

**LICENSING SUB-COMMITTEE**  
**27 FEBRUARY 2015**

Minutes of the meeting of the Licensing Sub-Committee of Flintshire County Council held at County Hall, Mold on Friday, 27 February 2015

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

Councillors: Jim Falshaw and Mike Reece

Officers of the Council:

Licensing Team Leader (Gemma Potter), Solicitor (Tim Dillon) and Committee Officer

Applicants:

Mr. Glyn Hollywell and Mrs. Ruth Hollywell

Interested Parties:

Councillor Robin Guest  
Mr. David Hill - Mold Town Manager  
Mr. Charles Broadhurst - Event Sound Ltd  
Mr. Howard White - Ramblers' Association

Responsible Authorities:

Mr. Martyn Kirby – Environmental Health, Public Protection, Pollution Control, Flintshire County Council

Local Member

Councillor Haydn 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 the hearing, as well as how the application would be determined and detailed the order in which speakers would be able to address the members of the Sub-Committee.

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

The Licensing Team Leader presented the report of the Chief Officer (Planning & Environment) to consider and determine an application for a review of the premises licence at Maes Bonlonfa, Kendrick's Field and Ornamental Gardens, Mold.

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The application for a review had been submitted by Mr. Glyn Hollywell who resided in the immediate vicinity of Maes Bodlonfa, on the grounds that he did not feel that the licensing objective of 'the prevention of public nuisance' was being met due to noise disturbance experienced at an event held at the site in 2014. Appendices to the report included the application submitted by the applicant, together with representations from other interested parties and the licence holder. Some of the written representations related to concerns arising from the restricted access of a footpath along the site at the time of the event in 2014.

The Licensing Team Leader confirmed that the review process had been advertised in the correct manner. She circulated copies of two additional letters from Mold Business Forum and The Old Chapel in support of the continuation of future events on Kendrick's Field.

#### **4.1 Representations by the Applicants**

Mr. Glyn Hollywell said that his application had been submitted due to concerns on invasive and persistent noise pollution at the event held on the site in August 2014 and that this nuisance had caused significant distress to him and his wife. He stated that noise pollution had not been a factor in the Authority granting the licence conditions on the premises and that, as indicated in the supporting evidence to his application, Mold Town Council had not approached the Environmental section of the Authority's Public Protection department in relation to the application. Mr. Hollywell explained that he had contacted the Pollution Control department and that equipment subsequently installed inside his house had determined that noise levels had averaged 65 dbA and peaked at 70+ dbA during the event. As a result, he felt that this had significantly affected his home life, having prevented him from listening to a televised concert and causing a great deal of anguish to him and his wife which affected their enjoyment of their home.

In making further observations, Mr. Hollywell made reference to a report, unrelated to this particular matter, by the former Head of Pollution Control in 2008 which had highlighted the adverse impact on nearby residents and implications should noise levels increase from 40 dbA to 55 dbA. He felt that the draft Voluntary Code of Practice for the Control of Noise at Events in Mold, proposed for adoption by Mold Town Council, did not fully reflect the requirements of the national Code of Practice on Environmental Noise Control at Concerts and pointed out that those maximum noise levels had been exceeded at the event. He felt strongly that the draft Code of Practice to be adopted by the Town Council should be fundamental to the licensing conditions and final decision of the Panel.

In referring to the national Code of Practice, Mr. Hollywell raised a number of queries on the planning of the event in respect of the monitoring of noise levels, maintaining good relations with nearby residents and consultation and engagement prior to the event. He said that failure to adhere to these issues indicated deficiencies in the granting of the premises licence.

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Whilst emphasising that he did not wish to stop anyone's enjoyment of future events and did not wish for these to stop, Mr. Hollywell felt that Kendrick's Field was not an appropriate site due to the distress caused to nearby residents. After suggesting the exploration of alternative sites in the centre of Mold, he highlighted the importance of respecting the rights of residents, as set out in the Human Rights Act, to enjoy the peace of their private and family lives, which he felt had been denied in this case.

Following queries from the Chairman, Mr. Hollywell clarified that the 2008 report was in respect of a proposed skateboard park at Kendrick's Field and he also confirmed that he had made representations in objection to an application by a local tennis club.

## **4.2 Representations by Interested Parties**

As the former Mayor of Mold, in office at the time of the application, Councillor Robin Guest was in attendance to speak on behalf of Mold Town Council. In addressing the written representations on the restricted footpath along Kendrick's Field at the time of the event in 2014, he pointed out that this was not currently a designated footpath but confirmed that if plans were to proceed for a similar event this year, the footpath would remain open to members of the public.

In response to Mr. Hollywell's submissions, Councillor Guest said that it had not been necessary to approach the Council's Public Protection department in advance of the concert, as Event Sound Ltd had been engaged to provide professional, technical sound management services including noise level monitoring throughout the duration of the concert. He pointed out that the evidence quoted from 2008 related to the base noise level at that time whereas readings taken by Event Sound Ltd in 2014 indicated this to be averaging 50 dbA rather than 40 dbA. In respect of permitted noise levels, he stated that the County Council did not have its own Code of Practice and therefore Mold Town Council had drafted its Voluntary Code of Practice based on the national model along with others adopted by some other principal councils across Wales. Any views received on the draft Code of Practice (provided in the agenda pack) would be taken on board prior to formal adoption by Mold Town Council.

Councillor Guest commented that the event held in 2014 had been the first of its kind and that, if adopted, the Voluntary Code of Practice would help to reinforce responsibilities and give assurance that any future issues would be addressed. The guideline figures within that document – as set out by the Noise Council UK - stated that noise levels at 'other urban and rural venues' (which he felt best represented Kendrick's Field) between 1-3 days should not exceed 65 dbA over a 15 minute period.

Whilst he did not dispute the inconvenience suffered by Mr. Hollywell, Councillor Guest felt it was important to consider a balance between that and the benefits to the whole community. Following some concerns raised at the time of the event, consultation undertaken with local residents in close proximity to Kendrick's Field had generated a mainly positive reaction. Although a small

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number of residents had been concerned at the noise levels, the general consensus was that this had been tolerated and accepted in recognition of the positives gained by the town in holding such an event.

Councillor Guest spoke about the challenges in assessing the impact on those affected and the duty on public bodies to promote their local areas. He referred to the success of Mold Town Council in promoting Mold as an events town to benefit local traders, but recognised the potential impact on some local residents. In response to the alternatives sites suggested by Mr. Hollywell, he felt that these were not viable due to the capacity needed.

On the matter of community engagement, Mr. David Hill, Mold Town Manager, advised that letters had been sent to all residents in the immediate vicinity of Kendrick's Field, prior to the event, to share contact details to whom issues could be raised. In fact, many local residents had accepted the offer of complimentary tickets for the event. Mr. Hill stated that having carefully considered other locations, Kendrick's Field had been identified as a suitable site in terms of access, parking and impact on the town, and that the noise level monitoring undertaken by Event Sound Ltd had been broadly in line with the findings of the Council's Pollution Control department.

When asked by the Chairman to give his views, Mr. Charles Broadhurst of Event Sound Ltd spoke about the company's experience in providing support for a range of events but said that no complaints about noise levels had ever been received. He explained that careful consideration had been given to the type of music at the event held in Mold to avoid the potential for noise nuisance. In his view, the noise levels at that event had been appropriate for the audience size, with steps taken to direct the music specifically at the audience.

In respect of the footpath issue, Mr. Howard White of the Ramblers' Association referred to his written representations and indicated his satisfaction with the response given that the footpath would remain open should a similar event be held this year.

As the Local Member, Councillor Haydn Bateman summarised the views of 25 local residents following the event in 2014. Whilst most of those individuals had been satisfied with the organisation of the event, some had raised issues around the noise levels and length of time of the concert. In particular, residents living directly opposite Kendrick's Field had expressed concerns about the excessive noise levels and flashing strobe lights.

### **4.3 Representations by the Responsible Authority**

Mr. Martyn Kirby, Pollution Control Officer at the Council, explained his involvement in the installation of noise monitoring equipment at the home of Mr. Hollywell during the three day event in 2014. After seeing the location of the concert, he had acknowledged that there would be an obvious impact on the property. As indicated in the report, background noise levels of 40 dbA were recorded before and after the event, increasing to 65 dbA and peaking at 70 dbA during the event. Mr. Kirby said that the noise impact on the property had been

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large and suggested that an alternative suitable venue would be preferable to avoid any repeat for future events. However, if this was not possible then he recommended that Mold Town Council adopt its draft Voluntary Code of Practice which was in line with national guidelines, to adhere to the maximum 65 dbA limit for any future events. He could not foresee any problems if this course of action was taken and confirmed his willingness to work with the Town Council on future events if necessary.

#### **4.4 Summing Up**

The Chairman allowed all parties the opportunity to ask questions.

In response to comments from Mr. Hollywell in relation to discussions at the Town Council's Tourism Committee meeting in December 2014, Mr. Hill explained that the discussion was around obtaining monitoring equipment to carry out noise level monitoring at that time and that this responsibility had been delegated to Event Sound Ltd to use their own equipment.

In expressing concerns about noise levels at future events, Mrs. Ruth Hollywell spoke about the interference on residents' lives and the difficulty in avoiding this for future events.

The Solicitor asked Mr. Kirby whether, in his professional opinion, the incident had represented a statutory nuisance. Mr. Kirby said that in the context of the event, it had not been a statutory nuisance. He added that an abatement notice was unlikely to be served on this type of event, however any significant breach of the Code of Practice could potentially be seen as a statutory nuisance. He did not consider this to be an issue if the proposed Code of Practice was adopted and followed by Mold Town Council.

Mrs. Hollywell referred to the type of music played at the event. Mr. Kirby explained that statutory nuisance mainly related to ongoing, everyday noise.

When asked by the Solicitor for his views on the proposed Voluntary Code of Conduct for adoption by Mold Town Council, Mr. Kirby confirmed that this met the requirements of the national Code. He went on to point out the disparity in the background noise levels recorded by himself in comparison with the findings of Event Sound Ltd.

The Solicitor remarked that the draft Voluntary Code of Practice had been due for approval by Mold Town Council on 25 February 2015. Councillor Guest said it was the Town Council's wish to seek any observations from parties at this hearing so that any changes could be made prior to adopting the final version. The Licensing Team Leader advised that the draft Code had been made available to all parties, via an electronic link to the agenda pack, in advance of the meeting.

In response to comments made by Mr. Hill earlier in the meeting, Councillor Jim Falshaw asked Mr. Hollywell if his doors and windows had been left open at the time of the event in 2014. Mr. Hollywell replied that the weather

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had been warm during that time and that if any windows had been left open, these would have been in the conservatory rather than the house itself where the sound monitoring equipment had been located. Mr. Kirby said that there were no such restrictions when installing noise monitoring equipment. Mr. Hollywell spoke of his enjoyment of music, but not at the level experienced during the event.

Following a query from Councillor Mike Reece, Mr. Hollywell estimated his property to be approximately 40 metres away from the concert stage, with his fenceline meeting the boundary of the field. In response to a further question, Mr. Broadhurst explained that measures had been used for the PA system to help direct the noise towards the audience. On the suitability of another location, Mr. Hill reiterated that following an appraisal, Kendrick's Field had been identified as the most appropriate site.

#### **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.

Based on the evidence provided, the Sub-Committee was satisfied that concerns around the restricted footpath on Kendrick's Field had been resolved in view of the commitment given by Mold Town Council.

In determining the outcome of the application in respect of noise issues, the Sub-Committee considered all of the written and verbal representations, together with the evidential weight to be attached to the representations and took account the interests of all parties in due consideration of the principles of the licensing objectives under the Licensing Act 2003. Specifically the prevention of public nuisance. On all the representations, the Panel was mindful of Article 1 and Article 8 of the Human Rights Act in considering whether the undermining of any human rights was proportionate and fair, and of the Hope & Glory case in respect of the effects of public nuisance and when nuisance becomes 'public'.

The Sub-Committee attached greater weight to the evidence provided by both the applicant of the review and Mr. Kirby, the Pollution Control officer. In particular the evidence from Mr. Hollywell in that he and Mrs. Hollywell experienced a great degree of interference from the music noise of the event whilst trying to watch his television at his home; so much so that they were unable to watch a music concert on television. The Sub-Committee also attached great weight to the evidence provided by Mr Kirby, who was a professional noise pollution officer. It was noted that adopting and adhering to the Noise Code of Practice would be acceptable to Mr. Kirby as an alternative to relocating the event in terms of noise pollution.

Based on the findings of the Authority's Pollution Control Officer and the evidence from the applicants that they had been adversely affected by the noise levels during the event, demonstrated by the fact that they had been unable to hear the television, the Panel took the view that there had been a slight public nuisance in respect of the playing and performance of music during the licensable hours. This was considered 'public' because of the other residents who

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complained, by way of the received written representations, of the noise who lived near the site of the event.

This decision that it was 'slight' public nuisance was taken in part due to confirmation by the Pollution Control Officer, Mr. Kirby, that there had been no 'statutory nuisance', although the distinction between public and statutory nuisance was noted. The Panel also noted from the evidence that adherence to the Code of Practice on noise would help prevent public nuisance in future and that Mold Town Council had agreed to adopt this. It was noted from Mr. Kirby's evidence that this adherence to the Code of Practice would be acceptable as a way of controlling noise pollution levels.

In determining that the licensing objective in respect of the protection of public nuisance had been undermined, to a degree, the Panel considered carefully the implications and what would be a proportionate and fair solution to promote the licencing objectives. The Sub-Committee was mindful of the needs to balance the rights of the individual with the interests of the wider community. The Sub-Committee was of the view that to relocate the event would be disproportionate (especially as it appeared from the evidence that no viable alternatives in the area could support such an event) when there were other solutions available to satisfy the licensing objectives.

The decision was therefore taken to maintain the premises licence on Kendrick's Field but with the conditions that the Town Council approve and adopt the draft Voluntary Code of Practice within two months, and for the Town Council to consult with the Council's Pollution Control department when planning future events.

**RESOLVED:**

That the Premises Licence in respect of events such as plays, live music, recorded music, performance of dance and the supply of alcohol at Maes Bodlonfa, Kendrick's Field and the Ornamental Gardens, Mold be maintained, with the following conditions imposed:-

- Mold Town Council to approve and adopt, within two months, the draft Voluntary Code of Practice for the control of noise at events in Mold; thereafter the approved Code of Practice must be robustly followed.
- Mold Town Council to consult with the Responsible Authority, Pollution Control, when planning future events thereafter.

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

There were two members of the press and four members of the public in attendance.

(The meeting started at 10.20 am and ended at 12.50 pm)

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