

## Licensing Committee Minutes

The minutes of the Licensing Committee meeting of Wyre Borough Council held on Tuesday, 13 October 2020 by Remote Access via webex.

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**Licensing Committee members present:**

Councillors Robinson, C Birch and Smith

**Other councillors present:**

Councillors Henderson and Le Marinel

**Officers present:**

Mary Grimshaw, Legal Services Manager and Deputy Monitoring Officer

Niky Barrett, Senior Licensing Officer

Duncan Jowitt, Democratic Services Officer

Emma Keany, Democratic Services Officer

Peter Foulsham, Democratic Services Manager

David Thow, Head of Planning Services

**Also present:**

Paul and Danielle Mellor, Applicant

Malcolm Ireland, Napthens LLP, Legal Representative of the Applicant

Four other members of the public - Teresa Cunliffe, Gary Jones-Boast, Vicky Jones-Boast and Ann Lee – also attended.

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**14            Declarations of Interest**

The chairman, Cllr Robinson, declared a personal interest in item 16 as she knew a family member of the applicants, Paul and Danielle Mellor.

**15            Application to vary a Premises Licence - The Cube, 2 Breck Road, Poulton-le-Fylde, FY6 7AA**

The Corporate Director Environment submitted a report to provide members of the Licensing Sub-Committee with information to assist them at a hearing to determine an application submitted under section 34 of the Licensing Act 2003 by Cube Bar Limited, to vary a condition on premises licence PL(A)0342.

The Senior Licensing Officer said that this matter was before the Sub-

Committee because there were eight objections to the application (the “Representors”), relating primarily to public nuisance arising from noise from the venue. There had also been 41 representations in support of the application. All the representations were included at Appendix 3 of the report.

The Senior Licensing Officer informed the Sub-Committee that the Applicant wished to be allowed to use the beer garden until 22:00 every day as the current licence restricts the use of this area to 21:00.

The Senior Licensing Officer stated that, following discussions with Environmental Health Officers during the consultation period, the applicant had agreed to a number of additional conditions to be included in the operating schedule if the licence was granted. No other Responsible Authority had raised any objection to the extension of the operating hours for the outside area.

The joint applicants Paul and Danielle Mellor (the “Applicant”) were present in support of the application and the Applicant’s legal representative spoke on their behalf stating that the representations from the Planning Department did not constitute grounds to refuse the application and the only consideration should be whether the additional hours would increase nuisance. The Applicant and their legal representative then answered questions from the Sub-Committee.

The Sub-Committee also heard oral evidence by video link from:

- David Thow, Head of Planning Services, speaking on behalf of the council’s Planning Department, specifically in respect of the existing Planning restriction for the outside area allowing operation only until 6pm, which he said there had been no subsequent application to amend.
- Councillor David Henderson, a Breck Ward Councillor acting on behalf of two of the Representors, who stated that the Planning restriction on the use of the outside area until only 6pm had either been ignored or not fully understood and that several complaints about nuisance relating to the opening hours premises from the residents of Prudy Hill had been passed onto the Planning Department.

Two local residents also addressed the Sub-Committee: Vicky Jones-Boast spoke in objection and Teresa Cunliffe spoke in support.

In response to a question from the Sub-Committee, the Senior Licensing Officer said that only one complaint had been received by the Licensing Department and that had been shortly after this application had been made and was not regarding nuisance specifically from the beer garden. She also said that there were no police concerns and that issues in the beer garden had never featured in any crime logs.

Members retired to consider the application in closed session. The Licensing Sub-Committee then reconvened and the Chairman announced the Committee’s decision, as below.

## **Decision**

After due deliberation, the Sub-Committee decided that a variation to a Premises Licence for The Cube, 2 Breck Road, Poulton-le-Fylde, FY6 7AA, be granted for the licensable activities as set out in the application on Thursdays, Fridays, Saturdays and Sundays, subject to the mandatory and default conditions prescribed in the Act and the proposed licence conditions offered by the Applicant and refused for Mondays, Tuesdays and Wednesdays.

## **Reasons for the Decision**

The Sub-Committee noted that the objectors had raised similar concerns about the potential for increased noise nuisance should the variation to the licence be granted and acknowledged that due to the proximity of the dwellings to the beer garden that some noise from the beer garden was inevitable

However the Sub- Committee did not accept that there was a significant issue with noise nuisance in the area having regard to the fact that there had only been one complaint to the Licensing Authority in recent years and this had not related specifically to the beer garden. Further the Sub- committee noted that there had been no objections from Environmental Health who were the experts on noise as the applicant had agreed to a number of additional conditions to be included in the operating schedule that would help to mitigate noise from the beer garden.

The Sub- Committee also noted that the Police had not raised any concerns in relation to crime and disorder. In addition the Sub Committee did not consider the objection from the Planning Department to be of particular weight as it related to a planning matter regarding the opening times of the beer garden and accordingly was not a ground for refusing this application.

In reaching their decision, the Sub-Committee had regard to

- the Council's own Statement of Licensing Policy, particularly paragraphs 10.3 Conditions etc. 14.3 Prevention of public nuisance and 14.3.4 Beer Gardens
- the Statutory Guidance issued under section 182 of the Licensing Act 2003 and in particular sections: 9.1, 9.3, 9.4, 9.37-9.40, 9.42-9.45 and 10.8-10.10,
- all the representations

and decided to grant the application in part which they considered was appropriate and proportionate based on an assessment of the prevention of noise nuisance to neighbours whilst also balancing the rights of the licensing premises to develop business potential.

The meeting started at 6.00 pm and finished at 7.42 pm.

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