

LICENSING SUB-COMMITTEE
30 NOVEMBER 2021

Minutes of the meeting of the Licensing Sub-Committee of Flintshire County Council held remotely on Tuesday, 30 November 2021

PRESENT: Councillor Tony Sharps (Chairman)

Councillors: Ron Davies and Ralph Small

Legal advisor to the Sub-Committee:

Ben Williams (Barrister)

Officers of the Council:

Jacqui Dale (Licensing Officer) and Sharon Thomas (Democratic Services Officer)

On behalf of the Applicant (Marstons Plc):

Michelle Hazelwood (John Gaunt & Partners, Agent for the Applicant)

David Harris (Area Manager for Marstons)

Interested Parties:

Martin Kirby (Pollution Control Officer)

Kenneth Archer (spokesperson for local residents)

Observers:

Linda Leigh (Licensee of the George & Dragon)

Matt Powell (Solicitor for the Council)

1. APOLOGIES

None.

2. DECLARATIONS OF INTEREST

None were received.

3. LICENSING ACT 2003 - APPLICATION FOR VARIATION OF A PREMISES LICENCE

The Licensing Officer presented a report to consider and determine an application under the Licensing Act 2003 submitted by Marstons Plc for a variation of a premises licence at the George & Dragon, Church Street, Flint. The application was to add an external area, including an external bar for the sale of alcohol, to the licensing plan at the rear of the premises. The Applicant had also requested that a condition on the existing premises licence be removed. This condition stated, “*There shall be no amplified music in the smoking area*”. The application was made on 6 October 2021.

As appended to the report, representations were received from the Council’s Pollution Control Section and also from seven residents.

North Wales Police had responded to the variation application on 21 October 2021 and the applicant had agreed a number of conditions with them, including the maintenance of an Incidents and Refusals book; ensuring a stringent cleaning process and consideration of safety glassware; ensuring supervision of the beer garden at all times; and ensuring that any sound generated was not excessive.

The Applicant thereafter made a number of amendments to the application to include the conditions as agreed with the Police and to include the following changes:

- (1) That the external provision of retail sale of alcohol to cease at 22:00
- (2) That the provision of regulated entertainment in the form of live and recorded music externally, to cease at 21:00
- (3) That there be a maximum of four family day / festivals per annum undertaken externally.
- (4) That at all times when the external bar is in use, the bar will be staffed and no stock be left in place when that bar closes.

During the hearing, representations were made on behalf of the Applicant by Michelle Hazelwood of John Gaunt & Partners. The Applicant had submitted legal submissions and a bundle of documents comprising six parts which had been fully considered by the Committee.

The Committee also heard from Martyn Kirby (Pollution Control Officer) and Mr Ken Archer who spoke on behalf of the residents.

The Committee received legal advice from Mr Ben Dylan Williams (Barrister).

When the Chairman was satisfied that all relevant questions had been raised, all those present - with the exception of the Chairman, Committee Members, Barrister and Democratic Services Officer - were removed from the meeting to enable the Committee to reach a decision.

The Committee asked themselves the question helpfully posed by the Applicant through its representative, namely; was there a risk of nuisance from this application, based on all the evidence heard? The Committee considered that there was a clear risk of such a nuisance based on the use of the external area.

The Committee considered that the evidence from the residents was compelling as was that of Mr Kirby, whom they noted had not yet concluded his ongoing investigations but had given his professional view that such noise would be clearly audible to residents given their proximity to the external area. The Committee accepted his professional view and concluded that there was a very real risk of nuisance from the use of the external areas.

Having determined that there was a clear risk of noise nuisance from the grant of the application, the Committee went on to consider whether they could promote the licensing objectives by further modifying the suggested conditions, and /or by the imposition of further conditions. After careful consideration, the Committee felt that such steps would not adequately reduce the risk of nuisance and therefore to grant the application with conditions would not promote the licensing objectives, particularly the prevention of public nuisance (s.4 of the Licensing Act 2003).

Members were satisfied that they were required by law to refuse the application.

In reaching its decision, the Committee had regard to the Council's licensing policy, and the Section 182 Guidance. In particular the Committee noted part 8.62-8.65 which deals with variations concerning layout / structure of premises; 9.1, 9.3, 9.31-9.44; and 10.10. The Committee also had regard to the human rights of the parties and gave consideration to the proportionality of their response.

Having regard to all such matters, the Committee therefore decided to refuse the application.

The Licensing Officer, Applicant's representatives and interested parties were invited to return so that the meeting could be reconvened.

The Barrister read out the decision which had been made by the Committee.

It was noted that the Applicant and interested parties had a right of appeal and that any appeal must be lodged at the Magistrates' Court within 21 days of the date of notification of the decision.

The Chairman thanked all those present for their attendance and advised that the decision would be confirmed in writing.

RESOLVED:

That the application by Marston's PLC ('the Applicant') to vary a premises licence for The George and Dragon public house ('the Premises') to add an external area, including an external bar at the rear of the premises to the licensed plan, under the Licensing Act 2003, is REFUSED.

4. MEMBERS OF THE PUBLIC IN ATTENDANCE

There was one member of the public in attendance.

(The meeting started at 10.00am and ended at 12.35pm)

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Chairman