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

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 20th 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 21st 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 21st 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.