

LICENSING SUB-COMMITTEE
2 JUNE 2015

Minutes of the meeting of the Licensing Sub-Committee of Flintshire County Council held at County Hall, Mold on Tuesday, 2 June 2015

PRESENT: **Councillor Tony Sharps (Chairman)**

Councillors: David Cox and Jim Falshaw

Officers of the Council:

Licensing Officer (James Lowe), Solicitor (Louise Pedreschi), Environmental Health Officer (Phil Foster) and Committee Officer

Applicant:

Ms. Martina Kavanagh, proprietor of Y Delyn Wine Bar

Interested Persons:

Mrs. Eileen Kavanagh

Ms. Charlotte Sykes

ALSO PRESENT:

Councillor Marion Bateman

1. APOLOGIES

None.

2. DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)

None were received.

3. HEARING AND DETERMINATION OF THE APPLICATION

The Chairman explained the procedure for hearing and determining the application and detailed the order in which speakers would be able to address the Panel.

4. APPLICATION TO VARY A PREMISES LICENCE

The Licensing Officer presented the report of the Chief Officer (Planning & Environment) to consider an application for the variation of an existing Premises Licence at Y Delyn Wine Bar, 3 King Street, Mold. The application, which had been advertised in the correct manner, was to extend the licence for live music and to include plays, films and recorded music during the hours of 1pm to 1am on Mondays to Sundays.

Appended to the report were written representations from Mr. Alan Spaven, the owner of the neighbouring residential and business property, who had objected to the application. His concerns related to the ongoing

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unacceptable noise levels emanating from the yard at the rear of the wine bar which could be heard inside his adjoining home, despite his attempts to minimise the impact. His letter raised concerns about the potential escalation in noise levels should the extension to the licence be granted. However, he had subsequently written to advise of his decision not to attend today's hearing and that whilst he did not wish to challenge the proposed extension of time, there remained a need to impose restrictions on use of the rear yard to reduce noise levels.

The Licensing Officer explained that attempts for mediation between applicant and complainant had been unsuccessful.

4.1 Representations by the Applicant

In addressing the letter of objection from the complainant, Ms. Martina Kavanagh felt it was important for the Panel to understand the wider context of issues relating to the wine bar and neighbouring property.

The Chairman requested that Ms. Kavanagh state only the facts as the complainant was not present to respond.

Ms. Kavanagh referred to the investigations undertaken by the Council's Pollution Control section which had found no evidence of noise nuisance, and said that there was no evidence to suggest that further restrictions to the use of the backyard should be imposed. She stated that loud behaviour was not permitted at the venue and that the back yard was monitored regularly with signs displayed to minimise noise levels.

It was the view of Ms. Kavanagh that the reason behind the complainant's representations was due to an ongoing land ownership dispute. In support of her application, she explained the need to adapt the business and said that the wine bar was a popular, vibrant and trouble-free establishment, employing local people and that use of the backyard was vital to its running and was not intended to upset those living nearby.

During her representations, Ms. Kavanagh said that she wished to provide background information to the land ownership dispute with the complainant's family, however the Solicitor pointed out that this was not relevant to the application and that the Panel had noted Ms. Kavanagh's assertions about the motivation for the complainant's objections.

The Chairman gave assurance that the application would be considered, taking account of all the representations made, but that personal issues were a separate matter.

Ms. Kavanagh responded to questions raised by the Panel on the wine bar and its proximity to the neighbouring property. She explained that music would rarely be played after midnight but that on the advice of the Licensing Department, she had applied for the licence to be extended to 1am to provide extra cover in view of the history with the complainant. She went on to say that

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the wine bar did not generate late-night noise as it mainly attracted a more mature and reserved clientele. If successful, the extension to the licence would give her the freedom to responsibly adapt the wine bar in a positive way. Ms. Kavanagh added that she had done as much as possible to deter loud noise at the wine bar, with staff undertaking regular visits (every 20 to 30 minutes) to the backyard area. When asked about the potential for a further extension of the licence if future events proved popular, she replied that the proposed 1am finish time was sufficient.

4.2 Representations by Interested Parties

Following questions from the Panel, Mrs. Eileen Kavanagh provided background information on the history of the bar.

As a former employee, Ms. Charlotte Sykes referred to her written representations and spoke in support of the wine bar, explaining her involvement in the organisation of music played at the venue which had led to it becoming an integral part of the bar and the town itself. She added that use of the backyard area had been minimal at the time of her employment, which was prior to the introduction of the smoking ban.

4.3 Representations by the Responsible Authority

Having investigated the complaints made by Mr. Spaven, Mr. Phil Foster, the Council's Environmental Health Officer, said that investigations carried out at Mr. Spaven's property had indicated no evidence of public or statutory noise nuisance from the backyard of the wine bar, but that investigations were continuing. He confirmed that Mr. Spaven's complaint had been the only one received. Whilst Mr. Foster had no objections to the application regarding music at the wine bar, he had suggested various options to restrict use of the backyard to minimise any disturbance to local residents, however the lack of evidence on noise nuisance meant that such restrictions would be difficult to impose. In light of this, he clarified that he was content not to impose any restrictions but that if any public nuisance was found, a review of the licence could be requested.

In response to questions from the Panel, Mr. Foster said that only one window of the complainant's property faced the backyard of the wine bar and that he was aware of the noise monitoring and signage put in place by Ms. Kavanagh. The sound monitoring equipment had been operated by the complainant over a seven day period, recording on four occasions all after 11pm. He explained that noise nuisance could involve 'unreasonable acts' however it could not be considered unreasonable for customers to use the backyard smoking area of the wine bar.

On first hearing of Mr. Spaven's objection to the proposals, Ms. Kavanagh explained that she had instigated a petition over a five day period on social media to establish the views of local people, the outcome of which had indicated strong support for the wine bar. As requested by Ms. Kavanagh, the petition signed by over 1,000 people was shown to the Panel.

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4.4 Determination of the Application

All those present, with the exception of the Chairman, Committee Members, Solicitor and Committee Officer, left the room.

In considering the application, the Sub-Committee took account of the written representations made by the complainant, together with the written and oral representations made by the applicant and interested parties.

4.5 Decision

The Sub-Committee was grateful for all the representations made in respect of the application and considered the interests of all parties. In view of the evidence given by the Environmental Health Officer that there was no evidence to determine that the noise levels were a statutory or public nuisance, and that the applicant had taken steps to keep the noise levels to a minimum, the Panel agreed to grant the variation to the licence as set out in the report, with no conditions imposed.

The applicant was reminded that a review of the licence could be sought if it was determined that noise levels were sufficiently high to become a statutory nuisance.

RESOLVED:

That the variation of the Premises Licence be granted for Y Delyn Wine Bar, Mold, in respect of the playing of live music and inclusion of plays, films and recorded music between the hours of 1pm to 1am on Monday to Sunday.

5. **MEMBERS OF THE PRESS AND PUBLIC IN ATTENDANCE**

There were two members of the press in attendance.

(The meeting started at 2.00 pm and ended at 2.55 pm)

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