices in the premises to advise patrons. Discussion also took place regarding conditions relating to external lighting at the premises. Mrs Chidgey stated that at present flood lights operate via a sensor but can be turned off if required

The Sub Committee were referred to the hours applied for and Mrs Chidgey explained that she had adjusted the hours compared to that of the previous licence. Live music would be of a mainly acoustic nature, comprising of two 45-minute slots and would normally finish before 11.00 p.m., with it intended to locate musicians towards the front of the premises. Mrs Chidgey stated that she had applied for a 12.00 midnight finish time for when private parties are held in the side lounge. She had carried out checks and found that sound from this room did not carry throughout the building. In addition, she had tested the jukebox on maximum volume with the windows and doors shut and observed the noise level outside the building as being very low.

Discussion took place on the current regulations in relation to acceptable decibel levels. The

Environmental Health Officer explained that there is no specific level, and that Officers listen to the music at the complainant's address to determine if it can be classed as a noise nuisance. Other factors also have to be taken into account, such as the type of music, size of crowd, and the distance to the source of the noise, and for that reason it can be a very subjective assessment.

In response to a query from the Chair, Mrs Chidgey confirmed that there would be notices placed within the premises to remind patrons to leave in a quiet and orderly manner. Mrs Chidgey was asked how she planned to check that music is not exceeding an acceptable level. She reminded Members that she had previously managed pubs and that generally an outside survey of the area by a member of staff would suffice. She also confirmed that double glazing had been installed at the rear doors, and discussions took place regarding the benefits of double glazing as a noise-reducing mechanism. It was established that the premises is a Grade 2 listed building and so there are restrictions to what alterations can be carried out to the exterior of the building.

Mrs Chidgey was asked if she had held meetings with the residents regarding their concerns. She explained that she had wanted to arrange a meeting but had been advised to leave the matter until the premises hearing. Mr Maddison stated that residents would have appreciated the offer and Mrs Chidgey responded that she was willing to work with residents regarding their concerns.

Mr Maddison expressed concerns that very loud music would be played at the premises. Mrs Chidgey gave assurances that this would not be the case, particularly when people were eating at the premises. Music in the function room would also be kept at a certain level so as not to encroach on diners in the main area of the bar.

In response to a query from the Sub Committee, Mrs Chidgey confirmed that air conditioning was in place at the premises, and that extractor fans would be installed if further ventilation was required. Mrs Chidgey was asked whether she would be willing to change the single glazed windows. She explained that this would be an expensive process and would need to seek permission from her landlord.

Discussion took place regarding CCTV at the premises and the Assistant Licensing Manager explained that if the licence were granted, a date for working CCTV would need to be stated in the condition. Mrs Chidgey confirmed that the existing cameras were already installed and that it was merely the system that needed to be turned on. She explained that any additional cameras would need to be installed by a contractor, which could take a number of weeks to arrange, depending on the availability of the contractor and equipment. It was suggested that a reasonable amount of time could be placed on such a condition (e.g. 21 days).

The applicant was also asked how she intended to provide clear delineation between the beer garden and car park. Mrs Chidgey explained that she was looking to create a "continental café" style premises that would be achieved with the use of foliage and garden planters. The Chair suggested that the premises would benefit from a more substantial and fixed barrier (such as the use of fencing). Mrs Chidgey confirmed that she would monitor the separation of these areas to make sure there is no overflow and that patrons are not consuming alcohol in the car park.

The Sub Committee referred to the inclusion of CA14 (from the model pool of conditions) in the application and sought clarification on which policy the applicant was referring to within this condition. Mrs Chidgey explained that she had included this in relation to the relevant fire risk assessment to be carried out at the premises. The Assistant Licensing Manager explained that this is not a licensing matter in that such assessments fall under separate legislation, and that it is a legal requirement for a fire risk assessment to be carried out at the premises.

All parties were then afforded the opportunity to sum up before the Licensing and Gambling Sub Committee retired to make its decision.

Mr Maddison asked for the Sub Committee to be mindful of the close proximity between the premises and the nearest residence, and of the potential impact to residents. He expressed disappointment at the lack of contact between the applicant and residents and did not feel that residents' concerns had been adequately addressed. He felt that double glazing and an alternative entrance would help to significantly reduce any instances of noise nuisance but that it had not been included in the applicant's attempt to address these issues.

Councillor James reiterated that the residents were opposed to the extended opening hours and the playing of live music late at night.

The Sub Committee retired at 12.10 p.m. to make its decision.

The meeting reconvened at 1.02 p.m. and the Legal Advisor informed all parties present that having regard to the Licensing Officer's report and all the representations made, the Licensing and Gambling Sub Committee unanimously RESOLVED that the application for a new premises licence in respect of the Beech Tree Hotel, 43 Bedwlwyn Road, Ystrad Mynach, be granted.

The licence was granted with the exception that live music outdoors in the beer garden be licensed until 11.00 p.m. and not midnight. The granting of the licence was also subject to certain conditions referred to in the application, and subject to a number of other conditions. A summary of the conditions listed in the decision notice is as follows:-

- All 11 conditions in the original representation from Environmental Health (Pollution Control) to be included, save paragraph 5 (use of the beer garden) being amended to 11.00 p.m.;
- Conditions AD01, AD02, CC05, CC01 [with the first date being 13th September 2017 and the second date being 13th October 2017, and with paragraph (vii), insert "from opening to 30 minutes after closure of premises"], DA02, AA02,* DC05 and SA01 being added from the Licensing Act 2003 pool of conditions;
- That adequate delineation is provided between the beer garden and the car park to prevent consumption of alcohol outside the licensed premises and ensure public safety and children's safety.

For ease of reference, the conditions in full are appended to these minutes.

In making their decision, the Sub Committee considered all four licensing objectives, the Licensing Act 2003, revised Home Office Guidance and Caerphilly Council's Licensing Policy. The Sub Committee were of the opinion that the granting of the licence, subject to the conditions as listed, would not undermine the four Licensing Objectives. They also held that the conditions placed on the licence would promote these Licensing Objectives and would alleviate residents' and Environmental Health concerns regarding potential public nuisance.

The Legal Advisor informed all parties present that any person aggrieved by the decision had 21 days from written notification of the decision to appeal to the local Magistrates Court. All parties present were also reminded of their right to call for a review of the premises at any time.

The meeting closed at 1.07 p.m.

CHAIR

* It should be noted that although AA02 was included on the written decision notice, this is not a condition and should refer to AD02 (which had already been included in the list of conditions).

Licensing and Gambling Sub Committee – 13th September 2017

Licence Conditions – Beech Tree Hotel, 43 Bedwlwyn Road, Ystrad Mynach

1. All doors and windows to be kept closed to reduce noise impact at neighbouring properties other than when the doors are being used for loading and unloading and for the use of entering and leaving the premises. NOTE this condition shall not prejudice the minimum ventilation levels for health and safety and access to emergency exits shall not be compromised;
2. Ensure speakers are kept within the premises and are not positioned near openings such as doors and windows;
3. The volume of amplified/unamplified live and recorded regulated entertainment must be at a level so as not to cause a nuisance at the nearest residential property;
4. During times of amplified/unamplified live and recorded regulated entertainment is taking place, staff shall make regular patrols in the immediate vicinity to ensure noise nuisance does not occur at the nearest residential property;
5. The use of the beer garden of the premises is not permitted after 11.00 p.m., other than for the provision of a designated smoking area;
6. The designated smoking area, as referred to in condition 5, shall not exceed the capacity of 10 persons at any one time after post-10.00 p.m.;
7. The applicant is not to remove waste and bottles into external storage areas between the hours of 10.00 p.m. and 8.00 a.m.;
8. The licence holder to display prominent, clear and legible notices at all exits requesting patrons to respect the needs of local residents and to leave the premises and the area quietly;
9. All lighting for external areas of the premises must be aimed so that the beam does not cause nuisance to the surrounding residential areas;
10. All external lighting must be turned off when no longer required;
11. The premises must have sealed waste bins of sufficient capacity to hold all waste from the premises. All waste bins must be cleaned regularly;
12. The premises licence holder shall take all reasonable precautions and exercise all due diligence to ensure that no licensable activity shall be advertised in a manner which contravenes the general law or cause a nuisance to the general public;
13. In respect of promoted events, that is, any events involving the conduct of licensable activities at the premises that are organised by persons other than the premises licence holder or those under his direct control, the premises licence holder shall ensure that a register is maintained in a bound book kept for that purpose. The register shall be kept at the premises and shall be produced by the designated premises supervisor (or his nominated deputy in his absence) to an authorised officer of the Licensing Authority or a constable upon request. The register shall record the following:
 - (i) Date and time of event and brief description of it;
 - (ii) Name of the promoter(s), that is, the person(s) responsible for organising the event;

- (iii) Where the promoter is a company, its registered number;
 - (iv) The proper address of the promoter;
 - (v) Contact telephone number for promoter;
14. CCTV cameras shall monitor all areas used by premise patrons including any external smoking area to monitor numbers and prevent crime and disorder;
15. CCTV shall be in use at the premises:
- (i) Where a CCTV system is to be installed, extended or replaced, it shall be to an appropriate standard as agreed with the Licensing Authority in consultation with the Police. Where a CCTV system is to be installed, it shall be fully operational by 13th September 2017. Where existing CCTV systems are to be replaced or extended the replacement or extension to the system shall be concluded by 13th October 2017 and the system be fully operational on that date;
 - (ii) The CCTV equipment shall be maintained in good working order and continually record when licensable activity takes place and for a period of two hours afterwards;
 - (iii) The premises licence holder shall ensure images from the CCTV are retained for a period of 31 days. This image retention period may be reviewed as appropriate by the Licensing Authority;
 - (iv) The correct time and date will be generated onto both the recording and the real time image screen;
 - (v) If the CCTV equipment (including any mobile units in use at the premises) breaks down the Premises Licence Holder shall ensure the designated premises supervisor, or in his/her absence other responsible person, verbally informs the Licensing Authority and the Police as soon as is reasonably practicable. This information shall be contemporaneously recorded in the incident report register and shall include the time, date and means this was done and to whom the information was reported. Equipment failures shall be repaired or replaced as soon as is reasonably practicable and without undue delay. The Licensing Authority and the Police shall be informed when faults are rectified;
 - (vi) The premise licence holder shall ensure that there are trained members of staff available during licensable hours to be able to reproduce and download CCTV images into a removable format at the request of any authorised officer of the Licensing Authority or a constable;
 - (vii) There shall be clear signage indicating that CCTV equipment is in use and recording at the premises from opening to 30 minutes after closure of premises;
16. The premises licence holder shall ensure that a clearly visible notice will be placed on the premises advising those attending, that the Police will be informed if anyone is found in possession of controlled substances or weapons;
17. The premise licence holder shall require the Designated Premises Supervisor, or in his/her absence other responsible person, to keep an "Incident Report Register" in a bound book, in which full details of all incidents are recorded. This shall be completed as soon as possible and in any case no later than the close of business on the day of the incident. The time and date when the report was completed, and by whom, is to form part of the entry. The register is to be kept on the premises at all times and shall be produced to an authorised officer of the Licensing Authority or a constable when required;
18. All staff to be trained in the prevention of underage sales to a level commensurate with their duties. All such training to be updated as necessary, for instances when legislation changes, and should include training on how to deal with difficult customers. The training should be clearly documented and signed and dated by both the trainer and the member

of staff receiving it. The documentation shall be available for inspection on request by an authorised officer of the Licensing Authority or a constable.

19. That adequate delineation is provided between the beer garden and the car park to prevent consumption of alcohol outside the licensed premises and ensure public safety and children's safety.