

REPORT TO:	Licensing Sub-Committee
DATE:	11 th November 2021
LEAD OFFICER:	Head of Planning, Public Protection and Countryside Services
CONTACT OFFICER:	Senior Technical Officer (Licensing) 01824 706451 licensing@denbighshire.gov.uk
SUBJECT:	Licensing Act 2003 Application for Variation of an existing Premises Licence The Cove, 17-19 Water Street, Rhyl Application Number 554418

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 The Cove, 17-19 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. EXECUTIVE SUMMARY

- 2.1 This is an application for variation of an existing premises licence. The representations received relate to the Prevention of Public Nuisance objective of the Licensing Act.
- 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 16th September 2021, the Licensing Authority received a fully completed application for variation of an existing Premises Licence. The application has been submitted by Miss Abbie Elizabeth Nelson and a full copy of the application can be examined at Appendix A.

4.2 The premises proposes to vary their hours to open from 11:00 until 03.00 Monday to Sunday with the provision of the Supply of Alcohol (for consumption on and off the premises), along with the provision of recorded and live music (on the premises only).

4.3 The Applicant has requested authorisation to provide the following:

LICENSABLE ACTIVITY	DAYS APPLICABLE	TIME FROM	TIME TO
Supply of alcohol (for consumption on and off the premises)	Monday-Sunday	11:00	03:00
Provision of Recorded Music	Monday – Sunday	11:00	03:00
Provision of Live Music	Monday-Sunday	11:00	02:00
Opening Hours of the Premises	Monday - Sunday	11:00	03:00

- 4.4 The premises is currently authorised to provide licensable activities from 11:00 to 03:00 on a Friday and Saturday so the application to extend the operating hours is relevant to Sunday to Thursday only. Members may wish to examine the current Premises Licence in further detail, attached at Appendix B.
- 4.5 The applicant has further requested that the current conditions relating to Door Supervisors be amended.
- 4.5.1 The current licence requires a minimum of 2 Door Supervisors to be on duty every Friday and Saturday, Bank Holidays, Christmas Eve and New Year's Eve from 21:00 until close of business and all customers have vacated the premises. These persons will be employed solely in the management of the entry and exit of customers and the maintenance of order at the premises.
- 4.5.2 Every Sunday a minimum of 2 Door Supervisors must be on duty from 20:00 until close of business and customers have vacated the premises.
- 4.5.3 On nights when the premises is open beyond midnight, a minimum of 2 Door Supervisors must be on duty until close of business and customers have vacated the premises. These persons will be employed solely in the management of the entry and exit of customers and the maintenance of order at the premises.
- 4.5.4 The applicant wishes the above conditions to be revised as follows:
- Sunday to Thursday – 1 Door Supervisor from 21:00 to 03:00
 - Friday and Saturday (and Bank Holidays / Events) – 2 Door Supervisors from 21:00 to 03:00.
- 4.5.5 The current conditions relating to the number of Door Supervisors can be viewed at Appendix B within the current Premises Licence (points 10, 11 and 12 at the conditions relating to the Prevention of Crime and Disorder). All other conditions appended to the current licence will remain.
- 4.6 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

4.6.1 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.

4.6.1.1 Relevant Representations

Representations that have been deemed to be relevant by the Head of Planning, Public Protection and Countryside Services have been received within the statutory 28-day period:

4.6.1.2 One written representation has been received from an Interested Party in response to the public notice. The representation relates mainly to possible disturbance from noise, details of which can be seen at Appendix C.

4.6.1.3 When submitting the representation, the Interested Party also attached a number of recordings taken at his premises (circulated to Members prior to the Hearing):

Date of Recording	Time of Recording
31 st July 2021	20:52
29 th August 2021	23:19
23 rd September 2021	21:16
25 th September 2021	21:27

4.6.2 Having received a relevant representation, officers contacted both the applicant and the interested party to establish whether mediation would be an option.

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 In this case, both parties were open to the possibility of mediation and the process remains ongoing at the time of preparing this report. Should there be any progress, officers will update Members at the Hearing.

4.9 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**

4.10 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**

4.11 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 application (Section M) at Appendix A.

5.3 Given the concerns raised by the objector, 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.

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 Party, Members will be required to determine whether they are relevant and and whether granting this application as applied for would meet the statutory licensing objectives.
- 6.3 Should Members be minded to grant the application, they may also wish to consider appending the additional conditions proposed by the applicant within their proposed operating schedule to the licence.