

# Report



## Licensing Sub Committee Report

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### Part 1

Date: 06<sup>th</sup> August 2018

**Subject** **Review of Premises Licence under Section 51 Licensing Act 2003**

**Baneswell Express 8, Baneswell Road, Newport NP20 4BP  
Premises Licence Number 16/00627/LAPREV**

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

**Author** William Lewis (Licensing Officer)

**Ward** St Julians

**Summary** An application for a review of the premises licence was served by Newport City Council Licensing Services on 19<sup>th</sup> June 2018 on the basis that the operation of the premises were failing to promote the Licensing Objectives in respect of the prevention of crime and disorder and public protection.

**Proposal** **To make a decision on the application as detailed within this report.**

**Action by** Head of Law and Regulation

**Timetable** Statutory Consultation Period

**Signed**

## **1. Application**

1. On 19<sup>th</sup> June 2018 an application (Appendix 1) under section 51 Licensing Act 2003 for a review of the Premises Licence No 16/00627/LAPREV held by Arfan Sabir in respect of premises trading as Baneswell Express 8, Banewell Road, Newport was served on the Licensing Authority by Samantha Turnbull a Licensing Officer of Newport City Council Licensing Services acting in the capacity of a 'responsible authority' by virtue of the provisions of Section 182(4) Licensing Act 2003.
2. In accordance with the provisions of Section 51 Licensing Act 2003 Licensing Officer William Lewis attended Banewell Express at 1.15pm on 19<sup>th</sup> June 2018 and a copy of the application, addressed to Arfan Sabir was served on Mohammed Sabir who was present at that time. A blue notice (Appendix 2) advertising the application was affixed to the window to the street in accordance with provisions of the Licensing Act 2003. A copy of the Blue Notice was also displayed at Newport City Council Information Station reception. On the same date a copy of the application was served on the 'Responsible Authorities' and published on Newport City Council website detailing that representations from any person should be served on the Licensing Authority no later than the end of the 28 day consultation period on 17<sup>th</sup> July 2018.
3. The application for review is being requested as the Licensing Authority (acting as a Responsible Authority) believe the licensing objectives are not being upheld, namely the prevention of Crime and Disorder & Public Safety as a result of historic issues associated with the conduct of the premises and activity at 02:08am on 24<sup>th</sup> February 2018 observed by officers of the Licensing Authority who were engaged in Night Time Economy enforcement duties.
4. As a result of that observation of 24<sup>th</sup> February 2018 officers later attended at the premises where under lawful request they were provided a copy of images (copies produced Appendix 3) recorded on the premises CCTV system by Mr Arfan Sabir the holder of the Premises Licence and the Designated Premises Supervisor.
5. The CCTV recording was subsequently viewed and revealed evidence of breaches of conditions attached to the premises licence. Further details concerning what was revealed from the viewing of the CCTV recording is provided within the application for the review and shall be presented to the Licensing Sub-Committee by an authorised officer.

## **2. Representations**

No representations were received from 'responsible authorities' or 'other persons'.

## **3. Current Premises Licence**

The Premises Licence 16/00627/LAPREV (Appendix 6) was granted following a review of the Premises Licence and decision of the Licensing Sub-Committee on 15<sup>th</sup> June 2016 and a subsequent appeal at Newport Magistrates Court on 07<sup>th</sup> October 2018 where agreement was reached prior to a full hearing that the **sale of alcohol for consumption 'off' the premises** was restricted to:

Monday to Sunday inclusive 08:00 - 23:00

#### 4. Background/Premises Licence History



1. The premises as shown above were granted a Premises Licence under the Licensing Act 2003 effective as of 24th November 2005 following application to convert a Justices Licence granted under the Licensing Act 1964 which permitted the sale of alcohol for consumption 'off the premises' Monday to Saturday between the hours of 08:00 and 23:00, Sunday between the hours of 10:00 to 22:30 and Good Friday between the hours of 08:00 and 22:30.
2. In April 2008 an application for a 'full variation' of the Premises Licence was submitted by Mr Arfan Sabir the holder of the Premises Licence seeking an extension of the hours for the sale of alcohol to:  
Sunday to Thursday inclusive 07:00 to 01:00  
Friday and Saturday 07:00 to 03:00
3. This application was met with an objection and in accordance with statutory provisions of the Licensing Act 2003 was deferred to Newport City Council Licensing Sub-Committee on 19th June 2008 for determination of the application.
4. The Sub Committee having taken into account the statutory Licensing Objectives, the Council's Statement of Licensing Policy and evidence presented in the interest of promoting the Licensing Objective of the Prevention of Public Nuisance determined to grant the application but in order to prevent disturbance and nuisance arising during the early hours of the morning in what is primarily a residential area modified the hours for the sale by retail of alcohol for consumption off the premises to:  
Sunday to Thursday inclusive – 8am to 12 midnight  
Friday and Saturday – 8am to 1am

5. On 23<sup>rd</sup> September 2015 the Premises Licence Holder Arfan Sabir attended Newport Central Police Station for a meeting with the Police Licensing Officer and Mr Alastair Dearling the council's Principal Licensing Officer. This meeting concerned intelligence and information which gave strong suspicions that the premises were engaging in unauthorised sale of alcohol which was denied by Mr Sabir. He was nevertheless strongly advised of his responsibilities and warned of the consequences of failure to comply with the times and conditions attached to the Premises Licence.
6. In spite of that meeting and the warnings given further information emerged to suggest that the premises were still engaging in selling alcohol outside the hours permitted by the Premises Licence. On 06<sup>th</sup> February 2016 and 27<sup>th</sup> February 2016 officers of the Licensing Authority conducted test purchases at the premises after the terminal hour for the sale of alcohol. The investigation following these test purchases revealed further matters regarding breaches of conditions of the Premises Licence and on 04<sup>th</sup> April 2016 an application for a review of the Premises Licence under Section 51 Licensing Act 2003 (copy included at Appendix 4) was served by Mr Alastair Dearling of the Licensing Authority (responsible Authority) on the grounds that the operation of the premises were failing to promote the licensing objectives of the prevention of crime and disorder and public protection.
7. A hearing in respect of that review application before Newport City Licensing Sub-Committee was held on Wednesday 15<sup>th</sup> June 2016. The Licensing Sub-Committee having considered the presentation of the report and responses of the Premises Licence Holder determined that there had been a failure in the promotion of the Licensing Objectives and modified the Premises Licence to reduce the hours for permitted sale of alcohol and added conditions as follows:
  - The sale by retail of alcohol for consumption off the premises is to take place between 0800 hours and 2200 hours Sunday to Saturday.
  - A personal licence holder must be present at the premises between the hours of 0800 hours and 2200 hours.
  - All alcohol should be clearly labelled as having been obtained from or sold by Baneswell Express; this can be incorporated within the price label.
  - The Designated Premises Supervisor shall be actively employed on the premises and shall not be a Designated Premises Supervisor in respect of premises elsewhere.
  - The doors to the premises shall be closed allowing no public access after the terminal hour for the sale of alcohol after which retail sales shall be restricted to the service hatch located at the front of the premises.
8. The decision of the Licensing Sub-Committee was appealed by Arfan Sabir to Her Majesty Court Service. The appeal was heard at Newport Magistrates Court on 07<sup>th</sup> October 2016 where the proposals of Legal Counsel for Mr Sabir were agreed by the Licensing Authority prior to requirement for a full hearing. The Premises Licence was amended to reflect the agreed proposals as determined by the court order (Appendix 5).
9. In May 2017 intelligence and information that surfaced concerning activities at the premises resulted in a visit from Mr Dearling and the Police Licensing officer on 30<sup>th</sup> May 2017. Mr Arfan Sabir was spoken to in relation to the premises selling balloons of nitrous oxide. Subsequent to this visit a letter (Appendix 7) was sent to Mr Arfan Sabir detailing the legal position concerning the supply of Psychoactive substances which include Nitrous Oxide.

10. On 19<sup>th</sup> February 2018 and 08<sup>th</sup> March 2018 visits to the premises by officers of Newport City Council Licensing Department and Newport Police resulted in finding of breaches of conditions attached to the Premises Licence. Following these visits Licensing Officer Samantha Turnbull sent a letter dated 21<sup>st</sup> March 2018 (Appendix 8) to Mr Arfan Sabir identifying these condition breaches and the requirement for compliance.

## **5. Legal Considerations, Guidance, Policy Consideration.**

1. The decision must be taken following consideration of the representations 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
- 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.

## **6. Guidance**

1. Relevant extracts of the Statement of Newport City Council Licensing Policy as regards this application include:

Paragraph 33.1

The Licensing Authority 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 local persons (e.g. local residents, local organisations and councillors) can apply for the review of a licence. At any subsequent hearing, the Sub-Committee will consider evidence and make a determination. 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.

The Licensing Sub-Committee will consider all evidence provided at the hearing and apply appropriate weight to that evidence when making its decision. It will consider all sanctions at its disposal by virtue of the Act and guidance, including taking no action, if appropriate. In cases where a licensing objective is seriously undermined, the revocation of the licence, even in the first instance, will be considered where appropriate to ensure the licensing objectives are promoted.

## **7. Issues for discussion**

1. The application and supporting evidence requesting the review of the Premises Licence.
2. Any mitigation from Arfan Sabir.

## **APPENDIX 1**

The application form dated 19<sup>th</sup> June 2018 from Newport City Council/Licensing Officer (responsible authority) requesting a review under Section 51 Licensing Act 2018 of the Premises Licence for Baneswell Express.

*[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 Licensing Authority Newport City Council**

*(Insert name of applicant)*

**apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)**

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

<b>Postal address of premises or, if none, ordnance survey map reference or description</b> Baneswell Express 8 Baneswell Road	
<b>Post town</b> Newport	<b>Post code (if known)</b> NP20 4BP

<b>Name of premises licence holder or club holding club premises certificate (if known)</b> Mr Arfan Sabir
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<b>Number of premises licence or club premises certificate (if known)</b> 16/00627/LAPREV
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#### **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  
(for example, Rev)

**Surname**

**First names**

**I am 18 years old or over**

Please tick ✓ yes

**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 Licensing Authority Newport City Council PO Box 883 Civic Centre Godfrey Road Newport NP20 4UR
Telephone number (if any) <b>01633 656656</b>
E-mail address (optional) <a href="mailto:Environment.licensing@newport.gov.uk">Environment.licensing@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 | <input checked="" type="checkbox"/> |
| 2) public safety                        | <input checked="" type="checkbox"/> |
| 3) the prevention of public nuisance    | <input type="checkbox"/>            |
| 4) the protection of children from harm | <input type="checkbox"/>            |

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

The review is being requested as the Licensing Authority (acting as a Responsible Authority) believe the licensing objectives are not being upheld, namely the prevention of

- **Crime and Disorder**
- **& Public Safety.**

Despite several enforcement activities undertaken by the Licensing Authority in respect of the Baneswell Express premises since September 2015, the premises licence holder and Designated Premises Supervisor (DPS) Mr Arfan Sabir continues to operate the premises in contravention of the licence conditions attached to the premises licence; notably the conditions that were formally attached to the premises licence following mediation between the premises licence holder Mr Sabir and Newport City Council at an appeal hearing on 07 October 2016 at Newport Magistrates Court.

The latest enforcement activity having taken place on **24 February 2018** was undertaken as part of routine late night enforcement Officers were conducting across the City Centre. It was identified by Officers that at 02:08am despite the front door of the premises being closed it appeared that a member of staff working in the premises, known to the Officer to be Mr Mohammed Sabir was serving an individual inside the shop premises.

The Officers continued to witness a male individual leave the shop premises at 02:10am with a package and enter into a vehicle parked up outside the premises.

Following this enforcement activity, Officers visited the premises and met with the Premises Licence Holder and Designated Premises Supervisor, Mr Arfan Sabir, in order to request CCTV footage be provided of 24 February 2018.

The CCTV recordings were provided and these have been subsequently examined.

The CCTV recordings provided highlight multiple breaches of licensing conditions have occurred on 24 February 2018, notably the following two conditions:

***“2. Premises to close to customers no later than 12 midnight on any day.”***

***“3. All alcohol to be screened or covered after licensable activities period ends whilst premises remains open to customers.”***

The CCTV recordings provided cover the period from 01:30am to 02:30am. Cameras cover the internal areas where customers have access and the cameras immediately outside the shop, including the service hatch area.

At the start of the recordings two males are located inside the premises. One male known to Officers to be Mr Mohammed Sabir, is working at the premises and he is the only individual working at the shop premises during the duration of the footage.

The other male located inside the premises remains in the premises until 02:02am; during the footage he is seen to be drinking from cans, one of which he obtains from a stack of cans located inside the premises, eating and smoking inside the premises.

At **01:30am on 24 February 2018** Two males are allowed entry into the premises. Whilst the two males remain in the area of the premises directly in front of till counter, Mr Mohammed Sabir takes a blue coloured plastic carrier bag from the till point area and goes to the rear of the premises into the premises' store room, this area is not covered by the CCTV footage we were provided with. Mr Mohammed Sabir returns into the shop premises and when he returns immediately to the till counter area items are inside the blue plastic carrier bag.

The CCTV recordings do not highlight what items are inside the carrier bag, however it appears that the size of the items enclosed in the carrier bag give the appearance of being cans in their shape and size, however this cannot be categorically determined and the items if in fact are cans they could be large energy drink cans. These energy drink can products are normally located in refrigerated chiller units located along the one side of the shop premises.

The males do not select any products themselves whilst they are located inside the premises and following an exchange of notes by one male with Mr Mohammed Sabir at the till counter the males then leave the premises without the blue carrier bag containing items.

Some minutes later, the same male who exchanged notes with Mr Mohammed Sabir returns into the shop premises for a brief period and within minutes again the same male is seen outside the premises being passed the blue plastic carrier bag containing items through the shop premises' service hatch.

At 01:39am a male is seen on the CCTV recordings to approach the front door to the premises, however he was not able to enter the premises.

At 02:07am on 24 February 2018 Mr Mohammed Sabir opens the door of the premises and permits a male to enter into the premises. This male is seen to be walking around the shop premises browsing at products. He approaches the till with what appears to be two items he has selected, one of which appears to be a multipack of chocolate confectionary. Mr Mohammed Sabir places another product on the counter, which appears to be tobacco and the male makes payment to Mr Mohammed Sabir with a note, at 02:10am this male customer leaves the premises.

Officers have determined from extensive examination of the CCTV recordings obtained for the 24 February 2018 that the Licensing Authority cannot categorically determine whether the customers allowed entry into the premises during the time period in question purchased alcohol as part of their transactions, but is clearly a breach of the Premises Licence conditions that stipulates

***“2. Premises to close to customers no later than 12 midnight on any day.”***

It is clearly evident that payment was made by both customers on the 24 February 2018. I exhibit a copy of CCTV of the 24 February from 01:30 hrs and 02:30 hrs as appendix two to this report.

In respect of the CCTV recordings obtained, at various intervals during the footage Mr Mohammed Sabir and the male who remains in the premises from the start of the recordings obtained from 01:30am until he is seen leaving at 02:02am, are both witnessed smoking cigarettes inside the shop premises. Thereby committing offences under section 7 of the Health Act 2006. Both Mr Arfan & Mohammed Sabir have been warned at previous meetings regarding the offences of smoking in the shop. The males can be seen to be using an ash tray whilst they smoke.

On 03 May 2018 Mr Arfan Sabir attended a formal interview with Officers and was asked for a response in relation to the evidence obtained for the 24 February 2018 and the offences committed.

Mr Sabir indicated that he was fully aware of the conditions attached to his premises licence. When questioned specifically about members of the public being permitted to enter his premises beyond midnight he indicated that he does permit known persons to enter to browse as opposed to them being limited to only have products passed through the premises' hatch, however he stated such permitted persons are never allowed alcohol and this is known to them.

He further stated that other persons know to him, such as individuals working in the taxi trade in Newport, are permitted to enter his premises for purposes other than to purchase goods, notably to use the toilet or have a coffee.

At this interview it was made clear to Mr Sabir that condition 2 attached to his premises licence means that customers are never permitted to enter his shop premises after 12 midnight and what was witnessed from the CCTV recordings from his system were clear breaches of conditions attached to the premises licence.

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

The Premises Licence was previously reviewed at a hearing before Newport City Council Licensing Sub-Committee on 15<sup>th</sup> June 2016 following application on 04/04/16 by the Licensing Authority/Responsible Authority as a consequence of conduct associated with the premises and where previous actions and mediation between Gwent Police Licensing and Newport City Council Licensing with the holder of the Premises Licence failed to resolve the issues of an undermining of Licensing Objectives of the Prevention of Crime and Disorder and Public Safety.

The Licensing Sub-Committee heard that the premises failed two test purchase operations undertaken by the Licensing Authority on **06 February 2016** and **27 February 2016**, in respect of both Licensing Officers were able to purchase a 20cl bottle of Glens Vodka.

Further evidence was presented regarding obstruction of the authorised officers who in accordance with a condition of the premises licence requested copies of CCTV recordings for the dates and times of the test purchases and at the time of their attendance and request Mr Rizwan Sabir (brother of premises licence holder) deliberately deleted all CCTV evidence from the shop premises' system via a laptop located at Mr Arfan Sabir's home.

The Licensing Sub-Committee considered that the evidence presented amounted to a failure by the premises licence holder to promote the licensing objectives and they issued a decision that the Premises Licence should be modified as follows:

- The sale by retail of alcohol for consumption off the premises is to take place between 0800 hours and 2200 hours Sunday to Saturday.
- A personal licence holder must be present at the premises between the hours of 0800 hours and 2200 hours.
- All alcohol should be clearly labelled as having been obtained from or sold by Baneswell Express; this can be incorporated within the price label.
- The Designated Premises Supervisor shall be actively employed on the premises and shall not be a Designated Premises Supervisor in respect of premises elsewhere.
- The doors to the premises shall be closed allowing no public access after the terminal hour for the sale of alcohol after which retail sales shall be restricted to the service hatch located at the front of the premises.

Mr Sabir appealed the decision of the Licensing Sub Committee to Her Majesties Courts Services and on **07 October 2016** the appeal was listed at Newport Magistrates Court. Mr Sabir (the Appellant) and his solicitor engaged in mediation with Newport City Council Legal Officer which resulted in the removal of the need for a full hearing. The court was instructed accordingly and issued a court order that the Premises Licence be modified as follows:

Monday to Sunday inclusive 08:00 - 23:00.

1. Sale of alcohol (for consumption off the premises) to be permitted between 8am and 11pm Sunday to Saturday (inclusive)
2. Premises to closed to customers no later than 12 midnight on any day

3. All alcohol to be screened or covered after licensable activities period ends whilst premises remains open to customers
4. Signage to be deployed setting out hours permitted for sale of alcohol
5. All members of staff (serving customer) to be BII/ALPCH certified (or an appropriate equivalent)
6. All alcohol to be labelled "Baneswell Express" (or name of shop)

On the **30<sup>th</sup> May 2017** The Licensing Authority and Gwent Police were required to attend the premises after receiving comprehensive evidence that the shop was selling Psychoactive Substance in the form of Nitrous Oxide (Street name Laughing Gas / Hippy Crack). At the time of the visit there were a number of Nitrous Oxide Charges discarded outside the premises.

Nitrous oxide is depressant-type drug, which means it slows down your brain and your body's responses The effects of nitrous oxide vary depending on how much has been inhaled but they include:

- Feelings of euphoria, relaxation and calmness.
- Dizziness, difficulty in thinking straight and fits of giggles/laughter.
- Sound distortions or even hallucinations.

Nitrous oxide can cause dizziness or affect your judgement, which might make you act carelessly or dangerously and put you at risk of hurting yourself, particularly in an unsafe environment.

Other risks include:

- Unconsciousness or death from lack of oxygen. This occurs when the available oxygen for breathing is effectively pushed out by the nitrous oxide. The risk is greater if the gas is consumed in an enclosed space or if a plastic bag is used that covers both nose and mouth.
- Heavy regular use of nitrous oxide can lead to deficiency of vitamin B12 and to a form of anaemia. The severe B12 deficiency can lead to serious nerve damage in some cases, which causes tingling and numbness in the fingers and toes and other extremities, and even difficulties with walking and pains in affected areas. Regular use may also depress formation of white blood cells.
- Can be hard to judge the amount to use safely. If you have too much you can end up fainting, having an accident or much worse.
- Mixing nitrous oxide with alcohol is especially dangerous as it can increase the risks associated with both substances and can lead to an increased risk of accidents or death.

Although nitrous oxide has been legal in the past, since the Psychoactive Substances Act came into effect on **26 May 2016**, it is now illegal to supply or import nitrous oxide for human consumption.

A warning letter was given jointly by the Police Licensing Team and Newport Licensing Team. I exhibit a copy of this letter as appendix three. Once again this demonstrates lack of management at the premises and disregard of the law and selling of Nitro Oxide clearly undermines the licensing objectives of both public safety and crime and disorder

On **15 July 2017** whilst undertaking evening enforcement in Newport City Centre Officers noted that the Baneswell Express premises was open and trading around the terminal hour for the sale of alcohol for consumption off the premises, as a result of this observation Officer's chose to return to the premises in

order to undertake a test purchase operation to investigate whether an Officer was able to purchase alcohol beyond 23:00. At 23:17 an Officer was able to purchase a bottle of Koppaberg Cider from a male working at the premises.

Following the successful test purchase on 15 July 2017, Officers again attended the premises along with the Police Licensing Officer PC Andrew Lewis, to request CCTV footage of 15 July 2017. At this visit PC Lewis also requested CCTV recordings of 08 July 2017 between 23:00 – 23:30.

A review of the CCTV recordings for **08 July 2017** highlighted that Mr Mohammed Sabir again sold alcohol to a member of the public at 23:29.

Following the commission of these offences on 08 and 15 July 2017 an investigation was undertaken by the Licensing Authority and the decision was made to formally prosecute Mr Mohammed Sabir for committing offences under section 136 of the Licensing Act 2003, notably providing unauthorised licensable activities.

Mr Mohammed Sabir was found guilty of the offences at Newport Magistrates Court on the **9<sup>th</sup> April 2018** and received the following penalty : £120 fine reduced to £80 for guilty plea, Victim Support Cost £30 and Council cost of £536.37p as such a total of **£646.37p**.

On the **19 February 2018** the premises was visited as part of the licensing team's risk rating inspection schedule; further to this visit a re-visit to the premises was required due to matters un-covered at the first visit . As part of these visits on 19 February and 08 March 2018, the premises were once again found in breach of its conditions, specifically conditions 6, 9 and 10 attached to the premises licence:

**6: “Any refusal to supply alcohol shall be recorded in an incident book which shall be kept at the premises and made available to an Authorised Officer on request.”**

**9: “All staff shall be trained in the identification of underage drinkers.”**

**10: “All alcohol to be labelled “Baneswell Express” (or name of shop)”**

To note is that condition 10 above was specifically attached to the premises licence by the Licensing Sub Committee at the review hearing of **15 June 2016**.

I exhibit the post inspection letter sent to Mr Sabir on 21 March as appendix 4 which details the matters that required his attention and warning of the consequences operating in breach of the premises licence issued to his shop premises.

The most recent contraventions of the premises licence identified by Officers of the Licensing Authority occurred on **24 February 2018** when Officers were conducting routine late night enforcement in Newport City Centre. As highlighted at the start of this report whilst in the Baneswell area of the City, Officers identified that at 02:08am despite the front door to the premises being closed it appeared that a member of staff working at the premises, known to the Officer to be Mr Mohammed Sabir was serving an individual inside the shop premises.

The Officers continued to witness a male leave the shop premises at 02:10am with a package and enter into a vehicle parked up outside the premises.

Evidence comprising CCTV recordings from Mr Afran Sabir's CCTV system has been extensively examined as part of the Authority's investigation into the offences and highlight contraventions of conditions attached to the premises licence for Baneswell Express. These contraventions are detailed further above in the grounds for review section of this application.

As detailed in the earlier part of this review application, despite numerous enforcement activities undertaken by the Licensing Authority working in partnership with responsible authorities, notably Heddlu Gwent Police and furthermore engagement with the Premises Licence Holder at regular routine visits to the premises, including those on 14 June 2017, 19 February 2018 and 08 March 2018 it is clear to the Licensing Authority that Mr Arfan Sabir as the Licence holder and Designated Premises Supervisor appears to have no regard for his responsibilities to ensure the premises licence issued in respect of Baneswell Express is fully complied with and no regard for the promotion of the licensing objectives.

In continuing to operate in breach of the conditions attached to his premises licence he is failing to demonstrate that he is a responsible retailer promoting the licensing objectives.

The Licensing Authority acting as a responsible authority strongly believes that the following measures are required in order to fully promote the 4 licensing objectives in respect of licensable activities being provided at the premises:

Ultimately we have determined that revocation of the premises licence would be justified following the outcomes of the enforcement activities undertaken which clearly evidence the poor management of the premises by Mr Arfan Sabir, his lack of control in respect of the premises licence and continued failure to ensure full compliance with the premises licence.

The Licensing Authority believes that there is a clear indication of deeper problems in respect of the management of the premises that are consequently impacting upon the licensing objectives.

The Licensing Authority wish to highlight that as with all licensed premises across the City we wish to work with businesses to ensure they operate as fully compliant licensed premises and operate in such a way as to fully promote the four licensing objectives; it is never the intention of the Licensing Authority to close businesses down, though unfortunately despite exploring every avenue to ensure Baneswell Express are compliant with the Licence they continue to undermine the Licensing Objectives.

It is felt by simply adding further conditions to licence would not promote the Licence Objectives as clearly the premises' history demonstrates a brazen disregard to both conditions and hours attached to the Premises Licence and the Licensing objectives.

If it is the case that the management of the premises and the staff who have shown clear disregard to the Licensing Act were to be removed from the premises, it may be the case that adding further conditions may be more appropriate for the promotion of the licensing objectives and proportionate to promoting the Licensing Objectives, than simply revoking the licence.

As such it is felt appropriate that Mr Arfan Sabir the DPS is removed from the premises licence.

The Licensing Authority believe that as a result of Mr Arfan Sabir's continued poor management of the premises, proven lack of supervision and control of the premises, including those individuals he leaves in control of the premises in his absence, fully justifies this measure being evoked.

Despite the previous enforcement actions undertaken in respect of the premises and the sanctions against the premises, Mr Arfan Sabir has continued in his failure to comply with the premises licence and to promote the licensing objectives, he has admitted to allowing customers to enter his licensed premises after 12 midnight despite having full awareness that this is not permitted as a result of a condition attached to his licence. He demonstrates a lack of control over the persons he leaves in charge of his business; demonstrations of a lack of control include the fact that he allows staff to openly smoke inside the shop premises in contravention of the Health Act 2006, allowing the premises to sell

illegal Psychoactive drugs and despite a member of staff constantly breaching the premises conditions he continues to allow the staff member to work unsupervised.

**The Licensing Authority also request that the Licensing Sub-Committee consider it appropriate to the promotion the Licensing Objectives that the following conditions be attached to the premises licence for Baneswell Express**

- The DPS shall be present on the premises on Friday and Saturday's and Bank Holiday Sundays between the hours of 22:00 – 23:00. If the DPS is not able to be present on the premises on a Friday and Saturday and Bank Holiday between 22:00 – 23:00, a minimum of two personal licence holders shall be employed at the premises for these periods.
- All alcohol to be located within fully enclosed lockable cupboards/fridge units.
- All units to have full covers in place so that all alcohol can be entirely covered and all units to be locked between 23:00 and 08am. Or from 22:00hrs when the DPS is not present or when there are less than two personal holders on the premises.
- No alcohol should be visible through the shutters.
- All units must be covered by CCTV and display clear and prominent signage which stipulates that there is no sale of alcohol between 23:00 – 08:00.
- All bags provided to and/or purchased by customers in order to carry the items they have purchased from the Baneswell Express shop premises must be fully transparent after 23:00hrs till 08:00hrs, thereby not concealing the contents of the carrier bag.
- Fully documented staff training, to include training on the premises licence conditions as well as the premises' challenge 25 policy. Training should be undertaken at regular intervals throughout the calendar year, as a minimum every 6 months. Staff shall sign and date documentation at the conclusion of their training session, acknowledging that they have received and fully understood the training provided to them.
- A further CCTV camera should be installed to the satisfaction of the Licensing Authority to clearly identify items being passed through the "hatch" of the premises.

**The Following Table summarises the above contents:**

<b>Date</b>	<b>Incident / Event</b>
13 September of 2015 at 01:36hrs	Gwent Police believed they witnessed the premises selling a bottle of wine after hours.
23 September 2015	Gwent Police & The Licensing Authority held a formal mediation meeting under the Licensing Act 2003 regarding the premises "selling after hours". Mr Arfan Sabir denied this practice, though was given a verbal warning regarding the premises conduct.
06 February 2016	Test Purchase undertaken by the Licensing Authority. Mr Mohammed Sabir sold 20cl of Glens Vodka at 37.5 at 01:20hrs.



27 February 2016	A further Test Purchase undertaken by the Licensing Authority. Once again Mr Mohammed Sabir sold a further 20cl of Glens Vodka at 37.5 at 01:29hrs.
29 February 2016	Post the test purchases, when CCTV was requested from the premises licence holder, the premises obstructed officers and deleted the footage of the test purchases on the 06 & 27 February 2016.
31 May 2016	Licensing Review
07 October 2016	Licensing Appeal  Mr Sabir (the Appellant) engaged in mediation with Newport City Council on the day of the Licensing Appeal at Gwent Magistrates.
30 May 2017	The Premises was visited by Gwent Police & Licensing Authority and warned regarding selling illegal Psychoactive substances.
8 July 2017	Mr Mohammed Sabir Again sells alcohol at 23:29hrs "after hours"
15 July 2017	Mr Mohammed Sabir Again sells alcohol at 23:19hrs "after hours" after a test purchase was conducted by the Licensing Authority.
9 April 2018	Mr Mohammed Sabir was convicted under section 136 of the Licensing Act 2003 providing unauthorised licence activities, selling alcohol after hours on the 8 & 15 July 2017
19 February 2018 08 March 2018	The Premises were found to be operating in breach of conditions 6, 9,10 of the premises licence during a risk rating inspection and subsequent re-visit undertaken by the Licensing Authority.
24 February 2018	Officers witness the members of the public entering the premises after 00:00hrs contrary to condition that stipulates:  "Premises to close to customers no later than 12 midnight on any day".
24 February 2018	Despite Mr Mohammed Sabir and Arfan Sabir being warned that smoking in the premises is unlawful under the Health Act 2006, this practice continues in the store.

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

--	--	--	--	--	--	--	--

04 April 2016

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

Representation for review was made April 2016.

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 *S Turnbull*

Date **19 June 2018**

Capacity **Licensing Authority, Responsible Authority**

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

## **APPENDIX 2**

Copy of Blue Notice in respect of current Review Application

### **LICENSING ACT 2003 - SECTION 51**

#### **NOTICE OF APPLICATION FOR THE REVIEW OF A PREMISES LICENCE**

The Licensing Authority of Newport City Council, Civic Centre, Newport, NP20 4UR, HEREBY GIVE NOTICE THAT on 19<sup>th</sup> June 2018 an application under Section 51 Licensing Act 2003 for a review of the Premises Licence in respect of

BANESWELL EXPRESS 8, BANESWELL ROAD, NEWPORT NP20 4BP

was served by Newport City Council Licensing Services, a responsible authority under the Licensing Act 2003 on the grounds that the licensing objectives of (i) prevention of crime and disorder and (ii) public protection, are being undermined.

Responsible authorities under the Licensing act 2003 and/or **any other person** who wishes to make representation in respect of this review may do so in writing to:

**The Licensing Section, Newport City Council, PO BOX 883, Civic Centre, Newport, NP20 4UR, or by email to:**

**[environment.licensing@newport.gov.uk](mailto:environment.licensing@newport.gov.uk)**

Representations in writing should be received before midnight on  
**17<sup>th</sup> July 2018**

The full application may be viewed at, Information Station, Old Station Building, Queensway, Newport, NP20 4AX between the hours of 8.30 am and 5.00 pm Monday to Friday.

Under section 158 of the Licensing Act 2003, it is an offence to knowingly or recklessly make a false statement in connection with an application. The maximum fine for which a person is liable of conviction is up to £5,000 (level 5 on the standard scale).

### **Appendix 3**

CCTV recordings of 24 February 2018 between the hours of 01:30 – 02:30am from Mr Sabir's CCTV system installed within the Baneswell Express premises.

## **APPENDIX 4**

Copy of the application for review of the Premises Licence dated 04<sup>th</sup> April 2016

# **Newport City Council**

## **Application for the review of a premises licence 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 Alastair Dearling (Principal Licensing Officer)**

**apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)**

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

<b>Postal address of premises or, if none, ordnance survey map reference or description</b> Baneswell Express, 8 Baneswell Road, Newport, NP20 4BP.	
<b>Post town</b> Newport	<b>Post code (if known)</b> NP20 4BP

<b>Name of premises licence holder or club holding club premises certificate (if known)</b> Mr Arfan Sabir
---

<b>Number of premises licence or club premises certificate (if known)</b> 08/03017/LAPV
--

#### **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

(for example, Rev)

**Surname**

**First names**

**I am 18 years old or over**

Please tick  yes

**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  Alastair Dearling, Newport City Council, Licensing Department PO Box 883, Civic Centre, Godrey Road, Newport. NP20 4UR
Telephone number (if any) <b>01633 656656</b>
E-mail address (optional) <a href="mailto:alastair.dearling@newport.gov.uk">alastair.dearling@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    | <input type="checkbox"/>        |
| 4) the protection of children from harm | <input type="checkbox"/>        |



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

The review is being requested as the Licensing Authority (acting as a Responsible Authority) believe the licensing objectives are not being upheld, namely the presentation of Crime and Disorder & Public Safety.

The Licensing Authority will offer evidence that the premises is continuously committing offences under the Licensing Act 2003, despite warning from Gwent Police and Licensing Authority regarding carrying on a licensable activity on the premises other than in accordance with the premises licence. In this case “selling alcohol after hours” this clearly undermines the Licensing Objectives of ;

- the prevention of crime and disorder
- & public safety

Through my role as the Principal Licensing Officer, I have attended a number of meetings regarding Night Time Economy within the City Centre of Newport. One of the constant topics discussed at these meeting is the number of alcohol glass bottles found discarded on the streets of Newport.

Through these discussions, Newport Licensing Officers and Gwent Police worked with a number “on licences” in City Centre, especially with door staff to try and eliminate the number of glass bottles being discarded on the streets, especially on a Friday and Saturday night.

It became evident that the majority of the glass bottles where not coming from the “On licences” ie pubs and nightclubs within the City Centre. But from members of the public coming into the city centre and from the off licences in city centre.

Glass on the streets of the City Centre not only give a very negative image of Newport’s night time economy, but the bottles can be used as weapons or are just simply a Health & Safety hazard for members of public.

It was also highlighted that some “Off” Licence premises within the City Centre where remaining open late into the morning and contrary to there licensing hours. Door staff and Licence holders from the city centre pubs and bars stipulated that customers would often visit the off licence in the City to either pre load or simply “top up” cheaply whilst going from pub to pub.

This has caused significant issues for the door staff as customers are heavy drinking on the streets from the off licences before entering the premises. As such customers entering the premises seem to be sober on entering the premises but become very intoxicated even before purchasing a drink at their venues. Common types of bottles found round the city centre are small bottles of vodka and bottles of wine.

As such the Police and Newport Licensing Team started monitoring the Premises within the City Centre, the majority of the Off Licences within the City Centre have terminal hours of 23:00hrs other than Baneswell Express that is licenced to sell alcohol till 01:00hrs on Friday and Saturday night and midnight Sunday to Thursday. It came evident from the intelligence that Baneswell Express where selling alcohol “after hours”.

Baneswell Express is a small family run “corner shop” run by the Sabir family. Approximately 20% of the shop floor displays alcohol, selling beers, cider, wine and spirits. The Shop is situated on Baneswell Road this road is found within both the Council Cumulative Impact Policy and the Council Public Space Protection Order (PSPO).

The PSPO prevents the consumption of alcohol on the streets of the City centre. Persons within the PSPO that refuse to stop drinking alcohol or fail to hand over any containers (sealed or unsealed) which are believed to contain alcohol, when required to do so by authorised officer to prevent public nuisance or disorder will commit a criminal offence. This offence can be dealt with through the issue of a fixed penalty notice £100, or a fine up to £1000 on prosecution.

Baneswell Express is located close to the City Centre bars, clubs and the night time economy, the closest premises being Le Pub on Caxton Place and the Queens Hotel (Weatherspoons) on Bridge Street. Cambrain Road and

Market Street are heavily populated where a number of pubs, bars and nightclubs are all within a minute walk from Baneswell Express.

The Licensing Authority has serious concerns regarding the premises continually selling alcohol outside of their prescribed hours. It is clear that the Licence holder who is also the Designated Premises Supervisor (DPS) Mr Arfan Sabir pays little or no attention to the conditions and times attached to the premises licence and is simply unable to operate the business within the law.

On 13<sup>th</sup> September of 2015 at 01:36 hours Gwent Police Officers witnessed the premises trying to sell a bottle of Wine to Female Member of the public after hours. The Police Officers intervened and the alcohol was put back behind the counter and the lights to the alcohol shelves were then turned off.

As such PC Nick Hilton the Licensing Officer for Gwent Police (Newport & Monmouthshire) and Licensing Authority (Alastair Dearling) proposed to hold a meeting to discuss the importance of complying with licensing hours and conditions with Mr Arfan Sabir. The meeting took place at the Council Information Station Offices on the 23<sup>rd</sup> September 2015.

Mr Arfan Sabir was informed the importance of keeping to his licence hours and conditions on Premises Licence. He was also informed of the negative impact that some off sales are having on the City Centre. Mr Sabir was informed he should not sell alcohol to those who he may think will drink alcohol outside his premises or vicinity of his premises due to the Public Space Protection Order.

Mr Sabir was informed by the Licensing Authority and the Police the seriousness nature of breaching licensing hours and conditions and Mr Sabir was told that "selling after hours" is an offence and carries a maximum of six months imprisonment and unlimited fine. Mr Sabir was also warned that if it was evidenced that the premise was selling "after hours" the premises would be reviewed.

Mr Sabir stipulated at the meeting that his premises did not sell "after hours", He agreed that a female member of the public did try and buy a bottle of wine after 1:00am but the member of staff refused the sale before any Police intervention.

Mr Sabir was given a verbal warning regarding the premises conduct as it felt due significant hearsay evidence it was likely that Mr Sabir and his staff were in fact selling alcohol "after hours".

It came apparent that Mr Sabir was ignoring the verbal warning given by Gwent Police and Licensing Department regarding selling alcohol after hours. A door staff and On licences within the City Centre were still stipulating that customers were still pre loading & "topping up" at Baneswell Express despite the store being required to be closed for alcohol at 1:00am.

As such it was determined by the Licensing Authority to undertake two test purchase operations. These took place on the 6<sup>th</sup> February 2016 at 1:20am and 27<sup>th</sup> February 2016 at 1:29am, at both occasions Licensing Officers of Newport City Council were able to purchase 20cl of Glens Vodka at 37.5%, the Officers statements are found in Appendix A of review application.

Post the test purchases, the Licensing Team and Gwent Police Licensing Team attended the premises on the 29<sup>th</sup> February 2016 to obtain CCTV to support the test purchase operations and also the hearsay evidence / intelligence the authorities have received.

Condition 2S01 on Baneswell Express Premises Licence stipulates:

*CCTV cameras shall be installed both inside and outside the premises and these cameras shall be operational at all times the premise is trading. All recordings shall be retained for a minimum of 30 days and shall be made available for inspection by an Authorised Officer on request.*

Condition 2S01b on Baneswell Express Premises Licence stipulates:

*A CCTV camera shall be positioned to view the area of the premises where alcohol is displayed.*

Licensing Officers Alastair Dearling, Sam Turnbull accompanied by PC Andy Lewis (Gwent Police Night Time Economy / Licensing Officer) visited the premises and asked to speak to the DPS and licence holder Mr Arfan Sabir.

Mr Arfan Sabir was not present at the premises at the time of the visit, though his brother Mr Razwan Sabir was present. The Officers went into the Office area of the shop where the CCTV system was located. Mr Razwan Sabir was briefly explained the reason for the visit and that the Officers wished to speak to Mr Arfan Sabir the DPS and Licence holder.

Mr Razwan Sabir contacted his brother by phone; he spoke with his brother and then handed the Phone to Officer Dearling. Mr Arfan Sabir stipulated to the Officer that he would be at least an hour. It was known that he lived in the local area from the premises as such Officer stipulated it was important he attends in next 20 minutes or so. After the phone conversation Mr Arfan Sabir father attended the premises.

Officers waited in the office area of the shop in full view of the CCTV system that included a monitor displaying live cameras of the premises. Whilst waiting for Mr Arfan Sabir it noted by the Officers that Razwan Sabir had left the premises. At 12:06 all the CCTV cameras went down on the CCTV system and the CCTV system rebooted.

At approximately 12:20 Mr Arfan Sabir attended the store, Mr Arfan Sabir was requested to provide CCTV images of the 26<sup>th</sup> & 27<sup>th</sup> from 1:05hrs till 1:45hrs. Mr Arfan Sabir started to look at the CCTV system and committed to the officers that CCTV was playing up. He stipulated that he had a person look at it. But when questioned who undertook the work, he stipulated that a customer who had CCTV on his jacket had a look at the system for him, but had no contacts for him or invoices.

Mr Arfan Sabir continued to try and obtain the images, but the system would only show images from 29<sup>th</sup> February 2016 from 12:06, the exact time the system rebooted. Mr Razwan Sabir also became present in the store.

Officers asked Mr Arfan Sabir if he had remote access to CCTV system, what he denied. After further Questions regarding CCTV system Mr Arfan Sabir stipulated he could access the CCTV from his Mobile Phone, he demonstrated the system clearly highlighting that he could not reboot the system or delete images. It was felt by Officers that in fact the CCTV had been deleted and Mr Arfan Sabir was being obstructive.

After further questions and after Officer stipulated that they would have to start ceasing evidence, including all alcohol stock, CCTV and Phones, Mr Razwan Sabir stipulated that when left the shop he went to Mr Arfan Sabir home, logged onto the CCTV via his laptop and deleted the CCTV evidence, this of course occurred at 12:06hrs, when CCTV rebooted in the stores office.

Mr Arfan Sabir was instructed by the Officers that he would have to retrieve this data via Data Analyse company so as they demonstrate they complying fully with the premises conditions. At time of writing the review paper work Mr Arfan Sabir has instructed Fire & Security Systems Ltd to retrieve the data, though this can take 60 days.

At the time of undertaking a risk assessment to undertake the second test purchases on the 27<sup>th</sup> February 2016 it was noticed by Licensing Officers that customers were coming out of the premises with black bags so you could not see what was in the bags. Though the outline of the bags looked like cans of alcohol or bottles of wine. This came evident when a female customer took a bottle of wine whilst walking past the Officers. The Licensing Team suggest that this setup is intention in order to allow staff to remove alcohol from the store in black bags after hours so Police Office could not see alcohol was being sold at the premises, staff appear to be well practice in this sales technique. At the Second Test Purchase though the Officer who undertook the test purchase was not given a black bag, the member of staff that sold the small bottle of vodka instructed that the bottle should be placed in pocket before leaving the store.

As documented above, Licensing Authority and the Police have made numerous efforts to engage with the DPS at the venue in order to stop persistent Licensing Act offences. Mr Arfan Sabir was given official warning in September 2015, despite the interventions he and his staff have continued to sell "after hours", appearing to have

no regard for his responsibilities or Licensing Objectives and be intent on trading alcohol to whomever he pleases when he pleases.

It clear that the Mr Arfan Sabir is aware of the risk of being caught and has taken measures to reduce the risk by means of deleting CCTV remotely and staff tactics of using black bags or telling customers to place alcohol in pockets before leaving the store. The action of the DPS and the staff is having a significant impact on Commutative Impact area of the City Centre and his actions are not of a responsible retailer promoting the licensing objectives.

The Licensing Authority acting as responsible authority strongly believes that any measures, other than to reduce the licensing hours at premises till 22:00hrs, remove the DPS and Suspended the licence for a minimum of 4 weeks;

And the following conditions:

All alcohol should be placed in secure display counters, with a tamper proof / lockable shutters. The shutters must be closed and locked between the hours of 22:00hrs & 08:00hrs, No alcohol should be visible through the shutters and the units must be covered by CCTV.

A personal licence holder must be present at the premises between the hours of 08:00hrs and 22:00hrs.

If customer wishes to purchase a bag for alcohol, this bag must be transparent.

All alcohol should clearly be labelled as Baneswell Express; this can be incorporated within the price label.

Alcohol cannot be sold through a hatch system at the store.

The Designated Premises Supervisor shall be actively employed on the premises and shall not be a Designated Premises Supervisor for premises elsewhere.

The Licensing Authority respectfully request the panel to reduce the hours, as it is felt that this course of action is both proportionate in these circumstance and is wholly necessary of upholding the licensing objectives.

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

#### **Appendix A**

Alan Leen (Licensing Officer) statement regarding test purchase operation on the 6<sup>th</sup> February 2016.

Alastair Dearling (Principal Licensing Officer) statement regarding test purchase operation on 27<sup>th</sup> February 2016, Site Visit on 29<sup>th</sup> February 2016 and meeting with Arfan Sabir / Baneswell Express on the 13<sup>th</sup> September 2015.

Samantha Turnbull (Licensing Officer) statement visit to Baneswell Express on 29<sup>th</sup> February 2016 .

PC Andy Lewis statement visit to Baneswell Express on 29<sup>th</sup> February 2016 .

#### **Appendix B**

CCTV from the Premises (at time of undertaking review paperwork the CCTV system was being recovered after being deleted by Baneswell Express.)

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

**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, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION**

**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

.....

Capacity

.....

<b>Contact name (where not previously given) and postal address for correspondence associated with this application</b> (please read guidance note 6)	
<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 5**

A Copy of the Court Order of 07<sup>th</sup> October 2016 regarding the appeal by Arfan Sabir against the decision reached by the Licensing Sub Committee of Newport City Council Licensing Sub-Committee of 15<sup>th</sup> June 2016.



Gwent Magistrates Court  
Code 3211  
Administration Department, The Law Courts, Faulkner Road, Newport, NP20 4PR  
Telephone: 01633 261300  
Fax: 0870 739 4319

NEWPORT CITY COUNCIL  
LICENSING SERVICES  
CIVIC CENTRE  
NEWPORT  
SOUTH WALES  
NP20 4UR

Case number: **611600092910**

### **Orders**

The court has heard the matters shown below and made the orders listed.

**Stephen Whale Clerk to the Justices**

Date: 7 October 2016

*Justices' Clerk*

### **Matters and orders**

611600092910/1

Appeal against a decision of the Newport City Council licensing authority relating to Baneswell Express, 8 Baneswell Road, Newport on an application for a review of a premises licence under section 52 of the Licensing Act 2003 on the ground that 1. the decision was against the weight of the evidence 2. the Respondeant failed to consider, or failed to consider sufficiently 3. relevant and appropriate information provided by the Complainant 4. the Respondent placed undue weight and consideration upon the representations provided by those making representations at the hearing 5. the Respondent failed to attach conditions to the licence commensurate with the evidence 6. generally as may be adduced in evidence. In accordance with Part 1 of Schedule 5 to the Licensing Act 2003.

**It is ordered that modification of licence with following conditions by agreement of parties:-**

- 1. Sale of alcohol to be permitted between 8am and 11pm Sunday to Saturday (inclusive)**
- 2. Premises to closed to customers no later than 12 midnight on any day**
- 3. All alcohol to be screened or covered after licensable activities period ends whilst premises remains open to customers**
- 4. Signage to be deployed setting out hours permitted for sale of alcohol**
- 5. All members of staff (serving customer) to be BII/ALPCH certified (or an appropriate equivalent)**
- 6. All alcohol to be labelled "Baneswell Express" (or name of shop)**
- 7. No order as to costs.**

## **Appendix 6**

Copy of the current premises Licence issued on 07<sup>th</sup> October 2017 following an appeal hearing before Gwent Magistrates

### **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>	16/00627/LAPREV
--------------------------------	-----------------

#### **Part 1 – Premises Details**

<b>Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code</b>	
Baneswell Express 8 Baneswell Road Newport South Wales NP20 4BP	
<b>Telephone number</b>	01633 662050

<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

<b>Times the licence authorises the carrying out of licensable activities</b>
Sale by retail of Alcohol Monday to Sunday inclusive 08:00 - 23:00

<b>The opening hours of the premises</b>
No Restriction -

<b>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.</b>
--

<b>Where the licence authorises supplies of alcohol whether these are on and / or off supplies</b>
Alcohol is supplied for consumption off the Premises



**Part 2**

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

Arfan Sabir  
8 Baneswell Road  
Newport  
South Wales  
NP20 4BP  
Business Phone Number 01633 662050

**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**

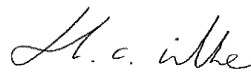
Mr Arfan Sabir  
253 Caerleon Road  
Newport  
South Wales  
NP19 7HB  
  
Contact Telephone Number 01633 662050

**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: NCC/07/1887                      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** 7th October 2016



Helen Wilkie  
Public Protection Manager

## **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 (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.

## **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**

1. 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, (including, 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.
2. Any person who attempts to purchase alcohol for a person under 18 years of age shall be banned from the premises.
3. Anyone appearing to be under 18 years of age shall be required to produce photographic ID for proof of age when attempting to purchase alcohol.
4. CCTV cameras shall be installed both inside and outside the premises and these cameras shall be operational at all times the premises is trading. All recordings shall be retained for a minimum of 30 days and shall be made available for inspection by an Authorised Officer on request.
5. A CCTV camera shall be positioned to view the area of the premises where alcohol is displayed.
6. Any person causing noise or other antisocial behaviour shall be reported to Heddlu Gwent Police and banned from the premises.
7. All emergency lighting shall be provided and maintained in good working order and shall be checked on a monthly basis. The results of such a test shall be recorded in a log book, which shall be made available for inspection by an Authorised Officer on request.
8. Suitable and sufficient fire-fighting equipment shall be provided in all public areas. The equipment shall be kept in good working order and be so placed as to be readily available for use. All portable fire fighting equipment shall be tested annually by a competent person and all relevant certification shall be made available for inspection by an Authorised Officer on request.
9. All staff shall be trained in the identification of underage drinkers.
10. Any refusal to supply alcohol shall be recorded in an incident book which shall be kept at the premises and made available to an Authorised Officer on request.
11. The Designated Premises Supervisor shall be actively employed on the premises and shall not be a Designated Premises Supervisor in respect of premises elsewhere.

### **The following conditions were attached following mediation between the Appellant (Arfan Sabir) and Newport City Council at the appeal hearing at Newport Magistrates Court on 07th October 2016**

1. Sale of alcohol to be permitted between 8am and 11pm Sunday to Saturday (inclusive)
2. Premises to closed to customers no later than 12 midnight on any day
3. All alcohol to be screened or covered after licensable activities period ends whilst premises remains open to customers
4. Signage to be deployed setting out hours permitted for sale of alcohol
5. All members of staff (serving customer) to be BII/ALPCH certified (or an appropriate equivalent)
6. All alcohol to be labelled "Baneswell Express" (or name of shop)

**The following conditions were attached following mediation between the Appellant (Arfan Sabir) and Newport City Council at the appeal hearing at Newport Magistrates Court on 07th October 2016**

1. Sale of alcohol to be permitted between 8am and 11pm Sunday to Saturday (inclusive)
2. Premises to closed to customers no later than 12 midnight on any day
3. All alcohol to be screened or covered after licensable activities period ends whilst premises remains open to customers
4. Signage to be deployed setting out hours permitted for sale of alcohol
5. All members of staff (serving customer) to be BII/ALPCH certified (or an appropriate equivalent)
6. All alcohol to be labelled "Baneswell Express" (or name of shop)

**Plans**

Please see attached plans ( P 05/01627/LAPRE )

## **Appendix 7**

Copy of letter sent to Arfan Sabir by Principal Licensing Officer Alastair Dearling following a visit to the premises on 30<sup>th</sup> May 2017 regarding the sale of Nitrous Oxide.

Ask for / Gofynnwch am      Alastair Dearling  
Our Ref / Ein Cyf  
Your Ref / Eich Cyf  
Tel / Ffôn                      **01633 656656**  
Direct Dial / Rhif Union  
DX  
E-Mail / E-Bost                [99463 Newport \(Gwent\) 3  
alastair.dearling@newport.gov.uk](mailto:alastair.dearling@newport.gov.uk)

### **Regeneration and Regulatory Services Gwasanaethau Adfywio a Rheoliadol**



Licensing Service/  
Gwasanaeth Trwyddedu  
PO Box 883/Bwlch Post 883  
Civic Centre/Canolfan Ddinesig  
Newport/Casnewydd  
South Wales/De Cymru  
NP20 9LR

Mr Arfan Sabir,  
Baneswell Express,  
8 Baneswell Road,  
Newport.  
NP20 4BP

Dear Mr Sabir

### **Re: Psychoactive Substance Act 2016**

On the 30<sup>th</sup> May 2017 the Licensing Authority and Gwent Police attended your shop as it had received intelligence that the shop was selling Nitrous Oxide “Laughing gas / Hippy Crack” to members of the public. At the time of the visit a number of Nitrous Oxide Charges were discarded outside the premises.

Despite Nitrous Oxide having several legitimate uses in medicine and is sold as an aerosol spray propellant within whipped cream canisters, Under the Psychoactive Substances Act 2016 it has made it illegal for retailers to supply or offering to supply a Psychoactive substance this includes Nitrous Oxide.

The fact the shop had balloons commonly used for consumption for laughing gas and charges were outside the shop and charges were also stored under the counter of the shop may indicate that the charges were not being sold for legitimate purposes i.e. to a restaurant for cream chargers, but to members of the public intending to get “high” on the drug.

It should be noted selling Nitrous Oxide as Psychoactive Substance is criminal offence, the maximum penalty on summary conviction for supply is 12 months imprisonment and/or an unlimited fine - on indictment it is 7 years with unlimited fine.

It is also very likely that a Responsible Authority under the Licensing Act 2003 will review your Alcohol Premises Licence if Nitrous Oxide is continued to be sold as a Psychoactive Substance.

The government has provided guidance to retailers regarding psychoactive substances that I have enclosed with this letter, but if you do have any questions or queries please don't hesitate to contact the Councils Trading Standards team or the Licensing Authority.

Yours Sincerely

Alastair Dearling  
Licensing Manager

## **Appendix 8**

Copy of letter dated 21<sup>st</sup> March 2018 sent to Arfan Sabir by Licensing Officer Samantha Turnbull

Ask for /Gofynnwch am  
Our Ref/Ein Cyf  
Your Ref/Eich Cyf  
Tel/Ffôn  
Direct Dial/Rhif Union  
DX  
E-Mail/E-Bost

Samantha Turnbull  
16/00627/LAPREV  
  
**01633 656656**  
01633 851330  
99463 Newport (Gwent) 3  
samantha.turnbull@newport.gov.uk

**Law and Regulation**  
**Y Gyfraith a Rheoleiddio**



Arfan Sabir  
**Designated Premises Supervisor**  
Baneswell Express  
8 Baneswell Road  
Newport  
NP20 4BP

Licensing Service/  
Gwasanaeth Trwyddedu  
PO Box 883/Bwlch Post 883  
Civic Centre/Canolfan Ddinesig  
Newport/Casnewydd  
South Wales/De Cymru  
NP20 4UR

21 March 2018

Dear Mr Sabir

**LICENSING ACT 2003 – PREMISES LICENCE**  
**BANESWELL EXPRESS, 8 BANESWELL ROAD, NEWPORT, NP20 4BP**

Further to visits to your premises on 19 February 2018 and 08 March 2018 by Officers of the Licensing Authority and Heddlu Gwent Police I wish to highlight matters that were brought to your attention at the visits:

**Condition 6:**

*“Any refusal to supply alcohol shall be recorded in an incident book which shall be kept at the premises and made available to an Authorised Officer on request.”*

At the initial visit on 19 February you were unable to produce when requested the refusals book you are currently maintaining in the premises; you insisted to officers that a book was being maintained at the premises and your brother working at the premises at the time of the visit stated he had reason to locate the book recently however you concluded that it must have been misplaced on 19 February.

At the revisit the refusals log was able to be readily produced to Officers; the most recent entry in the log was made on 20 January 2018, with previous entries detailed as having been made on 31/12/2017, 26/12/2017 and 12/10/2017.

Officers re-iterated that all staff must be fully aware of the location of the refusals log in the premises and must be suitably trained in how to complete the log. It was further explained that as opposed to simply writing ‘alcohol’ for the product a detailed description of the alcohol product refused should be written down by the staff member, ie “Vodka 70cl bottle”, “Red wine”, “4 cans Carling” etc.

**Condition 10:**

*"All alcohol to be labelled "Baneswell Express" (or name of shop)"*

At the re-visit Officers highlighted to you that labels were missing from some items of alcohol in your chiller unit, notably a 500ml Kopparberg mixed fruit bottle, cans of Holsten Pils and a number of your 2 litre bottles of cider. You confirmed that you understood the condition attached to your premises licence and also added that in respect of the cider you believed you were the only shop in the City Centre to sell such ciders and therefore questioned the requirement for a label as in your opinion they could be linked back to your premises. It was explained to you as the condition clearly states **all alcohol** on sale at your premises must be labelled "Baneswell Express". You confirmed you would ensure all alcohol is fully labelled as required.

**Condition 9:**

*"All staff shall be trained in the identification of underage drinkers."*

At the visit you explained that current staff are your brother Razwan Sabir a personal licence holder with Newport City Council, Diane Hagen a personal licence holder with Cardiff City Council and your father who currently holds the BIIAB level two award for personal licence holder.

Officers explained at the visit that staff training should be fully documented and you were provided with an employee training log template created by Newport City Council Trading Standards department. You already had within your folders the training information pack compiled by the Trading Standards department.

You explained you have in place in the shop the Challenge 21 scheme, with posters on display and when requested you also demonstrated the till prompt system you have in place on your tills to assist staff when selling alcohol products

Please be advised, as you are aware, that a breach of a condition(s) attached to a premises licence whilst conducting licensable activities renders the premises licence invalid and all licensable activities provided will therefore be unauthorised; the provision of a licensable activity otherwise than in accordance with a relevant authorisation is a criminal offence pursuant to section 136(1) of the Licensing Act 2003. The fine for this offence is unlimited.

You should ensure that you are fully aware of all conditions that are attached to the Premises Licence for Baneswell Express and that you fully comply with these conditions when providing licensable activities.

If you require any further information regarding the matters detailed above please do not hesitate to contact me direct on (01633) 851330.

Yours faithfully

Samantha Turnbull  
**Licensing Officer**