

**LICENSING SUB-COMMITTEE**  
**4 SEPTEMBER 2017**

Minutes of the meeting of the Licensing Sub-Committee of Flintshire County Council held at County Hall, Mold on Monday, 4 September 2017 at 11.35am

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

Councillors: Brian Lloyd and Mike Reece

**Officers of Flintshire County Council:**

Licensing Officer (James Lowe), Solicitor (Tim Dillon) and Democratic Services Officer (Sharon Thomas)

**On behalf of the applicant, Punch Taverns Plc:**

Mr. Matthew Phipps - Solicitor

Ms. Kelly Kerr - Regional Manager

Mr. Matt Case - Area Manager

Mr. Charlie Gilmartin - Designated Premises Supervisor

**Responsible Authority:**

Mr. Phil Foster - Environmental Health Officer, Environmental Protection, Flintshire County Council

**ALSO PRESENT:**

Councillor Arnold Woolley attended as an observer

**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 the hearing and detailed the order in which speakers would be able to address the panel.

**4. APPLICATION FOR VARIATION OF A PREMISES LICENCE**

The Licensing Officer presented the report of the Chief Officer (Planning & Environment) to consider and determine an application under the Licensing Act 2003 to vary an existing premises licence at the Nant Inn, Padeswood Road, Buckley to include an external bar. He clarified that the application did not relate to the playing of live or recorded music on the licensed premises as this was already permitted under the legislation without the need for a separate licence.

|                 |  |             |
|-----------------|--|-------------|
| <b>Approved</b> |  | <b>Date</b> |
|-----------------|--|-------------|

Following written representations by North Wales Police, the applicant had accepted a proposed change to cease all licensable activities at the external bar at 9pm (as opposed to 11pm), along with conditions for CCTV provision as set out in Appendix C to the report. It was on this basis that North Wales Police raised no objection to the application.

The Licensing Officer clarified that any subsequent conditions agreed at the hearing would be enforced by the Council's Licensing section.

A representation received from a local resident had subsequently been withdrawn after they were notified that this could not be made anonymously.

The Council's Environmental Protection section had raised an objection to the outdoor entertainment part of the application due to a considerable number of complaints received in response to an outdoor event at the premises earlier in the year and the proximity of the venue to nearby housing.

#### **4.1 Representations by the Applicant**

Speaking on behalf of the applicant, Mr. Phipps advised that the application sought permission for an external bar servery in the garden of the premises. Mr Phipps proposed that the servery would cease at 9pm. He explained that as the proposals by North Wales Police had been accepted by the applicant, the only remaining objection was from Mr. Foster whose objection was in respect of 'the outdoor entertainment part of this application'. Mr. Phipps pointed out that this was not a feature of the application due to the exemption within the Live Music Act 2012 which allowed for circumstances in which licensed premises could provide live/recorded music. Despite this entitlement applying all year round, he advised that music would only be played at the external bar no more than 12 days per year, during the summer period. As further reassurance, he said that sound levels would be monitored and that written notice would be given to the Licensing Authority two weeks in advance of such occasions. He suggested that these additional conditions could be attached to the licence, if granted.

Discussion between Mr. Foster and Mr. Phipps on the interpretation of the exemption in the Live Music Act 2012 resulted in Mr. Foster agreeing that his objection should not be based around this as it did not apply in this case as the legislation permitted live entertainment including live performance and recorded music at premises until 11pm in any event.

Mr. Foster's subsequent concerns and representations were based around statutory nuisance, public nuisance in the context of noise. Representations were made about complaints received by Pollution Control in April 2017 and how the Designated Premises Supervisor (DPS) at that time (now a different one) dealt with the complaints and his interaction with the Pollution Control Officer at that time.

As suggested by Mr. Phipps, he recommended that the additional conditions be agreed upon for consideration by the panel.

|                 |  |             |
|-----------------|--|-------------|
| <b>Approved</b> |  | <b>Date</b> |
|-----------------|--|-------------|

Whilst acknowledging the Environmental Health Officer's concerns about complaints from the earlier event at the premises, Mr. Phipps said that the proposed conditions would give some assurance along with steps already taken by the new DPS, Mr. Gilmartin, to engage with nearby residents. Furthermore, Mr. Phipps gave a commitment that the display of Mr. Gilmartin's contact details at the front of the premises would offer some comfort to residents if they wished to raise any issues.

In response to comments on the enforcement of any conditions, Mr. Phipps gave further assurance that events at the premises involving live/recorded music would be voluntarily monitored to ensure they were in order.

The Chairman sought clarification from Mr. Gilmartin on the approach taken to engaging with the community, questioning whether all local residents had been made aware of the application and the level of support for it. Mr. Phipps questioned this and explained that when appointed a month ago, Mr. Gilmartin had visited local residents to introduce himself and left contact details with those who were unavailable which had generated enquiries from two residents asking about the nature of the visit. He was unable to comment on the views of residents as none were included in the representations within the agenda papers. During further discussion, details were shared on Mr. Gilmartin's relevant work experience and the chain of accountability in dealing with any potential issues of noise nuisance at the premises.

#### **4.2 Representations by the Responsible Authority**

In response to questions, Mr. Foster shared information on the three complaints made about noise levels from music and patrons at the event held in the garden of the premises earlier in the year. He clarified that the findings were limited as the event had already taken place but that the nature of the complaints related to a possible statutory nuisance. When asked about follow-up action, Mr. Foster said that this was not pursued with Punch Taverns Plc, however a dismissive response had been given by the former DPS at that time. There was no evidence of any complaints received about the premises since that event.

#### **4.3 Determination of the Application**

The hearing was adjourned briefly to allow Mr. Phipps, Mr. Dillon and Mr. Foster to agree the wording of the proposed conditions. On their return the hearing resumed and the Chairman gave all parties the opportunity to sum up.

Mr. Phipps reiterated the applicant's acceptance of the proposals by North Wales Police together with the additional conditions negotiated with Mr. Foster and Pollution Control including that the external bar servery would be supervised at all times when in use. He hoped that these would satisfy all involved.

|                 |  |             |
|-----------------|--|-------------|
| <b>Approved</b> |  | <b>Date</b> |
|-----------------|--|-------------|

Mr. Foster clarified the six additional conditions:

- Live/recorded music only to be permitted in the outside space on 12 days per annum.
- Environmental Protection at Flintshire County Council to be given 14 days' notice of any such events.
- Details of entertainment/artists to be recorded in the premises' incident book.
- External monitoring in proximity to the local residents to be undertaken by management (and recorded in the incident book) during the course of any sound check or at the commencement of the entertainment.
- Remedial measures to be taken in the event that management conclude levels are excessive.
- Entertainment to be limited to 9pm.

In response to further questions, Ms. Kerr explained the setup of the external bar servery which was not yet in use.

The wording for the six additional proposed conditions were circulated to the panel for consideration.

To give further reassurance to local residents, the Chairman asked whether the applicant was willing to meet with local Council Members and residents in an informal liaison group. Mr. Phipps agreed that a meeting would be facilitated at the premises on a six month basis and it was agreed that the invitation to local Council Members would be extended through the Licensing section. Mr. Phipps also said that the Council's Environmental Health Officer could also be invited to attend the meetings.

All those present, with the exception of the Chairman, Committee Members, Solicitor and Democratic Services Officer, left the room to enable the panel to reach a decision.

#### **4.4 Decision**

The panel considered all of the representations, both written and verbal, and the weight to be attached to all of the evidence heard as well as the relevant licensing objectives pertaining to the application, namely the prevention of public nuisance.

It was noted that the applicant had agreed to the proposed conditions by North Wales Police, including the change to terminal hour of licensable activities. It was also considered that the objection raised by the Environmental Health Officer was not relevant to the application, though the concerns made about noise nuisance and the previous issue in April were relevant to a degree as it did raise some concerns about the Licensing Objective of prevention of public nuisance moving forward. However the panel took the view that the fact both Pollution Control and the applicant had agreed additional conditions would assist in safeguarding the licensing objective and provide assurance to local residents. It was also noted that the previous issues concerning noise related to a time

|                 |  |             |
|-----------------|--|-------------|
| <b>Approved</b> |  | <b>Date</b> |
|-----------------|--|-------------|

when there was a different DPS. It was also noted that no representations had been made by local residents and that no complaints had been raised since the previous outside event at the premises in April 2017.

The panel agreed to vary the licence to include an external bar with all licensable activities and service ceasing at 9pm, as agreed, and subject to the conditions proposed by the North Wales Police and those proposed at the hearing.

**RESOLVED:**

That the application to vary the existing Premises Licence at the Nant Inn, Buckley, be granted to include an external bar with all licensable activities and service ceasing at 9pm as agreed, subject to the following conditions:

- A digital, colour, hard disk CCTV system must be installed and maintained in good working order. Recordings to be kept for a minimum of 28 days and made available for inspection by the Police or Local Authority upon request and be processed in accordance with data protection legislation.
- The CCTV camera to cover the external bar servery area.
- A member of staff must be trained in the use of the CCTV system with the knowledge and capability to download footage at the request of the Police or Local Authority in accordance with data protection legislation.
- When in use, the external bar servery area will be supervised at all times.
- Live/recorded music only to be permitted in the outside space on 12 days per annum.
- Environmental Protection at Flintshire County Council to be given 14 days' notice of any such events.
- Details of entertainment/artists to be recorded in the premises' incident book.
- External monitoring in proximity to the local residents to be undertaken by management (and recorded in the incident book) during the course of any sound check or at the commencement of the entertainment.
- Remedial measures to be taken in the event that management conclude levels are excessive.
- Entertainment to be limited to 9pm.
- Local residents, Ward Members, Flintshire County Council's Pollution Control officer be invited to meet with the Designated Premises Supervisor and other staff management of the premises on a six monthly basis to be hosted by the applicant at the premises. Invitations to Ward Members to be arranged through the Licensing section of Flintshire County Council.

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

There was one member of the public in attendance.

(The meeting started at 11.35am and ended at 1.10pm)

|                 |  |             |
|-----------------|--|-------------|
| <b>Approved</b> |  | <b>Date</b> |
|-----------------|--|-------------|