

<b>REPORT TO:</b>	Licensing Sub-Committee
<b>DATE:</b>	19 <sup>th</sup> September 2024
<b>LEAD OFFICER:</b>	Head of Planning, Public Protection and Countryside Services
<b>CONTACT OFFICER:</b>	Licensing Officer 01824 712339 <a href="mailto:licensing@denbighshire.gov.uk">licensing@denbighshire.gov.uk</a>
<b>SUBJECT:</b>	Licensing Act 2003 Application for Variation of Premises Licence Ellis's Bar, 42 - 44 Water Street, Rhyl, Denbighshire, LL18 1SS. Application Number 577302

## **1. PURPOSE OF THE REPORT**

- 1.1 The Licensing Authority has received an application for a Variation of Premises Licence, submitted in accordance with Section 34 of the Licensing Act 2003 in respect of Ellis's Bar, 42 - 44 Water Street, Rhyl, Denbighshire, LL18 1SS. 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 a Variation of a 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 24<sup>th</sup> July 2024, the Licensing Authority received a fully completed application for a Variation of Premises Licence. The Application has been submitted by Mr Leigh Wright and Mrs Christine Wright and a full copy of the application can be examined at Appendix A.

4.2 The premises propose to remove the building to the rear of Ellis's to create a beer garden in its place. The applicant has stated there will be no music in the beer garden after 11pm, and there will be CCTV/Door staff monitoring the beer garden after 11 pm. A secondary door will also be fitted onto beer garden to avoid the breakout of noise.

4.3 The premises is currently authorised to provide licensable activities from 09:00 to 04:00 on Monday – Sunday. However, as the variation application is not to extend the existing operating hours these are only for Members information. Members may wish to examine the current Premises Licence in further detail, attached at Appendix B

#### **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. Confirmation of this requirement has been received.

#### 4.6 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:

4.7 Seven written representations have been received from "Other Persons" in response to the public notice. The representations relate mainly to possible disturbance from noise, anti-social behaviour, and Public Nuisance details of which can be seen at Appendix C. One representation has referred to photos, these can be found at Appendix D.

4.7.1 The applicant has engaged with North Wales Police and the Council's Environmental Health section prior to submitting their application and subsequently both Responsible Authorities have stated they have no comments or objections to the application, which you can find at Appendix E.

4.7.2 As a result of the representations received, mediation was offered to all parties, and at the time of writing this report no formal agreement has been reached. As part of mediation the applicant has offered to make a number of adjustments to his application, such as raising barrier screens and suggested closing the beer garden after 23:00 hrs, along with his agent submitting a statement to "Other Persons", both of which can be found at Appendix F. However, at the time of writing this report at least one "Other Person" is not satisfied that the further proposals would address their concerns, and their response to the applicant's initial proposals can be found at Appendix G. Members will note personal details other than that of the applicant and the objectors have been redacted from the representations as they are not relevant to this application.

4.7.3 It is important that Members note when suggesting the option of mediation or negotiation to Other Persons 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.

4.7.4 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**

4.8 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**

4.9 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, Public Protection and Countryside Services 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 application found at Appendix A.

5.3 Given the concerns raised by “Other Persons”, 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 All parties have been invited to attend the Hearing.
- 5.5 Members are reminded that any amendments to the original application ie additional conditions or amendments to licensable activities and hours, 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 Other 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, that they consider approving the variation as detailed at 4.2 above.