

To: Members of the Licensing Sub
Committee

Date: 20 November 2018

Direct Dial: 01824 712568

e-mail: democratic@denbighshire.gov.uk

Dear Councillor

You are invited to attend a meeting of the **LICENSING SUB COMMITTEE** to be held at **10.00 am** on **WEDNESDAY, 28 NOVEMBER 2018** in **CONFERENCE ROOM 1A, COUNTY HALL, RUTHIN.**

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.

APPLICATIONS FOR CONSIDERATION -

3 LICENSING ACT 2003: REVIEW OF A PREMISES LICENCE - THE BARRELL, 37 - 39 WATER STREET, RHYL (Pages 9 - 150)

To consider an application from North Wales Police for the Review of a Premises Licence made in accordance with Section 51 of the Licensing Act 2003 in respect of The Barrell, 37 – 39 Water Street, Rhyl (an outline of the submission and associated papers are attached).

10.00 a.m.

**4 LICENSING ACT 2003: APPLICATION FOR A NEW PREMISES LICENCE
- ORIGIN, 168 HIGH STREET, PRESTATYN (Pages 151 - 184)**

To consider an application for a new Premises Licence submitted in accordance with Section 17 of the Licensing Act 2003 in respect of Origin, 168 High Street, Prestatyn (an outline of the submission and associated papers are attached).

11.30 a.m.

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

MEMBERSHIP

Councillors

Hugh Irving
Alan James

Melvyn Mile
Arwel Roberts

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All Councillors for information
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LOCAL GOVERNMENT ACT 2000

Code of Conduct for Members

DISCLOSURE AND REGISTRATION OF INTERESTS

I, *(name)*

a *member/co-opted member of
*(*please delete as appropriate)*

Denbighshire County Council

CONFIRM that I have declared a ***personal / personal and prejudicial** interest not previously declared in accordance with the provisions of Part III of the Council's Code of Conduct for Members, in respect of the following:-
*(*please delete as appropriate)*

Date of Disclosure:

Committee *(please specify)*:

Agenda Item No.

Subject Matter:

Nature of Interest:

*(See the note below)**

Signed

Date

*Note: Please provide sufficient detail e.g. 'I am the owner of land adjacent to the application for planning permission made by Mr Jones', or 'My husband / wife is an employee of the company which has made an application for financial assistance'.

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LICENSING SUB COMMITTEE

PROCEDURE FOR REVIEW HEARINGS S.51 LICENSING ACT 2003

| Step | Description |
|------|---|
| 1. | Chair of the Licensing Sub Committee, opens the Review 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 (if present) any additional Responsible Authorities to present their representations. |
| 5. | Chair invites Members of the Licensing Sub Committee to ask questions of the Applicant and any Responsible Authorities present. |
| 6. | Chair invites other Interested Parties to present their representations. |
| 7. | Chair invites the Premises Licence holder to present representations. |
| 8. | Chair invites Members of the Licensing Sub Committee to ask questions of the Premises Licence holder and Interested Parties and to clarify any points with the Applicant. |
| 9. | Chair invites the Applicant (or Appointed Representative) to make a final statement. |
| 10. | Licensing Sub Committee Members will adjourn to consider their decision, accompanied by the Clerk to the Hearing and the Legal Adviser |
| 11. | Licensing Sub Committee members return with their decision on the Application, supported by reasons. |

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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: | 28 th November 2018 |
| LEAD OFFICER: | Head of Planning and Public Protection |
| CONTACT OFFICER: | Senior Technical Officer (Licensing) 01824 706433 licensing@denbighshire.gov.uk |
| SUBJECT: | Application for Review of a Premises Licence under Section 51 of the Licensing Act 2003: The Barrell, 37-39 Water Street, Rhyl Licence Number: PL(A)0385 |

1.0 PURPOSE OF THE REPORT

- 1.1 The Licensing Authority has received an application for the review of a premises licence in accordance with Section 51 of the Licensing Act 2003.
- 1.2 The application has been submitted by Chief Inspector Andrew Williams of North Wales Police in respect of The Barrell, 37-39 Water Street, Rhyl, LL18 1SR.

2.0 EXECUTIVE SUMMARY

- 2.1 This is an application for the review of an existing premises licence. A responsible authority or an interested party may call for a review of a licence but it must be relevant to one or more of the four licensing objectives:
 - the prevention of crime and disorder;
 - public safety;
 - the prevention of public nuisance, and
 - the protection of children from harm.
- 2.2 Members are reminded that any decision must be made in accordance with
 - (i) the Council's Statement of Licensing Policy,
 - (ii) the Guidance issued by the Secretary of State and
 - (iii) the prevailing law.
- 2.3 Acting in the capacity of Licensing Authority, Members must seek to promote the Licensing Objectives.
- 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.

3.0 RECOMMENDATIONS

3.1 Decision of the Sub-Committee

The Sub-Committee must, having regard to the grounds for Review, along with any additional representations made, take such steps (below) as it considers necessary for the promotion of the licensing objectives. The Sub-Committee may:

- modify the conditions of the Licence;
- exclude a licensable activity from the scope of the Licence;
- remove the designated premises supervisor;
- suspend the Licence for a period not exceeding 3 months, or
- revoke the Licence

4.0 BACKGROUND INFORMATION

4.1 Guidance issued under section 182 of the Licensing Act, 2003 states:

“The proceedings set out in the 2003 Act for reviewing premises licences represent a key protection for the community where problems associated with the licensing objectives are occurring after the grant or variation of a premises licence.

At any stage, following the grant of a premises licence, a responsible authority, or an interested party, may ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives”

4.2 North Wales Police have submitted an application for the review of a premises licence held by Mr Ian Mcallister in respect of The Barrell, 37-39 Water Street, Rhyl.

4.3 The current Designated Premises Supervisor at the premises is Mr David Jai Jones.

4.4 A full copy of the existing Premises Licence including the current operating schedule can be examined at Appendix A.

4.5 The grounds for review relate to prevention of crime and disorder and public safety, as stated on the application, are:

- North Wales Police have a lack of confidence in the management of the Premises to responsibly manage the premises.
- Failure to challenge drunk customers and allowing customers to get drunk on premises and serving drunken customers.
- Failure to manage the behaviour of customers at the premises.

- Failure of the premises to adequately manage and control incidents of crime and disorder.
 - Evidence of an environment within the premises whereby drug taking is openly tolerated.
 - Failure to report all incidents of crime and disorder to North Wales Police.
 - North Wales Police is of the opinion that the hours for licensable activities are not suitable for the premises and that the majority of incidents occur after 00:00.
 - Failure to promote the Licensing Objectives, particularly The Prevention of Crime and Disorder, Public Safety and Public Nuisance”
- 4.6 Full details of the review application and the incidents undertaken by North Wales Police can be examined at Appendix B to this Report.
- 4.7 Licensing Act 2003 – information/requirements
When an application is submitted for review of a premises licence, a full copy of the application (and enclosures) must be provided to each of the responsible authorities and the premises licence holder.
- 4.8 Public Notice
Where an application for review has been accepted by the Licensing Authority, the Act requires that a notice advertising the application is displayed, both on the premises concerned, and at the main Licensing Authority offices for a minimum period of 28 consecutive days.
- 4.9 Relevant Representations
No further representations have been received from Responsible Authorities or members of the public in response to the application for Review
- 4.10 Issues and Matters relevant to the Application
Members will note that in considering the Application, they should take into account a balance in the interests of owners, employees, customers and neighbours of the premises.
- 4.11 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:
- The prevention of crime and disorder - **Section 2.1 to 2.7**
 - Public safety - **Section 2.8 to 2.17**
- 4.12 Statement of Licensing Policy – Review Process
The Sub-Committee, in respect of this application, is referred to the Council's Statement of Licensing Policy:

- The prevention of crime and disorder - **Section 5**
 - Public safety - **Section 6**
- 4.13 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

- 5.1 The Head of Planning and Public Protection has put the following comments forward to assist Members in their deliberations.
- 5.2 Members should take into full account the 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.
- 5.3 In addition to 5.2 above, Members are also reminded that a joint enforcement protocol exists with North Wales Police and the Council. This joint enforcement protocol describes how North Wales Police and the licensing authority will deal with problems arising at premises in relation to any of the four licensing objectives by way of an enforcement ladder system from stages one to three.
- 5.4 The policy indicates that the process can escalate to stage two or stage three in instances of serious offences.
- 5.5 Members of the Licensing Sub Committee are reminded of the need to provide reasons for their decision.
- 5.6 Since the Review application has been submitted, Members should be aware that although Mr. Sean Mountford proposed to be Designated Premises Supervisor at the premises, no official application has been received, therefore Mr. David Jai Jones is still the Designated Premises Supervisor.
- 5.6 Members are reminded that any condition agreed to be relevant and proportionate requires appending to the Premises Licence.
- 5.7 Members should be aware when considering revised conditions to be appended to the Premises Licence, any pre-existing condition of a similar nature will need to be removed.
- 5.8 Members should note that once steps, as detailed at Section 3 of this report (the decision of the Committee) have been taken and a determination is made, the Authority's decision does not have immediate effect. Any

decision will only take effect when the period for making an appeal has expired or, if an appeal is lodged, when the appeal is disposed of.

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| REPORT TO: | Licensing Sub-Committee |
| DATE: | 28 th November 2018 |
| LEAD OFFICER: | Head of Planning and Public Protection |
| CONTACT OFFICER: | Senior Technical Officer (Licensing) 01824 706433 licensing@denbighshire.gov.uk |
| SUBJECT: | Licensing Act 2003 Application for Premises Licence Origin, 168 High Street, Prestatyn LL19 9BW |

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 Origin, 168 High Street, Prestatyn. 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 Crime and Disorder, the Protection of Children from Harm and 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.

3.0 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 October 2018, the Licensing Authority received a fully completed application for a new Premises Licence. The Application has been submitted by Mr Michael Kenneth Watts and a full copy of the application can be examined at Appendix A.

4.2 The Application states that the premises will operate as a bar with quiet background music with the sale of alcohol offered for consumption both on and off the premises.

4.3 The Applicant has requested authorisation to provide licensable activities as follows:

| LICENSABLE ACTIVITY | DAYS APPLICABLE | TIME FROM | TIME TO |
|---|--|-----------|---------|
| Recorded Music (Indoors) | Sunday – Thursday | 12:00 | 23:00 |
| | Friday & Saturday | 12:00 | 01:00 |
| Non-Standard Timings | Bank Holiday Sundays | 12:00 | 00:00 |
| Seasonal Variations | New Year’s Eve | 11:00 | 02:00 |
| | Christmas Eve | 11:00 | 01:00 |
| Supply of alcohol (for consumption on and off the premises) | Sunday – Thursday | 12:00 | 23:00 |
| | Friday & Saturday | 12:00 | 01:00 |
| | Bank Holiday Sundays | 12:00 | 00:00 |
| | New Year’s Eve | 11:00 | 02:00 |
| | Christmas Eve | 11:00 | 01:00 |
| Hours Premises are open to the Public | As those requested for licensable activities | | |

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
- Immigration Office

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 North Wales Police have submitted representations to the Application, along with a number of proposed conditions to be incorporated within the premises operating schedule, should the application be granted. The Applicant has confirmed that they are willing to accept these additional conditions. Details of the agreed conditions can be seen at Appendix B.

4.6.2 The Senior Technical Officer (Environmental Health) has submitted written representations relating to the premises’ close proximity to residential properties. A number of additional conditions have therefore been proposed to be included within the licence, should it be approved, to assist in the prevention of public nuisance. The Applicant has confirmed that they are willing to accept these conditions which can be examined at Appendix C.

4.6.3 1 written representation has been received from an Interested Party in response to the public notice. The representation relates to possible

disturbance from noise and anti-social behaviour, details of which can be seen at Appendix D.

- 4.6.3.1 Whilst officers have begun to facilitate mediation between the Applicant and Interested Party, at the time of compiling this report, no resolution has been reached.
- 4.6.3 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.
- 4.8 The Sub-Committee, in respect of this Application, is referred to the Guidance issued under Section 182 of the Licensing Act 2003:
- Protection of Children from Harm **Sections 2.22 to 2.32**
 - Prevention of Public Nuisance **Sections 2.15 to 2.21**
 - Prevention of Crime and Disorder **Sections 2.1 to 2.6**
- 4.9 **Statement of Licensing Policy**
The Sub-Committee, in respect of this Application, is referred to the Council's Statement of Licensing Policy:
- Prevention of Crime and Disorder **Section 3.1**
 - Protection of Children from Harm **Section 3.4**
 - Prevention of Public Nuisance **Section 3.3**
- 4.10 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**
- 5.1 The Head of Planning and Public Protection has put the following comments forward to assist Members in their deliberations.

5.2 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 as part of the Premises Licence found at Appendix A.

5.3 Given the concerns raised by the objectors, Members will wish to ask pertinent questions of the Applicant (or their representative) to ensure that they intend to employ appropriate methods to promote the licensing objectives.

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.

6.3 In view of the representations received from the Interested Party, Members will wish to give careful consideration to this Application.

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