

To: Members of the Licensing Sub  
Committee

Date: 5 August 2020

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Dear Councillor

You are invited to attend a remote meeting of the **LICENSING SUB COMMITTEE** to be held at **10.00 am** on **THURSDAY, 20 AUGUST 2020**.

**PLEASE NOTE: DUE TO THE CURRENT RESTRICTIONS ON TRAVEL AND THE REQUIREMENT FOR SOCIAL DISTANCING THIS MEETING WILL NOT BE HELD AT ITS USUAL LOCATION. THIS WILL BE A REMOTE MEETING BY VIDEO CONFERENCE AND NOT OPEN TO THE PUBLIC.**

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: REVIEW OF A PREMISES LICENCE - Y BODUNIG, HIGH STREET, DYSERTH (Pages 5 - 94)**

To consider an application from North Wales Police for the review of a Premises Licence submitted in accordance with Section 51 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**

Hugh Irving  
Brian Jones

Melvyn Mile

### **COPIES TO:**

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## LICENSING SUB COMMITTEE (LSC) HEARINGS

### PROCEDURE FOR REMOTE LICENCE REVIEW HEARINGS – S.51 LICENSING ACT 2003

**DUE TO RESTRICTIONS IMPOSED IN RESPONSE TO THE CORONAVIRUS PANDEMIC LICENSING SUB COMMITTEE HEARINGS DURING THIS PERIOD WILL BE HELD REMOTELY VIA VIDEO CONFERENCE USING THE CISCO WEBEX SYSTEM. THE SYSTEM WILL BE TESTED WITH PARTICIPANTS BEFOREHAND AND AN ELECTRONIC INVITATION AND WEBLINK TO ACCESS THE HEARING WILL BE SENT TO ALL RELEVANT PARTIES**

STEP	DESCRIPTION
1.	Chair formally opens the meeting and welcomes everyone present. Chair introduces members on LSC and officers present. Chair invites other parties to introduce themselves and who they represent.
2.	Chair invites Licensing Officer to introduce the Review Application.
3.	Chair invites the Applicant to present the Review Application.
4.	Chair invites (if present) any additional Responsible Authorities to present their representations.
5.	Chair invites members of the LSC to ask questions of the Applicant and any Responsible Authorities present.
6.	Chair invites (if present) other Interested Parties to present their representations.
7.	Chair invites the Premises Licence holder to present representations.
8.	Chair invites members of the LSC to ask questions of the Premises Licence holder and (if present) Interested Parties and to clarify any points with the Applicant.
9.	Chair invites the Applicant to make a final statement.
10.	Chair closes the meeting to all other parties (who will exit the meeting) whilst members of the LSC remain in the meeting to consider their decision in private, with the Legal Adviser and Clerk to the hearing present. [The meeting host locks the meeting at this point to ensure privacy.]
11.	Chair ends the private session when a decision has been reached.
12.	The LSC outline decision and reasons will be emailed to all relevant parties as soon as practicable following the meeting. The full decision, supported by reasons, will be emailed to all relevant parties within five working days of the hearing together with information on parties' rights of appeal.

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<b>REPORT TO:</b>	Licensing Sub-Committee
<b>DATE:</b>	20 August, 2020
<b>LEAD OFFICER:</b>	Head of Planning, Public Protection and Countryside Services
<b>CONTACT OFFICER:</b>	Senior Licensing Officer 01824 706451 licensing@denbighshire.gov.uk
<b>SUBJECT:</b>	Application for Review of a Premises Licence under Section 51 of the Licensing Act 2003: <b>Y Bodunig, High Street Dyserth, Denbighshire LL18 6AA</b>

## 1. 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.

The application has been submitted by PC Manus Sheridan on behalf of North Wales Police in respect of Y Bodunig, High Street, Dyserth.

## 2. 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 and, (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. 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;
- revoke the Licence

### **4. 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 Abdulhamit Salih Colakoglu.**

#### **4.3 The current Designated Premises Supervisor at the Premises is Mr Nihat Colakoglu.**

#### **4.4 A full copy of the existing Premises Licence including the current operating schedule can be examined at Appendix A to this report**

##### **4.4.1 The grounds for review, as stated on the application, are:**

*“Failure to promote the Licensing Objectives, particularly Public Safety and the Prevention of Crime and Disorder”.*

- 4.4.2 Full details of the grounds for review have been provided by North Wales Police and can be examined at Appendix B to this Report. However, in summary, on 20<sup>th</sup> March, 2020 in response to the worldwide pandemic of the Covid-19 virus, the UK Government instructed all public houses, clubs and restaurants, etc. to close as soon as reasonably possible and to have done so by the morning of 21<sup>st</sup> March.
- 4.4.3 The premises originally came to the notice of North Wales Police due to a breach of conditions and was subject to a Review in 2014 as a result of which, the Designated Premises Supervisor at the time, Derek Coulton, was removed and replaced with Nihat Colakoglu. Mr Colakoglu remains as the Designated Premises Supervisor with Derek Coulton as Manager, responsible for the day-to-day running of the premises.
- 4.4.4 During the early hours of 21<sup>st</sup> March, 2020, officers on patrol noticed lights on at the Bodunig Inn and, as premises would have to be closed by the following morning, they decided to check on the venue. Approximately 15 people were in the bar area and a further person in the lounge area. Given this was the night that premises had been instructed to close, Mr Coulton was advised as such by the attending Sergeant.
- 4.4.5 The application for review then goes on to detail various incidents when intelligence was received reporting that the premises was open and accounts of police officers' visits.
- 4.4.6 In view of these incidents, North Wales Police state that they have a lack of confidence in the ability of the management of the premises to run the premises in a responsible manner. They also refer to issues with the provision of CCTV evidence, along with the fact that whilst the majority of licensees adhered to the regulations put in place in response to the Covid-19 pandemic, Derek Coulton broke these regulations and continued to do so, despite being warned on several occasions by North Wales Police and the Licensing Authority.
- 4.4.7 North Wales Police state that they wish to permanently close the Bodunig Inn. This is the second time the premises has been brought to review and despite being removed as Designated Premises Supervisor, Derek Coulton still has control at the venue. The Police maintain that whilst other premises responded to the crisis responsibly and remained closed, by opening Mr Coulton put himself, customers and key-workers at risk.

- 4.5 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.
- 4.6 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.
- 4.7 Relevant Representations  
Four representations that have been deemed to be relevant by the Head of Planning and Public Protection have been received in respect of the application within the statutory 28-day period. These letters can be examined at Appendix C.
- 4.7.1 Derek Coulton, Manager of the premises, acting as an interested party, has submitted a response to the application. Three further letters have been received which, whilst acknowledging the issues raised by the police, also offer their support for the premises to remain open.
- 4.8 At the time of preparing this report, no response to the review has been received from the Premises Licence Holder.
- 4.9 Issues and Matters relevant to the Application  
Members will note that in considering the Application, they should take into account: -
- Balancing the interests of owners, employees, customers and neighbours of the premises.
- 4.10 Licensing Objectives / Guidance / Policy Considerations  
The relevant representations engage the licensing objectives.
- 4.10.1 The Sub-Committee, in respect of this application, is referred to the Guidance issued under Section 182 of the Licensing Act 2003:
- Crime and Disorder **Section 2.1 to 2.6**
  - Public Safety **Section 2.7 to 2.14**
- 4.10.2 Statement of Licensing Policy – Review Process  
The Sub-Committee, in respect of this application, is referred to the

Council's Statement of Licensing Policy:

- Crime and Disorder **Section 3.1**
- Public Safety **Section 3.2**

4.11 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 note that once steps, as detailed at Section 3 of this report 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.

5.3 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.

5.4 Members of the Licensing Sub Committee are reminded of the need to provide reasons for their decision.

5.6 Members are reminded that any condition agreed to be relevant and proportionate requires appending to the face of 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.

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