

# Agenda

## Is-bwyllgor Trwyddedu

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Dyddiad: Dydd Mawrth, 17 Ionawr 2023

Amser: 10.00 am

Lleoliad: Siambr y Cyngor, Canolfan Ddinesig

At: Cyngorwyr: K Thomas (Cadeirydd), J Cleverly, F Hussain, D Fouweather, A Morris, S Adan, C Baker-Westhead, R Howells, M Kellaway, D Mayer and A Pimm

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<b>Eitem</b>	<b>Wardiau Dan Sylw</b>
1 <u>Ymddiheuriadau dros Absenoldeb</u>	
2 <u>Datganiadau o ddiddordeb</u>	
3 <u>Is-bwyllgor Trwyddedu: Cod Ymarfer (Tudalennau 3 - 16)</u>	
4 <u>10am - Adolygu Trwydded Safle o dan Adran 51 Deddf Trwyddedu 2003, The Scrum Half, 111 Heol Cas-gwent, Casnewydd. NP19 8BZ (Tudalennau 17 - 58)</u>	Victoria
5 <u>10.30am - Adolygu Trwydded Safle o dan Adran 51 Deddf Trwyddedu 2003, The Pod, Heol Rodney, Casnewydd NP19 0AD (Tudalennau 59 - 92)</u>	Victoria

Mae'r dudalen hon yn wag yn

## Conduct and Procedure of Licensing Sub-committee

### 1 Membership and appointment of Chair

- 1.1 The Licensing Sub-committee comprises all members of the committee, other than those who have an interest or who is the ward member for the ward in which premises under consideration is located. The quorum is three. The Chair will be elected on the day by a simple majority vote.
- 1.2 For example, if they live in the vicinity of the licensed premises, or have a friendship or a close personal association with either the applicant or any objector this would disqualify the Member from considering the matter.
- 1.3 Members of the Licensing Sub-Committees should inform the Senior Democratic Services Officer immediately if they consider that they are disqualified from considering any application, if members of the Licensing Sub-Committee become aware of any personal interest in any application before them they should declare the interest at the beginning of the meeting and withdraw immediately.

### 2 Ward Councillors

- 2.1 Ward Councillors are no longer expressly permitted to make representation in their capacity as Ward Councillors although they are entitled to make representations as individuals falling within the category of “any other person”, if they are likely to be affected by an application (for example if they live in close proximity to the licensed premises). Councillors however must comply at all times with the Members Code of Conduct (“the Code”). Ward Councillors should avoid discussing the application with any of the Licensing Sub-Committee beforehand to avoid any suspicion of undue influence or breach of the general obligation in the Code not to improperly use their position as a Councillor to secure any advantage.
- 2.2 If a Ward Councillor has a personal interest in an application (for example, because he/she lives in close proximity to the premises), then this is also likely to be a “prejudicial” interest under the Code. Provided that the Member declares the interest and withdraws from the hearing after making representations, then he/she is entitled under paragraph 14(2) of the Code to appear at the hearing in the same way as any other member of the public having made a relevant representation within the meaning of the Act (“any other person”). This also applies whether or not the Councillor is a Member of the Licensing Committee. Because of this “personal and prejudicial” interest the Ward Councillor cannot have any other involvement with officers or members regarding the application.
- 2.3 Ward Councillors who are not members of Licensing Committee may also act as the appointed representatives for any other person at the hearing, if requested to do so, but they should avoid discussing the application with any of the Licensing Sub-Committee beforehand. If a Ward Member is representing any other person, that other person must have objected by their own accord before a Ward Member can be requested to act as their representative at the hearing.
- 2.4 Ward Councillors who are members of Licensing Committee should not appear as the appointed representatives for any other person at the hearing because of the requirements of natural justice and the need to avoid giving any impression of undue influence or breach of the general obligation in the Code not to improperly use their position as a Councillor to secure any advantage.

### **3 Lobbying**

- 3.1 Other Members must not lobby any Member of the Licensing Sub-committee, directly or indirectly, about any application before them.
- 3.2 Members of the public or any of the parties must not lobby any members of the Licensing Sub-Committee about any application before them. If any of the members of the Licensing Sub-Committee are approached by any person about a licensing matter, they should explain that they cannot discuss the matter and refer the person to the Licensing Officer. Any written representations received by individual members of the Licensing Sub-Committee must be passed to the Licensing Officer and reported at the hearing.

### **4 Chair of the Licensing Sub-Committee**

The Chair of the Licensing Sub-Committee is to be elected by Members on the day by simple majority vote.

### **5 Quorum**

- 5.1 Although the Act allows for the hearing to continue with two members present, the Council's Constitution and the Statement of Licensing Policy provides that three Councillors shall constitute a quorum for any meeting and it is good administrative practice for three members to be present.

If the meeting becomes inquorate at any time, the matter will need to be adjourned or referred to full Licensing Committee.

- 5.3 Membership may change during the course of a Sub-Committee meeting only if an individual member is disqualified from considering some but not all of the applications on the agenda. All members considering an application however must be present throughout the individual hearing. If, for any reason, a member needs to withdraw during the hearing, the proceedings should be temporarily adjourned until the member returns. The meeting will only commence if quorate. If a member arrives late and after the hearing commences, he or she will be disqualified from hearing the specific case under consideration but can hear other cases set out in the agenda.

### **6 Statutory Guidance**

- 6.1 The Licensing Act 2003 (Hearings) Regulations 2005 SI 44/2005 and the The Licensing Act 2003 (Hearings) (Amendment) Regulations 2004 SI 78/2005 ("the Regulations") made under Section 183 of the Act set out the statutory framework for the Licensing Sub-Committee hearings.
- 6.2 These Regulations make provision for hearings required to be held by the Council as Licensing Authority, under the Licensing Act 2003. In particular, the Regulations provide for the timing of the hearings and the notification requirements regarding the time and date of the hearings and information to be given to the parties. In addition, provision is made for a party to provide information to the Licensing Committee about attendance at a hearing, representations, the seeking of permission for another person to attend to assist and whether a party believes that a hearing is necessary.
- 6.3 The Regulations provide for a range of procedural issues to govern the way in which preparations are made for a hearing, the procedures to be followed, the rights of parties at the hearing, the keeping of records and the manner of giving notices. The Regulations also make provision for the timing of the Licensing Committee's determination following a hearing.



6.4 Insofar as the Regulations do not make specific provision for procedures for and at hearings, the Licensing Authority can determine its own procedures.

## **7 Notice of Hearings**

7.1 The provisions of the Local Government Act 1972 requiring at least three clear working days' notice of Council and Committee meetings do not apply to hearings conducted under the Licensing Act 2003.

7.2 Instead Regulation 6 of the Regulations prescribes the period of notice to be given for a Licensing Committee hearing, depending upon the type of application being considered.

7.2.1 At least two clear working days' notice must be given if the hearing is to consider

- the cancellation of an interim authority notice following a police objection
- counter notice following a police objection to a temporary event notice

7.2.2 at least five clear working days' notice must be given if the hearing is to consider

- review of premises licence following a closure order
- determination of application for conversion of existing licence
- determination of application for conversion of existing club certificate
- determination of application by holder of justices' licence for the grant of a personal licence

7.2.3 In all other cases, at least 10 clear working day's notice of the hearing must be given.

## **8 Timescale for arranging hearings**

8.1 Regulations 4 and 5 and Schedule 1 set out the time periods within which the Council is required to arrange hearings. Where a hearing cannot be concluded in one day and has to be held on more than one day, the Regulations require that the hearing must be arranged to take place on consecutive working days.

8.2 The time frame for arranging hearings again depends on the nature of the application and varies from 20 working days from the last date when representation may be made or notice may be received from the Police to five working days in the case of cancellation of an interim authority notice following a police objection.

## **9 Form of Notice**

9.1 Regulation 34 requires that notice of the hearing shall be in writing although it is a matter for the Council to determine how the notice should be given. The Regulations specifically provide that notice can be given electronically (eg by email or fax transmission) provided that the recipient agrees to this method of notice beforehand and a hard copy of the notice is also despatched at the same time. The notice is then deemed to have been properly served at the time of the electronic transmission. Any notice served by second class post would generally be deemed to have been served within two working days.

9.2 It is recommended that all notices and information should be sent to the parties by second class post. In the case of emergency applications that have to be dealt with at short notice or where the parties specifically request, copies will also be sent by email or fax, where these details are known.

## **10 Information to be provided**

10.1 Regulation 7 provides that the following information must be sent out with the notice of hearing

- The rights of attendance, assistance and representation
- The consequences if a party does not attend or is not represented at the hearing (which will usually be that the hearing will proceed in the party's absence)
- The procedure to be followed at the hearing
- Any particular points on which the Licensing Committee considers that it wants clarification from any party at the hearing

10.2 Regulation 7(2) also provides that, in relation to the hearings listed in column 1 of Schedule 3 of the Regulations, certain specified documents must be sent with the notice of hearing to the persons identified. For most types of application, this means that copies of the relevant representations or notices given must be sent to the applicants or licence holders.

10.3 The Regulations require that the notice of the hearing and supporting information must be sent to the appropriate parties ie the applicant and any persons making relevant representations. There is no requirement for public notice to be given of the hearing or for the supporting information to be made available to the press and public or any other members of the Council. The Council however has a discretion as to whether or not to publicise the hearing more widely.

10.4 Having regard to the principles of open government, the Constitutional requirements that decisions are taken in a transparent and accountable manner and the requirements of Regulation 14(1) that hearings are generally conducted in public, it is recommended that the Licensing Sub-committees follow the same publicity arrangements as with other Committee meetings.

## **11 Requirements for Applicants and any other persons**

11.1 Upon receipt of the notice of the meeting, the Applicant and any other person must inform the Council in writing

- Whether they intend to attend or be represented at the hearing
- Whether they consider a hearing to be unnecessary
- Requests for any other people to attend the hearing eg witnesses (including their names and a brief description of the evidence that they can give and its relevance to the application)

11.2 In the case of emergency applications, such as the cancellation of an interim authority notice following representations by the police or a counter notice following a police objection to a temporary events notice, this information must be provided not later than one working day before the hearing. In the case of the review of premises licences following closure orders, an application for conversion of existing licences or club certificates and the grant of personal licences, the information must be provided at least two working days before the hearing. In all other cases the information must be provided at least five working days before the hearing.

11.3 It is recommended that a separate letter be sent to the Applicant and any other person at the same time as the agenda for the meeting, reminding them of the need for this information and asking them for a response as soon as possible before the meeting. If the Licensing Sub-committee is informed in good time before the meeting that the parties do not wish to attend, then it may be possible to reschedule other business or applications for that meeting.

- 11.4 Regulation 9 allows the Council to dispense with the need for a hearing if the Applicant and all any other persons agree. If all the parties respond to the request for information stating that they consider a hearing to be unnecessary, the hearing can be vacated and notice given to the parties accordingly. A determination must then be made within 10 working days of the notice.
- 11.5 Regulation 10 provides that any party may withdraw their representations by giving written notice at least 24 hours before the hearing or orally at the hearing itself. There are no powers to avoid wasted costs in favour of either party in the event of an abortive hearing due to late withdrawal of representations. The parties should be encouraged to give as much notice as possible if they intend to withdraw their representations to avoid the unnecessary time and expense of arranging a hearing.
- 11.6 Where all objections are withdrawn and/or all the parties agree that a hearing may be dispensed with, the applications may be determined by officers under delegated powers.

## **12 Extensions of Time and adjournments (Regulations 11-13)**

The Licensing Sub-Committee have a general discretion to extend the time limits contained in the Regulations or adjourn hearings if this is considered to be necessary in the public interest. Proper notice would have to be given of any extension of time or adjournment. Time cannot be extended or hearings adjourned if this would result in a failure to comply with the timescales set out in the Act.

## **13 The Hearing**

### **13.1 Exclusions**

Regulation 14 provides that all hearings must be held in public. The Licensing Sub-Committee may however exclude the press and public (including the parties and their representatives) from all or part of the hearing if they consider that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing, taking place in public.

13.2 The Access to Information provisions of Schedule 12A of the Local Government Act 1972 do not apply to hearings before the Licensing Sub-Committee. The test for exclusion of the press and public is not whether there is "exempt information" (as defined in Schedule 12A) which is likely to be disclosed, but whether it is in the "public interest" that the hearing (or part of the hearing) should be in private.

13.3 It is recommended that, as a general rule, all representations from the parties should be heard in public unless there are exceptional circumstances. The overriding public interest dictates that hearings should be conducted in a fair, open and transparent manner and justice should be seen to be done. The Council's constitution is also based on democratic open government, accountability and public access to meetings. The parties should be given the opportunity at the beginning of the hearing to make an application for a private hearing, but they would have to establish a clear reason why this should override the public interest in an open hearing. The fact that personal information or information relating to financial, business or commercial interests would be disclosed would not, in itself, justify exclusion. An application for exclusion of the press and public could be made, for example, where sensitive information relating to individual children could be disclosed in relation to a policy issue involving the protection of children from harm, or where there are criminal justice implications involving representations made by the police. The final decision as to whether the press and public should be excluded for all or part of the hearing on public policy grounds is a matter for the Licensing Sub-Committee.

13.4 It is however recommended that, as a general rule, the press, public and the relevant parties are all excluded from the meeting while the Licensing-Sub-committee deliberate and come to

their decision on the grounds that this private debate is considered to be in the “public interest”. Everyone should then be asked to withdraw from the room, except for the Licensing Officer, the Democratic Services Officer and the Head of Law and Standards or his nominated representative. These three officers shall be entitled to remain, but only for the purpose of offering advice as to procedure or any particular point of law and to record decisions. They must not participate in the decision-making by the Licensing Sub-Committee. Where it is more convenient, the Licensing Sub-Committee may withdraw to a private room rather than require everyone else to withdraw from the meeting room.

- 13.5 If there are any further points of clarification required, then all of the parties and the public should be allowed back into the meeting while these points of clarification are addressed.
- 13.6 Regulation 25 permits the Licensing Sub-Committee to exclude any person from the hearing if they are behaving in a disruptive manner, either permanently or temporarily (permitting them to return only if they comply with such conditions as may be specified). If one of the parties is excluded on these grounds and not permitted to return, they are entitled to submit to the Licensing Sub-Committee in writing any information which they would have been entitled to give orally had they not been excluded from the meeting.
- 13.7 Representations  
Any person or responsible authority may make written representations about an application for a premises licence or certificate within a specified period, which is generally 28 working days of the receipt of the application. Representations or requests for review will only be relevant if they relate to the four licensing objectives. The applicant will be provided with copies of all relevant representations received at the same time as the notice of hearing. The written representations will also be referred to as background papers to the Report of the Licensing Officer, which will be circulated to Members of the Licensing Sub-Committee and made available to the press and public as soon as possible and, in any event, at least two clear working days before the hearing.
- 13.8 Advice should therefore be given that, if any person responds to any notice or advertisement, their letter of objection or support will be made available to the public, including personal data (such as names and addresses) in accordance with the Data Protection Act 1988. If any person objects to their name and address, or any other personal information, being made public, then their representations will need to be redacted or anonymised before being circulated (but this may affect the weight that the Licensing Sub-Committee attaches to their representations).
- 13.9 Where relevant representations have been made and an application is to be determined at a hearing, the applicant and those parties who have made representations have a right to attend the hearing (subject to rights of exclusion) and may be assisted or represented at the hearing by any person (whether or not that person is legally qualified) (Regulation 15).
- 13.10 Regulation 16 provides that a party shall be entitled at the hearing to
- Give further information in response to a point upon which the Licensing authority has given notice that it wants clarification
  - Question any other party, if permission is given by the Licensing Sub-Committee
  - Address the Licensing Sub-Committee
- 13.11 Regulation 17 provides that Members of the Licensing Sub-Committee may question any party or other person appearing at the hearing.
- 13.12 In considering any application, representations or notice made by a party, the Licensing Sub-Committee may take into account documentary or other information produced by a party in support of their application, representations or notice, either before the hearing or, with the consent of the parties, at the hearing. The Licensing Sub-Committee has discretion as to whether to admit this documentary evidence but should, generally allow this to be presented

if it is relevant and material to the application, the representations or notice submitted and the licensing objectives. This however should not be seen as an opportunity to introduce new representations outside the statutory timescale. The parties should be advised to provide any additional documentary evidence as soon as possible before the hearing and, wherever possible, this should be circulated in advance to the Members of the Licensing Sub-Committee and the other parties. The Sub-Committee will then decide at the hearing whether or not this additional documentary evidence should be admitted and considered. If admitted, the additional information will then be made available to the press and public at the meeting. If the additional documentary evidence has not been produced before the hearing, it can only be admitted with the consent of all the parties. If any other party objects to the evidence being produced at the hearing, the Licensing Sub-Committee has no discretion to admit it or take it into account.

#### **14 Failure of parties to attend the hearing**

If a party has informed the Council that he/she does not intend to attend or be represented at the hearing, then the hearing may proceed in their absence. If a party, who has not given prior notice of his/her intention not to attend the hearing, is absent from the hearing the Licensing Sub-Committee may either adjourn the hearing or hold the hearing in the party's absence. Where the hearing proceeds in the absence of a party, the Licensing Sub-Committee must still consider the written representations or notice submitted by that party and follow the same principles of decision-making.

#### **15 Procedure at the hearing**

- 15.1 Subject to the provisions of the Regulations, the Licensing Sub-Committee has the discretion to regulate their own proceedings and procedure to be followed at the hearing. The proceedings should be kept as informal as possible although a logical and ordered approach should be maintained in order to ensure a fair and impartial hearing. A suggested form of procedure is attached however the Chair should make it clear that the Licensing Sub-Committee are not totally inflexible and would be prepared to vary the order of proceedings if this would facilitate the proper consideration of an application or notice.
- 15.2 Regulation 7(c) provides that parties should be informed of the procedure to be adopted at the hearing when they are sent notice of the arrangements for the meeting. It is therefore suggested that a copy of the written procedure is sent to the parties with the notice of the hearing.
- 15.3 Regulation 22 requires the Licensing Sub-Committee to explain the procedure to the parties at the beginning of the hearing and consider any request under Regulation 8(2) for permission for another person to appear at the hearing (such permission not to be unreasonably withheld). Prior notice should have been given if parties wish to call witnesses or other persons to address the hearing. Provided that their evidence or representations are relevant and material, permission should generally be allowed.
- 15.4 Regulation 23 provides that the hearing should take the form of a "discussion led by the authority" and cross-examination should not be permitted unless the licensing committee considers that this is required to enable them to consider the matter properly. Whilst parties and their representatives should not be allowed to make the hearing too adversarial, it is suggested that both parties should be allowed an equal opportunity to put questions to the other party and their representatives/witnesses (under Regulation 16). A period of five minutes each should be allowed for questions, with the Chair having discretion to disallow any questions which are considered by the Licensing Sub-Committee to be irrelevant, hostile or repetitive. Wherever possible, large groups of objectors should be encouraged to appoint a single spokesperson to present their case, to save time and avoid unnecessary duplication.

15.5 Regulation 24 provides that the Licensing Sub-Committee must allow the parties an equal maximum period of time in which to exercise their rights to put questions and address the hearing. It is suggested that, as a general rule, a maximum time of 20 minutes should be allowed for both parties, with 10 minutes for addressing the Sub-Committee, five minutes for questioning and five minutes for summing up at the end. The Licensing Sub-Committee can however extend time for both parties if this is necessary for the proper consideration of the matter.

## **16 Site Visits**

The Sub-Committee may, at its discretion, undertake a site visit of any premises that are the subject of any application. The visit may take place either before the hearing, by arrangement with the parties, or the Sub-Committee may adjourn the hearing at any time to visit the premises. If a site visit is undertaken, it should be a fact-finding exercise only and no representations should be heard from any party. Any questions should be addressed to licensing officer(s), wherever possible, but if it is necessary to ask a question of any party, this should be done in the presence of all the other parties.

## **17 Determination of applications**

17.1 Normally, the licensing Sub-Committee must make its determination at the conclusion of the hearing. In other cases the Sub-committee shall make its determination within five working days. Where a hearing has been dispensed with, the decision must be made within 10 working days of the notice to dispense with the hearing.

17.2 The Council's Statement of Licensing policy provides that every decision of the Licensing Sub-Committee shall be accompanied with reasons for that decision. A summary of the decision shall be posted on the Council's website as soon as possible after the decision has been made, where it will form part of the statutory licensing register.

17.3 Paragraph 24 provides that comprehensive reasons should be given and, on making findings of fact in its reasons, the Licensing Sub-Committee should ensure that they address the standard of proof and the burden of proof that they have adopted. The Licensing Sub-Committee should also address the extent to which the decision has been made with regard to its Statement of Licensing Policy and the Statutory Guidance issued under Section 182 of the Act.

17.4 Regulation 28 requires the Council to notify the parties in writing of the determination of the Licensing Sub-Committee and their rights of appeal. The Council is also required to send notification of the determination to the Chief Officer of Police, where the police have not been a party to the hearing. This notification must be sent within the period specified in the Act or, if no period is prescribed, forthwith on making the determination.

## **18 Right of appeal**

Any aggrieved party will have the right of appeal to the Magistrates' Court within 21 days of being notified of the decision.

## **19 Record of proceedings**

Regulation 30 provides that the Council must keep a record of the hearing in a permanent and intelligible form for a period of six years from the date of the determination or, where any appeal is brought against the determination of the Licensing Sub-Committee, from the disposal of any appeal. A verbatim note or transcript of the proceedings is not required, but the Minute recording the decision must be sufficiently detailed so as to provide an accurate record of both the proceedings and the decision taken, together with the reasons given and any conditions imposed.

## 20 Irregularities

Regulations 31-33 provide that any irregularities or clerical errors shall not invalidate any decision or render a determination void and enables the Council to correct any error or cure any irregularity as soon as possible.

### Organisation of Cases for the Hearing

- 1 The hearings will normally take place at the Civic Centre, Newport at times to be agreed with the Sub-Committee.
- 2 The agenda for the meetings of the Licensing-Sub-committee shall be agreed by the Licensing Officer and the Senior Democratic Services officer after any necessary consultation with the relevant Chair of the Licensing Sub-Committee. The officers shall determine how many applications can be heard at each meeting and the order in which the applications should be considered, taking into account the number of parties who will be attending.
- 3 Hearings should be scheduled in accordance with the timescales prescribed by the Regulations. In general a hearing must be held within 20 working days after the time has expired for making representations.
- 4 Once the draft agenda has been agreed, the Senior Democratic Services Officer should send out notice of the agenda to the Members, press and public in the usual way. Members should immediately inform the Senior Democratic Services Officer if they consider they are disqualified from hearing or they have an interest in any specific case.
- 5 At the same time, the Licensing Officer shall send notice of the hearing to the parties, together with
  - A copy of the procedure to be followed at the hearing
  - Confirmation of the parties' rights to be assisted or represented at the hearing (whether or not that person is legally qualified)
  - Confirmation that the parties will be allowed to address the Licensing Sub-Committee and put questions to the other parties for a maximum of 20 minutes
  - Confirmation that, if a party does not attend the hearing, the hearing would generally proceed in his/her absence
  - A note of any particular point on which the Licensing Sub-committee requires further clarification.
  - Copies of all relevant representations received
- 6 The parties should also be requested to notify the Council as soon as possible (and in any event within the timescale prescribed by the Regulations) whether they intend to appear and/or be represented at the hearing or whether they consider a hearing to be unnecessary.
- 7 If they intend to proceed with a hearing, they should be requested to give advance notice of any application to adduce any further documentary evidence (which should preferably be provided as soon as possible before the hearing) or request for any other person to appear at the hearing. The request must contain details of the name of the witness and a brief description of that person's evidence.
- 8 The notice of hearing and supporting documents should be sent by second class post and, except in the case of emergency applications or where the Regulations specify a shorter period, at least 10 clear working day's notice should be given. The Licensing Officer may also send electronic copies by email or fax by agreement with the applicants or other party.

- 9 The Chair of the Licensing Sub-committee may meet with the Democratic Services Officer, the Solicitor to the Licensing Sub-Committee and the Licensing Officer(s) presenting the report in advance of the hearing to identify any issues where further clarification should be requested from the parties. These issues will be notified to the parties by the Licensing Officer to enable them to address these issues in their submissions at the hearing. During this preliminary meeting and any pre-agenda meeting, no decisions shall be made and no discussions shall be held regarding the substantive merits of the application or representations.
- 10 The hearings shall be attended by a Solicitor, a Democratic Services Officer and the Licensing Officer. The officers shall attend for the sole purpose of giving advice on law and procedure and are not parties to the decision.
- 11 The role of the Solicitor is to provide legal advice in relation to the applications and submissions.
- 12 The role of the Democratic Services Officer is to record the proceedings and the decisions of the Sub-Committee and ensure efficient administration.
- 13 The Licensing Officer shall prepare a written Report for consideration by the Licensing Sub-Committee, which should include
  - A brief summary of the application
  - A brief summary of the representations
  - The relevant licensing objectives
  - Relevant aspects of the Council's Statement of Licensing Policy and statutory Guidance
  - Other background information (such as copies of letters)
- 14 The Licensing Officer's Report should be sent out as soon as possible and, in any event, no later than 10 clear working days before the hearing, together with copies of relevant documentary evidence submitted by the parties. Wherever possible, the Licensing Officer's Report should be sent out at the same time as the notice of hearing and supporting documents, but this will not be reasonably practicable where there are a significant number of applications to be determined. If additional documentary evidence is provided later by the parties, it should be copied and sent to the other parties before the hearing, if reasonably practicable.
- 15 After hearing all the representations and prior to retiring to make its decision, the Licensing Sub-Committee may, if it wishes, seek the guidance of the Licensing Officer and/or Solicitor on possible conditions that could be attached to any licence.
- 16 The Democratic Services Officer shall keep a record of the decisions taken and the Licensing Officer shall send written confirmation of the decision to the relevant parties, together with the reasons, any conditions and their rights of appeal.

### **Principles of Decision-Making**

- 1 This note is intended to provide members of the Licensing Sub-committee with a guide to the principles of decision-making. The licensing hearings are of a quasi-judicial nature and the procedures are, therefore, markedly different to the usual arrangements for Committee meetings.
- 2 It should be noted that the proceedings are governed by adjudication procedures and the rules of natural justice will, therefore, apply. All the parties should be given a full and fair hearing, which should be conducted in an open, transparent and accountable manner.
- 3 Members must, at all times, comply with the Council's Member Code of Conduct.



- 4 All licensing applications must be considered on the basis of whether they promote the four licensing objectives set out in the Act and incorporated in the Statement of Licensing Policy, namely
  - The prevention of crime and disorder
  - Public safety
  - The prevention of public nuisance
  - The protection of children from harm
- 5 In reaching their decisions under the Act, the Licensing Sub-Committee must have regard to all relevant considerations including (but not limited to)
  - The relevant statutory provisions
  - Relevant Statutory Guidance issued under Section 182 of the Act
  - The Council's Statement of Licensing Policy
  - The licensing objectives
  - The material facts based on the relevant evidence presented and representations received
  - The individual merits of each case
  - The public interest
- 6 The Licensing Sub-Committee must disregard any irrelevant considerations, including (but not limited to) information or evidence which is not relevant to the application or to the promotion of the licensing objectives. Members must also disregard any party political considerations or decisions taken in political group meetings.
- 7 Members of the Licensing Sub-Committee must act fairly, objectively and impartially throughout. They must not show any bias or predetermination and must keep an open mind on all applications until they have heard all the relevant representations and evidence. Members must not prejudge any application, express any view on the merits of any application, organise any support or opposition to any application, in advance of the hearing. Any Member with a "closed mind" on any application would be disqualified from sitting on the Licensing Sub-Committee which considers that application.

In the event of any licensing applications submitted by or on behalf of the Council or an officer of the Council, the same rules and procedures shall apply. No account shall be taken of the fact that the application is submitted by the Council or an officer and no favour or consideration shall be shown in relation to the application. Any member involved in the decision to apply for the licence shall be disqualified from sitting on the Licensing Sub-Committee which considers the application.

### **Procedure to be Followed at The Hearing**

- 1 Preliminaries and Opening remarks

At the commencement of the meeting, the Chair for the meeting shall be elected by simple majority of members present.

The Chair of the Sub-Committee opens the meeting and welcomes those attending.

The Chair introduces the members and the officers present.
- 2 Apologies/declarations of interest

The Chair deals with any apologies for absence and declarations of interest. Any substitution of members will be dealt with at this stage.

### 3 Introductions

The Chair invites the applicant, any other person and their representatives to introduce themselves and indicate who will be speaking.

The Chair explains the procedures to be followed and the time allocated to each party and asks if there are any questions. (The order of proceedings may be varied at the discretion of the Sub-Committee where the parties have any particular preference or where this is necessary for proper consideration). The proceedings will generally be conducted in public unless it is in the public interest to hear cases in private. Any applications to exclude the press and public should be dealt with at this stage.

### 4 Applications

The Chair will inform the parties whether their applications to have certain people attend the hearing under Regulation 8(2) (eg witnesses) have been granted or refused.

The Chair will summarise the papers before the Licensing Sub-Committee and will confirm that everyone has copies. Chair will ascertain whether any representations have been or are now to be withdrawn. Licensing Sub-Committee will consider any requests for additional documentary evidence or other information to be introduced by either party. (Note that advance notification must be given, otherwise the additional information or evidence can only be adduced at the hearing with the consent of all the parties and the agreement of the Sub-Committee).

Chair is to identify any specific points about which the Licensing Sub-Committee have requested clarification.

### 5 Report from Licensing Officer

The Licensing Officer presents the Report outlining

- The nature of the application
- Any relevant background information
- Relevant issues in relation to the promotion of the four licensing objectives
- Relevant representations received
- Any relevant policy issues, including the Statement of Licensing Policy and any statutory Guidance

The Licensing Officer presenting the report will not make any recommendation regarding the determination of the application, but will simply outline the relevant considerations which the Licensing Sub-Committee will need to take into account when arriving at their decision. (It should be noted if the Licensing Authority wishes to make representation regarding application as a relevant authority under the Licensing Act 2003 a further Licensing Officer will be required to attend the committee and Act as a relevant authority).

The Members will be able to ask questions of the Licensing Officer(s) presenting the report to clarify any issues arising out of the Report.

### 7 The Applicant's case

- (a) The Applicant/representative to address the Sub-Committee and to call any witnesses where permission has been granted (maximum period of 10 minutes). Parties may give their evidence by making a statement or by being questioned by their representative.
- (b) The objectors/representatives shall be allowed to put questions to the applicant/representative and any witnesses (maximum five minutes).
- (c) The members of the Licensing Sub-committee to put questions to the applicant/representative and any witnesses

8 The Objector(s) case

- (a) The Objectors/representatives to address the Sub-Committee and to call any witnesses, where permission has been granted (maximum period of 10 minutes). (The responsible authorities eg Police, Fire Authority, followed by any other person in the order in which they submitted their written representations. Where a large group have objected, they should be encouraged to appoint a single spokesperson in order to save time and avoid repetition).
- (b) The applicant/representative shall be allowed to put questions to the objectors/representatives and any witnesses, (maximum five minutes).
- (c) The members of the Licensing Sub-committee to put questions to the objectors/representatives and any witnesses.

9 Closing Statements

- (a) Objectors or their representative(s) to sum up (maximum of five minutes). (In the order in which they addressed the Sub-Committee, if more than one).
- (b) Applicant or representative to sum up (maximum of five minutes). (At this stage the applicant/representative should indicate whether, in the light of the representations made, they wish to amend their application or offer any conditions to overcome the objections and/or promote the licensing objectives).

10 Decision

If there are no further matters to be resolved, the Chair will ask all the parties if they are satisfied that they have had a fair hearing and will then close the proceedings.

The Sub-committee to consider whether it is in the public interest that they deliberate in private or whether this part of the hearing should continue to take place in public.

Pass resolution to exclude the press and public (including the parties and their representatives) pursuant to Regulation 14(2) during this part of the hearing, while the Sub-Committee discusses its decision. Everyone should then be asked withdraw from the room, except the Licensing Officer(s) presenting the report, the Democratic Services Officer and the Head of Law and Standards or his nominated representative(s). These officers shall be entitled to remain but only for the purpose of offering advice as to procedure or any particular point of law. The Sub-Committee may withdraw into a private room to do this

The Members of the Sub-Committee will deliberate and come to their decision. The reasons for the decision, the material findings of fact and any conditions will be agreed and recorded in writing by the Chair. In the event of any disagreement, any matter under consideration shall be determined by a simple majority of votes cast.

The hearing will then resume in public. The Chair will announce the decision and give the reasons for that decision, any material findings of fact, any licence conditions that are to be imposed and the licensing objectives that they relate to (unless, where permitted by the regulations, the decision is to be communicated at a later time).

11 Repeat process for each hearing

Mae'r dudalen hon yn wag yn

# Report



## Licensing Sub Committee Report.

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### Part 1

Date: 17<sup>th</sup> January 2023

**Subject**     **Review of Premises Licence under Section 51 Licensing Act 2003, The Scrum Half, 111 Chepstow Road, Newport. NP19 8BZ**

**Purpose**        The consideration and decision in respect of a review application under Licensing Act 2003.

**Author**        Alastair Dearling (Licensing Manager)

**Ward**            Victoria

**Summary**     An application for a review of the premises licence was made by Gwent Police, acting in its role as a Responsible Authority, on 28<sup>th</sup> November 2022 on the basis that the premises is undermining the prevention of crime and disorder.

**Proposal**     To make a decision on the application to review the Premises Licence issued in respect:

The Scrum Half, 111 Chepstow Road, Newport. NP19 8BZ

**Action by**    Head of Law and Regulation

**Timetable**    Statutory Consultation Period

**Signed** Alastair Dearling

## 1. Review Application

- A review application under Section 51 of the Licensing Act 2003 was received on the 28<sup>th</sup> November 2022 from Gwent Police, to review the Premises Licence issued in respect of The Scrum Half, 111 Chepstow Road, Newport, NP19 8BZ.

The application for review relates to the following Licensing objective:

The prevention of Crime and Disorder.

A copy of the review paperwork and supporting documents can be found in **Appendix A** of this report.

The application was received by the Licensing Authority on 28<sup>th</sup> November 2022 and in accordance with section 51(3)(a) of the Licensing Act 2003 a copy of the application was served on the holder of the Premises Licence and on all Responsible Authorities.

Following receipt of the application, the Licensing Authority advertised the application in accordance with the regulations of the Act, thereby inviting representations to be made by interested parties. Any representation in respect of this application made by a responsible authority or an interested party had to be received by the Licensing Authority by 26<sup>th</sup> December 2022.

## 2. Licensable Activities

The current premises licence holder is:

Harvey's Leisure (South Wales) Limited,  
Unit 3A  
Boxer Trading Estate  
Ponthir Road  
Caerleon  
Newport  
NP18 3NY

The Current Designated Premises Supervisor (DPS) is:

**Rachael Marchant**

The Premises Licence relates to the following licensable activities

Times the licence authorises the carrying out of licensable activities

**Sale by retail of Alcohol**

Monday to Thursday inclusive 10:00 - 01:00

Friday and Saturday 10:00 - 02:00

Sunday 10:00 - Midnight

New Year's Eve 10:00 - 03:00

**Performance of Live Music**

Monday to Thursday inclusive 20:00 - 01:00

Friday and Saturday 20:00 - 02:00

Sunday 20:00 - Midnight

New Year's Eve 20:00 - 03:00

**Playing of Recorded Music**

Monday to Thursday inclusive 20:00 - 01:00

Friday and Saturday 20:00 - 02:00

Sunday 20:00 - Midnight

New Year's Eve 20:00 - 03:00

**The opening hours of the premises**

Monday 10:00 - 02:00

Tuesday 10:00 - 02:00

Wednesday 10:00 - 02:00

Thursday 10:00 - 02:00

Friday 10:00 - 03:00

Saturday 10:00 - 03:00

Sunday 10:00 - 01:00

Where non standard timings are authorised, the opening times shall be as those authorised for licensable activities with an additional 30 minutes on the terminal hour.

A copy of the premises licence can be found in **Appendix B** of this report

### 3. Representations

The Licensing Authority invited representation from responsible authority and “other persons” to be submitted before Midnight on the 26<sup>th</sup> December 2022. The Licensing Authority Received:

No further representation from any other responsible authority or “other persons” as defined in the Licensing Act 2003.

#### **Background / Premises Licence History**

- The premises is located on Chepstow Road and is located in mix use area where a number of nearby licence premises, shops, take aways and residential properties are located. A map and pictures of the location of the premises can be found in **Appendix D** of the report.
- The Premises has held a Licence under the Licensing Act since 2005 and previously was licence under the Licensing Act 1964.
- As highlighted in the Police review paperwork there has been an number of Licensing issues at the premises in the last 12 months meaning it is reported to have failed to promote the Licensing Objectives especially the prevention of Crime and Disorder.

Harvey's Leisure (South Wales) Limited is both the owner of the property and the licence holder, though also holds a formal contract with the Management Team of the Scrum Half and the DPS of Scrum Half meaning legal responsibility for breaches of licences would likely be that of the Management Team / DPS rather than directly with Harvey's Leisure.

The legal case of Hall & Woodhouse v Poole Council makes it clear that the premises licence carries no automatic liability for unlawful acts of third parties.

It is opinion of Gwent Police that liability of the premises failing to meet the Licensing Objectives is mainly due to the current and previous management teams rather than Harvey's Leisure ( Licence holder)



- Harvey's Leisure and Gwent Police held a mediation meeting on the 12<sup>th</sup> December 2022 after the formal review was submitted by Gwent Police. At this meeting Harvey's Leisure were very proactive and willing to work with Gwent Police to ensure the premises was not undermining the Licensing Objectives. It is opinion of Gwent Police that if the premises licence hours were varied and the current management team removed that there be no longer requirement for the Licence to be revoked. Harvey's Leisure have formally agreed with the Police proposals being the following:
  - The removal of all management team from the licence premises and that all management / staff cease having any involvement with the licence premises.
  - The Designated Premises Supervisor (DPS) be removed from the premises licence and replaced with a new DPS.
  - That all Licensing activities cease at 23:30hrs and the premises to close at 00:00hrs unless New Year's Eve when Licensing Activities can continue till 02:30hrs and close at 3:00am.

Gwent Police respectively request (in agreement with Harveys Leisure) that the Licensing Sub Committee amends the hours of the premises licence, removes the DPS from the premises Licence and add a further condition preventing the current management team and staff to have any involvement with the premises.

### **30 Policy Considerations regarding a review of a Premises Licence**

#### 30. Reviews of licences

- 30.1 The Council can only review a licence where it is alleged by a "responsible authority", or other person that the licensing objectives are being breached. Responsible authorities will aim to give licence holders early warning of any concerns identified at the premises. Only responsible authorities or other persons (e.g. local residents, local organisations and councillors) can apply for the review of a licence; and determine its outcome at a hearing where an evidential basis for allegations made will be submitted. It views particularly seriously applications for the review of any premises licence which involves the

- use of licensed premises for the sale and distribution of controlled drugs and the laundering of the proceeds of drugs crimes;
- use of licensed premises for the sale and distribution of illegal firearms;
- evasion of copyright in respect of pirated films and music;
- underage purchase and consumption of alcohol;
- use of licensed premises for prostitution or the sale of unlawful pornography;
- use of licensed premises for unlawful gaming;
- use of licensed premises as a base for organised criminal activity;
- use of licensed premises for the organisation of racist, homophobic or sexual abuse or attacks;
- use of licensed premises for the sale of smuggled tobacco or goods;
- use of licensed premises for the storage or sale of stolen goods;
- the police being frequently called to attend to incidents of disorder;
- prolonged and/or repeated instances of public nuisance
- serious risk to public safety have been identified and the management is unable or unwilling to correct;
- Serious risk to children.

30.2 The Licensing Sub-committee will consider all evidence provided at the hearing and apply appropriate weight to that evidence when making their decision.

30.3 The licensing sub-committee will consider all of the sanctions available to it provided for in the Act and guidance, including taking no action if appropriate. In cases where a licensing objective is seriously undermined, that revocation of the licence, even in the first instance, will be considered where appropriate to ensure the licensing objectives are promoted.

30.4 In cases where a licensing objective is seriously undermined, the revocation of the licence, even in the first instance, will be seriously considered where appropriate to ensure the licensing objectives are promoted.

### **Section 10.1 of the Council Licensing Policy:**

Prevention of Crime and disorder 10.1 Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people, can be a source of crime and disorder problems.

10.2 The Licensing Authority will expect operating schedules (see section 27) to satisfactorily address these issues from the design of the premises through to the day-to-day operation of the business. Details of the factors

that will need to be considered as part of the operating schedules are given in the Licensing Policies and matters for consideration when deciding applications, which are attached in the annex to this policy and in the Guidance notes for applicants.

10.3 Applicants are recommended to seek advice from the Licensing Authority's licensing officers and the police, as well as taking into account, as appropriate, local planning and transport policies, tourism, cultural and crime prevention strategies, when preparing their plans and operating schedules.

10.4 The Licensee/applicant should also use their own experience and knowledge of their customers and locations when drafting their operating schedule, which subsequently becomes the basis of conditions on the licence. Failure to do this may lead to a representation from the Authority, a responsible authority or other person. Applicants may wish to consider the following and are advised to refer to the Authority's 'Model Pool of Conditions' when considering an application

- Is there CCTV, and, if so what are the areas covered, does it have the ability to see clear full face recording of patrons entering, does it record the patron search area at the entrance. What is the retention period of recordings, how easy it to access, produce copies or download images if requested by Police and Licensing.
- Are Security Industry Authority (SIA) door staff employed and what checks are made to the validity of the SIA licence? What records are kept of SIA checks, search policy, entrance policy, restriction of patrons using outside areas, such as smoking areas, employment times of SIA and their training?
- Is there ID scanning on entry to the premises? Will there be 'No ID No Entry' policy in place?
- Is there a clear drug and weapon policy? Is there a regular documented training of this policy carried out with staff when drugs/weapons are seized or stored. Are areas or surfaces designed to prevent the likelihood of drug use at the premises?
- Has the use of plastic or toughened glass for serving of alcohol been considered, will glass bottles be handed over the bar? Are there restrictions of drinks being taken outside?
- Is there a proof of age scheme, do the premises have a challenge 25 policy? Are staff trained regularly on this policy and is it documented

10.5 The Licensing Authority recognise that although Gwent Police and other criminal justice services suffer the greatest resource burden from preventable alcohol related crime and disorder the health system is also impacted. Preventable alcohol-related attendances and admissions have a negative impact on limited NHS resources, staff and other patients. Physical injury and the psychological impacts from violent incidents directly affect the health and wellbeing of individuals, their family, friends and work colleagues, our public service staff and licensed premise staff who deal with these incidents, and the local community.

15 Responsible Authorities will work together, sharing all available local data, and will use NHS sources of data to promote this licensing objective.

10.6 The Authority will endeavour to reduce crime and disorder throughout the County in accordance with its statutory duty under s.17 of the Crime and Disorder Act 1998.

10.7 Newport City Council, through agency working together and sharing information aim to identify and prevent sexual exploitation, modern slavery and human trafficking. Licence holders can help as they may become aware or come into contact with such victims. This may be in hotels, bars and restaurants, late night takeaways, off licences or other licensed premises. Licence holders, and staff employed in licensed premises, are in an ideal position to help protect people Modern slavery and human trafficking is a crime and a violation of fundamental human rights and can take various forms such as slavery, servitude and compulsory labour. The licence holder and staff who work in licensed premises should look for and ask themselves the following

- Has the person got any physical signs of abuse or neglect? Deprived of food, water, sleep, medical care or other life necessities?
- You see worrying behaviour towards someone.
- Is the victim in possession of a passport, identification or travel documents? Are these documents in possession of someone else?
- Does the victim act as if they were instructed or coached by someone else? Do they allow others to speak when spoken directly?
- Was the victim recruited for one purpose and forced to engage in some other job? Was their transport paid for by facilitators, whom they must pay back through providing services?
- Does the victim receive little or no payment for their work? Is someone else in control of their earnings?
- Was the victim forced to perform sexual acts?
- Does the victim have freedom of movement? Can they freely contact friends and family? Do they have limited social interaction?
- Has the victim or family been threatened with harm if the victim attempts to escape?
- Is the victim bonded by debt, or in a situation of dependence? If there are concerns the licence holder are to report the matter to Modern Day Slavery helpline on 08000 121 700 or visit the website <https://www.modernslaveryhelpline.org/report> If someone is in immediate danger to call the Police on 999. In addition, all staff who are employed in the UK must have the right to work in the UK. Employing someone illegally without carrying out the prescribed checks can lead to robust sanctions against the licence holder

### **Revised Guidance issued under section 182 of the Licensing Act 2003**

11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.

11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.

11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.

11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

Revised Guidance issued under section 182 of the Licensing Act 2003

- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption)
  - remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
  - suspend the licence for a period not exceeding three months;
  - revoke the licence.

11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified

problem directly relates to poor management decisions made by that individual.

11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.

11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

#### **4. Legal Considerations**

The decision must be taken following consideration of the representation received with a view to promoting the licensing objectives which are:

- Prevention of crime and disorder
- Public Safety
- Prevention of Public Nuisance
- Protection of Children from Harm

In each case the Sub-Committee may make the following determination

- To implement the conditions and hours recommended by Gwent Police and agreed by Harvey's Leisure .
- To further modify the conditions of the Premises licence

- To exclude a licensable activity from the scope of the premises licence
- To remove the designated premises supervisor from the licence
- To suspend the premises license for a period not exceeding 3 months
- To revoke the premises licence
- Take No action in respect of the Premises Licence.

All decisions taken by the Sub-Committee must

- (a) be within the legal powers of the Council and its Committees;
  - (b) comply with any procedural requirement imposed by law;
  - (c) be undertaken in accordance with the procedural requirements imposed by the Council eg. standing orders and financial regulations;
  - (d) be fully and properly informed;
  - (e) be properly motivated;
  - (f) be taken having regard to the Council's fiduciary duty to its taxpayers;
- and
- (g) be reasonable and proper in all the circumstances.

## **5. Issues for discussion**

**31** The content of the application made by Gwent Police, acting in its role as a Responsible Authority, for a review of the Premises Licence.

**32** Any evidence and mitigation provided by Licence Holder

## 6. Financial Summary

- The costs and financial implications: You must discuss financial implications with the Head of Finance and the report must identify from where your proposals will be funded, together with any impact on budgets or any opportunity costs

	<b>Year 1 (Current) £</b>	<b>Year 2 £</b>	<b>Year 3 £</b>	<b>Ongoing £</b>	<b>Notes including budgets heads affected</b>
<b>Costs (Income)</b>					
<b>Net Costs (Savings)</b>					
<b>Net Impact on Budget</b>					

## 7. Risks

It is important to identify and manage any project or scheme's exposure to risk and have in place controls to deal with those risks.

In this section, you should consider the key risks facing the proposals in your report, particularly those which would impact on delivery or sustainability of the project or projected outcomes. You will need to include details of how risks will be managed. If your proposals rely on short or medium term grant aid or funding streams you will need to outline your exit or continuation policy here.

You will need to complete the following Risk table

<b>Risk</b>	<b>Impact of Risk if it occurs* (H/M/L)</b>	<b>Probability of risk occurring (H/M/L)</b>	<b>What is the Council doing or what has it done to avoid the risk or reduce its effect</b>	<b>Who is responsible for dealing with the risk?</b>



Making a unlawful decision	High	Low	The Committee will consult with the Legal Officer and Licensing Officer to determine if any decision is lawful and proportionate.  Members training.	Chairperson.  Legal Officer.
The licensing committee departing from the licensing policy.	Medium	Low	If the Committee wishes to depart from the Councils policy they must give good reason for this and obtain advice from the Legal Officer when departing from the Policies to ensure the decision is lawful.  Members training.	Chairperson.  Legal Officer.
The applicant does not have a fair hearing	High	Low	A Licensing Committee procedure should be followed by the committee.  The Legal Officer alongside the Democratic Service Officer will advise the committee if at any stage an unfair hearing is taking place.  Members training.	Democratic Service Officer.  Chairperson. Legal Officer.

\* Taking account of proposed mitigation measures

## 8. Links to Council Policies and Priorities

This report has been prepared in accordance with The Licensing Act 2003 and with regard to Newport City Council Statement of Licensing Policies 2020.

**APPENDIX A (Review Application)**

***Newport City Council***

Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

**I Inspector Conway of Heddlu Gwent Police on behalf of the chief officer of police for the Gwent Police area, apply for the review of a premises licence under section 53A of the Licensing Act 2003**

Hereby apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the premises described in Part 1 below

**Part 1— Premises or club premises details**

**Postal address of premises or, if none, ordnance survey map reference or description**

The Scrum Half ( O'Connor's)  
11 Chepstow Road,  
Newport,  
NP19 8BZ

**Post town** Newport

Post code (if (nown) NP19 8BZ

**Name of premises licence holder**

**Harvey's Leisure (South Wales) Limited**  
Unit 3A  
Boxer Trading Estate  
Ponthir Road  
Caerleon  
Newport  
NP18 3NY

**Number of premises licence**

22/02373/LAPVM

**Part 2 - Applicant**

<b>details I am</b>	<b>(B) DETAILS OF OTHER APPLICANT</b>	<b>Please tick ✓ yes</b>
<b>Name and address</b>		
1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)		
2) a responsible authority (please complete (C) below)		
3) a member of the club to which this application relates (please complete (A) below)		
<b>(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)</b>		

**Please tick ✓ yes**

**Mr            Mrs            Miss            Ms            Other title**

<b>Surname</b>	<b>First names</b>
_____	_____

**Please tick ✓ yes**

**I am 18 years old or over**

<b>Current postal address if different from premises address</b>	_____	
<b>Post town</b>	<b>Post</b>	_____

**Daytime contact telephone number** \_\_\_\_\_

**E-mail address (optional)** \_\_\_\_\_

**Telephone number (if any)**

**E-mail address (optional)**

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**(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT**

<b>Name and address</b>  <b>Inspector Conway</b> <b>Licensing Team</b> <b>Newport Central Police Station</b> <b>3 Cardiff Road,</b> <b>Newport,</b> <b>NP20 2EH</b>
<b>Telephone number (if any)</b>
<b>E-mail address (optional)</b>

**This application to review relates to the following licensing objective(s)**

**Please tick one or more boxes ✓**

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

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Please state the ground(s) for review (please read guidance note 2)

I formally request a review of the Scrum Half (O'Connors bar) current premises licence on the grounds of significant concern that the Licensing Objectives are not being promoted by the Scrum Half (O'Connors bar) specifically around the management team / staff involved with the everyday running of the premises both currently and also historically.

On the 14 June 2022 the premises was required to attend a meeting to discuss a proposed action plan by Gwent Police and Newport City Council Licensing Team as it was very clear to both responsible authorities the premises was not promoting the four licensing objectives.

The Premises was found to be breaching a number of licence conditions and was allowing patrons of the premises to enter and leave the premises to consume nitrous oxide on the street without any challenge from door staff. Young females were also witness entering the premises by Licensing Authority and a serious violent disorder incident took place on the premises on the 12th June 2022 alongside a further disorder incident on the 12th March 2022. The Premises is also known to have attracted further ASB including loud music coming from the premises.

On the 12<sup>th</sup> March 2022 whilst Police Officers were on mobile patrol they came across a group of persons fighting outside of the Scrumhalf. They requested the assistance of other officers, but persons involved in the fighting dispersed from the area and no complaints were forthcoming.

A double-crewed unit remained in the area as a group of persons *were* remaining outside. These officers again requested the presence of another double-crewed unit due to the group becoming quite rowdy and concerned that further problems would arise.

Whilst officers were outside and dispersing persons from the area, a male and female exited the Scrumhalf, identifying themselves as the landlord and landlady of the pub. Both persons were intoxicated. The male requested officers moved on from outside his pub as he did not want officers stood there and creating bad publicity for him. The female also gave an input but was less vocal than the male. Both were advised that officers were present due to the problems outside the pub and that persons had also been fighting outside only a short time prior. Both immediately got on the defensive, saying that the persons fighting had not been outside the pub but were fighting further down the road. The conversation continued and the female then responded by saying that the fight had started further down the road but she accepted that they had ended up outside the pub.

The male again requested officers moved on from outside the pub. He again was reminded that we were there for a reason and would remain for as long as necessary, and until we were satisfied that there would be no further issues.

The female then approached officers stating that the persons had in fact been in the pub, but prior to any trouble they had been requested to leave. The male and female then appeared to exchange words and as the pub closed up the female left ahead of the male. The male was clearly not happy that officers remained outside

( The above information was emailed PC Hurst (Lic Team) by PC 2083 Julie Morris)).

A more serious incident then took place on the 12m June where a serious fight broke out within and outside of premises with widows being smashed at the venue and weapons being used.

It is opinion of Gwent Police that the premises was and remains as a problematic premises that lacks any management to promote the four licensing objectives.

In light of this PC Hurst, Alastair Dearling (Licensing Manager) Steve Pontin(Licensing Officer) then meet with now previous management team and then DPS of the premises to place the premises on an action plan before a potential licensing review. Before the action plan was formally agreed and signed the DPS of the venue / management team stipulated they were handing back the keys to the premises as such the premises was then closed.

On knowing that the premises was proposed to re-open with new DPS and management team it is normal practice to visit any problematic premises and explain to the new owners of the historic issues of the venue and provide them any relevant support and advice.

It is also important for the Police to stipulate to those new owners and management team that they are inheriting a problematic premises and simply changing the DPS or management team at the venue does not automatically wipe away the previous poor management of the premises and if poor practice continued that the Police or Licensing Authority or any other Reasonable Authority may have no other option than to call the premises licence into review.

The meeting took place on the 7th September 2022, Myself (PC Cheshire), Licensing Manager Alastair Dearling, Licensing Officer Steve Pontin plus Local Neighbourhood Sgt who was also present. The DPS Rachael Marchant was not at the venue but two members of the management team were.

It became very evident that Rachel Marchant who was named as the DPS has not been involved in the everyday running of the premises and is simply a DPS of convenience. Meaning she simply placed her name on paperwork but has absolutely no intention to be involved in the every day running of the premises and this responsibility fell on the management team and staff at the venue.

The local Neighbour teams also had concerns that the management team would undermine the four licensing objectives specifically the objectives of crime and disorder but at stage of the meeting there was no evidence to meet the Licensing Act threshold. As such both the Police Licensing Team and Licensing Authority worked with the venue to try ensure that the four licensing objectives where upheld and provided advice and support to the new management team.

Both the Police and Licensing Authority work closely together and are always looking to assist premises to meet the four Licensing objectives as this is highlighted in email sent to the management team on behalf of both Police and Local Authority Licensing Teams on the 8th September 22, this email also highlights the importance to the new managers of the compliance with the terms and conditions of the premises licence.



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Dear Scrum Half,

Thank you for your time with the Licensing Authority and Gwent Police Licensing Team yesterday afternoon to discuss O'Conner's Bar opening, it was nice to meet with yourself personally and it was great to see the hard work you and your team have put into improving the premises.

As you are aware from yesterday's meeting the premises was very close to a licensing review, but due to the DPS and management leaving the premises it felt it was not in the public interest to continue with a licence review. It's imperative that all premises management and the DPS of O' Conner's bar are fully aware of the licence conditions attached to the premises licence and I would strongly recommend that the DPS undertakes a full audit of the conditions to ensure the premises is compliant with the conditions before opening. If you have any questions or queries regarding any of the conditions please don't hesitate to contact the Licensing team we will be happy to discuss and assist.

Clearly the management of the front of the venue is going to be imperative as this has caused issue historically, both in regard to music noise and people standing outside the premises with drinks causing ASB etc, we strongly recommend that customers are advised to use the rear garden, this will greatly assist in management of customers and will also help door staff ensuring the front door is kept closed when you have entertainment at the venue. Clearly a juke box is considered background music as such is not licensable but clearly background music will not be clearly audible from outside the premises.

We wish you well for the new venture, please don't hesitate to contact us if you have any questions.

Yours Sincerely

Alastair Dearling  
Prif Swyddog Trwyddedu / Principal Licensing Officer  
Y Gyfraith a Rheoleiddio / Law & Regulation  
Cyngor Dinas Casnewydd / Newport City Council  
01633656656 / 01633851328  
[Alastair.Dearling@newport.gov.uk](mailto:Alastair.Dearling@newport.gov.uk)

On the premises opening night on the 11<sup>th</sup> September 2022 the venue is known to been visited by Council Licensing Team who reported the venue was broadly compliant but was very busy so they could only undertake some basic licensing checks, the DPS was not present that night, though a personal licence holder from neighbouring venue was on site.

It should be noted that the local neighbourhood Police team had concerns that a small minority of people drinking in the premises were well known to local officers, but clearly it would be down to management of the premises to ensure the premises was meeting the four licensing objectives.

On 14/10/2022 Gwent Police received complaints that cocaine was openly being consumed on the premises and management seemed to simply turn a blind eye. In light of the complaint and also police intel regarding the management it was felt appropriate to request and obtain CCTV from the premises in line with the Premises Licence conditions .

Bearing in mind the premises was informed of the importance of complying with all condition at meeting on the 7<sup>th</sup> September 2022, the manager of the premises stipulated that they had to change two CCTV cameras as such the CCTV had wiped.

Clearly the Police and Licencing Authority felt this was not plausible as changing of a camera would not automatically wipe a hard drive, plus the CCTV storage was reported to be saved on Cloud as explained by the Management team on 7<sup>th</sup> September 2022. It is felt that the management team were clearly being obstructive towards the police.

A Joint warning was sent to the Licence Holder / DPS on the 25<sup>th</sup> October 2022 by Gwent Police and Licensing Authority stipulating a review will take place if further breaches or issues arise from the premises.

Dear Rachael Marchant,

**LICENSING ACT 2003**

**O'Connors @ The Scrum Half, 111 Chepstow Road, Newport, NP19 8BZ.**

It has been brought to my attention by Gwent Police that Condition 10 of your premises licence *has* been breached after a formal request by Gwent Police to obtain CCTV Emu the premises.

*Condition 10 of the above premises licence stipulates:*

*CCTV System*

***CCTV will be installed inside and outside the premises. The cameras will cover all internal areas accessible to the public and areas immediately outside the premises. The date and time settings on the system must be correct and the CCTV system must be capable of recording images to a suitable medium that allows reply. Recordings must be retained for a minimum of 28 days. Staff shall be trained in the maintenance and operation of the CCTV system with a record kept of the date and name of person trained. A trained member of staff should be on duty to operate the system whenever the premises are open. Records shall be made available for inspection by the police and other responsible authorities as requested.***

It should be noted that operating outside your premises licence is a serious offence, with a unlimited fine and a maximum of 6 month imprisonment.

Though it's noted that your staff have stipulated to Gwent Police that the CCTV was wiped after two cameras where replaced, its imperative that all conditions are complied with at all times especially CCTV conditions.

After discussing this matter with Gwent Police Licensing team it has determined that any future breaches of the Licence conditions may result in the authorities taking **formal action be that of a prosecution or a licence review** as you are DPS you are likely be the person legally responsible for any offences.

If you require any clarification regarding any of the conditions, please don't hesitate to contact the Licensing Team.

Yours Sincerely

Alastair Pearling  
Prif Swyddog Tnivyddedu / Principal Licensing Officer  
Y Gyfraith a Rheoleiddio / Law & Regulation  
Cyngor Dinas Casnewydd / Newport City Council  
01633656656 / 01633851328  
[AlastairDearlIngOnewport.gov.uk](mailto:AlastairDearlIngOnewport.gov.uk)

**On the 11/11/2022 , The manger of the Scrum Half was arrested by Gwent Police on 11/11/2022 after being stopped in his vehicle and on 12/11/2022 charged for the following offences**

- 1. Conceal/disguise/convert/transfer/remove criminal property**
- 0. Supply a psychoactive substance**

**There is an ongoing investigation for driving a motor vehicle with a proportion of a specified controlled drug above the specified limit.**

**A further team member of the Premises and associate of manager was present at the time of the arrest and has been charged for the following offences**

- 1. Conceal/disguise/convert/transfer/remove criminal property**
- 2. Supply a psychoactive substance**

**Both will attending Court on the 28/11/2022 for the offences they have been charged with.**

The current Home Office Licensing Act 2003 Guidance stipulates:

Reviews arising in connection with crime

11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises, money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.

11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.

11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. *The*

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licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.

11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:

- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
- for the sale and distribution of illegal firearms;
  - for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
  - for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
  - for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
  - as the base for the organisation of criminal activity, particularly by gangs;

Revised Guidance issued under section 182 of the Licensing Act 2003

- for the organisation of racist activity or the promotion of racist attacks;
- for employing a person who is disqualified from that work by reason of their immigration status in the UK;
- for unlawful gambling; and
- for the sale or storage of smuggled tobacco and alcohol.

11.28 It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence — even in the first instance — should be seriously considered.

Clearly questions have to be asked of the Licence holder what due diligence they are doing when placing new tenants in the premises, specifically around a proactive active DPS on the premises.

It is in the opinion of the Police that the premises failure to provide CCTV regarding the complaint of cocaine opening being consumed on the premises and the recent arrest, that the premises or least the management team are involved for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and potentially laundering of the proceeds of drugs crime. As such a Licence review is required to ensure the promotion of the Licensing Objectives.

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**Please provide as much information as possible to support the application**  
(please read guidance note 3)

Please tick ✓ yes

Have you ***made*** an application for review relating to the premises before

If yes please state the date of that application

Dar Month Year  
i

**If you have made representations before relating to the premises please state what they were and when you made *them***

No

Please tick ✓

yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

**IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.**

**Part 3 — Signatures (please read guidance note 4)**

**Signature of applicant or applicant's solicitor or other duly authorised agent (please read guidance note 5). If signing, on behalf of the applicant please state in what capacity.**

**Signature**

.....

**Date** 28.11.22

.....

**Capacity Inspector Shaun Conway, Gwent Police**

.....

<b>Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)</b>	
<b>Post town</b>	<b>Post Code</b>
<b>Telephone number (if any)</b>	
<b>If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)</b>	

**Notes for Guidance**

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.





**APPENDIX B (Scrum Half Premises Licence)**

**Schedule 12  
Part A**

(THIS PART OF THE LICENCE  
MUST BE KEPT AT THE  
PREMISES AT ALL TIMES AND  
PRODUCED UPON REQUEST OF  
AN AUTHORISED OFFICER)

**Premises Licence  
City of Newport**



<b>Premises Licence Number</b>	22/02373/LAPVM
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**Part 1 – Premises Details**

<b>Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code</b>	
O'Connors @ The Scrum Half 111 Chepstow Road Newport South Wales NP19 8BZ	
<b>Telephone number</b>	01633 222012

<b>Where the licence is time limited the dates</b>
Not Applicable

<b>Licensable activities authorised by the licence</b>
Sale by retail of Alcohol Performance of Live Music Playing of Recorded Music

<b>Times the licence authorises the carrying out of licensable activities</b>
Sale by retail of Alcohol Monday to Thursday inclusive 10:00 - 01:00 Friday and Saturday 10:00 - 02:00 Sunday 10:00 - Midnight New Year's Eve 10:00 - 03:00
Performance of Live Music

Monday to Thursday inclusive 20:00 - 01:00  
Friday and Saturday 20:00 - 02:00  
Sunday 20:00 - Midnight  
New Year's Eve 20:00 - 03:00

Playing of Recorded Music

Monday to Thursday inclusive 20:00 - 01:00  
Friday and Saturday 20:00 - 02:00  
Sunday 20:00 - Midnight  
New Year's Eve 20:00 - 03:00

For regulated entertainment, namely the performance of live music and the playing of recorded music  
i) Christmas Day as an early morning ending to a Christmas Eve function only.

### **The opening hours of the premises**

Monday 10:00 - 02:00  
Tuesday 10:00 - 02:00  
Wednesday 10:00 - 02:00  
Thursday 10:00 - 02:00  
Friday 10:00 - 03:00  
Saturday 10:00 - 03:00  
Sunday 10:00 - 01:00

**Where non standard timings are authorised, the opening times shall be as those authorised for licensable activities with an additional 30 minutes on the terminal hour.**

### **Where the licence authorises supplies of alcohol whether these are on and / or off supplies**

Alcohol is supplied for consumption on the Premises

## **Part 2**

### **Name, (registered) address, telephone number and email (where relevant) of holder of premises licence**

Harvey's Leisure (South Wales) Limited  
Unit 3A  
Boxer Trading Estate  
Ponthir Road  
Caerleon  
Newport  
NP18 3NY

E Mail [Dave@harveyswholesale.ltd.uk](mailto:Dave@harveyswholesale.ltd.uk)  
Business Phone Number 01633 222012

### **Registered number of holder, for example company number, charity number (where applicable)**

Registered Business Number 0370819

### **Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol**

Rachael Marchant  
91 Somerset Road  
Newport  
South Wales  
NP19 7GB

**Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol**

Party Reference: 17/01586/LAI                      Licensing Authority: Newport City Council

**This Premises Licence is issued by Newport City Council as Licensing Authority under Part 3 of the Licensing Act 2003 and regulations made thereunder.**

**Dated this 26<sup>th</sup> October 2022**



Silvia Gonzalez-Lopez  
Head of Environment and Public Protection

## **Mandatory conditions**

1 No supply of alcohol may be made under the premises licence:

- i) at a time when there is no designated premises supervisor in respect of the premises licence; or
- ii) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

2 Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

3 Where at specified times one or more individuals may be at the premises to carry out a security activity, each individual must be licensed by the Security Industry Authority.

For the purposes of this section:

- i) "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies; and
- ii) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

4 The admission of children to the exhibition of any film must be restricted in accordance with any recommendation made by the British Board of Film Classification (BBFC) or in the absence of a recommendation from the BBFC, the Licensing Authority.

For the purposes of this section:

- i) "children" means persons aged under 18 years of age.

5 The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises -

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to -  
(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or  
(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner; .

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

6 The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

7 (1) The premises licence holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either :

- (a) a holographic mark, or
- (b) an ultraviolet feature

8 The responsible person must ensure that -

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures-

(i) beer or cider: ½ pint;

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml; and

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available

#### **New Mandatory condition for on and off sales from 28 May 2014**

(1) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

(2) In this condition:-

(a) "permitted price" is the price found by applying the formula  $P = D + (D \times V)$ , where-

(i) P is the permitted price,

(ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(b) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence-

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

(3) Where the permitted price would not be a whole number of pennies, the permitted price shall be taken to be the price rounded up to the nearest penny.

(4) Where the permitted price on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax, the permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

## **Conditions consistent with the Operating Schedule**

### 10 CCTV System

CCTV will be installed inside and outside the premises. The cameras will cover all internal areas accessible to the public and areas immediately outside the premises. The date and time settings on the system must be correct and the CCTV system must be capable of recording images to a suitable medium that allows reply. Recordings must be retained for a minimum of 28 days. Staff shall be trained in the maintenance and operation of the CCTV system with a record kept of the date and name of person trained. A trained member of staff should be on duty to operate the system whenever the premises are open. Records shall be made available for inspection by the police and other responsible authorities as requested.

### 11 Door Supervisor

One Door Supervisor should be presented from 21:00hrs till close Friday, Saturday and on a Bank Holiday Sunday, Christmas & New Years Eve. The door supervisor shall be responsible for ensuring the door to the premises remains closed at all times whilst regulated entertainment is being provided.

12 Door Staff will wear high visibility armbands which clearly displays their SIA licence at all times and produce their badge upon the request of a Responsible Authority or member of the public.

### 13 Door Supervisor Log Book

A log book shall be maintained at the premises, in which shall be recorded the following details:

- o The door supervisor's full name;
- o His/her Security Industry Authority full licence number;
- o The time and date he/she starts and finishes duty;
- o Each entry shall be signed by the door supervisor.
- o That logbook shall be available for inspection on demand by an Authorised Officer of the Council, the Security Industry Authority or a Police Constable.

14 The appointed duty manager, who shall be the holder of a personal licence, will counter sign the door supervisor log book at the end of every shift to ensure that the door supervisors are recording all details of incidents and to record even if no incidents happen.

### 15 Challenge 21

A Challenge 21 policy shall be operated at the premises at all times. Upon entry to the premises door supervisors' staff shall check identification of all persons who appear to be less than 21 years old. This policy shall also be practised by bar staff engaged in the sale of alcohol. This check shall be made by examining either a passport, photographic driving licence or a PASS approved proof of age card. No other form of identification shall be accepted. Signage informing customers that this scheme is being operated shall be prominently displayed at all entrances.

16 Publicity materials notifying customers of the operation of the Challenge 21 scheme shall be displayed at the premises, including a Challenge 21 sign of at least A5 size at each point of sale.

### 17 Staff Training

A written documented training scheme shall be introduced for all staff. Staff shall receive full training at induction when commencing their employment, prior to be permitted to sell alcohol. Refresher training sessions shall be held with staff members at 12 monthly intervals and all training sessions recorded as part of the documented training scheme.

The scheme shall be made available for inspection at the request of any Responsible Authority under the Licensing Act 2003.

#### 18 Refusals register

The Premises Licence Holder shall operate and maintain an up-to-date Register of Refusals of Sale of Alcohol, indicating the date, time and reason for refusal which shall be made available for inspection by any Responsible Authority under the Licensing Act 2003. The DPS shall check the book once a week ensuring that it is complete and up to date. The DPS will sign the book each time it is checked.

#### 19 Personal Licence Holder

A personal licence holder shall be on the premises on Friday, Saturday and Bank holiday Sunday from 20:00hrs till close, except in the case of an emergency.

#### 20 Last Entry Time

Last entry to the premises will be 1am. There will be no re entry from this time.

#### 21 Accompanied Children:

All accompanied children shall vacate the premises by 22:00.

22 No alcoholic drinks will be permitted outside the venue.

23 No adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children, (for example, but not exclusively, nudity or semi nudity), regardless of whether children are present on the premises, are permitted within the premises at any time when the premises is open to the public, save for the provision of 1 gaming machine.

24 The provision of regulated entertainment namely the performance of live music, the playing of recorded music and the provision of facilities for dancing shall take place on the ground floor of the premises only.

25 Authorised officers of the Licensing Authority shall be admitted immediately at all reasonable times to all parts of the premises. Officers of Heddlu Gwent Police and officers of South Wales Fire & Rescue Service shall also be admitted immediately to all parts of the premises whilst the premises are being used, or about to be used, for the purpose for which the licence is granted.

26 The Premises Licence holder shall be a member of Pubwatch.

27 The Designated Premises Supervisor shall ensure that all activities on the premises are conducted in a decent, sober and orderly manner.

28 The Designated Premises Supervisor must ensure that no intoxicating liquor shall be removed from the premises other than in sealed containers; open bottles, glasses or cans shall not be allowed to be taken from the premises.

29 At all premises with a terminal hour of later than 11.00 pm, all drinking glasses shall be manufactured from strengthened glass.

30 The premises shall not be used for striptease or entertainment of a like kind to dancing which involves nudity or the sexual stimulation of patrons, other than where this occurs as part of a licensed performance of a play.

31 Persons awaiting admission to the premises shall only be allowed to congregate in that part of the premises identified for that purpose.

32 All deliveries to the premises shall take place at sociable times only.

33 The Licensing Authority may, if deemed necessary, stipulate internal equivalent continuous noise levels (LeqT) at 63 Hz and 125 Hz and/or an equivalent continuous A weighted noise level (LAeqT), in any part of the licensed premises and those levels shall not be exceeded at any time.



34 The Designated Premises Supervisor shall ensure that no noise shall emanate from the licensed premises, or vibration be transmitted through the structure of the licensed premises, which causes occupiers of premises in the neighbourhood to be unreasonably disturbed.

35 The Designated Premises Supervisor shall at all times ensure that persons on, or leaving the licensed premises, conduct themselves in an orderly manner and do not in any way cause annoyance to residents or persons passing by. The Designated Premises Supervisor shall take all reasonable steps to ensure that persons leaving the licensed premises and using adjacent car parks and highways in the immediate vicinity of the licensed premises do not conduct themselves in a manner so as to cause annoyance to the residents or persons passing by.

36 The means of escape provided for all persons on the premises shall be maintained unobstructed, immediately available and clearly identifiable and all exit doors which may need to be used by the public shall be kept unlocked at all times whilst the premises are in use. All exit signs shall be maintained in good repair and shall be properly illuminated in accordance with the recommendations of South Wales Fire & Rescue Service. Except with the consent of the Licensing Authority, bars, guards or the like shall not be fitted to windows nor shall windows be otherwise obstructed in a manner likely to make them unavailable for use in emergencies.

37 All gangways and exit ways and the treads of steps and stairways shall be maintained with non-slip and even surfaces. The edges of steps and stairways shall be conspicuous.

38 All floor coverings shall be secured and maintained so that they will not be likely to ruck or be in any way a source of danger.

39 Any gangways, corridors and staircases used by the public shall be kept clear from obstruction.

40 The total number of persons permitted to be accommodated in the premises shall not be exceeded at any time.

41 Suitable and sufficient sanitary conveniences shall be provided for each sex, free of charge to members of the public who use the premises, and shall at all times be kept in good order and repair. All such installations shall be properly and effectively cleansed, ventilated, disinfected and supplied with water and the doors leading thereto shall be suitably marked.

42 There shall be no admission to the premises of unaccompanied children at any time.

**Conditions attached after a hearing by the licensing authority**

NIL.

**Plans**

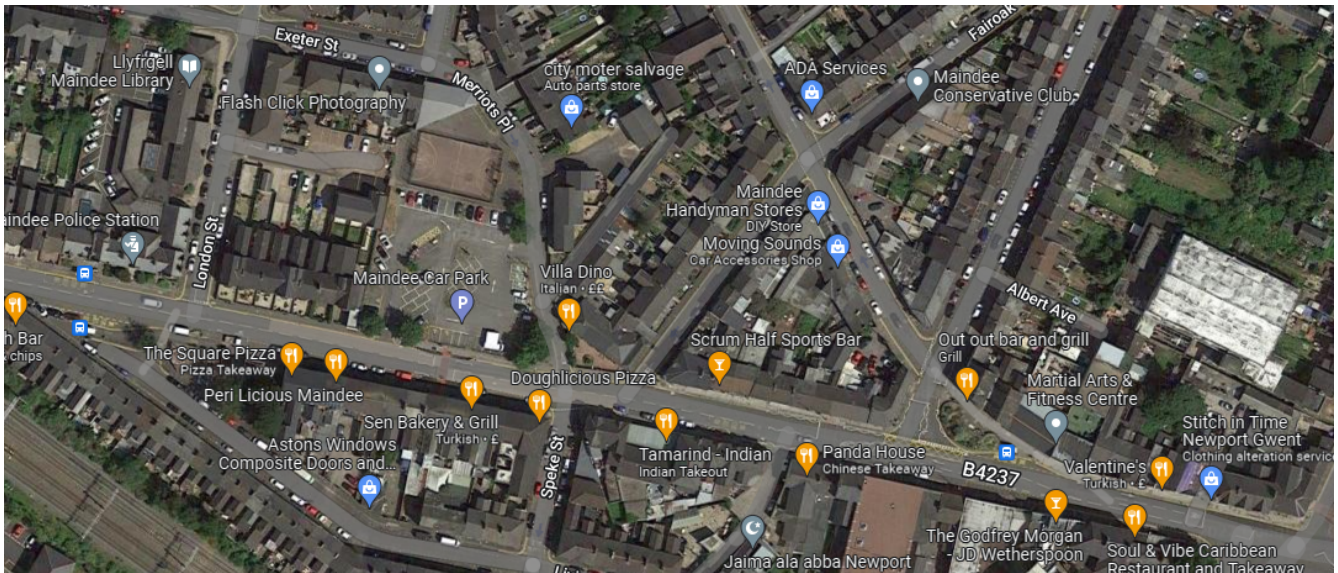
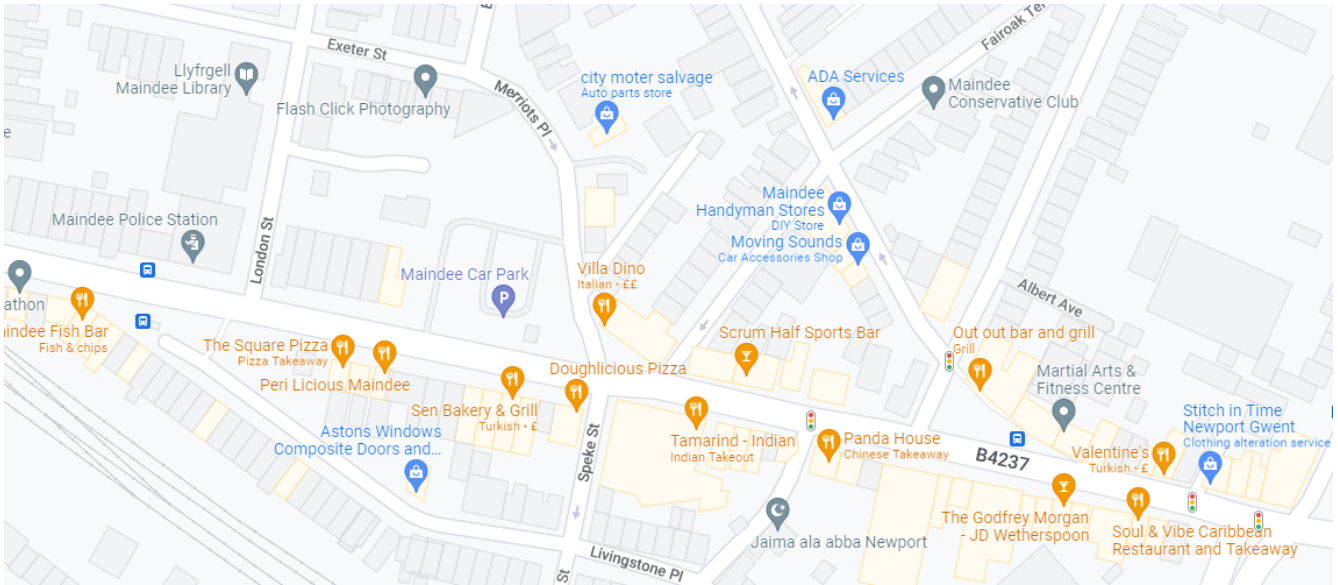
Please see attached plans (reference number P/07/00500)

## **Appendix C Representations Responsible Authorities / “Other Persons”**

No other representations were made in regard to the review.

# APPENDIX D

## Location of premises







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Mae'r dudalen hon yn wag yn

# Report

## Licensing Sub Committee Report.

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### Part 1

Date: 17<sup>th</sup> January 2023

**Subject**     **Review of Premises Licence under Section 51 Licensing Act 2003, The Pod, Rodney Road, Newport NP19 0AD**

**Purpose**        The consideration and decision in respect of a review application under Licensing Act 2003.

**Author**        Alastair Dearling (Licensing Manager)

**Ward**            Victoria

**Summary**     An application for a review of the premises licence was made by Newport City Council Environment Health (Noise Team), acting in its role as a Responsible Authority, on 22<sup>nd</sup> November 2022 on the basis that the premises is undermining The prevention of public nuisance.

**Proposal**      To make a decision on the application to review the Premises Licence issued in respect The POD, Rodney Road, Newport NP19 0AD.

**Action by**     Head of Law and Regulation

**Timetable**    Statutory Consultation Period

**Signed** Alastair Dearling

## 1. Review Application

- A review application under Section 51 of the Licensing Act 2003 was received on the 22<sup>nd</sup> November 2022 from Newport City Council Environmental Health Department (Noise team), acting in its role as a Responsible Authority, to review the Premises Licence issued in respect of The POD, Rodney Road, Newport NP19 0AD.

The application for review relates to the following Licensing objective:

The prevention of public nuisance.

A copy of the review paperwork and supporting documents can be found in **Appendix A** of this report. Noise recordings of the alleged public nuisance from the POD have been offered to all parties concerned and will be presented at the licensing hearing by Environment Health Department.

The application was received by the Licensing Authority on 22<sup>nd</sup> November 2022 and in accordance with section 51(3)(a) of the Licensing Act 2003 a copy of the application was served on the holder of the Premises Licence and on all Responsible Authorities (via email).

Following receipt of the application, the Licensing Authority advertised the application in accordance with the regulations of the Act, thereby inviting representations to be made by interested parties. Any representation in respect of this application made by a responsible authority or an interested party had to be received by the Licensing Authority by 20<sup>th</sup> December 2022.

## 2. Licensable Activities

The current premises licence holder is:

**The POD (Newport) Limited,  
61 Cowbridge Road East, Cardiff, South Glamorgan, CF11 9AE**

The Current Designated Premises Supervisor (DPS) is:

**Mr Jan Kosler**

The Premises Licence relates to the following licensable activities

### **Sale by retail of Alcohol**

Monday to Sunday inclusive 07:00 - 01:00

### **Performance of Live Music**

Wednesday 17:00 - 23:00

Thursday 17:00 - 23:00

Friday and Saturday 17:00 - Midnight

Sunday 17:00 - 23:00

### **Playing of Recorded Music**

Monday to Sunday inclusive 07:00 - 01:00



### **Late Night Refreshment**

Monday to Sunday inclusive 07:00 - 01:00

### **The opening hours of the premises**

Monday to Sunday inclusive 07:00 - 01:30

A copy of the premises licence can be found in **Appendix B** of this report

## **3. Representations**

The Licensing Authority invited representation from responsible authority and “other persons” to be submitted before Midnight on the 23<sup>rd</sup> December 2022. The Licensing Authority Received:

No further representation from any other Responsible Authority, though representations were received from “other persons” these and can be found in **Appendix C** of this report.

## **4. Background / Premises Licence History**

- The premises is located on Rodney Road, Newport and was previously a Taylor Wimpey Sales Office for a number of residential flats developed alongside Rodney Road and River banks of the River Usk. A map and pictures of the location of the premises can be found in **Appendix D** of the report.
- The Premises was first granted a premises licence back on 17<sup>th</sup> June 2017.
- The premises licence in 2017 covered the inside of the premises and included a relatively small outside area to the premises.
- During the Covid outbreak the POD started to utilise land that did not form part of the licensable area, this was permitted under Covid Regulations, thus meaning the outside area expanding approximately 4 times larger than the original Licensing Act 2003 application plans. This meant that outside area of the premises started to encroach nearer to residents (Pictures can be found in Appendix D)

Clearly under Covid Regulations the premises was not required to seek permission from either the Licensing Authority or the Authority’s Planning Department nor did the outside area require any public consideration.

The temporary outside permitted development rights that were introduced in April 2020 due to Covid to support the hospitality industry were removed on 3<sup>rd</sup> January 2022 with Welsh Government encouraging business to submit planning applications before the 3<sup>rd</sup> January 2022 or businesses should cease trading in these areas and structures should be removed by 3 January 2022.

## 30 Policy Considerations regarding a review of a Premises Licence

### 30. Reviews of licences

30.1 The Council can only review a licence where it is alleged by a "responsible authority", or other person that the licensing objectives are being breached. Responsible authorities will aim to give licence holders early warning of any concerns identified at the premises. Only responsible authorities or other persons (e.g. local residents, local organisations and councillors) can apply for the review of a licence; and determine its outcome at a hearing where an evidential basis for allegations made will be submitted. It views particularly seriously applications for the review of any premises licence which involves the

- use of licensed premises for the sale and distribution of controlled drugs and the laundering of the proceeds of drugs crimes;
- use of licensed premises for the sale and distribution of illegal firearms;
- evasion of copyright in respect of pirated films and music;
- underage purchase and consumption of alcohol;
- use of licensed premises for prostitution or the sale of unlawful pornography;
- use of licensed premises for unlawful gaming;
- use of licensed premises as a base for organised criminal activity;
- use of licensed premises for the organisation of racist, homophobic or sexual abuse or attacks;
- use of licensed premises for the sale of smuggled tobacco or goods;
- use of licensed premises for the storage or sale of stolen goods;
- the police being frequently called to attend to incidents of disorder;
- **prolonged and/or repeated instances of public nuisance**
- serious risk to public safety have been identified and the management is unable or unwilling to correct;
- Serious risk to children.

30.2 The Licensing Sub-committee will consider all evidence provided at the hearing and apply appropriate weight to that evidence when making their decision.

30.3 The licensing sub-committee will consider all of the sanctions available to it provided for in the Act and guidance, including taking no action if appropriate. In cases where a licensing objective is seriously undermined, that revocation of the licence, even in the first instance, will be considered where appropriate to ensure the licensing objectives are promoted.

30.4 In cases where a licensing objective is seriously undermined, the revocation of the licence, even in the first instance, will be seriously considered where appropriate to ensure the licensing objectives are promoted.

### **Section 11.3 of the Council Licensing Policy:**

The Licensing Authority recognise that limiting the public nuisance that may be associated with licensed premises and their operation is an important factor for health and well-being. The Licensing Authority recognise the key links to health and well-being from public nuisance in terms of disturbed sleep, stress caused by nuisance and pollution. Disturbed sleep and stress can add to residents' mental and physical health issues, and their wider wellbeing. Lack of sleep can have an impact on the immune system and can contribute to heart disease and diabetes. Lack of sleep can also contribute to anxiety and depression. Stress can contribute to anxiety and depression, and cardio-vascular diseases. Applicants should consider the potential impact their premise may have on public nuisance particularly from noise and put in place mitigating measures.

### **Revised Guidance issued under section 182 of the Licensing Act 2003**

11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.

11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.

11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.

11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

#### Revised Guidance issued under section 182 of the Licensing Act 2003

- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption)
  - remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
  - suspend the licence for a period not exceeding three months;
  - revoke the licence.

11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.

11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.

11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

## 5. Legal Considerations

The decision must be taken following consideration of the representation received with a view to promoting the licensing objectives which are:

- Prevention of crime and disorder
- Public Safety
- Prevention of Public Nuisance
- Protection of Children from Harm

In each case the Sub-Committee may make the following determination

- To modify the conditions of the Premises licence
- The Licensing Authority can determine that any existing conditions on the premises licence relating to live or recorded music will apply between 8am and 11pm in line with the Live Music Act 2012.
- To exclude a licensable activity from the scope of the premises licence
- To remove the designated premises supervisor from the licence
- To suspend the premises licence for a period not exceeding 3 months

- To revoke the premises licence
- Take No action in respect of the Premises Licence.

All decisions taken by the Sub-Committee must

- (a) be within the legal powers of the Council and its Committees;
- (b) comply with any procedural requirement imposed by law;
- (c) be undertaken in accordance with the procedural requirements imposed by the Council eg. standing orders and financial regulations;
- (d) be fully and properly informed;
- (e) be properly motivated;
- (f) be taken having regard to the Council's fiduciary duty to its taxpayers; and
- (g) be reasonable and proper in all the circumstances.

## 6. Issues for discussion

**31** The content of the application made by Newport City Council Environmental Health Department (Noise), acting in its role as a Responsible Authority, for a review of the Premises Licence.

**32** Any evidence and mitigation provided by Licence Holder

## 7. Financial Summary

- The costs and financial implications: You must discuss financial implications with the Head of Finance and the report must identify from where your proposals will be funded, together with any impact on budgets or any opportunity costs

	Year 1 (Current) £	Year 2 £	Year 3 £	Ongoing £	Notes including budgets heads affected
Costs (Income)					
Net Costs (Savings)					
Net Impact on Budget					

## 8. Risks

It is important to identify and manage any project or scheme's exposure to risk and have in place controls to deal with those risks.

In this section, you should consider the key risks facing the proposals in your report, particularly those which would impact on delivery or sustainability of the project or projected outcomes. You will need to include details of how risks will be managed. If your proposals rely on short or medium term grant aid or funding streams you will need to outline your exit or continuation policy here.

You will need to complete the following Risk table

Risk	Impact of Risk if it occurs* (H/M/L)	Probability of risk occurring (H/M/L)	What is the Council doing or what has it done to avoid the risk or reduce its effect	Who is responsible for dealing with the risk?
Making a unlawful decision	High	Low	The Committee will consult with the Legal Officer and Licensing Officer to determine if any decision is lawful and proportionate.  Members training.	Chairperson.  Legal Officer.
The licensing committee departing from the licensing policy.	Medium	Low	If the Committee wishes to depart from the Councils policy they must give good reason for this and obtain advice from the Legal Officer when departing from the Policies to ensure the decision is lawful.  Members training.	Chairperson.  Legal Officer.
The applicant does not have a fair hearing	High	Low	A Licensing Committee procedure should be followed by the committee.  The Legal Officer alongside the Democratic Service Officer will advise the committee if at any stage an unfair hearing is taking place.  Members training.	Democratic Service Officer.  Chairperson.  Legal Officer.

\* Taking account of proposed mitigation measures

## **9. Links to Council Policies and Priorities**

This report has been prepared in accordance with The Licensing Act 2003 and with regard to Newport City Council Statement of Licensing Policies 2020.

## **APPENDIX A (Review Application)**

*[Insert name and address of relevant licensing authority and its reference number (optional)]*

### **Application for the review of a premises licence or club premises certificate under the Licensing Act 2003**

#### **PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

Before completing this form please read the guidance notes at the end of the form.  
If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

#### **I James Holland**

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Hereby apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the premises described in Part 1 below

#### **Part 1 – Premises or club premises details**

<b>Postal address of premises or, if none, ordnance survey map reference or description</b>	
The POD located on Rodney Road	
<b>Post town</b> Newport	<b>Post code (if known)</b> NP19 0AD

<b>Name of premises licence holder</b>
The POD (Newport) Limited
<b>Registered office address</b>
61 Cowbridge Road East, Cardiff, South Glamorgan, CF11 9AE
<b>Directors</b>
Mr Paul John Young & Mr Oliver John Mason
<b>Name of Designated Premises Supervisor (DPS)</b>
Mr Jan Kosler

<b>Number of premises licence</b>
20/00815/LAPVM



**Part 2 - Applicant details**

I am

Please tick ✓ yes

1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)

2) a responsible authority (please complete (C) below)

✓

3) a member of the club to which this application relates (please complete (A) below)

**(A) DETAILS OF INDIVIDUAL APPLICANT** (fill in as applicable)

Please tick ✓ yes

Mr                  Mrs                  Miss                  Ms                  Other title

**Surname**

**First names**

Please tick ✓ yes

**I am 18 years old or over**

**Current postal address if different from premises address**

**Post town**

**Post Code**

**Daytime contact telephone number**

**E-mail address (optional)**

**(B) DETAILS OF OTHER APPLICANT**

Name and address
Telephone number (if any)
E-mail address (optional)

**(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT**

Name and address  James Holland Chartered Environmental Health Officer  Noise & Neighbourhood Team Civic Centre Newport City Council South Wales NP20 4UR
Telephone number (if any) 01633 414720
E-mail address (optional) <a href="mailto:James.Holland@newport.gov.uk">James.Holland@newport.gov.uk</a>

**This application to review relates to the following licensing objective(s)**

Please tick one or more boxes ✓

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

✓

Please state the ground(s) for review (please read guidance note 2)

I formally request a review of the present premises license to remove the provision of Live Music Act 2012, so that the current and proposed Conditions, detailed below become and can be enforceable under the Licensing Act 2003.

**Please Note:** The Live Music Act 2012 amended the Licensing Act 2003, so that a licence for a live music performance is not needed if: it takes place between 8am and 11pm; it takes place at a licensed premises or workplace and that the audience is no more than 500 people.

Furthermore, any externally land (used) for the purpose of any license activities must be incorporated into a site plan (footprint) to allow all external licensing activities to be enforceable under the Licensing Act 2003.

In addition, I wish to amend the wording within the current premises licence conditions, so as to prevent public nuisance to local residence.

**Condition:**

9. Recorded music should take place between 8:00hrs and 23:00hrs, after 23:00hrs background (recorded music) can be played between 08:00hrs and 01:00hrs.

**Condition 9 should be revised to now stipulate:**

Recorded music should take place between 8:00hrs and 23:00hrs, after 23:00hrs background (recorded music) can be played between 08:00hrs and 01:00hrs. Live music should only take place between 11:00hrs and 22:00hrs.

10. The outdoor external terrace shall be closed to members of the public outside the following timing 08:00hrs till 23:00hrs.

11. No Regulated entertainment outside at any time.

**Condition 11 should be revised to stipulate:**

No Regulated entertainment should take place outside at any time and no external speakers should be located in the outside area, this includes speakers for Live TV broadcast.

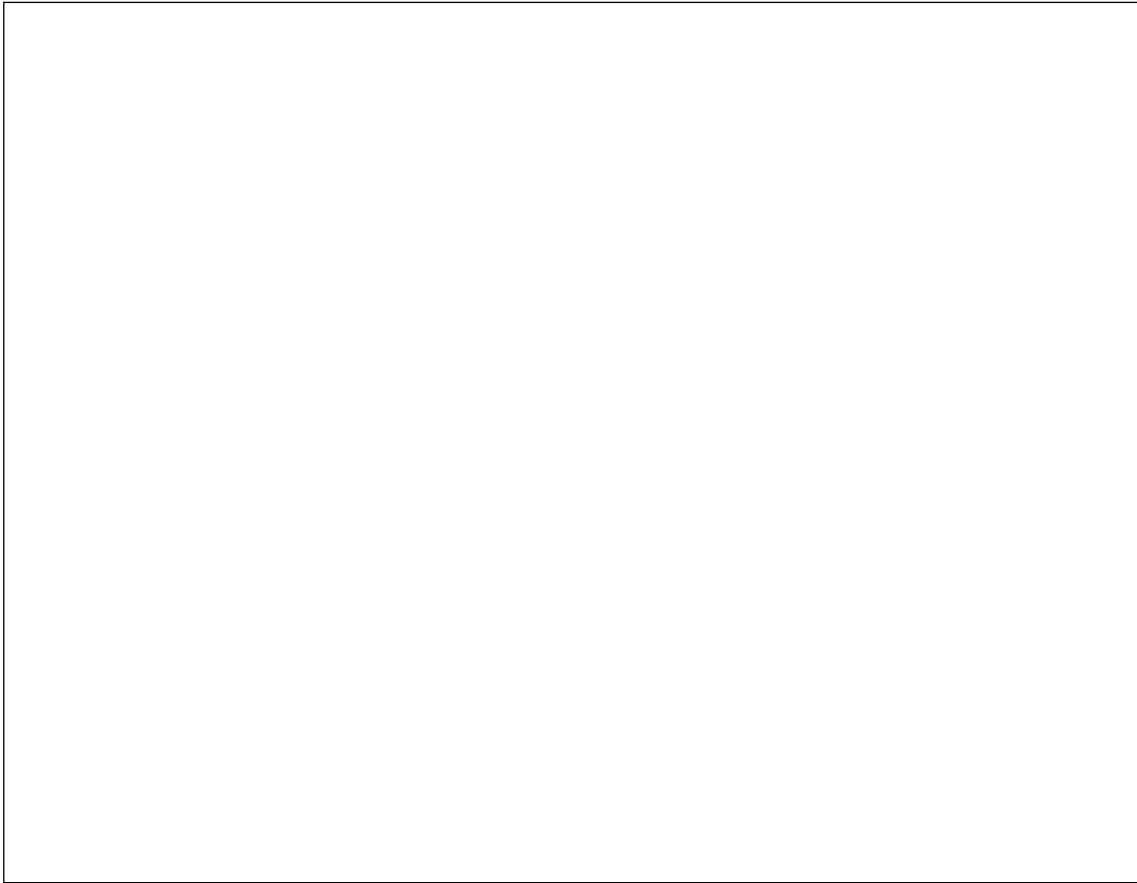
13. On any occasion that entertainment is provided the Designated Premises Supervisor will ensure that all such activities are inaudible at the nearest noise sensitive dwelling and that proactive noise monitoring is conducted at regular intervals. Such proactive monitoring will be appropriately documented and retained for a period of six months. This documentation shall be made available for inspection by the Licensing Authority, on requirement.

14. Acoustic door seals fitted to all external doors and that they are maintained so as to minimise the escape of sound from the premises.

15. Sealed acoustic/double/secondary glazing windows are fitted to minimise sound escape from the premises.

16. Works should be carried out to sound insulate/attenuate any ventilation/extract system within the kitchen area, so as to prevent sound break-out from the premises. Note: Noise can escape through an air intake just as easily as through an extraction system.

17. All external doors shall be kept closed, allowing access and egress, whilst Indoor Regulated Entertainment (live & recorded music) is being provided.



**Please provide as much information as possible to support the application** (please read guidance note 3)

An Environmental Protection Act 1990, Section 80 - Abatement Notices was served upon both the Secretary: The Pod (Newport) Limited, Rodney Road, Newport, South Wales, NP19 0AD and Mr Jan Kosler (DPS) on the 30th of September 2021.

The Notices required that; any musical entertainment was adequately controlled, so that it did not materially interfere with the use and enjoyment of neighbouring accommodation.

Such musical entertainment was again recorded by local residents on the 11th of December 2021, which gave rise to a noise nuisance. Both parties were reminded that the requirements of the Abatement Notice were still in force.

Again, both parties were informed that should further complaints be received then consideration will be given to the instigation of legal proceedings for the criminal offence of failing to comply with the Abatement Notices. At which time, a report will be submitted to the Council's Legal Services for further consideration and decision as to whether to prosecute or not.

In addition, those concerned were also informed that application can be made to review the Premises Licence under Sections 51 of the Licensing Act 2003 and to further remove; the provision of entertainment consisting of a 'performance of any live music or the playing of recorded music' under Section 177(A) of the Live Music Act 2012.

And that; any application to review the Premises Licence will be determined by a panel consisting of Members of the Licensing Committee, who on determining such an application may consider that one of the following steps is necessary in order to promote the four licensing objectives:

- ✓ To modify the conditions of the licence, by altering, omitting, or adding to them, where relevant.
- ✓ To exclude a licensable activity from the scope of the licence.
- ✓ To remove the designated premises supervisor.
- ✓ To suspend the licence for a period not exceeding three months; or to revoke the licence.

At the same both parties were informed that it was their responsibility to ensure that the four licensing objectives, including the prevention of public nuisance objective, was promoted when carrying on licensable activities etc.

Again, they were reminded at the end of the enforcement letter (breach of notice letter) that the Abatement Notice was still in force at the time and therefore, it is clearly in their own interest to ensure that there is no cause for further complaint and thus prevent the need for any further actions by this City Council.

Further complaints and noise app recordings have been submitted and are available to review if required;

27, 28 & 29 August 2021

11, 25 & 26 September 2021 – Abatement Notice served

15 December 2021 – Breach of Abatement Notice letter sent

27 March 2022

2, 3 & 7 April 2022

29 Oct 2022

2 Nov 2022

Please tick ✓ yes

Have you made an application for review relating to the premises before

If yes please state the date of that application

Day	Month	Year
<input type="text"/>	<input type="text"/>	<input type="text"/>

**If you have made representations before relating to the premises please state what they were and when you made them**

Please tick ✓

yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

**IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.**

**Part 3 – Signatures** (please read guidance note 4)

**Signature of applicant or applicant’s solicitor or other duly authorised agent** (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature J. HOLLAND

.....

Date 22 November 2022

.....

Capacity Environmental Health Officer

.....

**Contact name (where not previously given) and postal address for correspondence associated with this application** (please read guidance note 6)

Post town

Post Code

Telephone number (if any)

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)



**APPENDIX B (POD Premises Licence)**

**Schedule 12  
Part A**

(THIS PART OF THE LICENCE  
MUST BE KEPT AT THE  
PREMISES AT ALL TIMES AND  
PRODUCED UPON REQUEST OF  
AN AUTHORISED OFFICER)

**Premises Licence  
City of Newport**



<b>Premises Licence Number</b>	20/00815/LAPVM
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**Part 1 – Premises Details**

<b>Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code</b>  The Pod Rodney Road Newport South Wales NP19 0AD
<b>Telephone number</b>

<b>Where the licence is time limited the dates</b> Not Applicable
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<b>Licensable activities authorised by the licence</b>  Sale by retail of Alcohol Performance of Live Music Playing of Recorded Music Late Night Refreshment
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<b>Times the licence authorises the carrying out of licensable activities</b>  Sale by retail of Alcohol Monday to Sunday inclusive 07:00 - 01:00  Performance of Live Music Wednesday 17:00 - 23:00
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Thursday 17:00 - 23:00  
Friday and Saturday 17:00 - Midnight  
Sunday 17:00 - 23:00

Playing of Recorded Music  
Monday to Sunday inclusive 07:00 - 01:00

Late Night Refreshment  
Monday to Sunday inclusive 07:00 - 01:00

**The opening hours of the premises**

Monday to Sunday inclusive 07:00 - 01:30

**Where non standard timings are authorised, the opening times shall be as those authorised for licensable activities with an additional 30 minutes on the terminal hour.**

**Where the licence authorises supplies of alcohol whether these are on and / or off supplies**

Alcohol is supplied for consumption both on and off the Premises

**Part 2**

**Name, (registered) address, telephone number and email (where relevant) of holder of premises licence**

The POD Ltd  
The Pod  
Rodney Road  
Newport  
South Wales  
NP19 0AD

E Mail :

**Registered number of holder, for example company number, charity number (where applicable)**

**Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol**

Jan Kosler

**Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol**

Party Reference: 18/00260/LAI

Licensing Authority: Newport City Council

**This Premises Licence is issued by Newport City Council as Licensing Authority under Part 3 of the Licensing Act 2003 and regulations made thereunder.**

**Dated this 7<sup>th</sup> May 2020**



Gareth Price  
Head of Law and Regulation

## **Mandatory conditions**

1 No supply of alcohol may be made under the premises licence:

- i) at a time when there is no designated premises supervisor in respect of the premises licence; or
- ii) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

2 Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

3 Where at specified times one or more individuals may be at the premises to carry out a security activity, each individual must be licensed by the Security Industry Authority.

For the purposes of this section:

- i) "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies; and
- ii) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

4 The admission of children to the exhibition of any film must be restricted in accordance with any recommendation made by the British Board of Film Classification (BBFC) or in the absence of a recommendation from the BBFC, the Licensing Authority.

For the purposes of this section:

- i) "children" means persons aged under 18 years of age.

5 The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises -

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to -  
(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or  
(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner; .

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

6 The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

7 (1) The premises licence holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either :

- (a) a holographic mark, or
- (b) an ultraviolet feature

8 The responsible person must ensure that -

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures-

(i) beer or cider: ½ pint;

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml; and

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available

#### **New Mandatory condition for on and off sales from 28 May 2014**

(1) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

(2) In this condition:-

(a) "permitted price" is the price found by applying the formula  $P = D + (D \times V)$ , where-

(i) P is the permitted price,

(ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(b) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence-

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

(3) Where the permitted price would not be a whole number of pennies, the permitted price shall be taken to be the price rounded up to the nearest penny.

(4) Where the permitted price on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax, the permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

## **Conditions consistent with the Operating Schedule**

9. Recorded music should take place between 8:00hrs and 23:00hrs, after 23:00hrs background (recorded music) can be played between 08:00hrs and 01:00hrs.
10. The outdoor external terrace shall be closed to members of the public outside the following timing 08:00hrs till 23:00hrs.
11. No Regulated entertainment outside at any time.
12. There shall be no movement of equipment associated with Indoor Regulated Entertainment (live music) from the premises between the hours of 12 midnight and 07:00 hours.
13. On any occasion that entertainment is provided The Designated Premises Supervisor will ensure that all such activities are inaudible at the nearest noise sensitive dwelling and that proactive noise monitoring is conducted at regular intervals. Such proactive monitoring will be appropriately documented and retained for a period of six months. This documentation shall be made available for inspection by the Licensing Authority, on requirement;
14. Acoustic door seals fitted to all external doors and that they are maintained so as to minimise the escape of sound from the premises.
15. Sealed acoustic/double/secondary glazing windows are fitted to minimise sound escape from the premises.
16. Works should be carried out to sound insulate/attenuate any ventilation/extract system within the kitchen area, so as to prevent sound break-out from the premises. Note: Noise can escape through an air intake just as easily as through an extraction system.
17. All external doors shall be kept closed, allowing access and egress, whilst Indoor Regulated Entertainment (live & recorded music) is being provided
18. Upon the request of police, all tables and chairs are removed from outside the premises.
19. Drinking vessels shall be provided in either toughened glassware or polycarbonate.
20. CCTV will be installed inside (outside) the premises. The cameras will cover all internal areas accessible to the public and areas immediately outside the premises. The date and time settings on the system must be correct and the CCTV system must be capable of recording images to a suitable medium that allows reply. Recordings must be retained for a minimum of 30 days. Staff shall be trained in the maintenance and operation of the CCTV system.
21. A Challenge 25 policy shall be operated at the premises at all times. All staff shall check identification of all persons who appear to be less than 25 years old. This check shall be made by examining either a passport, photographic driving licence or a PASS approved proof of age card. No other form of identification shall be accepted.
22. On days where rugby or football matches are taking place at Rodney Parade, all drinks being consumed within the designated garden/outside terrace area must be either in polycarbonate or plastic glasses three hours before kick-off of a game and one hour after the game (or at times requested by Gwent Police). It is expected the Designated Premises Supervisor or the manager on duty at the time will give full and due consideration through their own risk assessments, to periods outside the above named hours.

- 23. No alcohol will be purchased from the outside terrace bar before 10:00am on any day.
- 24. No children are allowed on the premises unless accompanied by an adult.
- 25. No children are allowed on the premises after 22:00hrs.

The following conditions were added after minor variation on 07.05.2020

The Delivery of Alcohol is permitted in line with the following conditions:

- 26. Alcohol must only be sold with a food order; the food order must be minimum of £3.
- 27. The Delivery of alcohol is only permitted during the coronavirus outbreak.28. The Delivery service must cease if giving written notification to do so by either Licensing Authority, Gwent Police or Local Authorities Trading Standards Team.
- 29. Deliveries are only permitted to be delivered at either a home address or a work place.
- 30. The Premises must operate appropriate age verification scheme to prevent under 18s purchasing alcohol.

**Conditions attached after a hearing by the licensing authority**

NIL.

**Plans**

Please see attached plans (reference number 18/02704/LAPV)

## Appendix C Representations “Other Persons”

### To whom it may Concern

I have just read the notice placed on the POD regarding noise and the review of their license. This is extremely disappointing.

The POD is the one of the few quality, upmarket places in Newport that makes you feel safe and well looked after. I have been to the POD on many occasions and have never experienced an issue with the music being inappropriate or too loud.

With the development of Friars Walk, it was hoped Newport would become a vibrant city, offering shopping and leisure experiences that could compete with neighbouring cities but unfortunately, it is not the case. It is only due to the independent businesses in Newport like the POD, that attracts people to spend their valuable leisure time and money. They need to be supported and I strongly disagree with your decision to review the POD’s license and hope you will reconsider your action.

Many Thanks

Holly  
26 Harlech Drive  
Rhiwderin  
Newport  
NP10 8QS

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To whom it may concern, I am really disappointed Reading the notice on the pods door, the Pod is, and always has been, a great place to visit. A place one can feel safe and looked after. I have visited on many occasions and never had a problem with the music being too loud or inappropriate. Therefore I strongly disagree with your decision to review The Pod’s license.

Casey Pipe, 44 Ombersley Rd Np203EE.



To Whom it may concern,

I was inform that you are trying to change The Pod Newport's license without they consent. I found this unfair and unjust as The Pod has always been a place to visit where one can feel safe and you can see they care and respect for law-abiding and they care for local community and their neighborhood

I strongly object to this motion and disagree with your decision and I would like you to reconsider and actually work closely with your local business instead of just making decisions without them.

Respectfully

Concern citizen and visitor of The Pod( Casey Whatts 138 malpas road, NP205PL)

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To whom it may concern,

I'm writing with regard to the notice of application for the review of premises licence recently posted at The Pod on Rodney Road. I'd like to start by saying that I'm the head doorman of said establishment (contracted through Dawks Security), a position I've held since April of this year. Not once during my time at The Pod have I been approached by a local resident with regards to noise, nor have I been approached by Gwent police in relation to the matter. All live music is finished by 23:00 and the beer garden area is also closed by this time. On occasion some guessed walk outside to smoke or vape and

they're instructed to keep noise to an acceptable level as to not disturb nearby residents at such a late hour. If we have a particular busy night I also have at my disposal another guard (who wears a hi vis vest) who marshals guests either toward town centre to continue their night or toward their taxis.

Customers are also encouraged to stay inside until they know that their ride has arrived outside. All this

is to ensure that our neighbours are not disturbed.

On the matter of disturbances, during my time here I've noted 4 regular form of public nuisance that does affect our neighbours.

- Revellers heading to town from the Maindee area and vice versa.
- Fans from Rodney parade heading to town or Maindee on match days who congregate in the old arts college car park while deciding what to do next, who are often very loud.
- People driving vehicles in an anti social fashion up and down Rodney Road.
- And youths hanging out along the Riverside.

None of these actual nuisances are any fault of The Pod. Simply put i have the easiest job of any doorman in Newport. Even with our close proximity to town centre I require no radio to connect me to Charlie Romeo, I've never had to break up a fight or even forcibly eject someone. The only time the police have been on the premises during my time at The Pod was to ask for our assistance with regards

to our CCTV footage of the surrounding area and to question one individual who came to our establishment after an incident at a nearby venue. I hope this helps to clarify the issue, please feel free

to contact me if you require any further information.

Kind regards,  
DG Smith

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To whom it may concern,

I strongly disagree with your decision to review The Pod's license. The Pod is one of the most recognized places in Newport and a great addition to the whole community. The pod is a place where you feel welcomed and have great fun. I understand there are some people who are against Pod from the beginning and trying to do everything to shut them down.

Music in the pod is a foundation pillar and it would be a big mistake to take it away.

Many thanks,

**Tomas Kosler**

*General Manager*

*@TheFriendlyFox Bassaleg*

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To whom it may concern,

The Pod is, and always has been, a great place to visit. A place one can feel safe and looked after. I have visited on many occasion and never had a problem with the music being too loud or inappropriate. Therefore I strongly disagree with your decision to review The Pod's license.

(Abi Harris)

## APPENDIX D

### Location of premises





Tudalen 88









Tudalen 90



Mae'r dudalen hon yn wag yn