

# Public Document Pack

## Cyngor Bwrdeistref Sirol Pen-y-bont ar Ogwr

### Bridgend County Borough Council



Swyddfeydd Dinesig, Stryd yr Angel, Pen-y-bont, CF31 4WB / Civic Offices, Angel Street, Bridgend, CF31 4WB

*Rydym yn croesawu gohebiaeth yn Gymraeg.  
Rhowch wybod i ni os mai Cymraeg yw eich  
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#### **Cyfarwyddiaeth y Prif Weithredwr / Chief Executive's Directorate**

Deialu uniongyrchol / Direct line /: 01656 643148 / 643147 / 643694

Gofynnwch am / Ask for: Democratic Services

Ein cyf / Our ref:

Eich cyf / Your ref:

**Dyddiad/Date:** Monday, 11 April 2022

Dear Councillor,

#### **LICENSING SUB-COMMITTEE A**

A meeting of the Licensing Sub-Committee A will be held remotely - via Microsoft Teams on **Tuesday, 19 April 2022 at 10:00.**

#### **AGENDA**

1. Apologies for Absence  
To receive apologies for absence from Members.
2. Declarations of Interest  
To receive declarations of personal and prejudicial interest (if any) from Members/Officers in accordance with the provisions of the Members Code of Conduct adopted by Council from 1 September 2008.
3. Approval of Minutes 3 - 44  
To receive for approval the Minutes of the 28/09/21 and 23/11/21 and the Minutes of the Licensing Act 2003 Sub-Committee of 08/04/19, 14/05/21, 20/07/21 and 25/08/21.
4. Urgent Items  
To consider any other item(s) of business in respect of which notice has been given in accordance with Rule 4 of the Council Procedure Rules and which the person presiding at the meeting is of the opinion should by reason of special circumstances be transacted at the meeting as a matter of urgency.
5. Exclusion of the Public  
The minutes relating to the following items are not for publication as they contain exempt information as defined in Paragraph 12 of Part 4 and/or Paragraph 21 of Part 5 of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information)(Variation)(Wales) Order 2007.

If following the application of the public interest test the Committee resolves pursuant to the Act to consider these items in private, the public will be excluded from the meeting during such consideration.

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6. Approval of Exempt Minutes

45 - 50

To receive for approval the exempt Minutes of the 28/09/21 and 23/11/21

Note: Please note: Due to the current requirement for social distancing this meeting will not be held at its usual location. This will be a virtual meeting and Members and Officers will be attending remotely. The meeting will be recorded for subsequent transmission via the Council's internet site which will be available as soon as practicable after the meeting. If you have any queries regarding this, please contact [cabinet\\_committee@bridgend.gov.uk](mailto:cabinet_committee@bridgend.gov.uk) or tel. 01656 643147 / 643148.

Yours faithfully

**K Watson**

Chief Officer, Legal and Regulatory Services, HR and Corporate Policy

Councillors:

TH Beedle  
RJ Collins  
MJ Kearns

Councillors

DRW Lewis  
AA Pucella  
G Thomas

Councillors

JE Williams

Present

Councillor DRW Lewis – Chairperson

TH Beedle  
G Thomas

RJ Collins

MJ Kearn

AA Pucella

Apologies for Absence

JE Williams

Officers:

Julie Ellams

Democratic Services Officer - Committees

Katie Wintle

Lawyer

Yvonne Witchell

Team Manager Licensing

287. DECLARATIONS OF INTEREST

None

288. APPROVAL OF MINUTES

RESOLVED: That the Minutes of 8 June 2021 be approved as a true and accurate record.

289. URGENT ITEMS

None

290. EXCLUSION OF THE PUBLIC

RESOLVED: That under Section 100A (4) of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007, the public be excluded from the meeting during consideration of the following item of business as it contains exempt information as defined in Paragraph 12 of Part 4 and/or Paragraph 21 of Part 5 of Schedule 12A of the Act.

Following the application of the public interest test it was resolved that pursuant to the Act referred to above, to consider the following item in private, with the public excluded from the meeting, as it was considered that in all circumstances relating to the item, the public interest in maintaining the exemption outweighed the public interest in disclosing the information, because the information would be prejudicial to the applicants so mentioned.

291. GRANT OF LICENCES - HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVER

The meeting closed at 11:00

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Present

Councillor DRW Lewis – Chairperson

TH Beedle  
G Thomas

RJ Collins  
JE Williams

MJ Kearn

AA Pucella

Officers:

Andrea Lee  
Michael Pitman  
Andrew Rees  
Yvonne Witchell

Senior Lawyer  
Democratic Services Officer - Committees  
Democratic Services Officer - Committees  
Team Manager Licensing

292. DECLARATIONS OF INTEREST

Councillor A Pucella declared a prejudicial interest in agenda item 8 - Disciplinary Hearing - Hackney Carriage and Private Hire Vehicle Driver as the driver is a member of his extended family. Councillor A Pucella withdrew from the meeting during consideration of this item.

293. APPROVAL OF MINUTES

RESOLVED: That the minutes of the meetings of the Licensing Sub-Committee A of 2 February and 13 April 2021 be approved as a true and accurate record.

294. URGENT ITEMS

There were no urgent items.

295. EXCLUSION OF THE PUBLIC

RESOLVED: That under Section 100A (4) of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007, the public be excluded from the meeting during consideration of the following items of business as they contain exempt information as defined in Paragraph 12 of Part 4 and Paragraph 21 of Part 5 of Schedule 12A of the Act.

Following the application of the public interest test it was resolved that pursuant to the Act referred to above, to consider the following items in private, with the public excluded from the meeting, as it was considered that in all circumstances relating to the items, the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

296. APPROVAL OF EXEMPT MINUTES

297. APPLICATION FOR GRANT OF LICENCES

298. DISCIPLINARY HEARING - HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVER

The meeting closed at 10:53

MINUTES OF A MEETING OF THE LICENSING ACT 2003 SUB-COMMITTEE (A) HELD  
COUNCIL CHAMBER, CIVIC OFFICES ANGEL STREET BRIDGEND CF31 4WB ON  
MONDAY, 8 APRIL 2019 AT 10:00

Present

Councillor – Chairperson

DRW Lewis

AA Pucella

JE Williams

Apologies for Absence

Officers:

Mark Galvin	Interim Democratic Services Manager
Sharon Jones	Licensing Assistant
Andrea Lee	Senior Lawyer
Yvonne Witchell	Team Manager Licensing

7. DECLARATIONS OF INTEREST

None.

8. LICENSING ACT 2003 - SECTION 17 APPLICATION FOR A PREMISES LICENCE,  
THE OLD HOUSE, LLANGYNWYD, MAESTEG

The Chairperson opened the meeting and the necessary introductions were made by those present.

The Team Manager – Licensing presented a report in order that the Sub-Committee could determine an application for a Premises Licence in respect of the above-mentioned premises.

A copy of the application form was attached at Appendix A to the report, together with the proposed licence plans.

Paragraph 3.3 of the report outlined the timings requested by the premises Licensees for the supply of Alcohol, Plays, Films, Live Music, Performance of Dance and Late Night Refreshment.

The operating schedule setting out the steps the applicant intended to promote the licensing objectives, was set out in M boxes a) to e) of the application (form). The Team Manager – Licensing stated that should the premises licence be granted, these measures would be translated into licence conditions.

She pointed out that objections to the application had been received from various members of the public who live generally within the area of the premises, and these were attached at Appendix B to the report.

In terms of the relevant planning application so made, the Team Manager – Licensing advised that no objections had been received to this, though there had been one person who had registered their support to it.

The remainder of the report gave advice that the Sub-Committee must consider and have regard to in relation to the Council's Statement of Licensing Policy and Home Office Guidance, issued under Section 182 of the Licensing Act 2003, but at the same time, considering the application on its own individual merits.

The Team Manager – Licensing confirmed that when determining the application, the Sub-Committee must also undertake its functions in accordance with the four statutory licensing objectives, as follows:-

- The prevention of crime and disorder;
- Public Safety
- The prevention of public nuisance; and
- The protection of children from harm

The Chairperson then invited the applicants to present their case.

The applicants Solicitor Mr. Perry, began by referring to the planning application made in respect of the premises, which had been submitted in accordance with the relevant legislation of the Town and Country Planning Act 1990. He emphasised that no objections had been received to this and as the Licensing Officer had recently advised Members, there had been one letter of support to such application. The application had therefore been granted under the Council's Scheme of Delegation of Functions (through Officers delegated power), with it not having been deemed necessary to submit the application to the Council's Development Control Committee for determination.

In terms of the change of hours proposed for the sale of alcohol outlined in the application before Members when compared with the previous operating hours in place prior to the licensed premises formerly closing, Mr. Parry pointed out that there was little change with just 1 hour further being requested (ie until 1.00am) Monday – Thursday, with also a similar minimal extra period for Sunday. He proceeded by confirming that the applicant would operate the new business in such a way, as to minimise any adverse impact on nearby residents including the property that resided next to the premises. Mr Perry also stressed that it was his client intention to have a good relationship with nearby residents, who hopefully would visit the premises, in order to socialise and have a meal and a few drinks etc. He also wished to advise the Sub-Committee, that his client also did not intend to open the premises every evening to the optimum hours applied for in the application, and most of the representations/objections to the application were in respect of the late opening hours so applied for. These hours had been requested purely for flexibility and on the proviso of there being a special event held at the premises. The premises would not open until 1.00am on week-nights unless a special event was being held there. Mr. Parry further added that the hours of the premises licence of the previous licensee had been fairly generous, and there had been no problems associated with the premises as a result of the late opening hours at that time. There was also a difference with the current premises compared to when it operated previously, in that the current premises would be food led drinking establishment as opposed to be a drinking establishment that also sold food. The couple operating the premises were local and Mr. Jones had previous experience operating a licensed premises in Pyle, and no problems had been experienced whilst he was running a business there. He had been a licensee there for approximately 11 years and these premises were trouble free during his term as licensee. With regard to the Old House, the custom Mr. Jones would look to attract would be local people and families, ie customers who were looking to have a family meal out. He was not looking to attract clients who would be consuming inordinate amounts of alcohol who were in any way loud or going to behave in an anti-social way. There would be the occasional function held at the premises, but these would be well controlled and Mr. Jones would ensure that noise emanating from the premises would be very minimal and also controlled during these events.



Ms. Prior added that Mr. Jones together with herself had invested a considerable amount of money into the business venture which had commenced back in 2016. The project had been self-funded with the property having been the subject of some considerable restoration works. It would be a family run as opposed to a corporate business, and accommodation was available on site in order for patrons and customers to stay over of an evening if they so wished. She reiterated that events or functions would be considered as the site of the premises now lend itself to that, but the intention was that these would not be arranged too regularly, though the extended hours so applied for would give some flexibility with regard to this. The premises would also allow for employment opportunities with staff needing to be recruited to help operate the business. Mr. Jones, as had been said, had proven experience in managing effectively a licenced business and he would not allow any incidents of anti-social behaviour at the premises, just as he did not while previously managing a public house in Pyle. All due consideration would be given to the neighbours whilst the business was in operation and the operating hours up to 1.00am mid-week would not generally be utilised, as business then would be primarily for meals. Weekends though, the premises would potentially open until 1.00am for special events, ie parties where some patrons could then stay over. Both Mr. Jones and herself were Welsh speakers and were therefore looking to promote the historical element of Llangynwyd as part of the business also. They similarly also intended to employ staff who had experience in speaking Welsh, in order to try and fully compliment the history of the area the premises was located in.

Ms. Prior proceeded by advising that the emphasis on the restaurant element of the premises was confirmed by the fact that they had spent £100k in renovating the kitchen area of the premises; training of staff and the promotion of the menu.

Mr. Perry then referred to the matrix that had been tabled at the meeting, which were the responses of the applicants to the points of objection so received. He asked Ms. Prior to elaborate on some of the points made within this.

Ms. Prior commented as follows.

With regards to the adverse effect on public safety due to increased traffic flow to, from and within the village, she explained that firstly the Licensing Department had indicated that traffic issues are not relevant to the application (under licensing laws). Also, the Highways Department were involved at the time the planning application was submitted and, to accommodate the additional flow of traffic generated by the business, the applicants were asked to extend the capacity of the premises car park, and this had now been completed.

A further representation was that more people movement at night will create unacceptable public nuisance to the closely sited residential properties. Ms. Prior responded to this, by advising that through staff training they would strive to ensure patrons vacate the premises swiftly and in a manner that does not cause disruption or nuisance to local residents.

Another objection related to resultant noise from the intended licensable activities will have an adverse effect upon the regular weekly Sunday service, together with any special services (christenings, weddings and funerals, etc). The applicant's response/comment on this, was that the main activity at the premises on a Sunday will be lunchtime food which would attract inevitable custom, with the exception of an event such as a wedding/birthday event. There was no intention to operate a restaurant service on a Sunday evening therefore mitigating and/or reducing the possibility of noise disruption at the time of Sunday Church service. Noise generated as a consequence of any live music being played there for a private function would be confined to the

purpose-built function room located to the rear of the premises. The volume of music being played would be monitored constantly she added. Furthermore, owing to the lack of parking facilities in the village, users of the Parish have persistently utilised the Old House car park for special services with no objection from herself and Mr. Jones. Over the past 3 years, they had also been more than willing for wedding guests to utilise the Old House parking facilities when attending the Church.

A further objection was that an increase in hours of selling alcohol would lead to noise and behaviour that will give rise to public nuisance. The applicant's response to this, was that a zero tolerance policy towards bad behaviour by patrons would be operated at the premises and the sale of alcohol to customers would be refused if they appeared to staff to be intoxicated. Staff training would also be deployed, in order to ensure patrons vacate the premises swiftly and in a manner that does not cause any disruption to local residents, including monitoring customers worse for wear as a result of consuming too much alcohol outside the immediate vicinity of the premises, so that they do not loiter, swear and cause a noise nuisance to property owners nearby the Old House. Ms. Prior reiterated that the Licence held by the previous licensee, allowed the sale of alcohol until 12 midnight, Monday – Thursday and Sunday's, with this terminating at 1.00am Friday and Saturday. The application before Members, proposed an increase of 1 hour on Sunday's, with the same licensing hours proposed for Friday and Saturday, plus a 30 minute wind-down period. She stressed the point once more, that it was not intended to operate the business until 1.00am – 1.30am (wind down) during mid-week, with the exception of a wedding reception/similar function being held during non-weekend evenings.

Ms. Prior then went onto respond to the objections/representations to the playing of live music at the premises.

Representations in this regard were that live music until 12 midnight Monday – Sunday and recorded music until 1:00am Monday-Sunday, will cause disruption seven days a week. It being alleged that the sound will carry throughout the entire village if this is not maintained to a responsible level.

In response to this, she confirmed that all music played at the premises will be maintained to a responsible level. Recorded music refers to the background music being played in the restaurant, the volume of which will not impact on local residents.

Ms. Prior accepted the concern regarding live music, however, she assured that this will be largely confined to the purpose built function room located to the rear of the premises. The volume of all music being played within any part of the premises will be monitored at all times, she added.

There was also some concern portrayed with regard to outdoor events in any marquee set-up for functions, have potentially a severe impact upon nearby residents quality of life.

She advised that the option of hosting marquee based events was welcomed, if this was requested. In respect of this type of function, she again confirmed that any music played in functions involving a marquee, will be maintained to a responsible level and be strictly monitored. That said, she did not anticipate regular marquee events being held at the premises.

Ms. Prior explained that in 2018, a marquee wedding was held on the grounds of the Old House, managed by Clever Chefs. As the premises was under construction at the time, neither herself nor Mr. Jones had any involvement in the event whatsoever. It was rather a ground rental only arrangement. Following this wedding, other than their immediate

neighbour, no residents had approached either of them to express concerns regarding the volume of the music being played at the event. This did however feature in the current objections to their application, but was obviously something they were unable to address retrospectively of the event. Ms. Prior added that any future events held in the Courtyard location of the premises would directly be managed by themselves as proprietors, as opposed to an outside company/organiser.

A further objection had been made to recorded music being played in the Courtyard and proposal for closure of the Courtyard from 10.00pm onwards.

Ms. Prior stated that, as above, she accepted the possibility that the background recorded music would be heard by immediate neighbours as the Courtyard is adjacent to their property. She added though, that the volume of this music would be monitored at all times to minimise disruption. It was not their intention to have the music played until 1.00am. As proprietors of the business, both herself and Mr. Jones strongly opposed the suggestion to close the Courtyard at 10.00pm, as this will impact significantly on their business and on customers enjoyment of that particular area of the premises. Furthermore, for residents staying at the Old House, they did not wish to restrict their use of the outdoor areas, as the extensive views and grounds were one of the main attractions of the premises.

She added that what was now an outdoor Courtyard was previously a conservatory. The conservatory housed the former restaurant, and therefore, there would have been some noise from diners and recorded (background) music playing in that area when the premises was under previous ownership. Therefore, the immediate neighbours were used to noise in that area, given that they have been living next door to the premises since 2013. Ms. Prior disagreed that the premises in its current form will cause any additional disruption compared to when it was last operating as a business. Furthermore, the neighbours were fully aware of their intention to convert the former restaurant area into an outdoor Courtyard with the addition of a newly built function room when the planning application was submitted in 2016. No objections were raised to the proposal at that time she stressed to Members. Finally, Ms. Prior pointed out that a wall that separated the Old House from the adjacent property was going to be heightened and this would also assist in blocking any possible noise emanating from the premises. The Courtyard she added, would also effectively be fully enclosed in terms of its perimeter area.

In terms of extra winding-down time for Late Night refreshments at the premises, Ms. Prior confirmed that this had been applied for (for a 30 minute period), so that patrons could relax after their meal and a few drinks, including for those customers who are staying over after booking accommodation at the premises.

She explained that she was a Social Worker by profession as was her mother who was accompanying her at today's meeting, and she disputed the fact that the hours so applied for as part of the application, would increase any harm to children who live nearby the premises. She added also however, that the responsibility of children off the premises including those who lived nearby, was not the applicants responsibility in any event. It was more the responsibility of the parents of these young people. She did assure the Sub-Committee however, that patrons at the premises would be kept from harm particularly children (ie as this was one of the four Licensing Objectives).

Whilst she appreciated to a point the concern previously raised by the nearby residents in respect of noise emanating from the Courtyard area, Ms. Prior explained that it would detrimentally effect business if patrons, for example, attending a Wedding Reception in the summer months were unable to use this area of the premises as part of the events celebrations. There were doors leading into the Courtyard from the public

house/restaurant and whilst these doors would be kept closed wherever and whenever possible, including for a special event, access into the Courtyard was obviously important for these type of events, particularly when the weather was warm. She reiterated that music and noise would be closely monitored at the premises by staff, particularly in celebrations that flow from the interior out into the Courtyard area, as would the behaviour of customers. If there were any concerns raised by nearby residents over the above following an event being held there, both herself and Mr. Jones would welcome openly discussing these with residents with a view to ensuring that this would not be repeated in future.

Ms. Humphrey an objector to the application asked the applicants how they intended to monitor noise emanating from the premises. She explained that she moved to the property situate next door to the Old House in 2013. She confirmed that the previous Landlord who ran the premises terminated business at the premises at 11.00pm each day, as he was mindful of any noise nuisance that may be generated from there after these hours when occupiers of village properties would in all probability be going to bed. She was not so much objecting to the hours of business that the applicants were applying for as part of the application. However, she was concerned over possibly noise that could be heard from the Courtyard area of the premises, particularly as there was no real boundary between both premises that would successfully block of any noise from patrons celebrating there late of an evening. If the doors leading to the premises into the Courtyard were left open for any sustained period of time, then this would inevitably result in some noise being experienced to herself and her family, possible into the early hours.

Mr. Jones advised that the Old House building was very well insulated and it had double-glazed windows that would help keep any noise nuisance to neighbouring dwellings down to an acceptable level. Staff would also be suitably trained which would include ensuring that noise levels from the premises would be minimal given the circumstances of a celebratory event being held there, which would only be on occasions in any event, rather than the norm. Both he and his key staff had a wealth of experience in operating similar type premises, so they were aware of what was required in terms of operating a successful business and including in such a way, that as to not to give rise to problems being experienced by residents who reside nearby premises such as this.

Ms. Prior added that when an event was being held there that would involve patrons spilling into the Courtyard area, then staff would also regular make visits to this part of the premises during an evening, so as to ensure that the noise levels were within acceptable limits. She added that any such music being played there including background music inside the premises only, would be regularly monitored to ensure it is kept at an acceptable level.

Mr. Rees confirmed that when the event in the Marquee was previously held, he could hear music coming from that area of the premises some 250 metres away. He added that music travels far easier from an area of a licensed premises where there is a function that isn't enclosed, as opposed to it being held in the interior of the premises.

The Legal Officer advised at this point in proceedings, that the Public Protection Department of the Shared Regulatory Services team as one of the Responsible Authorities for licensing functions, could always be requested to monitor noise levels emanating from a licensed premises, if sufficient concern regarding this was raised by nearby local residents.

Ms. Prior whilst appreciating the points raised by the objector, added that the above function so referred to, had been co-ordinated by an outside provider as opposed to herself or Mr. Jones.

She proceeded further, by confirming that if there were any problems with any type of problems being experienced by residents arising from the operation of the premises when the business was up and running, she wished to assure those present, that the Old House proprietors would have an open door policy, whereby they would welcome residents to come forward to Mr. Jones or herself, where very possible attempt would then be made to resolve these so that they did not reoccur again in the future.

Ms. Prior went on to say that there was a wall that separated the Old House from the adjoining premises, and it was proposed that the proprietors of the licensed premises would increase the size of this to around 10 feet in height, for reasons of privacy to the adjoining neighbour as well as being some form of barrier to reduce noise levels should there be the occasional function held there, that may spill out into the Courtyard area (of the premises). The height of this wall when constructed, would also take into account the fact that the land level of the neighbouring property was higher than that of the Old House land.

Ms. Humphrey asked if the Old House building was sound proofed.

Ms. Prior advised that for the most part it was.

Mr. Rees felt that children between the ages of 12 and 16 would be susceptible to being put in a vulnerable position, due to experiencing the playing of loud music from the premises and hearing any foul language that may also be shouted out (e.g. in the Courtyard) by patrons/paying customers.

He also did not see the need for there to be an added half hour at the end of an evening for the purpose of serving Late Night Refreshments, as part of a process of winding-down. Such a course of action could encourage issues such as noise nuisance and intoxicated from customers, he added.

Ms. Prior advised that these hours run parallel with the hours for the supply of alcohol etc at the premises, until the last half hour after this ends, when customers will just be able to purchase and consume non-alcoholic beverages, such as tea and coffee. As was alluded to earlier in debate, the idea behind late night refreshments was for patrons either having a late evening meal or for those who were staying overnight at the premises.

The Chairperson asked what stance the proprietors would take, should a gang of would-be customers turn up at the premises shortly before closing looking worse for wear due to excessive alcohol consumption elsewhere.

Ms. Prior confirmed these would be turned away, bearing in mind that it was estimated that at least 70% of custom would be food based, together with the fact that staff would totally discourage drunken patrons at the premises and such customers would not be served alcohol if they seemed worse for wear. Furthermore, they would also be escorted off the premises if they were in this condition, she added.

The Chairperson added that the Rugby Union World Cup would take place in September. He asked if the premises would open for the Wales games during this tournament and/or would any TEN's be applied for the premises to open at hours for the sale of alcohol, not covered by the Premises Licence (should this be granted).

Mr. Jones reiterated, that the premises would be food based and would not encourage potential rowdy patrons to congregate together for a sport based function.

As this concluded the case on behalf of the applicants, the Chairperson then welcomed the objectors to present their case.

Mr. Rees/Ms. Humphrey confirmed that they were looking forward to the Old House opening again and they wished the business every success. However, the applicants needed to consider working with residents, in order that the business works for them without in any way hindering the lives of local residents. The main area of Llangynwyd was an historical location, and consisted of 27 properties, with 50 residents being elderly in terms of their age, as well as there also being young children residing in some of these premises. The terms of the Premises Licence so applied for, needed to ensure that there would be a minimal impact on both the older and younger element of society in Llangynwyd.

Currently crime and anti-social behaviour was virtually non-existent in this area, with another public house situate near the Old House which was trading for business, albeit for less hours than that being applied for today.

The previous Landlord of the Old House would normally open for the sale of alcohol from Sunday – Thursday until 12 midnight at the latest and if there was any live music being played there, this would terminate at 23:00.

The extra hours being applied for by the new Licensees today, meant that the premises could potentially open every day of the week for the serving of alcohol and the playing of music (recorded) until 01:00 and if the application was granted, despite what the applicants had said that the premises would not open late every night of the week for the above purposes, there was potential for them to provide this every evening. This they felt would inevitably have a detrimental impact on the residents within this area of Llangynwyd.

Mr. Rees disputed the fact that all of the four Licensing Objectives would be met if the application for a Premises Licence was granted today, in that children aged 12 to 16 may be affected by functions held at the premises, given that music of an explicit nature could emanate from the premises. This would he argued, have a detrimental effect on young people who were exposed to this. He felt that music at the premises should not be played beyond the time of 22:00 hours, so as not to be a nuisance to residents and young people alike.

Concern was further raised regarding alcohol being served at the premises until 01:00 hours, with the added wind-down period until 01:30. There were access and egress limitations in the vicinity of the premises. This could give rise to large vehicles such as coaches having difficulty with the highway limitations that exist there, ie revving of engines. Also, there could be a potential problems of a number of vehicles congregating in an area where there is a limited amount of turning space, resulting in drivers beeping their horns at drivers of other vehicles, in light of incidents of the above nature possibly taking place. This could not be policed adequately by staff at the Old House, he added.

Mr. Rees reiterated the potential noise nuisance that could be caused by special events at the premises, particularly arising from those that spill into the premises Courtyard area. If noise nuisance does take place arising from the future holding of these, ie in the form of wedding and engagement parties etc, then this would inevitably lead to complaints being made by nearby residents, he stressed. He was disappointed that a representative from South Wales Police had not visited the site to note its layout and

that no objection had been raised by the Police with regard to any element of the application so made.

The business was an unknown quantity until it was fully up and running and this was a concern in itself he felt.

He also did not see any necessity for hours for both the sale of alcohol and the playing of recorded music being required Sundays to Thursdays, beyond 12 midnight, as was the case with the previous Premises Licence holder. He was more understanding of these being extended for Friday and Saturday, but felt that for midweek events the Licensees could, as it is a newly established business, apply for TEN's for events held on these days (they could have a maximum of 15 per year) and attach suitable Conditions to these, to suit each function. This would assist in pacifying residents concerns, as well as monitoring the premises for any possible noise nuisance and anti-social behaviour, on an event by event basis. If things progressed well with time, then the Licensees could put in a further application to vary the terms of their Premises Licence and extend the hours for the playing of music and sale of alcohol at the premises, for example from 23:00 to 12 midnight, Sunday - Thursday.

He emphasised that he was particularly concerned with potential noise nuisance late at night/into the early hours, and the consequences of this on neighbouring properties, particularly in the outdoor Courtyard/areas of the premises that were not sound insulated.

He also felt that more investigation should be pursued with regard to how many patrons the premises could hold at any given time, and what the estimated footfall would be at the premises both on weeknights and on the weekend.

Ms. Prior reminded those present, that the application should be considered on its own merits under the provisions of the appropriate licensing laws. If the fears raised by the objectors materialise, then obviously Mr. Jones, herself and staff at the premises would have to address these as and when they arose and take appropriate action to ensure they are not repeated. Obviously if they didn't do this, then the Responsible Authorities would take action against them which could compromise the terms of their Licence. They would ensure however, that every step is taken to ensure that this does not happen. Furthermore, she assured the Sub-Committee that the premises would be properly operated and that the concerns so raised, would not materialise into what could be regarded as a problem.

She added furthermore, that if any problems arose at the premises along the lines of that which formed the basis of the representations and objections so received, she would do the rightful thing, and apply herself for the opening hours at the premises to be reduced (on the basis of the application today being granted).

She also appreciated that residents had experienced the last 4 years of the premises being closed. Therefore, she had anticipated there being some resentment being shown by nearby residents to it being re-opened and trading again. However, their fears were based on what may happen (at the premises) as opposed to what will happen. So therefore, it was currently based on trepidation rather than factual evidence.

Mr. Rees whilst appreciating these comments, advised Members that, the process regarding the variation and/or review of a Premises Licence, was often long and drawn out. If there was a need to undertake such a course of action he added that this would take months rather than weeks, through collating evidence etc.

Ms. Humphreys again raised concerns about activity taking place in the premises Courtyard. She did not want to be faced with the option of having to close doors and windows at her premises in the summer months when it was hot, in order to block out any noise from this area of the Old House. She also went to bed by 22:00 hours, particularly on weekdays when she was working next day. She was concerned that the Courtyard would still be open after this time every night of the week. She felt that there should be a Condition attached to any Licence granted, along the lines that the doors and the windows at the premises should be closed at all times, in order to reduce potential noise levels.

She like others wanted the premises to be successful, but to do so, it needed to be operated in a responsible manner. Ms. Humphreys had some concerns also, that granting the application as it stood, would set a precedent resulting in the landlord of the nearby Public House also putting in an extension of hours within which to trade.

The Legal Officer interjected by stating that the Sub-Committee only had powers today to determine the application that was before it, as opposed to what other nearby premises may do following any decision made upon this application.

Mr. Rees advised that the hours attached to the Premises Licence held by the premises previous landlord were regarded as 'generous,' but the hours being applied for today were beyond that. He definitely did not see any justification in the premises being open for the purpose of Plays, Films, Live Music and Performances of Dance beyond the hours of 23:00 hours during the week, and therefore felt that the extra hour so applied for, ie until 12 midnight may result in noise nuisance for residents going into the early hours when residents nearby were attempting to get a decent nights sleep. He did understand however, the rationale behind having flexibility here on weekends and Bank Holidays. He wished to once more point out to Members, that the new Courtyard area had previously in the old premises been a Conservatory, and this would have been more sound proof than the Courtyard would be.

A Member pointed out that amplified music was permitted in the premises up until 23:00 hours in any event, without separate consent required through a Premises Licence.

Ms. Humphreys appreciated this, but added that they could go beyond this hour should the application before Members today be granted for the timings requested.

As this concluded debate on the application as per the evidence of both parties, the Chairperson asked both parties if they had anything to add as part of their summing-up, commencing with the objectors.

Mr. Rees advised that whilst the objectors wanted the premises to succeed as a business, this needed to work not just for the applicants but for the community and residents nearby also. The opening times associated with the Premises Licence held by the previous proprietor of the premises were described as 'generous,' and yet the application before Members was for the hours of licence to be increased beyond that. He felt that as part of a process of monitoring, it would be better if the licensing hours for the sale of alcohol were for no later than 12 midnight at the premises with recorded/live music to also terminate at this time (on weekends) but earlier than this on weekday nights. For any special functions whereby the applicants wished to extend opening hours after this time, this could be achieved through applications for Temporary Event Notices (TENS), as they could apply for a maximum of 15 of these per year. Objectors were concerned with the fact that there would be a noise nuisance at the premises, especially through late night revellers leaving the premises into the early hours of the morning on a Friday/Saturday, but more particularly in the week. Quality of life issues needed to be considered for residents of the 27 properties situate nearby the premises.



Mr. Perry then summed-up the case for the applicant.

He noted the objectors wanted the Old House to succeed, so therefore, he could not understand the reasoning behind some of the objections that had been shared with those present today. He emphasised that the business would be food led and that it was not intended as a venue that would attract patrons who intend consuming copious amounts of alcohol. He noted the objectors were raising representations to the hours of opening applied for, ie for the sale of alcohol etc, but these were only minimally longer than the hours contained in the Premises Licence of the previous proprietor. Mr. Perry thought that it was unnecessary to keep applying for TENS as an objector had suggested, as it was more logistic and appropriate to have appropriate flexibility within the scope of the hours of the Premises Licence, so applied for. If there are any unanticipated problems at the premises, the Licensee has a considerable number of years experience in the trade and was well equipped to resolve any problems should they arise there. The proprietors had committed a lot of investment in the business to make it more of a restaurant than a public house and this was supported by a Business Plan. The Licensee was only interested in attracting decent clientele as opposed to revellers. If there was a function being held there including this being extended to the Courtyard area of the premises, the Licensee would control this function including any noise nuisance from the playing high volume music. A number of the representations were based on 'if's' and 'but's', as opposed to what will happen. As the premises would be operated effectively however, the fears of the objectors he felt would not be realised. If the Courtyard was shut at 10.00pm, then this was have a considerable impact on business at the Old House, particularly with regard to celebratory events such as Wedding Receptions and Birthday parties etc. This structure was very similar to the structure that existed there before the building had been renovated in any event, Mr. Perry added. Bad language etc in the Courtyard would have a negative effect on business, so therefore, the proprietors would ensure that patrons do not resort to such action. If they did, they would simply be escorted off the premises. The Licensee wished to get on with owners of the neighbouring properties and, should they have any concerns regarding the manner in which the premises operated, then he would put steps in place to eliminate such issues going forward.

As this concluded the agenda business, the meeting stood adjourned and all parties retired from the meeting in order that the Sub-Committee could make a decision upon the application.

Upon the meeting reconvening, it was

RESOLVED:

The Sub-Committee considered the application for the grant of a premises licence for the Old House, Llangynwyd, Maesteg.

The Sub-Committee heard from the Applicants that they intend to run the premises as a Country Inn with accommodation for guests. The Applicants informed the Sub-Committee that their application is only for an extra hour on a Monday to Thursday and that they do not intend to keep the premises open to this hour each evening but want the flexibility to do so for events at the premises. The applicants also informed the committee that they had run a public house in a difficult area in Pyle without any difficulties. The applicants explained that the business was going to be food led and they had invested heavily in the kitchen and the staff training in relation to this aspect of the business. They also explained that they

have no intention of serving food on a Sunday evening when church services were taking place, they explained that they had a good relationship with the church and have been allowing them to use their car park during services for their parishioners. The applicants also explained that they will operate a zero tolerance policy for noisy and unruly customers as this was not the clientele they wanted at the premise. They explained that the conservatory at the premise was taken down and made into a courtyard where customers could enjoy a meal and a drink in the summer months. They explained to the Sub-Committee that they wanted to host weddings and events at the premises. The Sub-Committee also heard from the objectors who explained that the premises was situated in a small village consisting of 27 properties. They explained that the previous licence holder at the premise shut the business at 11pm during the week but had a licence until 12 midnight. The objectors were concerned that allowing the premises to be able to open until 1am each evening would not promote the licensing objectives and were concerned about public nuisance by way of noise nuisance and public disorder due to the noise at the premise and customers arriving and leaving during those late hours. The objectors were also concerned about the increase in traffic to the village and also music been played during the early hours. One of the objectors lived next door to the premise and was concerned that the noise from the new Courtyard would cause a noise nuisance and affect the enjoyment of her garden and property and disrupt sleep. The other objectors also agreed that the noise from the new courtyard would cause a noise nuisance and made representations that that area should only be licensed until 10pm. The objectors also made representations that all doors and windows should be closed after this time to inhibit any noise emanating from the premise. The Sub-Committee when considering the information from all parties have to make a judgment as to what steps are needed to promote the licensing objectives. The Sub-Committee can only make this determination based on evidence. The presumption is always to grant the licence unless there is evidence to the contrary. The Sub-Committee have taken into consideration that there are no representations from the responsible authorities namely the Police and Public Protection who have considered the application and decided that they do not wish to make any representations so do not have any concerns about the premises. Unfortunately, the Sub-Committee heard no evidence that convinced it that the extended opening hours proposed will cause a public nuisance and will not promote the licensing objectives. The objectors have accepted that they do not have any evidence and their representations were based on the fear of what might happen.

In addition all the steps offered to promote the licensing objectives will be added to the licence with the exception of No's 1 and 4 in box a, no 1 in box c, and 5 and 6 in box e.

Therefore, the Sub-Committee granted the application.

The meeting closed at 12:00

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MINUTES OF A MEETING OF THE LICENSING ACT 2003 SUB-COMMITTEE (A) HELD REMOTELY - VIA MICROSOFT TEAMS ON FRIDAY, 14 MAY 2021 AT 10:00

Present

Councillor – Chairperson

DRW Lewis

AA Pucella

JE Williams

Apologies for Absence

Officers:

Julie Ellams

Democratic Services Officer - Committees

Kirsty Evans

Senior Licensing Officer

Andrea Lee

Senior Lawyer

Yvonne Witchell

Team Manager Licensing

13. DECLARATIONS OF INTEREST

None

14. LICENSING ACT 2003 - SECTION 34 - VARIATION OF PREMISES LICENCE

Introduction from Team Manager, Licensing

The Team Manager Licensing explained that as outlined by the Chairperson, this was an application to vary the premises licence submitted by BDM (South Wales) Limited in respect of Braseria El Prado, Laleston. A copy of the application form and the plan were included in the papers. The application sought to

- Amend the premises licence to permit the sale by retail of alcohol to now allow for sales of alcohol both on and off the premises, including an online purchasing and collection service. (The Team Manager Licensing reported a correction to the report and changed “delivery service” to “collection service”).
- Extend the area for licensable activities to include a room on the first floor of the premises.
- Extend the area of the premises to include external seating areas.
- To remove the embedded restrictions currently applying to the premises licence.
- To add a period for drinking up time of 30 minutes on all timings on the licence but not otherwise extend the hours for licensable activities.
- To add a condition that the operation of external areas will cease at 2200 hours daily.

The times the licence authorises the carrying out of licensable activities remained the same:

Supply of alcohol

Live Music

Recorded Music

Monday to Saturday 1000 to 0000 hours

Sundays 1200 to 2330 hours

Christmas Day 1200 to 2330 hours

Good Friday 1200 to 2330 hours

New Year's Eve As per the Regulatory Reform (Special Occasions Licensing) Order 2002

The Team Manager Licensing explained that the report was prepared in advance of the meeting and any last minute changes proposed by the applicant would be reported later. She explained that the embedded restrictions which the applicant sought to remove were a legacy of the Licensing Act 1964 which were carried over to this premises licence when it was converted on the implementation of the Licensing Act 2003. Boxes "a" to "e" within the application were the measures offered to mitigate the objections. Copies of relevant representations received from residents were included in the report and all the representations from Shared Regulatory Services.

The Team Manager Licensing explained that the application had been advertised in accordance with the regulations. The applicant had restarted the 28 day consultation and the Team Manager Licensing confirmed that the website and press notices also ran correctly. None of the representations had been withdrawn and therefore a full hearing was required. In accordance with the regulations, further to the request made by the applicant, plans were circulated in advance of the meeting.

### Applicant's Case

Mr Matthew Phipps, the solicitor for the applicant outlined the application. He was supported by Mr Geraint John, who was able to give more information regarding the noise element.

The solicitor explained that the application was for El Prado. He referred to comments raised by residents that a change in approach was proposed from a smart brasserie restaurant to premises showing televised sport. This was incorrect, it was not a pub, it would not have TV's and would not be showing sport. The business was owned and operated by the Martinez family and they operated brasserie premises and food was very much at the centre of the offer. Photos had been circulated of the function room including the fish and meat counter and a photo of the menu from one of their other businesses which you could expect to see here. It was a top quality offer with food to an exceptional standard. There were also photos of the outside area and the furnishings giving a steer on what they might expect. The family were taking the business forward by investing in the business. They had run the business for a number of years before someone else took over and they had now taken the business back with the intention of returning it to its former glory. They wanted to have a successful business run to the highest standards proving an excellent customer service.

The solicitor explained that the variation elements were set out in paragraph 3.2 of the report. He referred to the elements which in his opinion were not contentious:

- Amend the premises licence to permit the sale by retail of alcohol to now allow for sales of alcohol both on and off the premises, including an online purchasing and collection service.

This was in line with many restaurants around the country and allowed customers to purchase a bottle of wine to take home and consume with their meal. Delivery was not part of the application.

- Extend the area for licensable activities to include a room on the first floor of the premises.

A photo had been provided showing a function room.

- To remove the embedded restrictions currently applying to the premises licence.

These were conditions carried over.

- To add a period for drinking up time of 30 minutes on all timings on the licence but not otherwise extend the hours for licensable activities.

This was a legitimate expectation for the business and was common place across most businesses.

He then referred to the more contentious element:

- Extend the area of the premises to include external seating areas.

Before the pandemic this sort of application did not exist. What they were seeking to do was to allow, as per the amended plan submitted, for an outside space to the front of the premises for up to 18 customers and to have a space on the right hand side in the pergola for 12 people. He considered this to be a moderate sensible application. The original application was for 52 people and that had raised concerns. They had heeded these concerns. There was a parallel dialogue with planning.

- To add a condition that the operation of external areas will cease at 2200 hours daily.

He referred to the Business and Planning Deregulations which were introduced the previous year. He explained that last year, National Government sought to support the hospitality industry by deregulating a number of features of licensing and planning elements allowing people to do certain things. Everyone who had an on licence was entitled to presume they had an off licence for consumption off the premises. Pubs wanted to accommodate customers in gardens, patios and car parks outside and permission had already been given for this. There was a sunset clause on this permission which was due to expire in September. He understood that it had been extended to January next year and that it could be extended again to May or June. Either way they could do it but in time this would drop away and now was the time to consider the position on a permanent basis in a controlled, supervised manner. He did not accept that the concerns raised by the officer and residents were reasonable and proportionate and that refusing the application was a reasonable response. A reasonable response would be to allow the permission allowing them to conduct their activities in a lawful and legitimate manner. He did not accept the concerns raised regarding noise and disturbance. If it was uncontrolled and unsupervised it would be a risk. It was lacking context such as the existing noise background, the location and the proposals in line with the planning permission.

Geraint John provided further information in relation to the context within which the proposal was set. The premises sat alongside a very busy road and having conducted a number of site meetings, it was evident this sat within a very noisy environment. Welsh Government had noise mapping data which quantified this. In meetings they had had to curtail their conversation or raise voices in order to be audible. The fence that existed at the top of the bank would insulate those properties from a certain amount of road noise in addition to the premises. The additional planting that had already taken place and the additional acoustic skin still to be erected would provide protection from activity on site and better protection from road noise.

The solicitor referred to the residential anxieties about the proposals. There would inevitably be concerns but the licensing process would provide conditions to attach to the licence to ameliorate what had been proposed. He suggested a list of conditions that

the committee might want to consider. He could not provide a cast iron guarantee but he could provide conditions the breach of which would be a criminal offence and permission and the license could be removed. Having all the legal bodies involved at an early stage was a much better approach than just getting on with what they were already allowed to do.

The solicitor suggested that all customers outside should be seated. This was a good starting point attending to many concerns. There was a space behind where the seats were set out in the front area which would be left empty. They had to provide sufficient space to meet regulations including DDA legislation. They were happy for 18 people to the front and 12 to the side and for this to be a condition.

The solicitor explained that they were content for the front outside area to cease trade and occupation at 9.30 pm. Originally they had asked for 10 pm but were happy to change to 9.30 pm. He added that they would seek permission for smokers to occupy the space after 9.30 pm. They proposed a further condition that no drinks or food be allowed out the front after 9.30 pm.

The solicitor proposed that there would be no music outside. They would have liked to have background music but it was a point of concern so they were prepared to take that out.

The lighting would be properly controlled so that it did not intrude on the neighbours and contact details for management on site would be made permanently available to neighbours so that they had an immediate line into premises to raise concerns. A CCTV system would be installed to cover the outside area to allow officers to find out if any complaints or criticisms were legitimate. Staff would be trained in matters concerning underage sales and operating procedures as well control of and the management of the outside space and customers therein. They could have prominent, clear and legible notices displayed at all exits requesting the public respect the needs of local residents and to leave the premises and area quietly. Patrons would be encouraged by staff to leave quietly and respect the interests of the occupiers of any nearby noise sensitive premises. Where appropriate the licensee or a suitable staff member would monitor patrons leaving at the closing time. A noise management plan (NMP) could be implemented within 21 days of the grant of this licence and retained for as long as the premises continued to operate outside. The Designated Premises Supervisor (DPS), or another responsible member of staff acting on behalf of the DPS, could carry out regular physical checks within the area immediately outside the premises regularly. They could be monitoring the behaviour of customers including the volume when talking and what they were saying. They could also be checking for empty glasses or litter and, if those items were present, they could remove them. They could re-enforce the messages about the sensitivities of residents and others and encourage smokers to reduce any adverse impact of their own activities. Management would encourage verbal messages by staff to customers inside and outside the premises and written notices.

There were residents in close proximity as in many premises across the country. National Government had said that everyone could do it. This would support businesses to survive and the hospitality sector and this was in all their interests.

The solicitor added that public nuisance would be generated but the application should not be refused on that basis. He believed that with the proposed conditions it would be fair and proportionate to grant.

The Chairperson invited questions from the panel and the objectors.



The Shared Regulatory Services representative (SRS) asked what would happen to the seating and the umbrellas after the outdoor area had closed. The solicitor replied that he understood that during service the furniture would remain outside. It would be secured so that it could not be stolen. After service the chairs would be taken inside and the tables would remain outside. She then asked if when the front external area was in use, the bi fold doors would be open. The solicitor replied that it would be weather dependent and if the weather was good they would be open.

The SRS representative asked what capacity they had been operating at outside during the last 3 weeks. The solicitor replied that there were more than 30 and this application would restrict them from what they had been legitimately undertaking until then. She asked if there were more than 30 most nights. He replied that it was broadly busier on Friday/Saturday and Sunday lunchtimes in the long term, he would not expect full occupation apart from good weather, weekend, and on occasions.

The SRS representative asked if they could guarantee that noise would not be an issue. The solicitor replied that he could not guarantee this as with any licensed premises but this was reasonable, proportionate and likely and they had suggested sensible conditions.

An objector asked about the plans submitted as part of the planning application. The Chairperson replied that that was a separate issue. The legal Officer explained that the Licensing Committee based their decision on licensing objectives and it was for the applicant to decide if the conditions differed.

An objector asked what the maximum capacity was if the building was used as a bar. He asked where those drinking outside would go when time was called outside and would this breach the fire regulations for the building. The solicitor replied that in terms of the fire regulatory capacity, that would be dealt with separately under the fire risk assessment. The numbers they worked to in the premises did not risk breaking the actual fire risk capacity at all.

An objector asked if they did not get a license for the external numbers, would they return the internal numbers to 102 downstairs and 10 upstairs. The solicitor replied that they would not be allowed to make changes to the internal configuration without going back to Licensing. If they did not get permission they would continue to have people outside until next June. He added that the capacity may have been 102 but the premises would rarely operate at full capacity.

An objector stated that the structure at the side of the building had already been erected and this demonstrated that they were going to do what they wanted. The solicitor replied that that was incorrect and it had not been glazed. The objector replied that it was being glazed as they were speaking. The Chairperson replied that this was a planning issue and not relevant for this meeting.

An objector referred to the concessions that the applicant was prepared to make to get the application granted including winding up outside at 9.30 pm. She asked about the comment "no mood type music" because she was under the impression there would be no music at all. The solicitor confirmed there would be no music outside at all.

The objector said that the people outside would be able to continue to smoke until 12.30, utilising the outdoor furniture having loud conversations with each other over the noise of the traffic. The solicitor replied that he was trying to explain the noise context. The Committee would consider the volume of traffic and the number of people outside after

9.30pm smoking. He had not referred to loud voices. So long as they monitored and supervised this, it was a solid basis on which to proceed.

A panel member stated that this was a high quality restaurant and asked if it was likely that someone would pop into the small bar just for a drink. The solicitor replied that the small bar area was predominantly for those diners who were waiting for other guests to arrive before being shown to their table.

A panel member asked if the license was granted, and someone popped in for a drink, if the outside capacity had been reached, would they be allowed to take their drink outside and sit on the wall. The solicitor replied that they would not. They recognised that there needed to be some sense of proportion and they were confident 18 and 12 would not cause a nuisance.

A panel member asked the objector about her concerns about smokers going outside after 9.30 pm and talking loudly. She stated that this was a restaurant not a pub and approximately 15% of the population were smokers and back in within 3 to 4 minutes. She added that it was rare for anyone to stay outside without a drink in their hand and they would return to be with their guests. She could not see that this would be a problem. The objector replied that the smoker would have the comfort of the furniture and could stay out to have a chat.

An objector asked if this was a bar restaurant or restaurant. The sign across the road said bar restaurant. The applicant had applied to have the embedded restrictions removed and anyone could pop in for a pint. It would now be open for coffee or drinks all through the summer. The solicitor replied that that was correct and they would be able to have a drink without a table meal. This would allow them to accommodate some customers they could not have historically. The objector asked how many customers there would be and if they would be under pressure. The solicitor replied that the applicant had been under pressure following the last 15 months but they would not be under pressure serving customers. The objector stated that it would therefore be a public bar. The solicitor replied that it would allow a customer to have a drink without a table meal but it was not a pub.

An objector stated that on the first weekend following closedown, she was aware of a table of 6 drinking without meals even though their license did not permit this. If the smoking area was occupied outside where did they expect the smokers to stand. The reality was they sat on the wall close to schoolchildren walking home. The management were not managing and had no chance with six large males. They were acting inappropriately and people left for that reason.

The solicitor replied that he was sorry to hear that and that was not his understanding at all. He understood it had been well managed since 12 April. The objector replied that she lived directly opposite and had had to shut windows because of the noise already. If the premises was at full capacity, where would the smokers stand. Children out of school should not be witnessing drunks and having smoke blown over them. The solicitor replied that it was for management to manage and he would take it back and make sure this did not happen.

A panel member asked for confirmation from the solicitor that each person drinking at the premises would need to be seated. The solicitor replied that was correct and they would not want to attract people not having meals.

The objector replied that he was concerned that there was an area in the premises designated as a bar and that people could walk in and out any time of day without eating. The panel member replied that they could do that in other premises nearby. The objector replied that El Prado had a cache with very respectable residents leaving at

2.30 in the afternoon and he was concerned that the nature of the customers would change.

A panel member stated that smokers would normally leave a pub, stand to have a quick cigarette and return to their seat. The objector was implying that there were a large number of smokers in Laleston. The objector replied that a lot of the clientele arrived from outside the village by car/taxi. The percentage of smokers in the population was 17% and from experience they would come outside the pub and start talking to others not necessarily from the same table. The conversation would then get louder and louder. The other problem was the phone signal which was better close to the wall. As a result a number of people would have conversations on their mobile close to the road. They needed to provide a shed or to make provision for this and the smokers.

An objector stated that the premises had been there since 1991 but it had never operated in this way before. They were seeking to extend the licence for 30 mins for drinking up time. It had never been an issue and they had never operated late at night. He asked if they were planning to operate to their full licence now. He was concerned that an already noisy situation could get worse and become unbearable. With regard to the embedded rights, he asked what form of entertainment did they intend to offer. He was astounded to find that they could offer live music until midnight. What was their intention regarding entertainment? The solicitor replied that every single licensed premises in the country had an automatic right to play recorded and live music to 11 pm providing the capacity of the premises was less than 500. There was no reason to expect there would be any change to policy or procedure. Restrictions from 1964 were not appropriate now and this was an effort to get rid of them. The drinking up period was standard practice. This was a commercial venture and the opening times would depend on the demand and allow flexibility. The objector was concerned that the system could be abused. The solicitor understood that and replied that they could be taken to task if they abused this trust.

An objector asked how the premises could accommodate taxi pick ups and the click and collect service. The problem with taxis was that they would park on the main road and this was a road safety issue. How would this be managed? The solicitor replied that like thousands of other restaurants, they wanted to be able to allow people to have wine if they chose to eat at home. No one would be using this as an off licence but it would allow them to purchase a bottle of wine with a meal. To suggest there would be endless vehicle volumes collecting wine was unfair. They had to manage arrivals and the business of food collection.

An objector questioned if the takeaway service was temporary or if this was a permanent facility. There was only parking for 20 people which was inadequate. The solicitor referred back to the licensing objectives and asked how they would be undermined by this application. The objector referred to their human rights and they wanted their rights to be taken onto account. They could not offer a guarantee or discuss these extreme scenarios but in his experience, the application would not generate these sort of problems.

A panel member explained that she understood that a bottle of wine could be purchased with a meal but she thought it unlikely that someone would pay El Prado prices when they could buy a bottle somewhere else considerably cheaper. The objector asked why the applicant was offering this service if it was not going to happen very often. This was a residential area in a village and not a town or city and would have a huge impact on local residents. This could be life changing and it should have been done properly within a solid building. The panel member replied that there were marquees across the borough and premises were allowed to place table outside. The objector replied that

they had no objections to temporary arrangements but this could be 365 days a year and life changing.

An objector explained that the residents were not fearful of a doomsday scenario but the cumulative effect of what the new owners had done. If they added the capacity of the outside areas to the capacity inside, the bar and function room and people having coffee, takeaways and the option to buy alcohol, this would have a massive cumulative effect on the village. The new owners had changed their plans a number of times and they were in limbo. What guarantee was there that there would be no more changes and this was accurate? The solicitor replied that this was not about guarantees but the Licensing Committee needed to be satisfied that on the balance of probabilities this would be likely. They submitted an application seeking 52 chairs. This had since been reviewed in line with the discussion with officers and representations and reduced down to 30. If they were now being criticised for removing the seats then that was unfortunate. They were trying to find a balance that was fair. An objector stated that this was a substantial change and should go back out to consultation. The Legal Advisor replied that the number had been reduced to try to accommodate the objections and therefore further consultation was not necessary.

The SRS representative stated that a condition had been suggested that the takeaway would only operate between 1pm and 8pm so reducing any noise nuisance to local residents. In terms of the plans the applicant had changed them to try to make it better for residents following discussions and site visits.

The Chairperson asked the SRS representative what she thought the maximum number of seats outside should be. She replied that that was difficult because in terms of noise levels, if they reduced the number from 18 people to 9, noise would reduce by 3 decibels but that could still create a nuisance.

A panel member asked if any complaints had been received in respect of the 12 seats under the pergola. The solicitor replied that the representations appeared to cover everything. The pergola would be glazed apart from one panel so could be a less sensitive, concerning space.

An objector stated that "reasonable" could be different for the village, community and residents compared to officers. The solicitor replied that there were 3 representations received from residents in addition to those from the officers and this did not represent the whole community. The Team Manager Licensing confirmed that 3 representations had been received relating to this application as published in the pack.

An objector asked what the point was of glazing the pergola if it had a retractable roof. The noise from that building would affect the houses nearby. Geraint John confirmed that the roof was not retractable and would have louvre panels that shut flat horizontally or could be angled to 45 degrees away from the properties to the rear, to allow ventilation. An objector asked why they did not install an air conditioning system instead. The solicitor replied that the way the building was constructed was for the owner to decide. It was for the committee to decide if the proposal would make and generate a public nuisance, not to comment on the design.

The Chairperson asked for clarification that stop tap was 12 and there was no drinking up time. The solicitor confirmed this was correct. Half an hour effectively encouraged a more sensible departure and in his opinion was a promotion of licensing objectives.

There were no further questions at this stage.

#### Objectors' Case

SRS Representative

The SRS Representative explained that the application before them was a scaled down version to what the applicant was originally applying for, with almost half the amount of customers externally, reduced closing time of the outside external area and no music being played externally when taking account of the amended plan and conditions being offered by the consultant. The conditions offered by the applicant were appreciated. However, the noise, particularly from 18 customers socialising externally in the front car park could still impact on the closest residential dwellings. Whilst the staff could ask customers who were rowdy to modify their behaviour, they would be unable to prevent the general noise from customers laughing and talking with raised voices. Not everyone would shout or talk loudly, but some would and inevitably where lots of people were present in one area, they would tend to raise their voices so they could be heard above each other.

The SRS representative provided information about a background survey mentioned by the planning agent with reference to the Welsh Government.

She explained that in addition, the external area was likely to have the unintended consequence of increasing the noise levels emanating from the restaurant if the bi-fold doors were left open to service customers using the external seated area. The applicant had been operating outside since he had been permitted to be open. Although there had been no complaints to date, the weather had not been very good. Therefore it was unlikely that residents would have been using the garden or have had their windows open to any great extent. It was also unknown whether the applicant had been operating at full capacity and then would not have been any additional noise from the restaurant due to the bi-fold doors being left open.

The SRS representative explained that the conditions offered by the applicant were appreciated and would help manage the noise. However, due to the potential of public nuisance that could be caused by the external seating area, she maintained her objection to this being used on a permanent basis. The noise from the pergola could be more easily controlled providing the fencing was upgraded to an acoustic quality fence and the glazed sides of the pergola were installed. Nevertheless as one side was intended to be left open and the roof was a louvre roof capable of being left open, noise could still impact on that residential dwelling. The SRS representative suggested a closing time for this area of 9.30 pm and not the 10 pm applied for. She also asked for the pergola area to be glazed and the fence updated to acoustic standards to provide extra protection for the property behind.

An objector referred to the pergola and the fact that as soon as the roof panels were tilted the noise would come out. She also stated that if the car park was not granted, the doors could be left open at any point. Would clients and staff use as a through fare because noise would escape. The SRS representative replied that she had done some calculations based on 12 people in the pergola and noise could be controlled if the area was managed correctly. She thought this would be more of a problem later in the evening if it remained open after 9.30 pm. As far as she was aware there was a door that went directly into the pergola so they did not need to come out of the bi-fold doors. The Legal Advisor explained that this was not relevant to the application being considered. A panel member added that this was Licensing Committee not Planning Committee and they should not be discussing these aspects. The SRS representative replied that it was relevant because she had been asked to comment on the noise from 12 people in the pergola.

The solicitor referred to the comments made by the SRS representative regarding the fact that there had been no complaints made in the last 4 weeks because windows had

been closed due to the poor weather, people were not in their gardens and the premises were not operating at full capacity and asked why that same point did not feature in why it would be legitimate to grant this. This was Wales and it was not fair to ignore the lack of complaints because of the weather when this was the reality for most of the year. The SRS representative replied that with all due respect, when the weather was warm, people would want to open their windows and enjoy their gardens and those residents might not be able to do that because of the noise. The Legal advisor explained that unless there was evidence of this it could not be taken into consideration. The SRS representative replied that the weather over the last 3 weeks had been very poor and she had not made reference to the number of people but to the fact that the premises had been operating at full capacity but not all the time. The Legal Advisor asked if an officer had attended the premises when they had been operating during this period and was it in the representations. The SRS representative replied that an officer had attended twice but it was after the representations were due in. The Legal Advisor explained that those representations should have been submitted and they could only take into account the evidence before them.

An objector asked for clarification regarding the seating area being available all year or just for 5 months of the year. The solicitor confirmed that in the papers it stated it would only be in use for circa 5 months in any year as per the letter.

The Chairperson asked the objector (appendix C) to give her case. She replied that the SRS representative had summed up the concerns and she reiterated that her understanding was that no music of any nature would be played in the outside area.

The objectors (appendix D) explained that it was difficult not to refer back to other things. In summary the way it had been approached and the continual last minute changes had resulted in a lack of trust and faith in what was being said. Extending the hours of business beyond midnight was untenable and there were concerns regarding possible entertainment. The conditions had offered some reassurances however there would still be substantial noise when people were leaving the facility. If they operated to the later time, he asked for a condition to be included where patrons were kept inside the premises when waiting for taxis etc to pick them up. They could also ask who wanted a taxi and arrange it for when they left the premises rather than waiting for it to arrive. This would help to alleviate the length of time they stayed outside and noise after midnight. This should not be that much of a problem. The solicitor replied that this was not a time for questions but for the objector's case to be put forward however he had no objection to the point made. Uber and other companies had ordering apps which they could decide to use but the premises could also provide details if required. He was not sure how it could be translated into a licensing condition. The objector replied that the evidence was this was an issue and the noise from it was considerable.

The SRS representative stated that she had looked at the current licence and the 30 min winding up period was already allowed. The Team Manager Licensing confirmed it was shown however it was applied for on this occasion. The solicitor replied that if the interpretation was that it was already on there then he was happy to withdraw that part of it, if conversely the view was that it was not on there then they did. If 20 mins was included then they were applying for an additional 10 minutes. (The solicitor later confirmed that having checked the original licence, the applicant was asking for something they already had and therefore they did not need to proceed with that because it was already there). An objector asked if that could be rescinded to 11.30 pm and was advised that this could not be done. The solicitor explained that they were withdrawing the part of the application asking for an extra 30 minutes and added that because there was a permission, there was no obligation to use it. They had not traded that period in the last 20 years. The Team Manager Licensing confirmed this was on the original licence and the current application details had been included in the public notice.

The Legal Advisor explained that the premises were allowed to trade in line with their licence.

A panel member added that it would be helpful to have a sign in the lobby asking people to ring and wait for the taxi to arrive, inside the lobby.

The final objector reported that she had removed a considerable amount that she was going to say because it had already been covered. The applicants failed to advertise the fact that he had applied to change the licence and it was by chance that they found out. She believed this was done intentionally. The Licensing Authority needed to comply with article 8 of the Human Rights Act to protect the residents. They appreciated this was for 5 months however they would be enjoying the garden in those months and would like to do so without having to listen to drunks and loud noises possible 365 days a year. In regards to privacy, their home had been invaded with people looking into their home leaving them in an uncomfortable position. They had lived there for almost 30 years without any criminal occurrences to their property. The applicant has asked them to withdraw their objections however as a resident they were entitled to object. Their property has since been vandalised and although circumstantial, it was highly suspicious. The level of noise would be unbearable and their lives would be dictated by opening hours. There was a lack of empathy for the concerns in regard to the proposals. The applicant had already had the signs put up as a bar and restaurant as if it was a done deal. She believed he thought it was a tick box exercise and the rules did not apply to him.

A panel member asked about the condition regarding the operation of the external areas ending at 10 pm daily, and asked if that meant that eating and drinking outside would cease at 10 pm and how would this be policed. The solicitor replied that they originally asked for 10 pm but had now conceded to 9.30 pm to accommodate the concerns. There were a series of conditions relating to management of the outside space detailed in the proposed conditions. An objector asked how those sat outside would be accommodated if they wanted to continue drinking. The solicitor replied that they would need to manage their customers correctly and as professionally as they did in their other premises.

## **Summing up**

### **Applicant's Solicitor**

The solicitor explained that in terms of what had been applied for and the applicant, the substance of what was being said by some of the objectors was that there was a lack of trust in the professionalism of the operation. They had withdrawn the proposal to have any music at all. They wanted 50 people outside, currently they could have as many outside as they wanted but they had reduced the number to 30 and still been criticised. They had withdrawn the 30 minutes drinking up time which had been applied for in error. The fact that they already had this but had never used it was an indication of the sensitivity of the concerns. A worst case scenario had been presented which was not fair or objective. The SRS representative had asked for a guarantee which was not applicable for this. When challenged about the lack of any complaints, there was reference to the weather but nobody made reference to this being Laleston and not California and this was the weather they should expect. How often would they be at capacity and how often would being at capacity generate a noise nuisance. They believed it was nothing like the extent presumed and based on an assumption that they could not manage their customers. He appreciated this was a change but there had to be some balance and sense of proportionality which was lacking. The point had been made that they had not conducted a noise survey and he asked how often this was done for this purpose. It was not for a music festival or for a new build. They were effectively

asking to limit the permission that National Government had given to every licensed premises in June of last year. They could currently have any numbers (so long as it did not cause a public nuisance) in any space. They were saying limit them to 12 on the side and 18 at the front and limit the hours, add a load of conditions and that was not an unreasonable application. With regard to the comments regarding a lack of empathy and engagement with the community, there were 3 objectors and not a community objection. An extensive letter introducing the business owner and his proposals had been circulated and it was not fair to say they had not engaged. He thought the balance had been fairly struck with the moderated restricted application before them today.

An objector referred to the blanked permission for restaurants and cafes to open alfresco and asked if the solicitor was talking about the Business and Planning Bill 2020 which was introduced by National Government but not all sections applied in Wales.

The Team Manager Licensing replied that the alcohol provisions applied in England and Wales. Pavement Licensing arrangements were split with England and Wales going different ways. The solicitor confirmed that they were entitled to do this as per his summing up. The Legal Advisor confirmed this was correct.

An objector referred to the point made by the solicitor regarding engagement and said that the applicant physically came on to their property and intimidated her asking her to withdraw her objections and he had not been particularly friendly or engaging and if other residents to the rear had not objected, it could be because of the crime committed on her property.

#### **SRS Representative**

The SRS representative explained that she had no objection to the removal of the embedded conditions or to the 1<sup>st</sup> Floor function room or off- sales and she was satisfied that that the applicant could manage the off- sales particularly as off sales for collection took place between 1-8pm. The hours being applied for licensable activities were not changing so there were no representations being made about that.

The SRS representative explained that her representations applied only to the operation of the external areas and the front and side pergola. She believed that the noise from the pergola area could be more easily controlled due to it being partly enclosed. However, it was still open on one side and the louvre roof was likely to remain open in warmer weather. She requested that this area also closed at 9.30pm. She was also concerned about the noise from the car park area and could not say that it would not cause a nuisance. If there were 18 people, talking, laughing and socialising then it would be clearly audible and could cause a nuisance. She added that she would not normally expect a noise survey to accompany a licensing application and she had only referred to it because the planning agent had mentioned the noise survey from Welsh Government in his representations.

She accepted the other conditions and the noise management plan and requested that conditions about glazing to the pergola and the acoustic fence be attached to any conditions.

#### **Objector 1.**

This was out of keeping for a little village like Laleston and this had changed in nature. There would be drinkers at the bar not diners and she disagreed with the whole weight of the development and she agreed with the conditions suggested by the SRS representative.

#### **Objector 2.**



He explained that reference had been made to “worse case” scenario but based on actual evidence, there had been occasions where it had been extremely noisy. At Christmas time the issues raised were not “worse case” scenario but an actual realisation. He understood the applicant was looking to maximise his business opportunities and although it would not be every night, there would be a considerable number particularly at weekends. This would be their living situation, noise would be horrendous and this would be life changing for residents living nearby who might not appreciate what was proposed.

**Objector 3.**

In Laleston there were approximately 300 houses, 2 pubs, 1 hotel and a restaurant. They did not need another bar and there was more than enough without this. The applicant had successful businesses in the City and on the coast but this was a village and residents did not need the extra stress. This would become a hospitality hotspot. The previous owner ran the business down then retired and sold the business. The new owner would be serving coffee in the mornings, afternoon teas and evening meals. This was their lives and there would be no peace from 10 am to 1 am the following morning. Their lives would be governed by the licensing Act and as a resident, this was not fair. After Covid he could still get 101 inside and the numbers outside and licensing had no control unless it came up for review.

**The Team Manager - Licensing**

The Team Manager Licensing referred to the statutory guidance relating to the need for premises and the Legal Advisor confirmed that it was not relevant how many premises were in the village.

**RESOLVED**

This is an application to vary the premises Licence in respect of Braseria El Prado, Laleston.

The application was slightly amended prior to the hearing and the Applicant now seeks to:

1. Amend the premises licence to permit the sale by retail of alcohol to now allow for sales of alcohol both on and off the premises, including an online purchasing and delivery service.
2. Extend the area for licensable activities to include a room on the first floor of the premises.
3. Extend the area of the premises to include external seating areas
4. To remove the embedded restrictions currently applying to the premises licence
5. To add a condition that the operation of external area will cease at 9.30 pm and the outside Pergola to cease at 10pm

The Committee have heard representation from the Applicants and 3 objectors who live near the premises.

The Committee have only taken into consideration relevant representation which were made under the Licensing Act 2003. Any representations which fell outside of this Act were disregarded.

The Committee also heard from an officer of the Responsible Authority Shared Regulatory Services namely Mrs Helen Williams who made representations about her concerns that the licensing of the outside area would cause a noise nuisance to the surrounding properties. The Committee noted and took into consideration that since the premises have been allowed to operate the outside area there have been no evidence of any complaints of noise nuisance and the Responsible Authority did not provide any evidence of noise nuisance at the premises during this period. The Committee were not persuaded that allowing the outside area to open would cause a noise nuisance. The Committee also took into consideration that there were no representations or concerns from the Police about the application.

The Committee when taking into consideration all representations made at the Hearing have decided to grant the application as amended with the following conditions to mitigate any concerns raised by the objectors and the statutory authority namely:-

1. Seating in the designated areas shall be a maximum of 18 in the front outside area and 12 in the pergola area as shown on the plan annexed to the licence
2. Front outside area (18 covers) to cease trade and occupation by customers (other than those smoking) at 9:30 pm
3. The pergola building (12 covers) to cease trade and occupation by customers (other than those smoking) at 10.00 pm
4. No food or drink shall be consumed in the front outside area after 9.30pm.
5. No food or drink shall be consumed in the Pergola Area after 10pm
6. No live or recorded music shall be played or relayed to the outside areas
7. Lighting to be closely controlled by the DPS so that it does not unreasonably intrude upon neighbours
8. A phone number of management on site to be made permanently available to neighbours
9. The premises shall install and maintain a comprehensive CCTV system. The CCTV system shall be continually record when the premises is open for licensable activities and all times when customers remain on the premises.
10. All recordings shall be stored for a minimum period of 31 days with date and time stamping.
11. Viewing of recordings shall be made available immediately upon request of Police or authorised officer throughout the preceding 31 day period.
12. Staff will receive training on matters concerning underage sales and operating procedures as well control of and the management of the outside space and customers therein.
13. Prominent, clear and legible notices shall be displayed at all exits requesting the public respect the needs of local residents and to leave the premises and area quietly.
14. Patrons will be encouraged by staff to leave quietly and respect the interests of the occupiers of any nearby noise sensitive premises. Where appropriate the licensee or a suitable staff member will monitor patrons leaving at the closing time.

15. A noise management plan (NMP) shall be implemented within 21 days of the grant of this licence and shall be retained for as long as the premises continues to operate outside

16. The Designated Premises Supervisor (DPS), or another responsible member of staff acting on behalf of the DPS, will carry out regular physical checks within the area immediately outside the premises at the following intervals.

17. During external physical checks the DPS, or other responsible member of staff acting on behalf of the DPS, will;

Monitor the behaviour of the customers and, where they consider it appropriate ask them to regulate it, re-enter the premises, or leave the area quietly

Check for empty glasses or litter and, if those items are present, remove them

Re-enforce messages about the sensitivities of residents and others and encourage smokers to reduce any adverse impact of their own activities.

Ensure there are no unnecessary delays in closing the doors as patrons leave or enter the premises.

18. Management will by all practical means encourage people who smoke to do so having regard for the sensitivities of local residents, and others in the area, and with a view to reducing any adverse impact on them. Such methods will include, but not necessarily be limited to; Verbal messages by staff to customers inside and outside the premises and written notices

19. Within 42 days of the grant of the licence an acoustic barrier shall be provided along the top of the embankment alongside the existing fence between El Prado and the property at 3 Tyddyn Gwaun which shall be continuous in length along the rear of that property with no gaps between the fencing panels or the ground and shall have a minimum mass of 10kg/m<sup>2</sup>. The height of the barrier shall be agreed in writing with the Licensing Authority prior to it being erected. The barrier shall be retained for as long as the premises continues to operate outside.

The meeting closed at Time Not Specified

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MINUTES OF A MEETING OF THE LICENSING ACT 2003 SUB-COMMITTEE (A) HELD IN  
TO BE HELD REMOTELY VIA TEAMS ON TUESDAY, 20 JULY 2021 AT 10:00

Present

Councillor – Chairperson

DRW Lewis

G Thomas

JE Williams

Apologies for Absence

Officers:

Julie Ellams

Democratic Services Officer - Committees

Mark Galvin

Senior Democratic Services Officer - Committees

Andrea Lee

Senior Lawyer

Michael Pitman

Democratic Services Officer – Committees

16. DECLARATIONS OF INTEREST

None

17. LICENSING ACT 2003 - SECTIONS 53A TO 53D APPLICATION FOR SUMMARY  
REVIEW THE STATION HOTEL, CAERAU, 1 CAERAU ROAD, CAERAU, MAESTEG,  
CF34 OPB

F Colwill, Licensing Officer, Community Safety Partnership explained that she was representing South Wales Police, to determine the application made by the Police for the expedited review of the Premises License at the Station Hotel, 1 Caerau Road, Caerau, Maesteg. She explained that the initial representations were in the form of the application to carry out the expedited review of the Premises License. The written and oral representations were her professional opinion and part of her role was to ensure all licensed premises were run responsibly and the licensing objectives were promoted. It was explained that this was best achieved by working in partnership with licensees. An essential part of her duties was ensuring a positive relationship between the Area Police Licensing Officer, the Premises Licence holder and the Designated Premises Supervisor of any licensed premise.

On Friday 16<sup>th</sup> July 2021 a Firearms Warrant was executed at the Station Hotel in Caerau where prohibited weapons, suspected firearms, ammunition and drugs were recovered within the licensed premises. It was clear that the Licence Holder and DPS were not promoting the licencing objective of crime and disorder and there was also potentially a public safety issue particularly for the residents of Caerau, Maesteg.

A member asked exactly what the suspected firearms were. Sgt D McCutcheon replied that there were suspected firearms found on the premises. He was unable to comment any further at the time because the investigations were still ongoing. With regard to the criminal investigation the weapons would have to be tested and examined to determine if they were Section 1 Firearms or air weapons etc.

A member asked how long the investigations would take. Sgt D McCutcheon replied that it could take anywhere between 2 and 8 weeks. There were a number of things that had to be examined as part of the investigation including drugs and ammunition.

A member asked in relation to the other weapons, how many there would have been. Sgt D McCutcheon replied that there were a number of swords, knives and a medieval mace. He advised the committee that the Law was updated with regard to prohibited weapons on 14<sup>th</sup> July 2021 which made it an offence to have these weapons in a private place as well as a public place unless you had a reasonable excuse.

A member asked if they could rule out the possibility that the weapons were imitation. Sgt D McCutcheon replied that they could not rule that out and the ammunition and firearms could be imitation. However as already explained an imitation firearm would be classed as a prohibited weapon and the enquiries regarding the ability to fire were still ongoing.

The Committee adjourned to make their decision.

### RESOLVED

This is an application by the Police for an interim review in accordance with the provisions of the Licensing Act 2003 in respect of a premises licence at the Station Hotel, Caerau, Maesteg. The Police has made the application as they consider the premises to be associated with serious crime and disorder.

The Committee have considered the written report from the Licensing Officer and the representations made at the hearing by the Police.

The Committee have considered the steps that can be taken namely:-

The interim steps that the licensing authority must consider taking are:

- the modification of the conditions of the premises licence;
- the exclusion of the sale of alcohol by retail from the scope of the licence;
- the removal of the designated premises supervisor from the licence; and
- the suspension of the licence.

The Committee have decided that the allegations are of a very serious nature namely that there were weapons and drugs found at the premises and as such have determined to suspend the Licence pending a full review hearing in this matter in order to prevent further serious crime and disorder at the premises.

This decision takes immediate effect.

The meeting closed at Time Not Specified

MINUTES OF A MEETING OF THE LICENSING ACT 2003 SUB-COMMITTEE (A) HELD IN REMOTELY - VIA MICROSOFT TEAMS ON WEDNESDAY, 25 AUGUST 2021 AT 10:00

Present

Councillor DRW Lewis – Chairperson

TH Beedle                      MJ Kearn

Officers:

Julie Ellams                      Democratic Services Officer - Committees  
Kirsty Evans                      Senior Licensing Officer  
Andrea Lee                        Senior Lawyer

19.    DECLARATIONS OF INTEREST

The Chairperson declared a personal interest in Agenda Item 3, in that he knew both Mark Holmes and Gavin Thomas, but only in that he had dealings with them previously, in his capacity as a St. Brides Minor Community Councillor.

20.    LICENSING ACT 2003: SECTION 105 TEMPORARY EVENT NOTICE REAR CAR PARK OF K2 GYM, MAIN AVENUE, BRACKLA INDUSTRIAL ESTATE, BRIDGEND

The Senior Licensing Officer presented a report, to ask the Sub-Committee to consider an Objection Notice submitted by the Environmental Health Department of the Council, in respect of a Temporary Event Notice served on the licensing authority.

She confirmed, that on 13 August 2021, the licensing authority received a Temporary Event Notice (“TEN”) from Mark Holmes (“the premises user”) in respect of the Rear Car Park of K2 Gymnasium, Main Avenue, Brackla Industrial Estate, Bridgend. A copy of the TEN was detailed at Appendix A to the report.

The premises does not have the benefit of a Premises Licence and the event was for ‘Roots Shack’ to take place on 28 August 2021 between 1200 to 2300 hours.

The maximum number of people at any one time to be present at the event is 250.

The Senior Licensing Officer advised, that the event would comprise of a stage, bar and street food. The applicant confirmed that in terms of holding the event, the organisers would ensure that all current Government Covid guidelines would be adhered to.

A copy of the TEN had served upon South Wales Police and the Council’s Environmental Health Department. The Environmental Health Department had submitted an Objection Notice in relation to the TEN to the licensing authority. A copy of the Objection Notice has also been served on the premises user and was attached at Appendix B to the report.

The licensing authority is aware that it is possible for the premises user and Environmental Health Department to enter into a period of discussion regarding the objections raised and that Section 106 of the Act enables the modification of the TEN with the agreement of all parties. Members are advised that the timescales governing TENs are relatively short and that, at the time this report was dispatched, the licensing authority had not been notified that any party had reached agreement. This was confirmed at the meeting

The Objection Notice was therefore being treated as not having been withdrawn.

Sections 2 and 7 of the Home Office Guidance applied to this Notice, as well as Section 13 of the Council's Statement of Licensing Policy.

The Senior Licensing Officer therefore confirmed, that the hearing must therefore consider the points raised in the Objection Notice and make a determination on the TEN. Having considered the Objection Notice, the Sub-Committee had the options listed in paragraph 4.7 of the report.

The Chairperson then invited the Officer from the Environmental Health Department, Shared Regulatory Services (SRS), to outline the reasons for the Objection Notice in respect of the application for the TEN, that had been submitted by the applicant.

She explained that the applicant has had 3 consecutive events for the weekends of 31 July, 7 and 14 August 2021, following which the Environmental Health Department had received a total of 5 separate complaints. Complaints were received after the 1st event, but the second TEN's had already been given the go ahead as the applicant had submitted it before the 1st event had taken place. An Officer from SRS contacted the applicant after the first event to advise that the Department had received complaints about the bass noise and that it would be recommended that the 2nd event is finished by 11.00pm, due to this. He told the Officer that the 1st event was live music and that the 2nd event would be recorded DJ music, so the latter would be less of a problem. The applicant agreed to monitor the noise levels at residential properties. However, further complaints were also received after the 2nd event, so the Environmental Health Department agreed with the applicant to amend the 3rd event to a 11.00pm finish, whereby Officers would go out and monitor the noise levels (at this event).

Complaints were received on 14 August 2021, whilst an Officer was on their way to monitor the event. The representative from Environmental Health explained that she was also the Duty Officer on call for that weekend and she received two calls from the operative who receives the initial out of hours calls. One call was received at 18.47 and she received the other call at 20.26. The bass level was monitored on the 14 August and found to be intrusive inside and outside the complainant's property. The Officer contacted Mr Holmes to request that the volume of the bass is lowered. He did this but it made no difference in terms of noise levels. Mr Holmes then came and met the Officer at the complainant's property and heard the bass volume himself. He then said that he would make further volume adjustments at the event. The Officer then had to leave to go on another call, but called back to K2 gym at 22.12, accompanied by herself to meet someone called Gavin as he wanted guidance as to what level he could play the music at. The level was then adjusted further where it was deemed to be acceptable at the complainant's premises and the corresponding measurement that was being taken at the event itself was told to Gavin. However, Gavin advised they would not be able to hold the event at this lower level. Mitigation was then discussed on site, but the applicant submitted a 4th TEN without any details of how they were going to control the bass levels. Consequently, SRS then objected against the TEN. A further email was then received from the applicant on 19 August, with some suggested mitigation that they were considering and more details were requested by SRS, however no further contact had been received since that time, the Environmental Health Officer added.

Mr Holmes advised that the TEN application was submitted prior to the event in question and that the above discussions so referred to that took place with Officers from the Environmental Health Department, came after the TEN had been submitted. He had since however, emailed the Environmental Health Department, with some possible options to be explored with a view to reducing bass levels to what would be considered a 'reasonable' level.



The Environmental Officer acknowledged this, but she added that Officers had still subsequently asked for more details regarding the recommended mitigation, but none were then forthcoming from the applicant(s).

Mr Holmes stated this was the case, but he added that he hadn't replied as he thought that these would be discussed and agreed upon between all the relevant parties, at today's meeting.

Mr Gavin Thomas asked the Officer that when she had taken noise levels at a previous TEN event at the 'Shack at around 22:00,' in what manner was her colleague monitoring noise levels at the property of the complainant.

The Environmental Health Officer confirmed that that her colleague had positioned herself in the garden of the property and following then the applicant turning down the bass volume to a reasonable level which was considered acceptable, Officers thought that if this was the level to be used at future events, then this would be acceptable and not give rise to any complaints from properties near to the location where the event was taking place.

Mr Thomas confirmed to Members, that the noise levels had not been recorded at the complainant's property with a noise meter, which would give a very accurate reading and would confirm whether or not the bass levels being heard there from the event were too loud or conversely, at an acceptable level.

The Environmental Health Officer acknowledged this, but advised that the bass levels could be heard at this property and they were classed by Officers to be at a sufficient enough level to cause noise nuisance.

Mr Thomas confirmed that in an email received from the Shared Regulatory Service previously, the noise levels reported at K2 Gym during the last TEN function had been 65 – 67 db. He asked with this in mind and being considered as too high, what would be an acceptable level at the complainants' property.

The Environmental Health Officer confirmed that this would be in the region of 35 – 36 db. She added that appropriate levels considered to be acceptable were previously given to the applicants to monitor at the venue where future such events would take place.

Mr Thomas advised that the last thing he wanted, was for people ie residents nearby, to be disturbed by noise as a result of any future events taking place.

The Environmental Health Officer felt that it was worth mentioning to Members, that noise from a Bass instrument did tend to travel quite far. Therefore, the only way it could be set at a higher level than that recommended above, was if further mitigation was put in place at the venue where the function was taking place. Ideas on how to achieve this, had previously been discussed with the applicant(s) she added and if these were followed up, then Officers would carry out further checks/tests at the site of both the function area and the complainants property. The applicant(s) had not to date responded to this communication however.

Mr Holmes confirmed that neither himself nor Mr Thomas had responded to this, as they had been under the impression that this issue together with any others would be debated and resolved at today's Committee meeting.

The Chairperson advised that this was not the case and issues such as the above should have been discussed outside of the meeting, with a view to coming to an amicable solution for both parties, prior to any future TEN being applied for by the applicant(s).

A Member concurred with this and added, that the meeting today should not have been proceeded with if as it seemed from debate, the event so applied for and objected to by the Shared Regulatory Services, was going to be cancelled with the TEN therefore being withdrawn.

The Legal Officer therefore asked the applicants, if the TEN so applied for with regards to the function scheduled for on 28 August 2021, was now going to go ahead.

Mr Holmes confirmed that would now unlikely be the case, in view how the meeting had progressed today, but he would be putting in applications for further TEN's in the future.

The Legal Officer replied that while that was in his right, there was little point in today's meeting proceeding further, if the event so applied for was not going to be pursued further.

Mr Holmes agreed but added that he would wish to apply for further TEN's during the months of September and October.

The Legal Officer replied that these would be subject to further meetings however, on the basis that objections were received to such further applications.

The Environmental Health Officer stated that as long as adequate mitigation was put in place to reduce the noise levels as described above and discussed previously with the applicant, then the Shared Regulatory Service (SRS) would in all probability, have no objection to future events. However, if mitigation was not put in place then SRS would continue to object to the TENS and if necessary, serve the applicants with an Abatement Notice.

The Chairperson asked if all the previous events relating to TENS had taken place at the same venue and was this likely to be the case in the future.

Mr Howells confirmed that this was/would be the case.

The Environmental Health Officer further added, that structures such as Hay bails and/or Sound Absorbers would block off some of the sound levels from future events. If confirmation was received from the applicant that these would be put in place for, then SRS staff could inspect these in advance of the event and ascertain if these are sufficient to reduce noise levels so that they are no longer deemed a nuisance to residents who live in the vicinity.

In view of the above, Mr Holmes and Mr Thomas agreed to withdraw the application for the TEN for the proposed event on 28 August 2021.

**RESOLVED:** That Members noted that the application subject of the report, was withdrawn.

The meeting closed at 11:10

By virtue of paragraph(s) 12 of Part 4 of Schedule 12A of the Local Government Act 1972.

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