

LICENSING SUB-COMMITTEE
12 DECEMBER 2013

Minutes of the meeting of the Licensing Sub-Committee of Flintshire County Council held at Delyn Committee Room, County Hall, Mold on Thursday, 12 December 2013

PRESENT: **Councillor Tony Sharps (Chairman)**
Councillors David Cox and Ian Dunbar

Officers of the Council:
Licensing Officer (James Lowe), Solicitor (Tim Dillon) and Committee Officer

Interested Persons:
Councillor Haydn Bateman, Local Member for Mold Broncoed ward
Councillor Chris Bithell, Local Member for Mold East ward
Miss Carol Farrer and Miss Mary Brotherston

Applicant:
Mr. Ibrahim Aygun, applicant
Ms. June Clark, Licensing Consultant
Mr. Jamil, previous owner

ALSO PRESENT:
Councillor Marion Bateman

1. APOLOGIES

None were received.

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 FOR VARIATION OF A PREMISES LICENCE

The Panel considered the report of the Director of Environment which was presented by the Licensing Officer for determination of an application to vary a Premises Licence to extend the terminal hour for the sale of late night refreshment at the Turkish Delight, 10a Wrexham Street, Mold.

He confirmed that the application had been advertised in the correct manner and said that the applicant believed that no further steps were needed to

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promote the Licensing Objectives. Appended to the report were written representations against the application from three local residents and two Local Members.

4.1 Representations by the Applicant

On behalf of the applicant, Ms. Clark sought permission to allow the previous owner, Mr. Jamil, to speak as an independent witness. The Chairman advised that although it was normal practice to allow only one representative to speak, he would allow all those present the opportunity to put forward their cases.

Ms. Clark explained that Mr. Jamil was the previous owner of the premises from 2008 and that no problems had occurred during that time whilst trading as a take-away fast food outlet under the current hours. She pointed out that the applicant wished to extend the current hours to an additional half an hour during the week and one hour on weekends and that if granted, the premises would close earlier than other outlets in close proximity and could not therefore add to any existing impact. She went on to say that the Gold Cape (Wetherspoons), the Red Lion and ex-servicemen's club were all licensed to remain open until later times, the latter of which was located closer to the home of one of the objectors than the premises itself.

In response to the written objections, she noted that these were not directly related to the premises itself as they were generally anti-social behaviour issues which had taken place in the area and disturbances at a nearby fast-food outlet. In summary, she felt that there was no evidence to support the objections against the application, which she felt were merely presumptions, and that this was further highlighted by the fact that no objections had been made by the Police or from Noise Pollution officers.

The Chairman sought clarification on a comment made by Ms. Clark. Mr. Jamil referred to a brief conversation with Councillor Bithell a few years earlier in which Councillor Bithell had expressed concern about any effect of extended trading hours on his constituents who lived in the area.

4.2 Representations by Interested Parties

Miss Farrer said that she was also speaking on behalf of another local resident Mr. Davison who had made a written objection, and shared a copy of a letter to this effect. Whilst stressing that there were no issues against the applicant, she said that this was about the principle of the premises' opening hours. In response to representations made by Ms. Clark, Miss Farrer said that the evidence against the application was based on residents' concerns arising from disturbances by some customers at a nearby fast food outlet a few years earlier which had opened beyond midnight and that following a refusal to extend the opening hours at those premises, behaviour and noise levels had generally improved. In acknowledging the point raised about the location of the Turkish Delight, she pointed out the likelihood that customers visiting the premises would need to proceed down Wrexham Street past residents' homes at late hours and that if the application was granted, similar premises would seek the same. With

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regard to the Gold Cape, she felt that any issues arising would be dealt with on the premises and was aware of only two incidents arising from the nearby club which had been swiftly resolved. She spoke of the likelihood of disturbances from customers waiting for their orders outside fast-food outlets rather than customers vacating clubs.

As Local Member for the Mold East ward, Councillor Chris Bithell stated his reasons for objecting to the proposed extended hours, as set out in the report. He referred to the mix of businesses and residences in the area, many of which were occupied by elderly people, and the types of disturbances which had been witnessed in the past. Speaking on behalf of eight local residents, he said that whilst it was appreciated that people were entitled to run their businesses, individuals also had a right to unbroken sleep at night, particularly after midnight. Councillor Bithell was surprised that the Police had not made any objections to the application as there had been disturbances in the area in previous years, however he felt that it was often the case that such incidents had dispersed before the Police arrived. He felt that the lack of consistent levels of disturbance in the area was due to the success of the current restrictions on trading hours and that any changes would undermine this.

As Local Member for the Mold Broncoed ward, Councillor Haydn Bateman echoed these views and commented on the lack of Police presence in the area at night. In response to earlier comments, he pointed out that the ex-servicemen's club was ¼ mile away from the premises and was therefore not relevant and that any increase to the existing trading hours would set a precedent for other food takeaway premises in the area.

4.3 Summing Up

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

In addressing comments made by Miss Farrer, Ms. Clark reiterated that concerns arising from another food takeaway premises were not relevant to this application and asked if there had been any disturbances arising from customers leaving the ex-servicemen's club. Miss Farrer said that she considered the problems experienced at the other premises past midnight to be relevant. She said that there had been minimal disruption at the ex-servicemen's club which she regarded as self-policing and that food was consumed on the premises rather than outside.

When asked by Ms. Clark if any complaints had been received from residents directly in relation to the Turkish Delight, Councillor Bithell said it was often difficult to ascertain where past disturbances had emanated from and who was responsible, however the owners of such premises could not be held responsible. He remarked that the current restrictions on opening hours was evidence that the system was working.

In response to Councillor Bateman's comment on the lack of a Police presence in Mold, Ms. Clark suggested that this could be due to there being no

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problems in the area and that if complaints had been raised, the licences of the four premises open past midnight would have been subject to review. Councillor Bithell commented that Police cuts had resulted in services now being more reactive. He went on to refer to a recently publicised report on changes to licensed hours resulting in no reduction in late night disturbances.

Councillor Ian Dunbar stated that the Panel needed to consider each case on its own merits in relation to the Licensing Objectives set out in the guidelines. He agreed with the view that the restricted opening hours appeared to indicate that the system was working and referred to the potential for problems to arise if opening hours were extended.

Whilst Ms. Clark understood the concerns raised, she pointed out that the policy made no mention of the capping of terminal hours for premises selling late night refreshments.

Councillor Dunbar reiterated that the policy related to the environmental impact and that any complaints brought to the attention of the Licensing Authority would instigate a review of the relevant establishment.

In response to a question from Councillor David Cox, Mr. Jamil said that the Police had objected to a temporary licence for extended hours over the Christmas period a few years earlier. However, there had since been no problems and the Police had not objected to the current application.

The Chairman referred to changes in the Licensing laws for fast food outlets from 2005 and said that the policy was working correctly.

Ms. Clark reiterated that the objections related to public nuisance issues rather than the premises itself. She spoke of her experience in working with Police and town centre managers to help resolve issues with noise and public disturbance, and said that crime statistics were reducing due to the positive work by responsible authorities and premises owners. In support of the application, she spoke of her client's experience in running a business for many years and that CCTV equipment had been installed at the premises. In response to comments on behavioural issues, she pointed out that food sold at the premises would help to offset the effects of alcohol by some individuals.

The Solicitor asked the applicant about his approach in dealing with any anti-social behaviour emanating from the premises and whether such a procedure was in place. On behalf of her client, Ms. Clark advised that man management skills should be utilised and that although there was no current policy, she would be willing to devise one to incorporate CCTV, signage, procedures for dealing with customers together with possible conflict management training.

When asked by the Solicitor how past incidents had been dealt with, Mr. Jamil said that these had been minimal and that the majority of customers had helped to resolve disturbances caused by individuals. In response to further questions, Mr. Jamil confirmed that he was aware of the Licensing Objectives

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together with the three individuals who were employed at the premises. When asked if any complaints had been received over the past five years, Mr. Jamil replied that there had been none and that some residents who lived nearby were customers and were supportive of the application.

The Solicitor asked the interested parties if they felt that their complaints, on balance, had emanated from the premises. Miss Farrer referred to the problems experienced few years earlier at a nearby outlet. Councillor Bithell spoke of the difficulty in establishing where disturbances had arisen and that the fast-food outlets on Wrexham Street drew people in from around the locality.

4.4 Determination of the Application

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

The Sub-Committee considered the application taking into consideration all the representations made, both oral and written. Consideration was given to all the evidence put forward, including that from the Interested Parties and the concerns they had in relation to past disturbances in the area.

4.5 Decision

The Sub-Committee was grateful for all the representations made in respect of the application.

Having considered the Licensing Objectives contained within the Licensing Act 2003 and in particular the prevention of crime and disorder, and the prevention of public nuisance, the Sub-Committee was of the view that the application to extend the opening hours for the sale of late night refreshment should not be granted as this would impact and undermine the Licensing Objectives. The view of the Sub-Committee was to adhere to the current hours for all licensable activities under the Premises Licence granted to the applicant.

The Chairman thanked the applicant and the interested parties for their attendance.

RESOLVED:

That the variation of a Premises Licence would not be granted to the applicant as this would undermine the environmental impact and Licensing Objectives, namely the prevention of Crime & Disorder and Public Nuisance.

5. MEMBERS OF THE PRESS AND PUBLIC IN ATTENDANCE

There was one member of the press in attendance.

(The meeting started at 2.00 pm and ended at 3.50 pm)

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