

LICENSING SUB-COMMITTEE

31 JULY 2020

Minutes of the meeting of the Licensing Sub-Committee of Flintshire County Council held in the Remote attendance meeting on Friday, 31 July 2020

PRESENT: Councillor Tony Sharps (Chairman)

Councillors: Adele Davies-Cooke and Ron Davies

OFFICERS OF FLINTSHIRE COUNTY COUNCIL:

Solicitor (TD), Licensing Officer, Pollution Control Officer and Committee Officers

Licensing Team Leader (as an observer),

The Applicant : Mr Yan Chan

The Team Leader – Democratic Services introduced the Members of the Sub-Committee and the Council’s Officers. The Chairman welcomed the applicant and outlined the procedure for the meeting.

1. DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)

None were received.

2. CONSIDERATION OF A TEMPORARY EVENT NOTICE

The Licensing Officer presented the report to consider an objection made in relation to three Temporary Event Notices submitted by Mr Yan Chan for MPH Limited (Mountain Park Hotel) Northop Road, Flint Mountain, CH6 5QG. She referred to the recommendations detailed in the report and advised that if the Sub Committee decided to impose conditions on the Temporary Event Notices (TEN) consideration should be given to the duration and timings of the regulated licensable activity.

3. THE APPLICATION

The Licensing Officer reported that the premises currently held a Premises Licence for:

The supply of alcohol on and off the premises:

Monday to Saturday 10.00 a.m. – 11.00 p.m.

Sunday 12.00 noon – 10.30 p.m.

Monday to Sunday 10.00 a.m. to 1.00 a.m. (bar area)

Live music, recorded music, dance (indoors only):

Monday to Saturday 11.00 a.m. – midnight

Sunday 12.00 noon – 11.30 p.m.

Late Night refreshment (indoors only):
Monday 23.00 – 05.00
Tuesday to Sunday 23.00 - midnight

The Temporary Event Notices were submitted by Mr Yan Chan who holds the Premises Licence for the Mountain Park Hotel and is named as the Designated Premises Supervisor. The Senior Licensing Officer confirmed that the notices complied with the requirements to give 10 clear working days' notice to the Licensing Authority and had been submitted to the Police and Environmental Health Department. The dates and times of each of the Temporary Event Notices were detailed in the report.

An Objection Notice was received from the Pollution Control Officer on 24 July 2020. The objection was in relation to the prevention of public nuisance and was made against all three notices. The objection was appended to the report.

3.1 Hearing and Determination of the Application

The Chairman advised that the Sub Committee would proceed to hear the application and take into consideration the Licensing Objectives within the Licensing Act 2003.

The Chairman explained to the applicant that he would be granted an opportunity to outline their position. The Chairman invited Mr. Chan, the Applicant, to put forward the reason for submitting the TENs.

Mr. Chan commented on the restrictions imposed on his business as a result of Covid-19. He said that following Welsh Government guidance a great deal of work had been undertaken to ensure that the outdoor area could re-open and provide outside dining and refreshment in line with the social distancing rules in force. Mr Chan continued that the Mountain Park Hotel provided a valuable service to the local community as a venue where individuals and families could relax in a social atmosphere and setting. He said he currently employed eight local people in the business and hoped to employ further local staff in the near future if custom increased. He said he was grateful for the strong support he had received from the local community during the crisis.

Referring to the complaint which had been made regarding noise, Mr. Chan apologised for any distress caused and said if he had been made aware of the problem on that day he would have taken immediate action. Mr. Chan said he regularly monitored the situation by walking to the boundary between the Hotel and the nearest property to determine if the level of noise from background music could be heard. He pointed out that although the Premises Licence he held for his business enabled him to serve refreshments until late in the evening (as detailed in the report) he imposed last orders at 9.30 p.m. to encourage customers to leave the premises around 10.00 p.m. in consideration for local residents. Mr. Chan explained that he employed security staff and had CCTV Installed to monitor social behaviour and noise levels.

Mr. Chan said the TENs were for regulated entertainment only in relation to the provision of background music for the outside dining area. He said he had not

previously received any formal complaints concerning noise and was law abiding and wished to work with the Authority to resolve any matters raised quickly and to the satisfaction of all concerned.

The Chairman invited the Pollution Control Officer to present his case. The Pollution Control Officer said he had visited the complainants' property to observe the outdoor activity at the rear of Mountain Park Hotel and determine the level of noise nuisance. He said that the number of people who used the outdoor area had increased significantly and the noise level which was comprised of various sounds arising from children, adult conversation, and music, could be heard and was loud. The Pollution Control Officer acknowledged that the background music had been reduced, however, his opinion was that the overall impact of the noise in the outdoor area was detrimental to the complainants and spoilt the enjoyment of their property.

Mr. Chan responded to the matters raised by the Pollution Control Officer and explained that the outdoor play area had been in existence for a number of years and reiterated that he had not received any complaints regarding the level of noise previously.

The Chairman invited the Solicitor to ask questions. The Solicitor questioned Mr. Chan in detail about the circumstances which gave rise to the recent complaint made by the residents of a neighbouring property concerning the level of noise emanating from the outdoor area of the Hotel. The Solicitor asked Mr Chan to confirm that the TEN's were for background music only in the outdoor area and to describe the type of music to be used. Mr. Chan confirmed the purpose of the TENs and described the type of music played as being social and "easy listening". Referring to the complaint Mr. Chan said he was sorry for any nuisance caused and explained that he regularly monitored the level of noise emanating from the premises by patrolling the boundary of the nearest property to ensure it was acceptable. When asked Mr Chan confirmed that he had not received any complaints regarding the use of indoor music being used.

The Solicitor questioned Mr.Chan in further detail about how he proposed to manage the level of noise from music if the business became busy in the future. Mr. Chan said he employed security staff to monitor both social behaviour and noise levels and if there was any noise disturbance the appropriate action would be taken to reduce it immediately. Mr. Chan responded to the questions raised by the Solicitor regarding the type and location of the speakers used to transmit the music. Mr. Chan said that the music was normally stopped at 9.00 pm and customers left the premises around 10.00 pm. and added that he would be agreeable to amending the end time of the TEN's from 22.00 hours. to 21.00 hours as this was normal practice.

The Solicitor questioned the Pollution Control Officer on the dates, times, and details of the complaints made to him by the complainants. He also questioned the Officer on the definition of statutory noise nuisance and decibel levels. The Officer advised that in his opinion the level of noise emanating from the outdoor area in the Hotel prevented the residents in the neighbouring property from having the enjoyment of their property and garden.

The Chairman asked the Members of the Panel if they had any questions.

Councillor Adele Davies-Cooke commented on the need to regularly monitor the level of noise in the outdoor area particularly during the warm Summer weather and remain vigilant of the impact on neighbouring properties.

In response to a query from Councillor Ron Davies, Mr. Chan advised that customers normally vacated the outdoor area within 30 minutes after last orders/closing and he enforced this out of consideration for local residents. Regarding a further question regarding the type of music played, Mr Chan reiterated that it was background music only to create a relaxing social atmosphere.

In summing up the Chairman asked Mr.Chan to confirm that he would be in agreement to the three TENs being amended to a 21.00 pm finish. Mr. Chan confirmed that this arrangement would be acceptable to him.

When the Chairman was satisfied that all relevant questions had been raised and that the Applicant and Pollution Control Officer had nothing further to add he advised that the Panel would adjourn to make a decision and all other participants would be put into a virtual lobby until a decision was made.

Following a short adjournment the Chairman welcomed the participants back to the meeting and the meeting was reconvened.

3.2 Decision

The Chairman advised Mr. Chan, the Applicant, that the Sub-Committee, having considered his voluntary suggestion to amend the end time of each of the Temporary Event Notices to 21.00 hours, had decided to approve the three Notices submitted as follows:

Notice 1
6 – 8 August 2020 12.00 – 21.00 hours

Notice 2
13 – 16 August 2020 12.00 – 21.00 hours

Notice 3
20 – 23 August 2020 12.00 – 21.00 hours

The Chairman advised Mr. Chan (though not a condition of the approval) that the Sub Committee wished him to continue to manage and maintain the premises to ensure that there would be no disturbance to local residents due to loud music emanating from the site.

RESOLVED:

That the Temporary Event Notices be approved subject to the amendment concerning time as stated above.

(The meeting started at 9.30 am and ended at 11.01 am)