

REPORT TO:	Licensing Sub-Committee
DATE:	5 th March 2019
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 variation of an existing Premises Licence MRH Ruthin, Park Road, Ruthin. Application Number 534275

1. PURPOSE OF THE REPORT

- 1.1 The Licensing Authority has received an application for variation of an existing Premises Licence, submitted in accordance with Section 34 of the Licensing Act 2003 in respect of MRH Ruthin, Park Road, Ruthin. 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 an existing Premises Licence. The representations received relate to all four Licensing Objectives.
- 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 8th January 2019, the Licensing Authority received a fully completed application for variation of an existing Premises Licence. The Application has been submitted by Malthurst Retail Limited and a full copy of the application can be examined at Appendix A.

4.2 The premises proposes to vary their hours to open 24 hours for the sale of alcohol as an off licence together with the provision of late night refreshment. For Members information, the premises are a petrol filling station, with a small convenience store. Currently the petrol filling station is open 24 hours.

4.3 The Applicant has requested authorisation to provide the following:

LICENSABLE ACTIVITY	DAYS APPLICABLE	TIME FROM	TIME TO
Supply of alcohol (for consumption off the premises)	Monday-Sunday	24 hours	
Provision of late night refreshment (both on and off the premises)	Monday – Sunday	23:00	05:00
Hours Premises are open to the Public	Monday-Sunday	24 hours	

4.4 The current Premises Licence authorises the sale by retail of alcohol for consumption off the premises only Monday to Sunday from 06:00 to

23:00. There are currently no opening hours of the premises stated on the Premises Licence.

4.5 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

4.6 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.

4.6.1 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:

4.6.1.1 9 written representations have been received from Interested Parties in response to the public notice. The representations relate to mainly possible disturbance from noise and anti-social behaviour, details of which can be seen at Appendix B.

4.6.2 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 C.

4.6.3 Due to the number of representations received, mediation has not been an option and therefore it is more appropriate for the matter to be brought before Members.

4.7 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.

4.8 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 Public Nuisance **Section 2.15 to 2.21**
- Prevention of Crime and Disorder **Section 2.1 to 2.6**
- Public Safety **Section 2.7 to 2.14**
- Protection of children from harm **Section 2.22 to 2.32**

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**
- Prevention of Public Nuisance **Section 3.3**
- Public Safety **Section 3.2**
- Protection of children from harm **Section 3.4**

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 Applicants (or their representatives) to ensure

that they intend to employ appropriate methods to promote the licensing objectives.

- 5.4 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 In view of the representations received from the Interested Parties, Members will be required to determine whether they are relevant and appropriate to meet the licensing objectives.
- 6.3 Should Members be minded to grant the application, they consider incorporating North Wales Police' conditions within the Premises' Operating Schedule.