

## **CEREDIGION COUNTY COUNCIL**

**Report to:** Licensing Committee (Statutory Committee)

**Date of meeting:** 21 March 2024

**Title:** General Update

**Purpose of the report:** To update Members on relevant matters, with regard to the Licensing Act 2003 and/or the Gambling Act 2005.

### **Background**

Members will be aware that this meeting is convened to review and discuss the implementation and progress of the Licensing Act 2003, together with any ancillary matters arising from responsibilities with which this particular Committee is charged. Such ancillary matters include the Gambling Act 2005.

### **Contested Applications (Reviews/Appeals)**

Since the last Licensing Committee, the Licensing Team has had to arrange 1 sub-committee hearing to determine applications dealing with:

1. The Academy, Great Darkgate Street, Aberystwyth, Ceredigion SY23 1DE - Application for a new premises licence. S17 Licensing Act 2003.

Details of the application attached as Appendix A.

### **Consultation - Extending Licensing hours for UEFA 2024 Football matches.**

On 27 November 2023 The UK government consulted on whether to relax licensing hours nationally for certain matches of the 2024 UEFA European Football Championships (Euro 24), being held in Germany.

The proposal was to extend licensing hours if the England men's national football team (England) and/or the Wales men's national football team (Wales) and/or the Scotland men's national football team (Scotland) is successful in reaching the semi-final of Euro 2024 and if either team subsequently reach the final of that tournament. The government proposed to make a licensing hours order under section 172 of the Licensing Act 2003 which would contingently extend opening hours on the days of the semi-final (9 and/or 10 July) and final (14 July) so that they would end at 1am (early in the morning after the matches have taken place) rather than 11pm on the day of the matches for the sale of alcohol for consumption on the premises.

The consultation closed on 19 February 2024. At present the England and Scotland team have qualified and Wales would need to beat Finland in a play-off semi-final on 21 March 2024, before taking on the winner of the Poland v Estonia match (who are playing in the other qualifying semi-final).

## **Revised Section 182 Guidance**

### **Statutory Guidance – Drink Spiking**

On December 2023 the Home Office issued a revised S.182 guidance under the Licensing Act 2003. The new guidelines replace the previous guidelines, which were issued in December 2022.

### **Drink Spiking**

The objective to crime under the Licensing Act 2003 would include taking measures to prevent incidents of spiking which would usually be prosecuted under section 23 and 24 of the Offences Against the Person Act 1861, and section 61 of the Sexual Offences Act 2003.

The following examples are within the range of behaviours that would be considered spiking. This list is not exhaustive:

- Putting alcohol into someone's drink without their knowledge or permission
- Putting prescription or illegal drugs into an alcoholic or non-alcoholic drink without their knowledge or permission
- Injecting another person with prescription or illegal drugs without their knowledge or permission
- Putting prescription or illegal drugs into another person's food without their knowledge or permission
- Putting prescription or illegal drugs into another person's cigarette or vape without their knowledge or permission.

### **Proportionality**

The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided. For example, conditions should not be used to implement a general policy in a given area such as the use of CCTV, polycarbonate drinking vessels or identity scanners where they would not be appropriate to the specific premises. Conditions that are considered appropriate for the prevention of illegal working in premises licensed to sell alcohol or late-night refreshment might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that evidence of a right to work check, either physical or digital (e.g. copy of any document checked or a clear copy of the online right to work check) is retained at the licensed premises.

Licensing authorities may also wish to consider placing additional conditions on licences to safeguard patrons against spiking, if deemed appropriate and proportionate for a specific venue where there is evidence to justify such action (a definition of spiking can be found in para 2.7). Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. These could be a deterrent to holding events that are valuable to the community or for the funding of good and important causes. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.

In August 2023 minor changes were made to the Section 182 guidance document,

The regulatory easements relating to alcohol licensing in the Business and Planning Act 2020 lapsed on 30 September 2023 (off sales licences) and 31 December (temporary event notices) and will not be extended. The decision to allow these temporary measures to lapse later this year follows a period of public consultation. It is intended that this change in approach strikes the right balance between supporting businesses whilst listening and responding to the concerns of those impacted by licensing laws. This has resulted in an amendment to paragraph 8.65 so that licensing authorities may wish to consider off sales as a minor variation if there are no adverse effects on the licensing objectives

<b>Recommendation(s):</b>	Members receive this report for information.
<b>Reason for recommendation</b>	To advise elected Members of activity undertaken by the Licensing Section since the last Committee meeting and other relevant information.
<b>Policy Framework:</b>	The statutory functions delivered by the Licensing Team is a fundamental element of Public Protection policy framework.
<b>Corporate Priorities</b>	<ul style="list-style-type: none"><li>• Boosting the economy, supporting businesses and enabling employment</li></ul>
<b>Finance and procurement implications:</b>	Within budget
<b>Service Area</b>	Policy, Performance and Public Protection
<b>Statutory Powers:</b>	Licensing Act 2003, Gambling Act 2005 and any Regulations made under the Acts.
<b>Background Papers</b>	None
<b>Corporate Lead Officer:</b>	Alun Williams (Policy, Performance and Public Protection)
<b>Reporting Officer:</b>	Anne-Louise Davies (Trading Standards & Licensing Manager) and Gareth Rees (Senior Licensing Officer)
<b>Date:</b>	1 March 2024
<b>Appendices:</b>	A: Summary of Licensing Act 2003 Hearings

## Appendix A: Summary of Licensing Act 2003 Hearings

<b>Case 1:</b> <b>The Academy, Great Darkgate Street, Aberystwyth, Ceredigion SY23 1DE</b>
<b>Date of Review: 10 October 2023</b>
<b>Reason for Hearing:</b> To consider an application for a new premises licence under Section 17 of the Licensing Act 2003. On the 25 <sup>th</sup> August 2023, a Section 17 New Premises Licence Application was received from the licence holder for The Academy, Great Darkgate Street Aberystwyth, SY23 1DE to: <ol style="list-style-type: none"><li>1. Permit the sale and supply of alcohol, the performance of plays, the showing of films, performance of live and recorded music the performance of dance or anything similar on Sunday to Thursday 11:00 and 3am the following day and on Friday and Saturday from 11:00 hrs to 4am the following day.</li><li>2. Permit the provision of Late-night Refreshment on Sunday to Thursday 23:00 hrs to 03:00 and on Friday and Saturday 23:00 to 04:00 the following day.</li><li>3. Allow the premises to be open to members of the public for 30 minutes after the finish of licensable activities.</li><li>4. Allow extended hours for licensable activities on notable days namely:<ul style="list-style-type: none"><li>• Christmas eve and Sunday before each Bank Holiday Monday an extra Hour</li><li>• New Years eve from the end of permitted hours on New Years Eve until the commencement of permitted hours on New Years Day.</li><li>• On the trading days on which the clocks go forward (i.e the start of British Summer Time) permitted hours may be extended for an additional hour.</li></ul></li></ol>
<b>Consultation:</b> The deadline for receipt of representations ended at mid-night on the 22 <sup>nd</sup> September 2023. During the 28-day consultation period, one representation was received from responsible Authority namely Environmental Protection, and 40 representations were received from other persons during the 28-day consultation period and a further 3 were received outside the consultation period.
<b>Details of Mediation:</b> It is specified in the Licensing Act 2003 that if any representations are received then the Licensing Authority is required to hold a 'Hearing' to consider the application and any representations received. However, the Licensing Authority will always try to mediate in the first instance. Mediation is informal and conducted via the licensing authority, to mitigate any concerns that have been raised in the representation (this is normally done by amendments done to activities; operating hours or conditions). Due to the number of Representations / objections received it was impractical to try and mediate but to proceed to a hearing. A copy of the representation was sent to the Applicant for their consideration.
<b>Determination/Outcome of Hearing:</b> The Panel <b>rejected the application</b> for the following reasons:-  The Panel unanimously agreed that the granting of this license would not promote the prevention of public nuisance licensing objective and agreed with the representations made by Environmental Health (Public Protection Officer) that the extension to the licence, if granted, could contribute to public nuisance due to the fact that the noise

levels of the music being played from the premises has created a nuisance on numerous occasions.

The Panel was concerned that the Applicant had appeared to breach the current licence also by advertising on Facebook that the premises was open until 4am on a date that he did not have a TEN for.

The Panel advised that they would need to see a professional and robust noise management plan in place before they would be able to grant a licence which extends the current hours, and the applicant could apply again in future once the noise issues had been addressed.

The noise management plan would need to include:

- What work has been done to the windows, walls and ceiling to reduce noise escaping from the premises;
- Details of the music system in the premises and how the volume will be controlled effectively so that it cannot be played louder than the allowed decibel level;
- Decibel levels would need to be taken and recorded in the plan during opening hours; and
- The outside area to be closed to everyone, including smokers, at 8pm
- The Applicant would need to work with a Senior Environmental Health Officer to make sure the insulation and noise management plan is appropriate and effective and
- Seek advice of the Licensing Officers who would be able to help with another application.