

To: Members of the Licensing Sub
Committee

Date: 20 January 2017

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Dear Councillor

You are invited to attend a meeting of the **LICENSING SUB COMMITTEE** to be held at **10.30 am** on **MONDAY, 30 JANUARY 2017** in the **COUNCIL CHAMBER, RUSSELL HOUSE, RHYL**.

Yours sincerely

G Williams
Head of Legal and Democratic Services

AGENDA

1 APPOINTMENT OF CHAIR

To appoint a Chair for the meeting.

2 DECLARATION OF INTERESTS

Members to declare any personal or prejudicial interests in the business identified to be considered at this meeting.

APPLICATION FOR CONSIDERATION -

3 LICENSING ACT 2003: YUMMY PERI PERI CHICKEN, 36 WELLINGTON ROAD, RHYL (Pages 7 - 22)

To consider an application for a new Premises Licence submitted in accordance with Section 17 of the Licensing Act 2003 (an outline of the submission and associated papers are attached).

Please note the procedure to be taken by the Sub Committee (which is attached to this agenda).

MEMBERSHIP

Councillors

Bill Cowie
Barry Mellor

Cefyn Williams

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IS-BWYLLGOR TRWYDDEDU

Y DREFN AR GYFER CEISIADAU A WNEIR DAN Y DDEDDF TRWYDDEDU 2003

Cam	Disgrifiad
1.	Mae Cadeirydd yr Is-Bwyllgor Trwyddedu yn agor y Gwrandawriad ac yn croesawu pawb sy'n bresennol. Mae'n cyflwyno'r Cydweithwyr ar yr Is-Bwyllgor a'r Swyddogion sy'n Bresennol.
2.	Mae'r Cadeirydd yn gwahodd y Swyddog Trwyddedu i gyflwyno'r Cais.
3.	Mae'r Cadeirydd yn gwahodd yr Ymgeisydd (neu'r Cynrychiolydd Penodedig) i gyflwyno'r Cais.
4.	Mae'r Cadeirydd yn gwahodd unrhyw Awdurdodau Cyfrifol (e.e. Heddlu, Gwasanaeth Tân) i gyflwyno eu sylwadau.
5.	Mae'r Cadeirydd yn gwahodd Aelodau'r Is-Bwyllgor Trwyddedu i ofyn cwestiynau i'r Ymgeisydd neu'r Awdurdodau Cyfrifol.
6.	Mae'r Cadeirydd yn gwahodd y Rhai â Diddordeb i gyflwyno eu sylwadau.
7.	Mae'r Cadeirydd yn gwahodd Aelodau'r Is-Bwyllgor Trwyddedu i ofyn cwestiynau i'r Rhai â Diddordeb ac i egluro unrhyw bwyntiau gyda'r Ymgeisydd.
8.	Mae'r Cadeirydd yn gwahodd yr Ymgeisydd (neu'r Cynrychiolydd Penodedig) i wneud datganiad terfynol.
9.	Bydd Aelodau'r Is-Bwyllgor Trwyddedu yn ymneilltuo i ystyried eu penderfyniad, gyda'r Clerc i'r Gwrandawriad a'r Ymgynghorydd Cyfreithiol i'w canlyn.
10.	Mae Aelodau'r Is-Bwyllgor Trwyddedu yn dychwelyd gyda'u penderfyniad ar y Cais, gyda rhesymau i'w gefnogi.

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LICENSING SUB COMMITTEE

PROCEDURE FOR APPLICATIONS MADE UNDER THE LICENSING ACT 2003

Step	Description
1.	Chair of the Licensing Sub Committee, opens the Hearing and welcomes everyone present. Introduces Colleagues on Sub Committee and Officers Present.
2.	Chair invites Licensing Officer to introduce the Application
3.	Chair invites the Applicant (or the Appointed Representative) to present the Application.
4.	Chair invites any Responsible Authorities (E.g. Police, Fire Service) to present their representations.
5.	Chair invites Members of the Licensing Sub Committee to ask questions of the Applicant or the Responsible Authorities.
6.	Chair invites Interested Parties to present their representations.
7.	Chair invites Members of the Licensing Sub Committee to ask questions of the Interested Parties and to clarify any points with the Applicant.
8.	Chair invites the Applicant (or Appointed Representative) to make a final statement.
9.	Licensing Sub Committee Members will adjourn to consider their decision, accompanied by the Clerk to the Hearing and the Legal Advisor.
10.	Licensing Sub Committee members return with their decision on the Application, supported by reasons.

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REPORT TO:	Licensing Sub-Committee
DATE:	30 th January 2017
LEAD OFFICER:	Head of Planning and Public Protection
CONTACT OFFICER:	Senior Technical Officer (Licensing) 01824 706451 licensing@denbighshire.gov.uk
SUBJECT:	Licensing Act 2003 Application for Premises Licence Yummy Peri Peri Chicken 36 Wellington Road, Rhyl LL18 1BN

1. PURPOSE OF THE REPORT

- 1.1 The Licensing Authority has received an application for a new Premises Licence, submitted in accordance with Section 17 of the Licensing Act 2003 in respect of Yummy Peri Peri Chicken at 36 Wellington Road, Rhyl. As a consequence of the necessary consultation and required Public Notice, the Licensing Authority has received relevant representations that oppose the Application. The Sub-Committee is required to determine the application, taking into account all relevant facts/evidence.

2. EXECUTIVE SUMMARY

- 2.1 This is an application for a new Premises Licence. The representations received relate to the Prevention of Public Nuisance.
- 2.2 Members are reminded that any decision must be made in accordance with (i) the Council's Statement of Licensing Policy and, (ii) Guidance issued by the Secretary of State.
- 2.3 Acting in the capacity of Licensing Authority, Members must seek to promote the Licensing Objectives, and where Members consider matters have engaged one or more of the objectives, they may exercise their discretion.
- 2.4 Members of the Licensing Sub-Committee are reminded that they may not exercise discretion in any case, merely because it considers it desirable to do so, and should provide reason(s) for any decision taken,

or where they might consider departing in any way from the Protocol, Policy or Guidance.

3. RECOMMENDATIONS

3.1 Decision of the Sub-Committee

The Sub-Committee must, having regard to the representations made, take such steps (below) as it considers necessary for the promotion of the licensing objectives:

the Sub-Committee can:

- Grant the Application as applied for
- Impose any conditions, to such an extent that the Authority deems necessary for the promotion of the licensing objectives
- Reject the application

4.0 BACKGROUND INFORMATION

4.1 On 5th December 2016, the Licensing Authority received a fully completed Application for a new Premises Licence. The Application has been submitted by Mr Nallaiah Mahendramoorthy.

4.2 The premises is a Fast Food Takeaway and the Application relates solely to the provision of hot food and drink after 23:00 hrs (for Members' information, the provision of hot food and drink only becomes a licensable activity between 23:00 hrs and 05:00 hrs).

4.3 The Applicant has requested authorisation to provide Late Night Refreshment as follows:

LICENSABLE ACTIVITY	DAYS APPLICABLE	TIME FROM	TIME TO
Late Night Refreshment	Thurs – Sun Bank Holidays & Christmas Eve	23:00 23:00	03:00 03:00
Hours Premises are open to the Public	Thurs – Sun Bank Holidays & Christmas Eve	23:00 23:00	03:00 03:00

4.4 Licensing Act 2003 –information/requirements

When an application is submitted for a premises licence, a full copy

must be provided to each of the Responsible Authorities, that is:

- Police
- Fire
- Planning
- Trading Standards
- Environmental Health
- Health and Safety
- Children's Services
- Health Authority
- Licensing Authority

4.5

Public Notice

The applicant must place a notice in a local newspaper and affix a notice on or adjacent to the premises. This enables individuals, a body or a business to submit relevant representations. However, they will need to demonstrate that their representations relate to the promotion of one or more of the licensing objectives.

4.6

Relevant Representations

Representations that have been deemed to be relevant by the Head of Planning and Public Protection have been received within the statutory 28-day period:

4.6.1

The Council's Pollution Control Officer has raised concerns relating to both the premises' close proximity to residential properties and an existing Planning Condition which does not permit use of the extraction equipment after 23:00 hrs (22:00 hrs on Sundays). He has proposed a number of conditions which, should the Licence be granted, he would like to see included within the Premises' Operating Schedule. Members may examine these proposals at Appendix A to this report.

4.6.1.1

Details of the proposed conditions have been sent to the Applicant but at the time of writing this report, no formal agreement has been reached. However, in a general response to representations being received, the Applicant has offered to place signs on the premises requesting patrons leave quietly to avoid disturbing residents.

4.6.2

Two written representations have been received from Interested Parties in response to the public notice. The representations relate to possible disturbance from noise, details of which can be seen at Appendix B.

4.6.3

Throughout the application process, the Applicant has indicated a willingness to mediate with Responsible Authorities and Interested Parties and, having been notified that representations have been

received, has offered to modify the application to reduce late-night opening days and times to **Friday and Saturday only until 01:00 am**. They also mention that there are other late-night establishments within the vicinity which remain open up to 2:00 am, including a public house next door that remains open until 12:00 midnight.

4.6.4 Details of the Applicant's response to the representations have been sent to Interested Parties; however, at the time of compiling this report, no comments have been received.

4.6.5 It is important that Members note when suggesting the option of mediation or negotiation to interested parties and applicants, officers are careful to emphasise that members of the public should not feel obligated to take part in mediation. Likewise, applicants should not feel pressurised to accept changes to their operating schedule if they feel it more appropriate for the application to be determined by Members.

4.7 Licensing Objectives / Guidance / Policy Considerations

The relevant representations engage the licensing objectives.

The Sub-Committee, in respect of this Application, is referred to the Guidance issued under Section 182 of the Licensing Act 2003:

- Prevention of Public Nuisance **Section 2.18 to 2.24**

4.8 Statement of Licensing Policy

The Sub-Committee, in respect of this Application, is referred to the Council's Statement of Licensing Policy:

- Prevention of Public Nuisance **Section 7**

4.9 Finally, Members are also reminded that in determining the application in accordance with the Licensing Act, they must also have regard to –

- The Crime and Disorder Act 1998 under which it has a duty to prevent/reduce crime and disorder in the area
- The common law rules of natural justice
- The provisions of the Human Rights Act 1998

5.0 **OFFICERS COMMENTS**

The Head of Planning and Public Protection has put the following comments forward to assist Members in their deliberations.

5.1 A completed Operating Schedule is a requirement for new and varied Premises Licences. The Applicant has proposed a number of conditions

and the proposed operating schedule can be viewed at Appendix C.

5.2 Planning Officers have informed the Licensing Section that whilst there are no restrictions on the general operating hours of the premises, there is an existing planning condition which limits the use of the extraction equipment to between the hours of 10:00 hrs and 23:00 hrs Monday to Saturday and 10:00 hrs and 22:00 hrs on Sundays.

5.3 The Applicant has been made aware of this and has taken steps to apply to amend this condition. In the meantime, Planning Officers recommend that should the Premises Licence be granted, Members consider issuing the following advisory note:

“This Premises Licence relates solely to matters covered by the licensing regulations under the Licensing Act 2003. It does not override the need for compliance with separate legislation including the need for planning permission for the use where this does not exist, and it does not override any conditions imposed on an existing planning permission for the use, for example in relation to hours of trading. You are therefore strongly advised to ensure the premises are operated in accordance with any planning consent and to ensure such consents are in place before proceeding

5.4 Given the concerns raised by residents and Pollution Control, Members will wish to ask pertinent questions of the Applicant (or his representatives) to ensure that he intends to employ appropriate methods to promote the licensing objectives. In particular, Members will wish to establish that the Applicant has a full understanding of the conditions agreed with Pollution Control and the requirements of Planning legislation.

5.5 Members are reminded that any amendments to the original application ie additional conditions, can only be appended to the Premises Licence by Members of a Sub-Committee. It is also for Members to consider whether any condition(s) are deemed necessary and appropriate.

6.0 **SUMMARY**

6.1 Members should take into full account Guidance and the Council's Statement of Licensing Policy, with particular reference to those areas highlighted in this report. Members are reminded that they should only deviate from the Policy when there is good evidence/reason to do so.

6.2 Members will be required to determine whether the representations submitted are relevant and appropriate to meet the licensing objectives,

and should Members be minded to grant the application, they consider incorporating the Pollution Control Conditions within the Premises' Operating Schedule.

- 6.3 In view of the representations received from Interested Parties, Members will wish to give careful consideration to this Application for a Premises Licence.

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