

REPORT TO:	Licensing Sub-Committee
DATE:	4 th February 2021
LEAD OFFICER:	Head of Planning, Public Protection and Countryside Services
CONTACT OFFICER:	Senior Licensing Officer 01824 706433 licensing@denbighshire.gov.uk
SUBJECT:	Application for Review of a Premises Licence under Section 51 of the Licensing Act 2003: The Royal Victoria, Sandy Lane, Prestatyn Licence Number: PL(A)0128

1.0 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.
- 1.2 The application has been submitted by Mr Mark O'Grady, Company Secretary of Victoria Apartments (Prestatyn) Ltd in respect of The Royal Victoria, Sandy Lane, Prestatyn, LL19 7ES.

2.0 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,
 - (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.

3.0 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, or
- revoke the Licence

4.0 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 Mr Mark O’Grady originally submitted an application in February 2020 for the review of a premises licence held by Admiral Taverns Limited in respect of The Royal Victoria, Sandy Lane, Prestatyn, however due to the Covid-19 pandemic and restrictions, the scheduled Licensing Sub-Committee Hearing in March was postponed to a future date.

4.3 The current Designated Premises Supervisor at the premises is Mrs Diane Rona Thomas-Mealing.

4.4 A full copy of the existing Premises Licence including the current operating schedule can be examined at Appendix A.

4.5 The grounds for review relate to prevention of crime and disorder and prevention of public nuisance licensing objectives and in particular, as stated on the application, relate to noise issues at and around the premises affecting residential properties along with anti-social behaviour.

- 4.6 Full details of the review application submitted by Mr. O’Grady, can be examined at Appendix B to this Report.
- 4.7 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.
- 4.8 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.
- 4.9 Relevant Representations
- 4.9.1 As a response to the public notice, the Licensing Authority received comments from North Wales Police, who have stated that although there have been a number of incidents recorded against the premises, the premises have demonstrated that they have been adhering to their licensing conditions and therefore North Wales Police have no concerns in respect of the premises responsibilities under the crime and disorder licensing objective. Full details can be found at Appendix C.
- 4.9.2 Comments have also been received from the Council’s Pollution Control Section who have had some involvement since 2017 in relation to noise complaints. Unfortunately the complaints have not been substantiated and therefore no further action has been taken. The full comments can be found at Appendix D.
- 4.9.3 Nine statements have also been received from leaseholders of Victoria Apartments in support of Mr. O’Grady’s application. They are all relating to noise disturbance and some relate to anti-social behaviour. Copies can be found at Appendix E.
- 4.9.4 The Premises Licence Holders, Admiral Tavern Ltd, has responded to the review application and submitted written representations to support their case. Please see Appendix F.
- 4.9.5 To support the Premises Licence Holders written representations, Mrs Diane Mealing-Thomas, the Designated Premises Supervisor, has submitted her own written representations. Please see Appendix G.

4.10 Issues and Matters relevant to the Application

4.10.1 Members will note that in considering the Application, they should take into account a balance in the interests of owners, employees, customers and neighbours of the premises.

4.10.2 The Council's Licensing Enforcement Officer has confirmed that between June 2010 and May 2019 ten complaints were brought to the attention of the Authority. As is usual practice a noise monitoring log sheet is supplied to each complainant for completion and return to the Council's Pollution Control Section for further action if necessary.

4.10.3 Since March, Officers have been mediating with the applicant, Mr O'Grady and the Premises Licence Holders, Admiral Taverns, with a view to reaching an agreement acceptable to all parties. During the mediation process, Mr. O'Grady submitted his proposals (and on behalf of the residents) which he felt would address the on-going issues at the premises, which can be found at Appendix H, namely:

- a. Reduction in hours Sunday to Thursday up to 23:00 hrs and midnight on a Friday and Saturday
- b. Installing an appropriate and decent quality sound proofing between the licensed premises and the first floor, due to the existing installation being deemed to be very poor.

4.10.4 Admiral Taverns have considered the proposals submitted by Mr. O'Grady, and can be found at Appendix I, to summarise:

- a. they cannot agree to the proposals put forward in respect of reduced hours as the existing business model would not be viable for this outlet given the nature of the operation and location.
- b. They are happy to meet Officers on site and consider any other structural changes, including noise reduction measure at the premises which may appease the complainants.

4.10.6 As a result of the mediation process, the Council's Pollution Control Officers have liaised with Admiral Taverns with a view to arranging a site meeting. However, at the time of writing this report, no firm arrangements have been made due to Covid-19 travel restrictions in both Wales and England.

4.11 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:

- The prevention of crime and disorder - **Section 2.1 to 2.6**
- The prevention of public nuisance - **Section 2.15 to 2.21**

4.12 Statement of Licensing Policy – Review Process

The Sub-Committee, in respect of this application, is referred to the Council's Statement of Licensing Policy:

- The prevention of crime and disorder - **Section 3.1.1 to 3.1.17**
- The prevention of public nuisance – **Section 3.3.1 to 3.3.9**

4.13 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, Public Protection and Countryside Services has put the following comments forward to assist Members in their deliberations.

5.2 Members should take into full account the 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.

5.3 In addition to 5.2 above, Members are also reminded that a joint enforcement protocol exists with North Wales Police and the Council. This joint enforcement protocol describes how North Wales Police and the licensing authority will deal with problems arising at premises in relation to any of the four licensing objectives by way of an enforcement ladder system from stages one to three. Officers can confirm that the enforcement protocol has not been instigated, to date, in relation to the above named premises.

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

5.5 Members are reminded that if any additional conditions are agreed to be relevant and proportionate requires appending to the Premises Licence.

5.6 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.

5.7 Members should note that once steps, as detailed at Section 3 of this report (the decision of the Committee) 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.