

LICENSING SUB-COMMITTEE

29 JUNE 2022

Minutes of the meeting of the Licensing Sub-Committee of Flintshire County Council held remotely on Tuesday, 29 June 2022

PRESENT: Councillor Rosetta Dolphin (Chair)

Councillors: Rob Davies and David Richardson

Officers of the Council:

Matt Powell (Senior Solicitor), Lorraine Baxendale (Licensing Officer) and Sharon Thomas (Democratic Services Officer)

Interested Parties:

Florin Budescu (Applicant)

June Clarke (Agent) - Licensing Consultant for JMC Licensing

APOLOGIES: Apologies were received from three local residents

1. DECLARATIONS OF INTEREST

None.

2. APPLICATION TO VARY A PREMISES LICENCE

The Licensing Officer presented a report to consider and determine an application under the Licensing Act 2003 for a variation of a premises licence at the Bengal Dynasty restaurant, 104 Chester Road East in Shotton. The application was as follows:

- To extend the hours for the sale of alcohol on Friday, Saturday and Sunday for pre-booked functions only from 10.00am until 2.00am
- To increase the hours for: Recorded music from 23.00pm until 2.15am; late night refreshment from 23.00pm until 2.15am; and closing times from 12.30am until 2.30am
- To apply for live music from 23.00pm until 2.15am plus one additional hour on Christmas Eve, Boxing Day, New Year's Day, Good Friday and Easter Sunday

The report included written confirmation that the North Wales Fire & Rescue Service and the Council's Pollution Control section had made no representations on the application. A letter confirmed that North Wales Police had made no objection provided that the CCTV condition was included on the licence. Letters of objection from four local residents were also appended to the report.

The Licensing Officer advised that mediation had been attempted between the objectors and the Applicant but that the matter remained unresolved. The residents objecting to the application had been invited to join the meeting and had given their apologies.

In providing background, June Clarke explained the impact of the pandemic on the Applicant's business plan for the restaurant. Having obtained a premises licence in December 2021 and given the uncertainty surrounding the pandemic at that time, he had delayed opening the restaurant and had instead held private events to generate some income. As these had proved successful, he had applied for a variation in the licence to accommodate the continuation of such pre-booked events. As national restrictions eased, he had arranged for the re-opening of the premises as a café during the daytime and a bar/grill in the evenings.

The panel was advised that the Applicant had taken the concerns of residents on board which mainly related to noise during the evenings. June Clarke gave an overview of her findings from a noise risk assessment carried out during a private event held at the premises in April, which was appended to the report. She had identified low-level noise at some nearby locations which she felt had been mitigated by the soundproofing of a rear fire door at the premises and would be further improved by plans to install a new front porch. She addressed other concerns by residents about the availability of parking spaces and said that late night disturbance would be minimised by the Applicant and staff monitoring customers vacating the premises during the evenings, the majority of whom appeared to be leaving by car/taxi.

June Clarke said that despite attempts by the Applicant to engage with the residents to discuss their concerns in more detail to reach a resolution, the offer had not been taken up. She advised that the Applicant held various relevant log books on the premises and that he was willing to share his contact details to enable residents to communicate with him directly with their concerns. She considered the Operating Schedule to be sufficiently robust to meet the criteria for licensable activities and reiterated that no representations had been made by North Wales Police or Pollution Control.

In being invited to address the panel, the Applicant said that he had done his best to engage with the residents to allay their concerns.

In response to questions from Councillor Richardson, it was explained that the Applicant aimed to encourage customers to remain inside the premises whilst waiting for a taxi and that he was planning to engage with a local taxi company on this. She also provided clarification on a designated smoking area at the premises and steps to minimise noise disturbance from customers leaving late at night.

The Solicitor raised a number of queries and was provided with information on the operation of pre-booking of events to expand upon and clarify the detail provided already by the Applicant. Events would end no later than 2.30am and would comprise of a range of functions but would include dining. They would be pre-booked - in most cases significantly more than 24 hours in advance. Where there was an event, the restaurant would be fully booked out and closed to members of public who were not guests of the event.

June Clarke confirmed that the written representation that 'all children under the age of 18 should be accompanied by a responsible adult at all times' was an existing condition. She went on to say that the application was sufficiently

robust, including the two additional conditions on conducting regular noise assessments and forming an agreement with a nominated taxi company. She clarified that the three remaining proposed additional conditions (set out in Appendix H to the report) were now considered unnecessary as the residents did not wish to discuss with the Applicant.

The Chair asked if the Applicant would be willing to include all the additional conditions if they helped to address concerns. June Clarke referred to the numerous regulations involved in running the business and said that it was assumed that the residents were no longer concerned as they opted not to meet with the Applicant. On that basis, the additional conditions would not be taken forward.

The Applicant was given an opportunity to sum up and expressed disappointment that residents had chosen not to meet him and discuss their concerns. He reiterated that he was willing to share his contact details with residents.

When the Chair was satisfied that all relevant questions had been raised, all those present - with the exception of the Chair, Committee Members, Solicitor and Democratic Services Officer - were removed from the meeting to enable the Committee to reach a decision. The exclusion of the press and public was moved and seconded by Councillors Davies and Richardson.

In reaching the decision, the Sub-Committee took into account the written representations of residents and the written and verbal representations made by the Applicant and his Agent including clarifications given at the hearing on the operating schedule and steps the Applicant would take to meet the licencing objectives. The Sub-Committee also considered the weight given to responses by Pollution Control and responsible authorities, the human rights of the parties and the risk of noise nuisance outside the premises.

The Licensing Officer, Applicant and Agent were invited to return so that the meeting could be reconvened. The Chair read out the decision of the Sub-Committee.

RESOLVED:

The Sub-Committee has resolved to grant the application with reduced hours and subject to the conditions suggested by the Applicant in the Operating Schedule.

Hours

- **Friday and Saturday (pre booked functions only for hours after 11.30pm)**
Alcohol sales from 10.00am to 2.00am, recorded music indoors, live music indoors and late night refreshment from 10.00am to 12.50am plus one additional hour on Christmas Eve, Boxing Day, New Year's day, Good Friday and Easter Sunday.
- **Sunday (pre booked function only for hours after 11.00pm)**
Alcohol sales from 10.00am to 12.00 midnight, recorded music indoors, live music indoors and late night refreshment from 10.00am to 12.00

midnight plus one additional hour on Christmas Eve, Boxing Day, New Year's day, Good Friday and Easter Sunday.

Conditions in Accordance with the Operating Schedule

- During the extended hours (that is the hours in operation after 11.30pm) the licensable activities must only be provided to those attending a private pre-booked function.
 - Licensable activities are alcohol sales, recorded music indoors, live music indoors and provision of late night refreshments.
 - A pre-booked function means a function which has been booked at least 24 hours in advance.
 - Function means an event where a room is hired and no licensable activities are provided to members of the public who are not guests of that function.
- The licence holder shall enter into an agreement with a hackney carriage and/or private carriage firm to provide transport for customers, with contact numbers made readily available to customers who will be encouraged to use such services.
- Regular noise assessment will be carried out when amplified music is played at the premises and logged in a log book which will be made available to any responsible authority on request.

The Chair thanked everyone for their attendance and advised that the decision would be confirmed in writing.

3. MEMBERS OF THE PUBLIC IN ATTENDANCE

There were no members of the public in attendance.

(The meeting started at 10.00am and ended at 12.20pm)

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Chair