

MINUTES OF A MEETING OF THE LICENSING ACT 2003 SUB-COMMITTEE (B) HELD IN COUNCIL CHAMBER - CIVIC OFFICES ANGEL STREET BRIDGEND CF31 4WB ON THURSDAY, 23 AUGUST 2018 AT 10:00

Present

Councillor – Chairperson

RM James JE Lewis

Officers:

Katia Daw Lawyer
Sharon Jones
Greg Lane Head of Democratic Services
Michael Pitman Business & Administrative Apprentice
Andrew Rees Senior Democratic Services Officer - Committees

42. DECLARATIONS OF INTEREST

None.

43. LICENSING ACT 2003 SECTION 17 APPLICATION FOR A PREMISES LICENCE NO. 11 CAFE BAR, EWENNY ROAD, BRIDGEND

For the applicant:
Justin Davies – Solicitor, Representing the Applicants
Ceri Howley – Applicant
Xenia Yardley – Applicant

Objectors:
Judith Richards
Matthew Willsher
Elizabeth Janny
Julia Wells
Charmaine Elward
Councillor MC Voisey

The Chairperson welcomed all those present to the meeting and introductions were made.

The Operational Manager – Shared Regulatory Services reported on an application received for a premises licence at No. 11 Cafe Bar, Ewenny Road, Bridgend which authorised the supply of alcohol for consumption on the premises only. He stated that the applicants are Mrs Ceri Howley and Mrs Xenia Yardley on behalf of No. 11 Cafe Bar Limited. The application had been amended in that the hours requested for the supply of alcohol are Monday to Sunday 1100 – 2300 hours and it was proposed that the premises will close at 2330 hours. The application for late night refreshment and the provision of live music and recorded music had been withdrawn. He stated that the operating schedule set out the steps the applicants intend to promote the licensing objectives and which would, in the event of the licence being granted form the licence conditions. He informed the Sub-Committee that letters supporting the application had been received and two letters of objection received from the local Councillors as well as 10 letters of objection from local residents to the application. The Operational Manager – Shared Regulatory Services also informed the Sub-Committee that it must have

regard to the Council's Statement of Licensing Policy and the Home Office Guidance issued under Section 182 of the Licensing Act 2003 and it must also consider each application on its merits, the operating schedule and the representations made.

The Operational Manager – Shared Regulatory Services requested clarification from the applicants' representative as to the accuracy of the application which he had described. The applicants' representative confirmed that was the case and that he wished to circulate an updated events plan, which the Sub-Committee agreed to accept. The updated events plan showed an additional 2 events.

The applicants' representative informed the Sub-Committee that the applicants were seeking a premises licence to enable them to operate the premises each day. It was the applicants' intention to have licensable activity limited on average to 2 per month. He stated that the events held at the premises had been managed by way of Temporary Event Notices, which was prescriptive and that the applicants wished to have the flexibility of a premises licence. He also informed the Sub-Committee that consultation had been carried out with the Responsible Authorities with a package of measures put forward by the applicants. Safeguards and measures had been included within the operating schedule and the applicants understand that a breach of the licence conditions will put their premises licence in jeopardy.

He stated that the applicants had been assisted by the police and the licensing department and had been guided by their expertise in their application. The applicants readily accept the conditions of the licence in the event of it being granted. The applicants' representative informed the Sub-Committee that the Designated Premises Supervisor will be Mrs Ceri Howley who is acutely aware of the responsibility of this role and will discharge those duties with fidelity. The applicants had held extensive discussions with the local residents and had refined the application following those meetings. As a consequence of those discussions, the applicants had amended the application with there being a curtailment of licensable activity at 2300 hours instead of 2330 hours that was originally proposed. No drinks would be consumed outside the premises after 2200 hours and there would be a designated smoking area. During the course of the application process, there had been no concerns raised regarding the licensing objective of the protection of children from harm and the applicants will ensure they are bound by the prevention of crime and disorder and public nuisance licensing objectives. The applicants' representative informed the Sub-Committee there had been certain incidents emanating from the premises during their tenure and which have been documented by local residents.

The applicants' representative informed the Sub-Committee that the application contains stringent conditions and the applicants have control over the events which take place at the premises and they will manage them and will continue to reflect on the events held. He stated that a relevant consideration is what might happen in the future, due to the proximity of the premises to other licensed establishments as there could be an element of transferring residents' fears to this premises. He stated that the applicants understand their responsibilities but are unable to control what goes on at other premises.

The applicants' representative informed the Sub-Committee that the police being called was an erroneous submission as the applicants themselves had instigated the call on 31 May 2018 as they could smell cannabis in the vicinity. He stated that complaints had been made by members of the public in relation to events held at the premises on 20 and 21 April 2018, a further complaint had been received on 7 July 2018, which occurred after the application for the premises licence had been submitted. The applicants' representative informed the Sub-Committee that the complaints had not been substantiated and that music at the premises had stopped at 2240 hours. He stated that

he was in possession of an email and photographs which show a calm and measured atmosphere at the premises. He informed the Sub-Committee that the applicants readily acknowledge the concerns made by residents and that they seek to promote, uphold and maintain the values of the community. He stated that the premises are not situated within the cumulative impact area and the granting of the application would be in keeping with one of the corporate improvement objectives of supporting a successful economy of promoting local businesses and the statement of licensing policy. He also informed the Sub-Committee that the applicants are able to monitor the events held at the premises as they are ticketed in advance and they can control the demographic of people attending events. The events held at the premises are for the service of food as well as alcohol and not solely for the service of alcohol. The applicants will not seek to open the premises for licensable activity every day and instead hold occasional events and charitable events.

The Sub-Committee questioned whether a member of the public could pay at the door in order to gain entry into an event at the premises. The applicants' representative clarifies that nobody had attempted to that so far and it was unlikely to happen as events are catered for on the basis of the number of tickets sold.

The Sub-Committee questioned whether someone could go to the premises for a meal. The applicant's clarified that the premises close for food at 4.00pm and is not open for meals at night other than food being served at events. Alcohol is purchased in for events as there are no dispensing pumps at the premises.

The Sub-Committee questioned whether the premises intended to open until 0100 hours on New Year's Eve. The applicants' representative clarified that New Year's Eve opening was not being pursued. The Sub-Committee questioned whether the premises intended to open for international sporting events. The applicants' representative stated that the premises intended to open until 2300 hours. The Sub-Committee questioned how the applicants proposed to check that staff are trained in asking customers to use the premises in an orderly and respectful manner and customers are required to have a plastic glass when leaving the premises for a smoke in order to comply with the prevention of crime and disorder licensing objective. Mrs Howley clarified that housekeeping procedures are in place before an event takes place. Plastic cups are given to people who wish to go outside for a smoke. Mrs Howley informed the Sub-Committee that they know all their customers and they will ask customers to leave the premises quietly. Anybody attempting to leave the premises with a glass will be prevented from doing so. Two members of staff will be working behind the bar and the two applicants will be working the other side of the bar to attend to customers. Mrs Howley explained that between 30-40 persons attend events at the premises.

The objectors questioned where the smoking area will be situated. Mrs Howley explained that the smoking area will be situated to the side of the premises where there are currently tables and chairs, which would be removed and bins would be provided for the disposal of cigarette ends. The objectors questioned how the smoking area will be managed as the area is 4m x 4m and the fire escape for the house in multiple occupation on the upper floors of the building will be blocked. Mrs Howley explained that based on an average of 29 people attending an event, approximately 4 of those customers may smoke and in any event there would never be more than 10 customers going out to the smoking area at any one time. She stated that controlling the smoking area would be added to the housekeeping procedures for events.

Mrs Judith Richards commented that there was no outside the premises and that bottles served at the premises had been left in her garden. The applicants' representative stated that a bin will be provided outside the premises. He also stated that the applicants will do what they say they will do to promote the licensing objectives. The

applicants will also introduce plastic cups and a means for their disposal. He stated that part of the complaints are in relation to the behaviour of people from the other premises within the vicinity.

Councillor Voisey asked whether the housekeeping rules could form part of the licence conditions so that the residents had some assurance. The Legal Officer advised that if the housekeeping rules are relevant they would be added to the licence conditions. Mrs Howley informed the Sub-Committee that all staff working at the premises are trained, there is a training file which is signed by the staff and applicants. Councillor Voisey commented that it would be useful if the housekeeping rules were made available to check they are adhered to. The applicants' representative stated that the applicants are content to engage with residents on their concerns and will be reminding patrons of the conditions they are required to adhere to. The Sub-Committee questioned whether there are signs visible at the premises to remind patrons to leave the premises quietly. Mrs Howley commented that advice had been sought from the police and Licensing Department following the holding of the Temporary Event Notices and there will be sign displayed at the premises. She stated that the holding of the TENs had been a learning curve in order to learn what had gone right and what had gone wrong.

Councillor Voisey asked the reason for drinks being taken outside the premises. The Legal Officer advised that the sale of alcohol is a licensable activity, consumption is not and there is a limit to what the applicants can control. Councillor Voisey stated that the consumption of alcohol outside is a concern to the residents. One of the objectors commented that the police had been called to control patrons from the premises who had strayed into the street. The Legal Officer stated that breaches of the licence would be dealt with by enforcement and that the applicants had responded to the concerns of residents by amending their application in that alcohol could not be taken outside after 2200 hours. The applicants' representative stated that if there are specific concerns, no drinks will be allowed to be taken out of the premises. He also stated that the applicants have no control over those who pass outside the premises.

Mrs Elizabeth Janny questioned the difference when the applicants had not listened to the concerns of residents when they had held TENs and with the application for a premises licence. The applicants' representative stated that the applicants had been made aware of complaints from residents on 21 April 2018 and no further complaints were received until 7 July 2018. Mr Willsher stated he had complained on 21 April 2018 regarding the noise emanating from the premises and had asked for the music to be turned down. The noise persisted and he telephoned the premises and was told to identify himself at the premises. He complained on another occasion when conga emanated from the premises out into the street. Mrs Janny informed the Sub-Committee that she had complained to the Public Protection Department the following night. The applicants' representative stated that the applicants had learnt from their experiences as a result of holding the TENs and the next complaint came in on 7 July 2018. The applicants then corresponded with the Public Protection Department to resolve the issues of noise from the premises. He stated that had further events been problematic it would have given rise to further complaints. He commented that the applicants had learnt and no further complaints were made to Neighbourhood Services. Mrs Howley informed the Sub-Committee that the event on 7 July 2018 was attended by 13 people and was an acoustic guitar night.

Mr Willsher asked whether sound insulation and acoustics advice had been sought. The applicants' representative stated that there had been no representatives received from the Public Protection Department. Mr Willsher asked whether any formal measurements of sound had been made. The Operational Manager – Shared Regulatory Services informed the Sub-Committee that the Public Protection Department could have made representations and would investigate complaints of noise nuisance.

Mrs Janny informed the Sub-Committee that she is fully supportive of the café, but the events held at the premises are not appropriate due to the inadequate space and the door to the premises has to remain open when there are 20 people inside the premises. She stated that several complaints had been made to the Environmental Health Department due to the noise from the premises. She informed the Sub-Committee that she had witnessed people from her bedroom smoking outside the premises at 2320 hours. She also informed the Sub-Committee that patrons from the premises all leave at the same time which contributes to the noise from the premises.

Mrs Julia Wells informed the Sub-Committee that she liked the concept of the venue but would be more appropriate if the premises were on Nolton Street as its location in Ewenny Road is in a residential area. She believed that the premises are not large enough to host events properly and she hoped the application for a premises licence would be rejected.

Mrs Elizabeth Janny informed the Sub-Committee that she had bought her house knowing that the rugby club and the Five Bells Public house are in close proximity. She stated that people leave those premises at different times, however as events at the premises are ticketed people leave at the same time. She also stated that the venue is not in the right place. Problems had been encountered in the past with noise from the rugby club, however they now closed their windows to dampen the sound. Mrs Janny expressed concern that the premises could open 7 days a week if it was granted a premises licence.

Councillor Voisey informed the Sub-Committee that he wished to withdraw his representation that the police had been called to the residences on the upper floor of the property as it could not be substantiated. He expressed his concern at the timing of the events held at the premises which had caused noise nuisance and disturbance to the residents late at night and particularly as some residents live above the premises. He stated that should the premises licence be granted, events at the premises would in effect be policed by the residents on behalf of the licensing authority. He reiterated his request earlier for the Sub-Committee to disregard his representation that the police had been called to the residences above the premises. He expressed concern that the venue is in an inappropriate location as it is situated directly on to the public highway. He believed that the applicants have a genuine intent as to the running of the premises but he would like to see a set or written guidelines as to the operation of the premises in the event of the licence being granted. Councillor Voisey expressed concern at deliveries to the premises taking place early in the morning which were disturbing residents.

The Sub-Committee questioned whether complaints had been received from residents occupying the flats above the premises. The applicants' representative stated that none had complained. Mrs Howley informed the Sub-Committee that all the flats are occupied. Mrs Janny commented that the occupiers of the flats and the café rent from the same landlord and may feel disinclined to object to the premises licence for fear of eviction.

The Sub-Committee questioned whether it would be appropriate not to book certain artists due to noise nuisance. Mrs Howley informed the Sub-Committee that advice had been sought from the Public Protection Department in relation to the playing of live music and which had been taken into account.

Mrs Judith Richards informed the Sub-Committee that a passing police officer had been stopped in relation to noise nuisance from the premises and who had entered the premises to get the sound turned down. She stated that lives next door but one from the

premises. She works a shift patterns while she has a young son and they have difficulty sleeping and are unable to hear the television when there are music events held at the premises. She stated that she was in support of a café at the premises but not a bar.

The Sub-Committee questioned what was usually agreed with the act playing live music. Mrs Yardley stated that an artist will usually start at 2015 hours play for 45 minutes and then have a break and would then continue until 2230 hours.

The Legal Officer asked whether the applicants would agree to sound proofing measures recommended by the Environmental Health Department. The applicants' representative stated that the Sub-Committee had to consider the application before it and no representations were received from the Environmental Health Department. The Legal Officer asked whether the applicants would work with the Environmental Health Department. The applicants' representative stated that the applicants have a track record of working with the Responsible Authorities and have worked with the Environmental Health Department following the complaints received on 21 April 2018. The applicants will continue to work with the Department and will do what is reasonable. The Operational Manager – Shared Regulatory Services informed the Sub-Committee that the Environmental Health Department has a statutory duty to investigate complaints received.

Mrs Julia Wells informed the Sub-Committee that sound proofing measures will not assist as there is only a single door which opens on to the street and which is likely to remain open. The Legal Officer informed the Sub-Committee that the doors to the premises should remain closed when live music is played. This would then enable enforcement action to be taken in the event of a breach of the licence conditions. Mrs Richards informed the Sub-Committee that residents had attended a meeting at the premises and it was stifling due to the size of the venue and could be a health and safety concern. The Legal Officer advised that a condition could be placed on the licence requiring the door to the premises to remain closed. The applicants' representative that health and safety was the remit of the fire service which had not made any representations to the application. The Legal Officer advised the Sub-Committee that it needed to consider the licensing objectives of the Prevention of Crime and Disorder and the prevention of Public Nuisance in determining the application. Mrs Janny questioned the door to the premises would have to remain closed during live music events. The Legal Officer advised the patrons would be able to leave the premises during live music events.

The Sub-Committee questioned the timings of deliveries to the premises. The applicants' representative stated that deliveries lorries to the premises park some distance away due to the premises being on a busy road. Concerns regarding deliveries had been addressed by the applicants and goods are now carried from where lorries are parked to the premises. Mrs Howley confirmed that the premises are situated on a busy road, due to 3 schools being in close proximity. Delivery companies were asked to deliver to the premises early in the day.

Mrs Charmaine Elward informed the Sub-Committee that there is rowdiness from the premises which has been troublesome for residents and the noise from the premises has prevented children from sleeping and impacts negatively on residents. She stated that the premises has one door making it unsuitable. She commented that it is a great venue but is in the wrong location.

Mr M Willsher informed the Sub-Committee commented that residents did not wish to get the authorities involved but due to the noise nuisance caused from the premises residents had to. He stated that there had previously been noise from the rugby club and they had agreed to turn the music down. Children had been awoken at night due to

the noise emanating from events held at the premises. He stated that the business is a great idea but is at the expense of residents. He informed the Sub-Committee that he had not complained since July 2018 as the application procedure was ongoing. He also informed the Sub-Committee there had been proliferation of take away establishments in the area and this application had added to the problems. Residents had never experienced problems with the other licensed establishments in the area.

Mrs Richards informed the Sub-Committee that she resides close to the premises and that her rear garden backs on to another licensed premises. She stated that the residents' concerns need to be listened to. She also informed the Sub-Committee that the premises have limited toilet facilities and the location for the venue is not right for the type of business.

The Sub-Committee adjourned at 11.55am and reconvened at 12.00noon.

The Operational Manager – Shared Regulatory Services informed the Sub-Committee of a representation received by email from a resident objecting to the application for a premises licence and that weight needed to be attached to the representations.

The applicants' representative informed the Sub-Committee that letters of support had been received and the Sub-Committee needed to give equal weight to the objections and letters of support.

Mrs Yardley informed the Sub-Committee that one of the letters of support is from a family member who has attended events and brought clients with him to the premises.

Both parties were afforded the opportunity to sum up.

The applicants' representative in his summing up stated that the key issue arising out of the objections is the lack of care by the applicants towards the residents. He stated that what is unfair is what has been ascribed is the lack of concern by the applicants when they have consulted on their application with residents and the Responsible Authorities and have refined it. He commented that the applicants will work with residents and it was hard to see how much more the applicants could do. Each complaint made by the objectors has been ameliorated into the proposed conditions. He stated that there is every incentive for the applicants not to breach the conditions attached to the licence. The concerns regarding public nuisance have been listened to by the applicants and their application refined. He was confident that the conditions will be adhered to otherwise there will be a review of the licence or enforcement action. He concluded by stating there had been no objections to the application by the Responsible Authorities.

Councillor Voisey informed the Sub-Committee that there had been no objections to the licence but they had instead been concerns raised by residents as to public nuisance. He stated if the application is granted it would be up to the applicants to adhere to the licence conditions. He expressed concern that the premises are uncomfortably close to residents' homes.

The Sub-Committee adjourned at 12.10pm and reconvened at 1.40pm, when it was:

RESOLVED: That the Sub-Committee has considered the application for a new premises License of the 11 Café Bar.

The Sub-Committee has heard representations made by the 12 members of the public, 6 of who attended Committee to expand on their representation in person and one who emailed a question, in advance of the hearing, due to not being able to attend.

In dealing with the concerns we heard evidence regarding past events that had taken place by virtue of Temporary Event Notices. The events were used by the Public to evidence their concerns about how granting a license would adversely affect the Licencing objectives.

The licensing objectives being considered are:

1. The Prevention of Crime and Disorder; and
2. The prevention of Public Nuisance.

The concerns raised by the public were mainly surrounding noise. This noise was through the playing of music which could be heard especially when the door is open. It also includes the sound of persons in the street when they are waiting for taxis or standing outside to drink and / or smoke. The particular concerns were regarding the number of persons who, due to the type of event, would all leave at the same time when the event concluded.

The Sub-Committee has considered the statutory Guidance regarding the licensing objectives. The Sub-Committee has in particular paid attention to the meeting that took place between the applicants and the Responsible bodies, including the Police, who were happy with the conditions proposed. The Sub-Committee has taken into account the evidence from the police that between 1 January 2018 and 21 August 2018 only one incident has been logged against the address and this was an incident relating to the smell of cannabis and was reported by Ceri Howley, the Applicant. The Sub-Committee has further considered the evidence form Public Protection that although complaints have been received to refrain noise issues at the premises on 20 and 21 April and again on 7 July; however no noise nuisance has been established.

The Sub-Committee has appreciated the amendments to the applicant that have been made in order to accommodate and address the concerns by all those who have made representations. In particular the Sub-Committee has have noted the reduced hours and willingness to comply with suggested conditions. The Sub-Committee also note the willingness for the condition restrictions persons taking outside drinks that have been purchased in the premises.

Taking into account all the factors the Sub-Committee considers that for the promotion of the licensing objectives aforementioned it is appropriate to grant the licence with the conditions proposed, including the rewording of condition 9 under the subheading "Crime and Disorder" to "no drinks purchased on the premises to be taken outside of the premises.

The meeting closed at 13:45