

LICENSING SUB-COMMITTEE

5 FEBRUARY 2013

Minutes of the meeting of the Licensing Sub-Committee of Flintshire County Council held at Delyn Committee Room, County Hall, Mold CH7 6NA on Tuesday, 5 February 2013

PRESENT: Councillor Tony Sharps (Chairman)

Councillors Jim Falshaw and Mike Reece

OFFICERS OF FLINTSHIRE COUNTY COUNCIL:

Licensing Officer (Jacqui Dale), Solicitor (Tim Dillon) and Committee Officer

Interested Persons:

Mr & Mrs Black, Dr. R.M. Lucas and Mr. D. Ashford

Applicant:

Mr. S. Kumar, Mr. P. Yoganathan
Mr. P. Sherratt – Licensing Matters

Also Present:

Councillor G.H. Bateman

1. APOLOGIES

Apologies were received from Councillor C. Hinds.

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 Sub-Committee.

4. APPLICATION FOR VARIATION OF A PREMISES LICENCE

The Sub-Committee considered the report of the Director of Environment which was presented by the Licensing Officer for determination of an application for variation of a premises licence. She advised that the time requested in the variation application was as follows:

Monday to Sunday – 24 hours (in line with current opening hours).

The Licensing Officer confirmed that the application had been advertised in the correct manner and drew attention to the additional steps to be taken by the applicant to promote the licensing objectives. Representations had been received from North Wales Police, Councillor C. Hinds and local residents.

The Licensing Officer advised that a number of concerns had been raised against the application by residents from the area and were appended to the report, together with a letter from North Wales Police.

4.1 Representations by Responsible Authorities

There were no representations by Responsible Authorities.

The Licensing Officer reported that North Wales Police had not objected to the application but had submitted a number of conditions to be attached to the premises licence under the licensing objection of Prevention of Crime and Disorder and these had been agreed by the applicant.

4.2 Representations by the Applicant

Mr. P. Sherratt, Licensing Matters, explained that he was acting on behalf of the applicant and sought permission to speak on behalf of Mr Kumar and Mr Yoganathan, Directors of Longacres Filling Station Limited.

Mr. Sherratt reported that the premises concerned, Dobshell Service Station already traded in the sale of other items for 24 hours, however, the sale of alcohol was restricted. He added that a request for variation of a premises licence had been made to meet the needs of the general public and cited shift workers as an example. He said that customers had expressed a wish for a 24 hour service and also commented on the current economic climate and the need for businesses to adapt accordingly.

Mr. Sherratt outlined the systems already in place to ensure lawful operation of the premises and referred to the training provided for staff which was held on a regular basis. He advised that his client was an experienced retail operator and had owned the Dobshell Service Station site since November 2012. In addition the applicant owned a further two premises in the Flintshire area and both sites had held premises licences for the sale of alcohol for 24 hours for the last 5 years.

Mr. Sherratt advised that the Responsible Authorities had been consulted and North Wales Police had asked for a number of conditions to be attached to the Premises Licence which had been agreed by the applicant. As a result the Police had no objections to the application.

Mr. Sherratt said that his applicant acknowledged the concerns raised by local residents and Councillor C. Hinds. However, there was no evidence of a causal link between the sale of alcohol at the premises and the anti-social behaviour and health issues cited by the residents in the area. He requested that the Panel be mindful of the current legal guidance issued in respect of these matters and referred to the Thwaites case and the Law and Licence Act which fully supported the case and stated that there had to be good reason to refuse or restrict the granting of the application put forward by his client.

4.3 Representations by Interested Parties

Mr. D. Ashford advised that he had been elected as spokesperson for those local residents who opposed the application.

Mr. Ashford referred to the sale of alcohol at the premises and reported there had been a problem in the area for a number of years with drink related anti social behaviour and criminal damage. He explained that North Wales Police had been called on numerous occasions to address incidents of damage to motor vehicles and property, noise, disturbance and litter. He explained that youths congregated to drink in the local Children's Play area and referred to the health hazards created by vomit and broken glass. He also commented that the local wooded area was used for anti social activities and was frequently visited and searched by the Police in their investigations.

He emphasised that the application to vary the premises licence to allow the sale of alcohol for 24 hours would exasperate the issues alluded to and cause further distress to local residents.

4.4 Summing Up

The Chairman allowed all parties present the opportunity to ask questions and sum up.

Mr. Ashford asked if the applicant had been aware that there had been previous issues concerning anti social behaviour and crime in the area which the residents believed was connected to the sale of alcohol from the premises. In response Mr. Sherratt advised that his client had consulted with North Wales Police and discussions and been open concerning local issues. He emphasised that the Police had not objected to the application and that the applicant was only responsible for matters within its direct control.

In response to a further question from Mr. Ashford the Licensing Officer outlined the process in place to request a review of a premises licence if granted.

The Chairman asked if the incidents of damage to residents' vehicles had been reported to the North Wales Police. Mr. Ashford replied that the Police had been called on a number of occasions to deal with matters of disturbance and criminal damage.

Councillor J.E. Falshaw asked if the applicant in submitting the application, had given appropriate consideration to the local residents and to the protection of the public. Mr Sherratt reiterated that the Police had been consulted and had not objected to the application. He stated that the applicant was a responsible operator who complied with legislation.

Mr. T. Dillon referred to the assertion made by the Interested Parties that youths congregating and drinking in the area were responsible for the issues raised and asked if evidence could be given to substantiate the claims made. Mr. Ashford advised that North Wales Police had stated that drunken behaviour and alcohol purchased from the Dobshell Service Station was the cause of the problem.

In summing up Mr. Sherratt stated that there was no evidence of a causal link to the issues raised which was directly connected to the Dobshill Service Station premises. He continued that there was no representation from the Responsible Authorities present at the meeting because North Wales Police had not objected to the application. He reiterated that the applicant owned two further premises in the Flintshire area which held premises licences for the sale of alcohol for 24 hours, 7 days a week, and there had been no failed test for purchase and no anti-social behaviour in the areas concerned. He cited that there would be an opportunity in the future to apply for a review of the applicant's licence for further scrutiny and determination if deemed necessary.

Mr. Ashford, in summing up for the Interested Parties, made reference to the Licensing Policy and the provisions within the Licensing Act and commented on the Government initiative to give communities more say in what happened in their area.

4.5 Determination of the Application and Decision

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

In discussing the application the Panel considered the representations made by all parties including the written representations. The Panel noted the concerns of the Interested Parties and the multiple complaints in respect of criminal, anti-social behaviour, and drunkenness in the area.

The Panel thought there was no tangible evidence in respect of a causal link to the premises that may compromise the licensing objectives and found some of the representations made to be anticipatory concerns. Should the licensing objectives be compromised, persons affected as well as Responsible Authorities would be at liberty of applying for a review of the applicant's licence for further scrutiny and determination.

Consequently the Panel found no tangible evidence to refuse the application for amendment to the sale of alcohol hours.

The Licensing Sub Committee considered the Application and all the representations made, both oral and written, in respect of all the parties concerned as well as their interests.

The Sub Committee considered the Licensing Objectives contained within the Licensing Act 2003 and in particular the prevention of crime and disorder, the prevention of public nuisance and the protection of children from harm. In considering the Licensing Objectives, the Sub Committees was committed to protecting and promoting the Licensing Objectives.

The Sub Committee were of the view, in consideration of all evidence, that there was no compelling, tangible and cogent evidence linking drunkenness and anti-social behaviour to the Applicant's Premises. The Sub Committee noted the Interested Parties allegations and concerns concerning drunkenness and anti-social behaviour particularly amongst young persons in the area near the

Applicant's Premises and Dobshill, but concluded there was no direct empirical evidence linking the allegations and incidents to the Applicant's Premises. Consequently the Sub Committee were of the view that the variation of a premises licence to extend the sale of alcohol to the hours sought would not, based upon the evidence available, impact and undermine the Licensing Objectives mentioned above. Furthermore the Sub Committee noted that the North Wales Police did not oppose the Application save for additional conditions that have been agreed with the Applicant in order to assist in preventing crime and disorder.

The Sub Committee granted the Application for variation of the Applicant's Premises Licence in respect of the sale of alcohol at the Applicant's Premises from Monday to Sunday for 24 hours in line with current opening hours.

The Sub Committee advised the Interested Parties to make a detailed record of any future incidents and to contact North Wales Police without delay.

RESOLVED:

That the Variation of a Premises Licence be granted to the Applicant for the sale of alcohol Monday to Sunday for 24 hours in line with the current opening hours and operating schedule conditions. The following conditions will be attached to the Applicant's Licence.

- A digital, colour hard disc CCTV system to be installed and maintained in a good working order. Recordings are to be kept for a minimum of 28 days and made available for inspection by Police or Local Authority, upon request.
- Cameras to monitor both the interior and exterior of the premises.
- There must be a minimum of one member of staff trained and available to download evidence at the request of the Police or Local Authority at all times the premises are open.
- Premises to adopt Challenge 25 policy.

5. MEMBERS OF THE PRESS AND PUBLIC IN ATTENDANCE

There were two members of the press and no additional members of the public in attendance.

(The meeting started at 10.00 am and ended at 11.00 am)

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Chairman