

REPORT TO:	Licensing Sub Committee
DATE:	21 st November 2019
LEAD OFFICER:	Head of Planning and Public Protection
CONTACT OFFICER:	Senior Licensing Officer (Technical) licensing@denbighshire.gov.uk 01824 706451
SUBJECT:	Licensing Act 2003 - Application for Variation of a Premises Licence Bodrum Kebab House 10 Water Street, Rhyl

1.0 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 Bodrum Kebab House, 10 Water Street, 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.

2.0 EXECUTIVE SUMMARY

- 2.1. This is an application for Variation of a 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.

3.0 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 23rd September 2019, the Licensing Authority received a fully completed application for Variation of a Premises Licence. The Application has been submitted by Mr Ramazan Topac. A full copy of the application can be examined at Appendix A.

4.2 The Premises operating hours are currently:

LICENSABLE ACTIVITY	DAYS APPLICABLE	TIME FROM	TIME TO
Provision of Late Night Refreshment - Outdoors	Monday – Thursday Friday - Sunday	23:00 23:00	01:00 04:00
Hours Premises are open to the Public	Monday – Thursday Friday - Sunday	16:00 16:00	01:00 04:00

4.3 The Applicant has now requested authorisation to extend the operating hours of the premises as follows:

LICENSABLE ACTIVITY	DAYS APPLICABLE	TIME FROM	TIME TO
Provision of Late Night Refreshment - Outdoors	Monday – Sunday	23:00	04:00
Hours Premises are open to the Public	Monday – Sunday	16:00	04:00

4.3.1 Members will wish to note that the provision of Late Night Refreshment only becomes a licensable activity between the hours of 23:00 and 05:00.

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
- 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 A written representation has been received on behalf of 2 Interested Parties in response to the public notice. The representations relate to a possible disturbance from noise and an increase in rubbish, etc as a result of the longer opening hours. Further details can be seen at Appendix B

4.6.2 Having received details of the representation, officers offered to facilitate mediation between the parties and, in response, Mr Topac suggested that he would be willing to continue to operate as at 4.2 (current hours) but would wish to have the flexibility to remain open from 16:00 until 04:00 on the following days:

- Bank Holiday Mondays
- Christmas Eve (when it falls on Mon –Thurs)
- Christmas Day (when it falls on Mon –Thurs)

- Boxing Day (when it falls on Mon – Thurs)
- New year's Eve (when it falls on Mon – Thurs)

- 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.
- 4.6.4 On this occasion, although the Applicant's suggestion was put to them, the Interested Parties would prefer 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:
- Prevention of Public Nuisance **Sections 2.15 to 2.21**
- 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 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 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 additional conditions and the proposed operating schedule can be viewed as part of the Application to be found at Appendix A.

- 5.2 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.

SUMMARY

6.0

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.

6.1

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

6.2

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

6.3