
REPORT TO:	Licensing Sub-Committee
DATE:	30 th November 2015
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 Variation of an existing Premises Licence: Devine, Lenton Pool, Denbigh

1. PURPOSE OF THE REPORT

- 1.1 The Licensing Authority has received an application to Vary an existing Premises Licence, submitted in accordance with Section 34 of the Licensing Act 2003 in respect of Devine, Lenton Pool, Denbigh. 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 Variation of a Premises Licence. The representations received relate primarily to the Prevention of Public Nuisance and the Prevention of Crime and Disorder.
- 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 to Vary 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 17th September 2015, the Licensing Authority received an application to Vary an existing Premises Licence. The Application has been submitted by John Sydney Wynne in respect of Devine situated at Lenton Pool, Denbigh.

4.2 The current Premises Licence authorises the following activities:

LICENSABLE ACTIVITY	DAYS APPLICABLE	TIME FROM	TIME TO
Supply of Alcohol (for consumption on the premises only)	Monday - Sunday	12:30	00:30
Playing of Recorded Music	Monday - Sunday	12:30	00:30
Late Night Refreshment (Indoors & Outdoors)*	Monday - Sunday	23:00	00:30

(*The supply of Late Night Refreshment only becomes a licensable activity between the hours of 23:00 and 05:00)

4.3 The Applicants has now requested authorisation to provide the following licensable activities:

LICENSABLE ACTIVITY	DAYS APPLICABLE	TIME FROM	TIME TO
Provision of Live Music (Indoors)	Friday – Sunday Public Holidays	20:00 20:00	02:00 02:00
Provision of Recorded Music (Indoors)	Thursday – Sunday Public Holidays	20:00 20:00	02:00 02:00
Supply of Alcohol (for consumption on and off the premises)	Sunday – Thursday Friday and Saturday Public Holidays	11:59 11:59 11:59	01:00 02:00 02:00
Late Night Refreshment (Indoors and Outdoors)	Sunday – Thursday Friday and Saturday Public Holidays	23:00 23:00 23:00	01:00 02:00 02:00

4.4 Licensing Act 2003 –information/requirements

When an application is submitted for a variation of 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 One written representation has been received from an interested party in response to the public notice. The representation relates to possible noise nuisance as a result of loud music, along with the disturbance that may be caused by people leaving the premises late at night and during the early hours. Details of the representation have been forwarded to the Applicant and a copy can be examined at Appendix A (**restricted document**) to this report.
- 4.6.2 North Wales Police have submitted representations to the Application. However, after discussions with the Applicant, a number of conditions designed to further promote the licensing objectives have been drawn up and on this basis, North Wales Police request that, should Members be minded to grant the application, they consider incorporating these conditions within the premises' Operating Schedule. Members may examine the conditions at Appendix B (**restricted document**) to this report.
- 4.6.3 Officers have met with the Applicant and Interested Party with a view to achieving agreement; at the time of preparing this report however, mediation is ongoing.
- 4.6.4 The Council's Planning Authority has informed the Licensing Section that there is currently some discrepancy between the current authorised use of the premises to that proposed within the Application. The Applicant is aware of the situation and has been in contact with planning officers.
- 4.7 Members may wish to refer to sections 13.57 and 13.58 of Amended Guidance issued under Section 182 of the Licensing Act 2003 and to Section 4 of the Council's Statement of Licensing Policy when considering these issues.

4.8 **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 Crime and Disorder
- Prevention of Public Nuisance **Section 2.14 to 2.20**

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 5**
- Prevention of Public Nuisance **Section 7**

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 and Members may examine the steps proposed at Appendix C (**restricted document**) to this report; these are in addition to those within the existing licence, details of which are provided at Appendix D (**restricted document**).

5.3 Given the concerns raised by the Interested Party, Members will wish to question the Applicant (or their representative) to establish that preventative methods will be employed, both to ensure that music levels are carefully monitored and that appropriate measures have been taken to encourage patrons to leave the premises quietly and with consideration for others.

5.4 Members are reminded that, as of October 2012 when the Live Music Act came into force, the licensing requirement for live music between 08:00 hrs and 23:00 hrs has been removed in certain circumstances. For Members' reference Section 15 of the Guidance to the Licensing Act defines these exemptions.

5.5 Finally, Members are reminded, that although the representations submitted by North Wales Police have been agreed by the Applicant, any amendments to the original application such as 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 suggested 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 by granting this application as applied for, it would promote the statutory licensing objectives, more specifically, the prevention of public nuisance and prevention of crime and disorder.
- 6.3 In view of the representations received, Members will wish to give careful consideration to this Application to Vary a Premises Licence.