

# Report

## Licensing Sub-Committee

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### Part 1

Date: 09 March 2021

**Subject** **Review of Premises Licence under Section 51 Licensing Act 2003, The Neon, Clarence Place, Newport, NP19 7AB**

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

**Author** Steve Pontin (Licensing Officer)

**Ward** Stow Hill

**Summary** An application for a review of the premises licence was made by Newport City Council Licensing Authority, acting in its role as a Responsible Authority, 12<sup>th</sup> January 2021 on the basis that the premises is undermining The prevention of crime and disorder & public safety.

**Proposal** To make a decision on the application to review the Premises Licence issued in respect The Neon, Clarence Place, Newport, NP19 7AB.

**Action by** Head of Law and Regulation

**Timetable** Statutory Consultation Period

**Signed** Steve Pontin

## 1. Review Application

- A review application under Section 51 of the Licensing Act 2003 was received on the 12<sup>th</sup> January 2021 from Newport City Council Licensing Authority, acting in its role as a Responsible Authority, to review the Premises Licence issued in respect of The Neon, Clarence Place, Newport, NP19 7AB.

The application for review relates to the following Licensing objective(s):

The prevention of **crime and disorder**

& **public safety.**

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 12<sup>th</sup> January 2021 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 both via email and post 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 9<sup>th</sup> February 2021.

## 2. Licensable Activities

The current premises licence holder is:

**Mr Andrew James Byers, The Neon, Clarence Place, Newport, NP19 7AB**

The current Designated Premises Supervisor is:

**Mr Gerard Bryan**

Licensable activities authorised by the Premises Licence:

Sale by retail of Alcohol  
Boxing or Wrestling  
Performance of Dance  
Exhibition of a Film  
Indoor Sporting Event  
Performance of Live Music  
Playing of Recorded Music  
Live or Recorded Music, or similar  
Performance of a Play  
Late Night Refreshment

Times the licence authorises the carrying out of licensable activities:

Sale by retail of Alcohol  
Monday to Wednesday inclusive 10:00 - Midnight  
Thursday 10:00 - 00:30

Friday and Saturday 10:00 - 02:30  
Sunday 10:00 - Midnight

Boxing or Wrestling  
Monday to Wednesday inclusive 10:00 - Midnight  
Thursday 10:00 - 00:30  
Friday and Saturday 10:00 - 02:30  
Sunday 10:00 - Midnight

Performance of Dance  
Monday to Wednesday inclusive 10:00 - Midnight  
Thursday 10:00 - 00:30  
Friday and Saturday 10:00 - 02:30  
Sunday 10:00 - Midnight

Exhibition of a Film  
Monday to Wednesday inclusive 09:00 - Midnight  
Thursday 09:00 - 00:30  
Friday and Saturday 09:00 - 02:30  
Sunday 09:00 - Midnight

Indoor Sporting Event  
Monday to Wednesday inclusive 10:00 - Midnight  
Thursday 10:00 - 00:30  
Friday and Saturday 10:00 - 02:30  
Sunday 10:00 - Midnight

Performance of Live Music  
Monday to Wednesday inclusive 10:00 - Midnight  
Wednesday to Sunday inclusive 10:00 - 00:30  
Friday and Saturday 10:00 - 02:30  
Sunday 10:00 - Midnight

Playing of Recorded Music  
Monday to Wednesday inclusive 10:00 - Midnight  
Thursday 10:00 - 00:30  
Friday and Saturday 10:00 - 02:30  
Sunday 10:00 - Midnight

Live or Recorded Music, or similar  
Monday to Wednesday inclusive 10:00 - Midnight  
Thursday 10:00 - 00:30  
Friday and Saturday 10:00 - 02:30  
Sunday 10:00 - Midnight

Performance of a Play  
Monday to Wednesday inclusive 10:00 - Midnight  
Thursday 10:00 - 00:30  
Friday and Saturday 10:00 - 02:30  
Sunday 10:00 - Midnight

Late Night Refreshment  
Monday to Wednesday inclusive 23:00 - Midnight  
Thursday 23:00 - 00:30  
Friday and Saturday 23:00 - 03:00  
Sunday 23:00 - Midnight

New Years Eve, Bank Holiday Friday and Bank Holiday Sundays and 4 occasions a year 10:00am til 04:00hrs. On the 4 occasions the licence holder must inform Gwent Police and Newport City Councils Licensing Team regarding the events in writing 10 days before the event. The 4 events must be ticketed events (no tickets are permitted to be sold at the venue on the evening of those events).

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

### 3. Representations

The Licensing Authority invited representation from responsible authorities and other persons to be submitted before Midnight on the 9<sup>th</sup> February 2021. The Licensing Authority Received:

Representation from **Gwent Police** & the **Aneurin Bevan University Health Board**, a copy of the representations can be found in **Appendix C** of this report.

Please note the representation by Gwent Police is a simple statement of support in reference to the official Police statements found in the appendices of the review application in Appendix A.

### 4. Background/Premises Licence History

The most recent Premises Licence for the premises was issued to Mr Andrew John Byers on 15<sup>th</sup> October 2019. Previous Premises Licences dating back to 2016 had been held by companies principally owned by Mr Andrew Byers, the last of which had lapsed in July 2019 due to LED Neon Group Ltd, the licence holder, going in to liquidation. The Premises continued to trade and undertake Licensing Activities despite the fact that LED Neon Group Ltd had gone into liquidation thus meaning operated unlicensed.

The Location of the Premises can be found in **Appendix D**.

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

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
- 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.

**Relevant extracts of the Statement of Licensing Policy (2021) as regards this application include:**

### **Section 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.**

## **Revised Guidance issued under section 182 of the Licensing Act 2003 (April 2018)**

### **Section 11 of the Guidance:**

#### **Powers of a licensing authority on the determination of a review**

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:

- 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)<sup>10</sup>;
- 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.**

## 6. Issues for discussion

- The content of the application made by Newport City Council Licensing Authority, acting in its role as a Responsible Authority, for a review of the Premises Licence and representations from Gwent Police and Aneurin Bevan University Health Board.
- 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<br>(Current)<br>£ | Year 2<br>£ | Year 3<br>£ | Ongoing<br>£ | Notes<br>including budgets heads affected |
|-------------------------|--------------------------|-------------|-------------|--------------|---|
| Costs<br>(Income)       |                          |             |             |              |   |
| Net Costs<br>(Savings)  |                          |             |             |              |   |
| Net Impact<br>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 2015.

### Comments of Chief Financial Officer

There are no financial implications arising directly from this report.

### Comments of Monitoring Officer

The legal implications and statutory powers are set out in the Report. The Council's constitution delegates powers to the Head of Regeneration and Regulatory Services to renew drivers' licences unless a refusal is considered possible due to criminal or driving offences or other matters in accordance with the Guidelines relating to licensing, in which case such applications are referred to Licensing Committee for a determination. The statutory powers for refusing to renew licences are set out in the Report itself and Committee must ensure that any grant or refusal is in accordance with the statutory powers. Committee must also ensure that all relevant factors are taken into account including the Council's Guidelines, matters referred to in the Report and also relevant factors brought to Committee's attention by the applicant. The applicant has a right of appeal against any refusal to renew the licence.



## **Comments of Head of People and Business Change**

This section **MUST** be completed by the Head of People and Business Change. This must be done before the report is submitted to any elected member for consideration. The Head of People and Business Change will discuss any staffing, performance, or policy matters along with the Well Being of Future Generations requirements. (See the section on this Act below)

You will have consulted the Head of People and Business Change to complete the 'Background' section above. This section should confirm that has been done and that the Head of People and Business Change is comfortable with the proposals.

## **Appendix A - Review Application by Licensing Authority**

*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 Alastair Dearling on behalf of Newport City Council Licensing Authority (Responsible Authority)**

-----  
*(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><br>The Neon<br>Clarence Place<br>Newport<br>South Wales |                                      |
| <b>Post town</b> Newport  | <b>Post code (if known)</b> NP19 7AB |

|  |
|--|
| <b>Name of premises licence holder or club holding club premises certificate (if known)</b><br>Andrew James Byers,<br>The Neon<br>Clarence Place<br>Newport<br>South Wales<br>NP19 7AB |
|--|

|   |
|---|
| <b>Number of premises licence or club premises certificate (if known)</b><br>19/03464/LAPRE |
|---|

#### **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)

**X**

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<br><br>Alastair Dearling<br>Newport City Council Licensing Authority<br>Civic Centre<br>Civic Centre<br>Godfrey Road<br>Newport<br>NP20 4UR |
| Telephone number (if any)<br>01635656656   |
| E-mail address (optional)<br><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 | <input checked="" type="checkbox"/> X |
| 2) public safety                        | <input checked="" type="checkbox"/> X |
| 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)

On the 17<sup>th</sup> December 2020 The Neon on Clarence Place held a wake contrary to Regulation 12(2) of The Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020, despite the premises being informed by Licensing Authority on the 16<sup>th</sup> of December 2020 of the rules and regulations.

The regulations and guidance on the 17<sup>th</sup> December 2020 where:

A gathering of up to 15 people can take place for these purposes (these limits do not include children under 11 or staff working at the event). If it is indoors, then the gathering will need to take place in regulated premises (such as funeral directors, pubs, restaurants, hotels or community centres) and there are limits on the type of activity that can take place – for example loud music should not be played, and any food provided should be served at the table rather than at a buffet.

As of 4<sup>th</sup> December 2020, Wakes held in licensed premises such as pubs, restaurants or hotels must finish by 6pm and alcohol must not be sold or **supplied** for consumption on the premises at any point. (The word supplied also means customers bringing their own alcohol to consume on a licence premises.)

By holding the wake on the 17<sup>th</sup> December clearly the Licenced Premises undermined both the Crime and Disorder and Public Safety objectives set out in the Licensing Act 2003.

Clearly those attending the wake or those organising the wake would have clearly expected a Licence Premises to have followed the Regulations and Guidance and given appropriate advice, for example numbers permitted at a Wake or if they could bring alcohol to the Wake, clearly the Licensing Authority would not expect a grieving family to understand the full regulations, but clearly would have expected the premises Licence Holder and DPS to show effective management

so not to undermined the Licensing Objectives and breaching Covid regulations specifically when given advice was given to the premises less than 24hours by the Licensing Authority.

On the 16<sup>th</sup> December 2020 the Licensing Authority was informed by Gwent Police that an allegation that a large funeral wake was due to take place on 17<sup>th</sup> December 2020 in a licensed premise within the Maindee area of Newport, Specifically highlighting The Neon or the Ivy Bush public house in Clarence place.

Steve Pontin (Licensing Officer) after established that the Ivy Bush was permanently closed then contacted the Premises licence Holder of The Neon, Mr Andrew Byers at approximately 3:30pm on 16th December 2020.

During the Officers conversation Mr Byers stipulated to Officer Pontin that he had been approached prior to the latest restrictions about holding a funeral wake. He had been open to the idea at that time but since the further restrictions recently imposed upon licensed premises, he had been closed and did not expect to open again any time soon.

Officer Pontin clearly advised Mr Byers that he should ensure any **other staff** who may have keys to the premises should be informed not to open the premises. Mr Byers was clear that he understood this instruction and again reiterated to the officer that he had no intention of opening any time soon. Officer Pontin ended the phone call after being satisfied that the premises would not be open for the use for a funeral wake.

A copy of Licensing Officer Steve Pontin Statement regarding the phone call is exhibited as apd/Neon 1.

Despite Mr Byers informing Officer Pontin that the wake would not be take place at the premises, Gwent Police were then called on the 17<sup>th</sup> December that a wake was going to take place and it was planned to have a free bar at Neon Club, Clarence Place. This resulted in officers attending and following police logs where recorded:

- Due to the call, officers were at Neon main entrance/exit to the venue is EAST USK ROAD/CLARENCE PLACE and fire doors along EAST USK ROAD, CLARENCE PLACE next to IVY BUSH and the rear of the building in the lane that runs from the rear of ICELAND to the junction of EAST USK ROAD. All doors were closed and secure when officers arrived.
- At 1700 hours PC 1976 TAYLOR witnessed around 15 persons gain entry to NEON and recognised some from the funeral where he had been earlier. One of the males was carrying a bottle of larger.
- Officers spoke to residents and one stated that he had seen a DJ turn up with his equipment in a VW Sirocco but on seeing police presence left and he had also seen multiple people coming and going from NEON.
- PC 1976 Taylor and PC 2185 Reynolds seen persons trying to get in to the venue through several doors and some being deterred due to police presence. However, some were on their mobile phones and the doors were then opened to let them in.
- PC 2142 Emberton, PC 2083 Morris, PC 1976 Taylor arrived to assist the officers and witnessed the same – people trying to get in.
- Officers asked for CCTV to be reviewed just before 5pm and it was confirmed that persons had been attending the venue and were inside from Clarence Place
- Officer tried to gain entry to the venue but were refused entry by Family member of the Wake and he confirmed there were approximately 35 persons inside, there was no alcohol being served and they just planned on giving a good send off and would be finished by 18.30 hours
- PC 2142 Emberton was along EAT USK ROAD covering the side entrance as it was the most used door. He observed 6-9 people leave the premises with around 3-4 entering.

One female fell out of the doorway and onto the floor due to being intoxicated before being ushered back into NEON. PC 2083 MORRIS noticed the intoxicated female as well. 2 other females approached from further down in the road and the fire exit opened and all 3 went inside.

- PC 2142 Emberton and PC 2083 Morris activated their BWV which shows the number of people leaving the premises. Between 18:15-18:30 hours PC 2142 Emberton witnessed around 10-15 people leave. The officers spoke to Family who stated that he was clearing up and he was taking food out of the location. He left in his vehicle and said he would be back to collect more and there were still around 15 people inside.
- PC 2142 Emberton noticed around this time a number of people were leaving from different doors and he would estimate it to be around 20-25 people leave during this time.

Within this group was 5 females from the side entrance that were intoxicated and falling over. Also within this group was 6-10 males that left by the rear door and one was holding a can of beer which he brought from inside and was abusive towards officers, before Family member deescalated the situation.

- PC 2083 MORRIS observed 30-35 persons exiting EAST USK ROAD exit and there were others exiting from different doors. Many of the persons were intoxicated and the same female that fell earlier left with support of other females to hold her up.
- PC 1976 TAYLOR seen around 40-50 people in total come of the venue.
- At 19.13 hours persons started to leave the premises. By 19.25 hours everyone was out of the premises and officers checked it. PC 2142 Emberton and PC 2083 Morris went inside and noticed that the tables were spaced out but there were more than 4 seats at each table. There were 3 males cleaning and the officers asked if they worked for NEON but Family member stated they were just doing him a favour. PC 2083 asked who was the licensee and Family member replied he did not know. The officer then asked how did he borrow it, referring to NEON and Family member stated from a friend of a friend,( though the same family member later published on the South Wales Argus via Facebook that The hall was donated to us for our dad send off by a friend Andrew Byers from the The Neon long as we put social distance and safety measures in place, THANK U ALL AND SO PEOPLE CAN GET THEIR FACTS RIGHT XX)
- PC 2083 MORRIS also noticed the room had a large table with had red and green bows attached to the chairs. She witnessed 3 males cleaning up and one of the males was cleaning tables, whilst the other 2 males were behind the bar area. She seen empty pint glasses in this area and one of the males was wiping a glass.

A copy of the Police Officer Statements are exhibited as apd/Neon 2

Due to the Covid breaches Licensing Manager Alastair Dearling and PC Simon Austin of Gwent Police Licensing department were tasked to visit the premises and speak to the Licence holder Mr Andrew Byers. The visit took place on Friday the 18<sup>th</sup> December 2020 at 15:00hrs.

Mr Byers stipulated to the officers that he had an enquiry from the family 2-3 weeks ago about having a wake at the premises and Mr Byers said he was happy to facilitate this for no fee as he saw it as good publicity for the venue and their planned re-opening in April 2021.

He says he told the family that if things changed (regulations wise) then it could not go ahead. He stipulated of course, things did change and he informed the family that the wake could not go ahead which allegedly accepted.

Mr Byers informed the officers that once he was contacted by Steve Pontin on the 16<sup>th</sup> December he tried contact the family without any success.

When questioned how the wake was permitted access to the build (specifically when Steve Pontin told Mr Byers less than 24 hours earlier that he should notify any key holder) Mr Byers stipulates that Newport City Radio operates a room upstairs the Neon and staff from Newport City Radio had let the caterers into the building. Mr Byers stipulated that caterers had been not been booked by Neon.

Newport City Radio operates as 24 hour unmanned radio station but clearly staff are required to visit from time to time and for certain broadcast. Mr Byers stipulated that a member of Newport City Radio staff was present in Neon when they must heard knocking at a side door of premises and radio staff member opened the door and was informed by the caterers they were here for the wake and that it was ok with Andy, this took place around lunchtime.

It is very questionable how radio staff located upstairs in a sound proof room would have heard the knocking of a downstairs side entrance, specifically as the venue is also constructed as a soundproof building. Also its questionable how did the caterers knew the owners name if in fact Mr Byers had not even booked the caterers?

But besides this Mr Byers clearly failed to inform all key holders of the building not to let anybody into the premises despite the clear instruction from Steve Pontin Licensing Officer the day before.

Mr Byers stipulated that once he was aware that people had access his building he contacted the family member, who said to Mr Byers that he thought it was ok to hold the wake! Mr Byers by his own admission, said he felt guilty as it was a wake, so allowed them to continue and family member promised him that they would be finished 'as close to six as possible'.

In allowing the wake to go ahead outside the regulations demonstrates both reckless and irresponsible management by both the Licence holder Mr Byers and the Designated Premises Supervisor Gerard Bryan ,who is the person who is responsible for the everyday running of a licence premises. Mr Byers also failed to inform the Police or the Licensing Authority when he allegedly became aware of catering company entering the premises, that a wake was taking place on his premises.

Though the Licensing Authority to a degree accepts Mr Byers did feel guilty due to the nature of the event, if he wished the event to continue he or his DPS or other management staff should have attended the venue and managed the Wake in accordance with regulation and clearly communicated with the Police.

Mr Byers was then asked if he could download the CCTV for day in question, he stipulated to the Officers that he was having a few technical issues with the CCTV.

Condition 9 of Neon Premises Licence stipulates:

CCTV cameras shall be in place which record all licensed areas of the premises.

CCTV shall be operational at all times when the premises are trading. All recordings shall be retained for a minimum of 28 days and shall be made available to an Authorised person under the Licensing Act 2003 on request. Signage shall be displayed prominently within the premises to advise that CCTV is in operation.

When visiting the CCTV room/ office Mr Byers then indicated that the CCTV system had been stolen as it was no longer present in the CCTV room. As such the Licensing Authority was unable to obtain CCTV from within the venue as such the premises failed to comply with it licence conditions.

Mr Dearling questioned Mr Byers how did somebody enter the CCTV as it had key code lock, he stipulated if you pull the door a certain way it will open. Mr Byers stipulated that system was linked to a cloud as such PC Austin asked if the CCTV footage could be provided from submission of the review this has not been forthcoming.

In regard to the CCTV being allegedly stolen it was noted no other items were taken despite thousands of pounds of radio equipment on the premises and when question had the alarm system gone off Mr Byers stipulated the premises had a alarm system but was broken.

A email was sent to Mr Byers asking for further information regarding the CCTV and a few further questions of clarification, I exhibit the email as apd/neon3 , once again from the date of submitting the review the information has not been forthcoming .

Also by allowing the wake the premises also breached the following conditions attached to the premises licence.

15. Whenever a designated premises supervisor is not at the premises, another individual must be nominated as being the responsible person nominated by the designated premises supervisor to manage the premises and they must have the contact details of the designated premises supervisor.

26. No alcoholic drinks will be permitted outside the venue.

It is felt by the Licensing Authority (acting as a Responsible Authority) that Mr Byers was fully aware of wake taking place and despite the phone call from the Licensing Authority allowed the event to continue. The Licence holder took no proactive measures when they allegedly became aware of the event. Since the Meeting in December Mr Byers has not corresponded to the Licensing Managers questions and has failed to provide CCTV as such the premises has been obstructive throughout the officer's investigation, once again showing a poor level of management.

Newport City Council Licensing Team understands the coronavirus pandemic has brought many months of unprecedented uncertainty to businesses. Licensing Authority recognises the reopening of premises has been extremely challenging for all business, including the licensing trade.

But the actions of The Neon are both reckless and irresponsible and not only placed those who attended at risk of Covid-19 but anyone else the customers may have come into contact with over the weeks to come, in a time when it widely reported that Wales will be going to full lockdown.

### **Conclusion:**

This is a straightforward yet serious case. The Neon operated contrary to the contravenes The Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020, as amended, risking public safety. Officers had spoken with the premises licence holder less than 24 hours before the wake and this undertaken to attempt to support the licence holder, but clearly as the Licence holder said the wake was not taking place only limited advice was given.

Covid is a worldwide virus that unfortunately seen many people die, in the UK at time of writing the report the numbers was 80,000, it is an infectious disease which spread as a



result of activity carried by people, hence the reason for social distance measure and regulations.

The Licensing Authority submits respectively a number of conditions to attach to the premises licence if the Committee don't feel that revocation of licence is required on this serious matter.

- The DPS is removed from the Premises Licence.
- The DPS must update the Licensing Authority with both current emails and contact number.
- The Premises must produce a management document highlighting the responsibility of all members of staff, the document must be updated when changes take place and must be provided to a responsible authority on request. The DPS must sign the management document on weekly basis.

**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

| 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**

No

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 X
- I understand that if I do not comply with the above requirements my application will be rejected X

**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 Alastair Dearling

.....

Date 12.1.21

.....

Capacity Licensing Manager

.....

**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)**

**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.

## NEWPORT CITY COUNCIL

### STATEMENT OF WITNESS

(Criminal Procedure Rules r 27.1(1);  
Criminal Justice Act 1967, s.9, Magistrates' Courts Act 1980, s.5B)

Statement of: Steve Pontin

Age of Witness [if over 18 enter over 18]: Over 18

Occupation of Witness: Licensing Officer

This statement, consisting of 2 pages each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Date: 06 January 2021

Signature: S M Pontin

I am the above named person and I am employed as a Licensing Officer with Newport City Council. I have held this post since July 2013. My role as a Licensing Officer includes investigating complaints and issues that are brought to my attention involving licensed premises under the Licensing Act 2003.

On 16<sup>th</sup> December 2020, I received an email from Matthew Cridland, Regulatory Services Manager of Newport City Council. The email sought a proactive response to intelligence received from Gwent Police that suggested a funeral wake was due to take place on 17<sup>th</sup> December 2020 in a licensed premise within the Maindee area of Newport, specifically either The Neon or Ivy Bush premises.

I responded to the email by advising I would contact both premises and give verbal advice in respect of the Covid-19 restrictions in place at that time, which included sale of alcohol being prohibited and licensed premises to close by 6pm.

Having established that the Ivy Bush premises was permanently closed, I then contacted the Premises Licence Holder of The Neon, Mr Andrew Byers, at approximately 3:30pm on 16<sup>th</sup> December 2020. During our telephone conversation Mr Byers advised me that he had been approached prior to the latest restrictions about holding a funeral wake. He had been open to the idea at that time but since the further restrictions recently imposed upon licensed premises, he had been closed and did not expect to open again any time soon.

I further advised Mr Byers that he should ensure any other staff who may have keys for the premises should be informed not to open the premises, or that if they did so that they should not sell alcohol. Mr Byers was clear that he understood this instruction and again reiterated

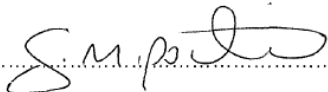
Signature:.....



that he had no intention of opening any time soon. I ended the call at this point having been satisfied that the premises would not be opening or in use for a funeral wake the following day.

The records to which I made reference were created or received by a person in the course of a business and the information was supplied by a person (whether or not the maker of the statement) who had or may reasonably be supposed to have had personal knowledge of the matters dealt with but who cannot reasonably be expected (having regard to the time which has elapsed since he/she made the statement and to all the circumstances) to have any recollection of the matters dealt with.

Signature:.....

A handwritten signature in black ink, appearing to be 'S.M. P. L.', written over a dotted line.

| <b>MG11 STATEMENT OF WITNESS</b>  |              |             |                |
|---|--------------|-------------|----------------|
| <b>Criminal Procedure Rules, r. 16.2; Criminal Justice Act 1967, s. 9</b>   |              |             |                |
| Occurrence Number:  | 2000456396   | URN:        |                |
| Statement of:   | TAYLOR, RHYS |             |                |
| Age:  |              | Occupation: | Police officer |
| This statement is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false, or do not believe to be true. |              |             |                |

I am Police Constable 1976 TAYLOR employed by HEDDLU GWENT POLICE currently based at MAINDEE POLICE STATION.

On THURSDAY 17th DECEMBER 2020 I started my tour of duty 1200 -2100 hours. I was in full police uniform, in a marked police vehicle and in company with PC 2185 REYNOLDS.

We were asked to monitor the funeral and were provided information that it will start in the family home at SOMERTON around 1230 hours and then moving to ST WOOLLOS CHURCH and Cemetery where people were advised to wear a Welsh Rugby Jersey or a Newport City County Jersey..

PC REYNOLDS and I patrolled ST WOOLLOS CHURCH and no persons were seen in or around it. I saw 2 people walking up STOW HILL, 1 in a black suit and the other in a Newport City County Jersey. On re attending the Church no people could be seen and it appeared closed.

At approximately 1345 hours PC REYNOLDS and I attended CHURCH ROAD where we were asked to assist in vehicles blocking the roads. On arrival PC's 2167 WILLIAMS and INSLEY were already present and monitoring from a distance. It appeared the funeral directors and people attending the funeral were sorting the road out. I could not see how many people were present due to the bushes around the church.

Once vehicles began moving away I would say there were approximately 30-40 people, some with masks some without and it appeared that there was space amongst them. PC's WILLIAMS and INSLEY stated they would attend ST WOOLLOS CEMETRY, PC REYNOLDS and I attended briefing and on leaving here to go to ST WOOLLOS we were diverted to an emergency call.

After finishing here we were asked to attend THE NEON, on CLARENCE PLACE to relieve PC's WILLIAMS AND INSLEY. On arriving at approximately 1700 hours and on speaking to them they stated that people had been going into the back entrance where they were parked and stated we should park there to monitor numbers.

On parking there approximately 15 people some in groups and others on their own walked down EAST USK ROAD towards CLARENCE PLACE. I recognised some of these from the church, I could see one male in a Welsh Rugby Jersey carrying a bottle of lager. I moved the marked police vehicle onto EAST USK ROAD and I could see people going into the Fire Exit Side entrance. People would walk up and around the front of the building and then return on their mobile where the door would then open, it appeared they were calling persons within to open the door.

PC's 2083 MORRIS and 2142 EMBERTON arrived to assist with standing on doorways to deter people. People continued to attend slowly and would ring someone and go to a door police were not on. A neighbour living opposite spoke to officers and stated that people had attended all throughout the day dropping off food. He added that a DJ carrying equipment walked up however on seeing police walked away and did not go there.

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PC's 647 DENT and 2173 GRIFFITHS also attended and people were still entering whilst trying to deter them, we were in contact with PS 1496 to establish what we were to do as we had not been told if we were stopping people or not. He stated he was trying to find an answer out. Whilst standing around the side door a male I know to be [REDACTED] opened it and asked if he could help, I believe his brothers were behind him and PC DENT and I began to talk with him asking if we could come in to see if there was social distancing however he refused. He showed a video on his phone of the inside which he had taken earlier. Inside there were 7 tables with 4 seats per each, with them separated and taped out on the floor, in the background it appeared to be chairs and sofa however on questioning this they stated they were not decorated and would not be used.

[REDACTED] stated that there were 30-40 people within, there was no alcohol and they just wanted a family get together to celebrate his father's life. He stated that his mother had stated no others were allowed in however he stated that due to people leaving he was allowing others in. He asked what time he was to have it finished and he was told 1800 hours. He asked to have until 1830 hours and he was told that if this does happen people would need to be gone by 1830 and not have people start leaving around 1830.

PC REYNOLDS and I left to take a statement for an unrelated incident and left PC MORRIS and EMBERTON.

On returning THE NEON at approximately 1830 hours, PC MORRIS and EMBERTON were recording people who were coming out to get an idea of the number of people within. Shortly after arriving a group of approximately 5 females exited via the side fire exit, one immediately fell to the floor and the other began laughing loudly trying to pull her up. From a distance of approximately 15 meters I would say this group was intoxicated due to how loud they were and how inebriated on their feet they were.

More people exited from this side door and PC 647 PIMM and PC 1636 ORGAN arrived, people began exiting from the rear fire door into the lane, walking out onto EAST USK ROAD and towards TREGARE STREET. I was talking to PC ORGAN who was parked opposite the lane and I could hear someone shouting words to the effect of "WHY YOU STARTING, WHAT'S YOUR FUCKING PROBLEM". I looked up and could see a large bald, white male wearing a Welsh Rugby Jersey shouting with his arms out to his side holding a can of lager in his left hand. PC ORGAN got out of the car to try calm him down and the male shouted "FUCKING COME ON THEN," throwing his can onto the floor. Due to the amount of liquid that puddled on the floor I believe this can was full. I activated my body worn video which I can exhibit as RT/01. A group of people he was with approximately 8 males and females surrounded him telling him to calm down. Saying to police "WE'LL SORT THIS". I told them to get him out of there before he was arrested. This male seemed highly intoxicated due to his behaviour, demeanour and level of aggression for no reason. [REDACTED] walked over with a young child in his hand shouting for the male to calm down and walk away.

The group walked the male off towards TREGARE STREET.

I would say there was approximately 40-50 people in total, I did not count specifically and there were people I recognised to be leaving and returning.

Due to there being no clear instruction for officers, the situation was monitored from the outside as requested and as many people as possible were deterred.

The entrances used were the rear fire exit, the side fire exit on EAST USK ROAD and the other side fire exit on CLARENCE PLACE. At no point did I see any person use the main entrance.



| Signature of Witness |                       | Signature Witnessed By |  |
|----------------------|-----------------------|------------------------|--|
| Name:                | #GWP1976 TAYLOR, RHYS | Name:                  |  |
| Signed Time:         | 17/12/2020 21:59 UTC  | Signed Time:           |  |

| <b>MG11 STATEMENT OF WITNESS</b>  |               |             |                |
|---|---------------|-------------|----------------|
| <b>Criminal Procedure Rules, r. 16.2; Criminal Justice Act 1967, s. 9</b>   |               |             |                |
| Occurrence Number:  | 2000456396    | URN:        |                |
| Statement of:   | REYNOLDS, BEN |             |                |
| Age:  |               | Occupation: | Police officer |
| This statement is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false, or do not believe to be true. |               |             |                |

On Thursday 17th December 2020 I was in full uniform; on mobile patrol in a marked police vehicle. I was in company with PC 1976 TAYLOR and was operating under call sign Echo Lima 3-5. My tour of duty was between 12:00-21:00HRS. PC 1976 and I had been assigned to patrol the area where the funeral of [REDACTED] was taking place. We were assigned this as a result of intelligence received from PC 2022 POLE the previous evening stating that [REDACTED] had arranged for a funeral get together to be held at the NEON CLUB, CLARENCE PLACE, where alcohol had been arranged to be served.

At approximately 15:20HRS on the same day, PC 1976 and I arrived at the NEON CLUB, CLARENCE PLACE and relieved PC 2167 WILLIAMS and PC 2130 INSLEY. PC 2167 and PC 2130 informed us that there were already people inside the venue and that we were to stay in the vicinity and monitor people entering and exiting the building from the rear exit and side entrance.

PC 1976 and I monitored the rear exit for approximately ten minutes, where there was no activity. We then decided to drive on to EAST USK ROAD and park the vehicle there and monitor the side entrance. We witnessed a handful of people enter through the side exit.

At approximately 15:40HRS on the same day PC 2083 MORRIS and PC 2142 EMBERTON joined us at EAST USK ROAD. We were advised to patrol the area outside the NEON CLUB and deter people from entering the club but not to refuse entry to members of the funeral party. PC 2173 GRIFFITHS and PC 647 DENT also arrived at the club to help deter people from entering.

Whilst patrolling outside the club PC 1976, PC 2173 and PC 647 and I spoke to [REDACTED] who informed us that there was a gathering taking place in the function room and that all persons were adhering to social distancing measures. [REDACTED] also confirmed that there was no alcohol being served on the premises. [REDACTED] then produced photos on his mobile phone, showing the set up of tables inside the venue. We agreed with [REDACTED] that the get together could continue, however, everyone would need to leave the premises by 18:00HRS, as per Covid restrictions. We continued to patrol the area outside the club.

At approximately 17:35HRS on the same day, PC 1976 and I stood down from patrolling the area, as we were instructed that only one unit needed to stay. PC 2083 and PC 2142 stayed to patrol outside the club.

At approximately 19:00HRS on the same day, PC 1976 and I returned to EAST USK ROAD to assist PC 2083 and PC 2142. Whilst monitoring the side exit of the club I witnessed approximately five females exit the club. One of the females appeared heavily intoxicated and stumbled down the steps of the entrance. The female then slumped down on the pavement outside the club and the other females appeared to be helping her stand.

PC 1976 and I then made monitored the rear exit of the club from EAST USK ROAD. Sierra-Echo 3-2, Sierra-Echo 3-4 and Kilo 1-6 then arrived to assist with monitoring the club. Whilst monitoring the rear exit I witnessed a handful of males exit the club and enter a vehicle. A few moments after the males had entered the vehicle, approximately

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six to seven males also exited the club from the rear, with a few of the males carrying cans of alcohol. One of the males, who appeared intoxicated, then approached PC 1976 and I and began shouting,

**"YOUR TREATING US LIKE CRIMINALS, YOU CUNTS"**

The male then proceeded to throw his can of carling lager in the direction of us and the Sierra-Echo vehicle. The other males and a female then restrained the male and lead him off in the direction of TREGARE STREET. We continued to monitor the rear exit.

Moments later, [REDACTED] confirmed that everyone was out of the club. PC 2083 and PC 2142 proceeded to enter the building to confirm that everyone had left.

PC 2083 confirmed with us that everyone was out of the building and that there was only three members of cleaning staff inside of the building. We continued to stay on EAST USK ROAD until most of the funeral party had dispersed from the area.

PC 1976 and I then stood down from the area.

My Body Worn Video camera was active when monitoring the rear exit of the club (POL REF BD/01)

| Signature of Witness |                        | Signature Witnessed By |  |
|----------------------|------------------------|------------------------|--|
| Name:                | #GWP2185 REYNOLDS, BEN | Name:                  |  |
| Signed Time:         | 17/12/2020 21:51       | Signed Time:           |  |

## MG11 STATEMENT OF WITNESS

Criminal Procedure Rules, r. 16.2; Criminal Justice Act 1967, s. 9

|   |               |             |                |
|---|---------------|-------------|----------------|
| Occurrence Number:  | 2000456396    | URN:        |                |
| Statement of:   | MORRIS, JULIE |             |                |
| Age:  |               | Occupation: | Police officer |
| This statement is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false, or do not believe to be true. |               |             |                |

I am PC2083 MORRIS employed by HEDDLU Gwent police and I am currently stationed at MAINDEE police station, NEWPORT.

On THURSDAY 17TH DECEMBER 2020 I was on duty from 1500hrs to 0000hrs in full uniform in a marked police vehicle, call sign NE31.

At approximately 1540hrs on the above mentioned date I attended at THE NEON, CLARENCE PLACE, NEWPORT, in company of PC2142 EMBERTON. We attended the location having received information that there was a gathering there which was taking place after the funeral of [REDACTED]. On arrival at the location I liaised with PC1976 TAYLOR and PC2185 REYNOLDS. They stated that numerous persons had already entered the building.

From local knowledge I am aware that the main entrance/exit is on EAST USK ROAD/CLARENCE PLACE, NEWPORT. There are fire doors on EAST USK ROAD, CLARENCE PLACE next to the IVY BUSH public house, and to the rear of the building on the lane that runs from the rear of ICELAND to the junction of EAST USK ROAD. All doors were closed and secure.

On arrival at the location I observed a number of small groups of persons who appeared to be trying to access the building, walking around the building loitering by the doors. I believe police presence deterred some of the persons but not all. It appeared as persons approached the building they were making contact with person/s inside who were then in turn opening the appropriate door to let them in.

I was informed that a resident that lived close by had informed officers that a person with DJ equipment had attended earlier and had attempted to gain entry to the building but was possibly deterred by police presence, and that food had also been delivered.

A male exited the building who I know to be [REDACTED], and spoke with officers. [REDACTED] informed officers that he was having gathering as it had been his father's funeral. [REDACTED] informed officers that there were approximately 30-35 persons inside. [REDACTED] refused officers entry to the building.

Myself and PC2142 EMBERTON remained at the location, whilst other officers stood down, we remained on EAST USK ROAD. I am aware that CCTV was requested to cover the doors on CLARENCE PLACE.

Whilst at the location, I observed a very drunk female exit via the fire door situated on EAST USK ROAD, and fall down the stairs, landing on her front on the floor in the middle of the road. As I exited the marked police vehicle two other females approached from further down the road. These persons appeared to know the drunk female. The fire exit that opened and all three persons went inside.

At approximately 1815hrs on the same day [REDACTED] exited the building, [REDACTED] informed myself that he was taking the remaining food home and then he would be returning and everyone would be leaving. [REDACTED] then left the location, and returned a short time later.

Whilst stood on EAST USK ROAD I observed approx. 30-35 persons exit the NEON. I believe other persons exited via the fire exit on CLARENCE PLACE and via the fire exit on the lane to the rear of the building. I believe these persons had exited the building as many were wearing Newport county scarves or red rugby tops, which many of the persons I had observed exiting the building were wearing. Some of the persons also made comments as they walked past officers, words to the effect of "IT'S A FUNERAL FOR GODS SAKE". Many of the persons were heavily intoxicated. The female that had fallen over intoxicated earlier, exited the building having to be supported by a number of females.


As the persons appeared to disperse [REDACTED] came out of the NEON and informed me that I could go into the building and check it. Myself and PC2142 EMBERTON accompanied [REDACTED] in to the building. I observed a room with a large of tables, which had large red and green bows attached to the chairs. I observed three other male persons inside the building, who appeared to be cleaning up. One of the males was cleaning tables, the other two males were behind a bar-like area. I observed some empty pint glasses in this area, and one of the males was wiping a glass. I did not observe any money exchange facilities.

I asked [REDACTED] if the licensee was present, which he replied he wasn't. I asked if he knew who it was, and he said he didn't know. I asked how he had come to rent the building and [REDACTED] replied "THROUGH A FRIEND OF A FRIEND".

On exiting the building the persons that had been outside were dispersing from the area. We remained at the location until persons dispersed.

I activated my body worn video during the incident, and can produce this if required to do so as exhibit JM/01, court ref:

| Signature of Witness |                        | Signature Witnessed By |  |
|----------------------|------------------------|------------------------|--|
| Name:                | #GWP2083 MORRIS, JULIE | Name:                  |  |
| Signed Time:         | 17/12/2020 22:27       | Signed Time:           |  |

| <div style="text-align: center;">  <b>MG11 STATEMENT OF WITNESS</b><br/> Criminal Procedure Rules, r. 16.2; Criminal Justice Act 1967, s. 9 </div>                          |                   |             |                |
|---|-------------------|-------------|----------------|
| Occurrence Number:  | 2000456396        | URN:        |                |
| Statement of:   | EMBERTON, MATTHEW |             |                |
| Age:  |                   | Occupation: | Police officer |
| This statement is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false, or do not believe to be true. |                   |             |                |

I am PC 2142 EMBERTON employed by Gwent Police and currently stationed at Malindee Station. At 13.30hrs on Thursday 17th December 2020 I was on duty in full uniform patrolling NEWPORT single crewed using call sign NE34.

At 15:30hrs I have been asked to attend THE NEON, CLARENCE PLACE, NEWPORT in regard to a funeral taking place earlier in the day for a [REDACTED]. Intel has been sent in with regards to a large gathering post funeral at THE NEON. Officers from the day shift have returned to the station prior to us leaving and have explained that they had been at the rear of THE NEON in which a few people have turned away once seeing officers.

I have attended THE NEON alongside NE31 PC 2083 MORRIS and arrived at around 15:40hrs. We have parked on EAST USK ROAD, alongside the side entrance of THE NEON. As we exited our vehicle a neighbour at number 3 EAST USK ROAD stated that he had seen a potential DJ leave a blue VW sirocco earlier in the day however upon noticing officers has re loaded his stuff into the car and that he had seen multiple people come and go from THE NEON. Already at this location was NE35 PC1976 TAYLOR and PC2185 REYNOLDS, we have located ourselves initially at the rear entrance. Several people were spotted looking to find an entrance to THE NEON however were often deterred by our presence. We have slowly drifted towards the front of the property when I have noticed PC 1976 TAYLOR talking to a male who I now know to be [REDACTED] who is understood to be the organiser of the event. I had only caught the end of the conversation in which PC 1976 had obtained the males telephone number. At this time PC 647 DENT and PC 2173 GRIFFITHS have arrived.

We have then stood around the front of THE NEON at the CLARENCE PLACE entrance in which I have witnessed multiple people look to gain entry but upon seeing ourselves walk off. The remaining officers have been around the side entrance. Before long PC 647 & PC 2173 left due to diary car commitments, whilst NE31 have left to complete a pre organised statement at 17:35hrs. Myself and PC 2083 MORRIS have continued to wait around the entrances at THE NEON before being given instructions to body worn video record the amount of people leaving THE NEON at closure.

We have initially waited in the police vehicle parked on EAST USK ROAD covering the side entrance as this was the most used. Whilst waiting in the vehicle we have observed around 6-9 people leave the premises with around 3-4 entering, one female has fallen out of the doorway and onto the floor due to being intoxicated before being ushered back into THE NEON. At around 18:15hrs myself and PC 2083 MORRIS have stepped out of the police vehicle and activated our BWV as people had now started to leave THE NEON.

Between 18:15hrs and 18:30hrs I have witnessed around 10-15 people leave whilst during this time I have also spoken to [REDACTED] who explained they had began clearing up and he was taking food out of the location. He has then left in his vehicle stating he would be back to collect more and there was around 15 people still in the premises. He has returned 5 minutes later at this point NE31 have returned. At this stage multiple groups started to leave the premises from multiple doors at the front, side and rear including 5 females from the side entrance intoxicated and falling to the floor. I would estimate this to be around 20-25 people in total leaving at times time. Myself and PC 2083 MORRIS covered the side door, PC 1976 TAYLOR and PC 2185 REYNOLDS covered the rear. We were then joined by two ASU officers including PC 641 PIMM and a dog unit. A group of 6-10 males then left by the rear door of which one male took offence to our presence and became abusive towards PC 1976, this male was ushered away by friends and [REDACTED] de-escalating the situation the male was in possession of a can of beer which he had brought out from inside.

Once all parties had left the premises [REDACTED] came and spoke to myself and PC 2083 MORRIS asking if we wanted to check the inside of THE NEON. We accepted and walked into the property with him, inside the tables were spaced out but there were more than 4 seats at each table. There was no sign of DJ equipment and there were



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only 3 males left clearing from inside. When asked if they worked for THE NEON, [REDACTED] explained they were just doing him a favour. PC 2083 MORRIS has then asked, "WHO IS THE LICENCEE" to which [REDACTED] responded "I DON'T KNOW" PC 2083 MORRIS has then responded by asking "HOW DID YOU BORROW IT" to which [REDACTED] responded "I BORROWED FROM A FRIEND OF A FRIEND".

We have then left the property, waited for the area to become clear before heading back to the station.

4/26/2015 15:15:18

| Signature of Witness |                            | Signature Witnessed By |  |
|----------------------|----------------------------|------------------------|--|
| Name:                | #GWP2142 EMBERTON, MATTHEW | Name:                  |  |
| Signed Time:         | 17/12/2020 21:58 UTC       | Signed Time:           |  |

## **MG11 STATEMENT OF WITNESS**

**Criminal Procedure Rules, r. 16.2; Criminal Justice Act 1967, s. 9**

|   |               |             |                |
|---|---------------|-------------|----------------|
| Occurrence Number:  | 2000456396    | URN:        |                |
| Statement of:   | AUSTIN, SIMON |             |                |
| Age:  |               | Occupation: | Police officer |
| This statement is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false, or do not believe to be true. |               |             |                |

I am the above named Constable of HEDDLU GWENT POLICE and I am currently stationed at NEWPORT CENTRAL POLICE STATION as a LICENSING AND HARM PREVENTION OFFICER.

On FRIDAY 18th DECEMBER 2020 at 15:00 hours I attended NEON, CLARENCE PLACE, NEWPORT in company with Alastair DEARLING who is the Principle Licensing Officer for Newport County Council. It was here that we met Andrew BYARS who is one of the owners of the building to discuss several alleged breaches of COVID and licensing regulations following the premises being used for a wake on THURSDAY 17th DECEMBER 2020 which required the attendance of several Police officers to attend and manage.

Following my attendance at the premises I can confirm that I did not see any alcohol in the fridges behind the bar and all of the pumps had black plastic bags covering them which would indicate to me that they were not currently in use.

What was concerning was when I asked Andrew BYARS if the premises had an alarm fitted he replied that there was one fitted but that it was not currently working due to it being broken which seemed strange given the size of the building. I was also shocked to hear that when Andrew heard about the wake taking place he did not contact the Police or make his way to the venue.

When myself and Alastair asked if we could view the CCTV from the incident we were shown by Andrew BYARS into a room just off from the main bar area which was not locked. When Andrew was asked if the CCTV room was locked and secure, he replied that the latch had fallen on the door so that anyone could gain access to this room. Upon entering the room it was evident that the CCTV unit had been stolen. Due to this lapse in security it has resulted in the losing of vital evidence.

What was also shocking to hear is that Newport City Radio broadcasts from the venue and that the staff of this attend the premises a few times a week to pre-programme the music and that these people would have free reign to the whole of the premises at any time. Andrew BYARS informed us that when people attended the premises for the wake, they were let into the premises by the staff of Newport City Radio despite being told a few weeks prior that the wake could not be held there due to the current restrictions in place. Andrew also mentioned that he had a key to the premises, as do the other owners and that he hoped any keys had not got into the hands of anyone who should not have them. It seemed to me that Andrew BYARS was not entirely certain who had keys to the premises and who didn't.

It is clear to me that from the above detailed incident and observations, there is a clear lack of control over the premises and Gwent Police fully supports the review of the premises licence brought by Newport City Council.

**Signature of Witness**

**Name:**

#GWP531 AUSTIN, SIMON

**Signed Time:**

21/12/2020 11:01

**Signature Witnessed By**

**Name:**

**Signed Time:**

Apd/neon3

Fri 08/01/2021 12:56

Dear Mr Byers,

Further to my email dated the 21<sup>st</sup> Dec I wondering if you are able to respond to my questions below, this greatly help in my investigations.

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)

**From:** Dearling, Alastair (Licensing Manager)  
**Sent:** 21 December 2020 14:15  
**To:** [Redacted]  
**Cc:** Austin, Simon <[Simon.Austin@gwent.pnn.police.uk](mailto:Simon.Austin@gwent.pnn.police.uk)>  
**Subject:** Neon

Dear Mr Byers

**Re : Neon**

Thank you for meeting with myself and PC Austin late Friday afternoon to discuss Neon.

I was wondering if you confirm the following things that we discussed on Friday:

Are you able to provide CCTV footage that may have been uploaded to the cloud?

You also stipulated at the meeting that [Redacted] had undertaken a track and trace records for the Wake I was wondering I could have a copy of such records.

Also apologies I may be slightly confused but you stipulated that no alcohol was sold or supplied by the Neon, but the Wake brought their own and you stipulated it was slabs of Carling beer.

Could you confirm what time you entered and left Neon on the evening in question.

And was the Designated Premises Supervisor on the premises at time of the Wake or could you confirm if in fact the DPS is still involved in the everyday running of the premises.

If you have any questions or queries please don't hesitate to contact the licensing team.

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)

**Appendix B – A copy of the 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> | 19/03464/LAPRE |
|--------------------------------|----------------|

**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 Neon<br>Clarence Place<br>Newport<br>South Wales<br>NP19 7AB  |              |
| <b>Telephone number</b>   | 01633 533666 |

|  |
|--|
| <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<br>Boxing or Wrestling<br>Performance of Dance<br>Exhibition of a Film<br>Indoor Sporting Event<br>Performance of Live Music<br>Playing of Recorded Music<br>Live or Recorded Music, or similar<br>Performance of a Play<br>Late Night Refreshment |

|   |
|---|
| <b>Times the licence authorises the carrying out of licensable activities</b> |
| Sale by retail of Alcohol<br>Monday to Wednesday inclusive 10:00 - Midnight   |

Thursday 10:00 - 00:30  
Friday and Saturday 10:00 - 02:30  
Sunday 10:00 - Midnight

Boxing or Wrestling  
Monday to Wednesday inclusive 10:00 - Midnight  
Thursday 10:00 - 00:30  
Friday and Saturday 10:00 - 02:30  
Sunday 10:00 - Midnight

Performance of Dance  
Monday to Wednesday inclusive 10:00 - Midnight  
Thursday 10:00 - 00:30  
Friday and Saturday 10:00 - 02:30  
Sunday 10:00 - Midnight

Exhibition of a Film  
Monday to Wednesday inclusive 09:00 - Midnight  
Thursday 09:00 - 00:30  
Friday and Saturday 09:00 - 02:30  
Sunday 09:00 - Midnight

Indoor Sporting Event  
Monday to Wednesday inclusive 10:00 - Midnight  
Thursday 10:00 - 00:30  
Friday and Saturday 10:00 - 02:30  
Sunday 10:00 - Midnight

Performance of Live Music  
Monday to Wednesday inclusive 10:00 - Midnight  
Wednesday to Sunday inclusive 10:00 - 00:30  
Friday and Saturday 10:00 - 02:30  
Sunday 10:00 - Midnight

Playing of Recorded Music  
Monday to Wednesday inclusive 10:00 - Midnight  
Thursday 10:00 - 00:30  
Friday and Saturday 10:00 - 02:30  
Sunday 10:00 - Midnight

Live or Recorded Music, or similar  
Monday to Wednesday inclusive 10:00 - Midnight  
Thursday 10:00 - 00:30  
Friday and Saturday 10:00 - 02:30  
Sunday 10:00 - Midnight

Performance of a Play  
Monday to Wednesday inclusive 10:00 - Midnight  
Thursday 10:00 - 00:30  
Friday and Saturday 10:00 - 02:30  
Sunday 10:00 - Midnight

Late Night Refreshment  
Monday to Wednesday inclusive 23:00 - Midnight  
Thursday 23:00 - 00:30  
Friday and Saturday 23:00 - 03:00  
Sunday 23:00 - Midnight

New Years Eve, Bank Holiday Friday and Bank Holiday Sundays and 4 occasions a year 10:00am til 04:00hrs.  
On the 4 occasions the licence holder must inform Gwent Police and Newport City Councils Licensing Team regarding the events in writing 10 days before the event. The 4 events must be ticketed events (no tickets are permitted to be sold at the venue on the evening of those events).

**The opening hours of the premises**

Friday and Saturday 09:00 - 03:00

Monday to Wednesday inclusive 09:00 - 00:30

Thursday 09:00 - 01:00

Sunday 09:00 - 03:00

**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**

Andrew James Byers  
The Neon  
Clarence Place  
Newport  
South Wales  
NP19 7AB

Business Phone Number 01633 533666

**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**

Gerard Bryan  
19 St Davids Heights  
Miskin  
CF72 8SW

**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: 057981

Licensing Authority: Rhondda Cynon County Borough 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** 15th October 2019



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. CCTV cameras shall be in place which record all licensed areas of the premises.

CCTV shall be operational at all times when the premises are trading. All recordings shall be retained for a minimum of 28 days and shall be made available to an Authorised person under the Licensing Act 2003 on request. Signage shall be displayed prominently within the premises to advise that CCTV is in operation.

10. The Premise Licence Holder shall participate in Newport City Centre's Radio net.

11. Seizing, retaining and documenting any drugs or weapons found with a clear audit trail and a process for surrendering them to the Police in compliance with Gwent Police written policy.

12. All drinking vessels shall be polycarbonate or plastic (unless in event of corporate function or wedding)

13. Any person evicted from the premises for acts of violence or criminality shall be reported immediately, to Heddli Gwent Police. The manager shall record details of such incidents in the premises log book/diary/electronic recording system and this record shall be produced upon request to any authorised officer.

14. There shall be no admission to unaccompanied children save for those occasions when under 18yr events are taking place and for those occasions prior to 00:00 hours (Unless for corporate or private event for example a wedding)

15. Whenever a designated premises supervisor is not at the premises, another individual must be nominated as being the responsible person nominated by the designated premises supervisor to manage the premises and they must have the contact details of the designated premises supervisor.

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

The door supervisor's name;

His/her Security Industry Authority full licence number;

The time and date he/she starts and finishes duty;

Each entry shall be signed by the door supervisor.

That logbook shall be available for inspection on demand by an Authorised Officer of the Council, the Security Industry Authority or a Police Constable.

17. When the premises are operating at a patron capacity of 100 or more persons (but not as cinema, theatre or corporate/ wedding venue) 2 SIA registered door staff should be present on site. Ratio door staff 0-100 persons 2 door staff then 1 extra door staff per 100 customers( when live music event past 00:30hrs 1 of the door staff must be female)

18. There shall be in force for the premises a search policy for events for prospective customers, which shall be developed in liaison with and to the satisfaction of Gwent Police. There shall be displayed at the entrance to the premises a notice informing prospective customers of the search policy. Searches should always be carried out in public areas and covered by CCTV.

19. All door staff and staff selling alcohol should be briefed on the premises Licensing Conditions. A log should be kept of the date and name person briefed and made available for inspection by a responsible authority.

20. Door Staff on the front door of the premises are required to wear long-sleeved hi -Vis jackets, Door staff should have a standard uniform inside the premises. (but not as cinema, theatre or corporate/ wedding venue or any seated or part seated event concluding before midnight.)

21. Last entry to premises 1:00am (but not as cinema, theatre or corporate/ wedding venue)

22. Gwent Police & Newport City Council Licensing Team will be informed in writing of the dates of the 4 ticket only events a calendar year, 10 days before the event.(No tickets are permitted to be sold at the venue on the evening of these events)

23. Policy should be adopted to prevent overcrowding, consideration should be given to deliberately running below capacity to afford a comfort factor to your patrons and avoid conflict, violence or aggression within the premises.
24. A member of staff will be available to book a licenced taxi, on larger events beyond 1:00am SIA door staff will act as taxi marshals. (but not as cinema, theatre or corporate/ wedding venue)
25. Free drinking water will be available and advertised at the bar area.
26. No alcoholic drinks will be permitted outside the venue
27. Door administration policy should be including age restrictions, screening of handbags, this should be widely publicised on any promotional material or websites and clearly displayed at the entrance to the premises
28. When premises has a capacity of over 400, a queuing system and smoking areas policy will be place approved by the Licensing Authority. (but not as cinema, theatre or corporate/ wedding venue)
29. A customer dispersal policy when capacity over 400 the policy will clearly set out measures to avoid a mass exit at the end of the evening such as a gradual change in music style and increasing lighting levels. A policy on how to get customers home safely is required this may include have a contact with a private hire company.
30. All windows and doors will remain closed when entertainment takes place. ( though the main entrance doors will be open when operating as cinema, theatre or corporate/ wedding venue, secondary doors will be closed)
31. A noise assessment will be undertaken at a request of Responsible Authority under the Licensing Act if noise complaints are received from interested person , this noise assessment would be submitted into account the nearest and/or proposed sensitive residential proprieties in the immediate area.
32. A Challenge 21 policy shall be operated at the premises at all times. If operating a Challenge 21 policy all staff shall check the identification of all persons who appear to be less than 21 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. Challenge 21 display materials Publicity materials notifying customers of the operation of the Challenge 21 schemes shall be displayed at the premises, including a Challenge 21 sign of at least A5 size at point of sale.
33. 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.
34. The designated smoking area at the front of the Building should be limited to a maximum of 20 persons at one time. A further designated smoking area to the rear of the property should be utilised for events running after 00:00hrs or when Capacity is over 300 persons (unless a cinema event/play/wedding/corporate event)

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

NIL.

### **Plans**

Please see attached plans (reference number 19/03464/LAPRE)

## **Appendix C - Representation from Gwent Police & Health Board**

The correspondence below which confirms Gwent Police Licensing Officers support of the review application, is in addition to the various Police Statements contained within the appendices of the review application paperwork found in Appendix A of this report.

**From:** Austin, Simon <[Simon.Austin@gwent.police.uk](mailto:Simon.Austin@gwent.police.uk)>

**Sent:** 05 February 2021 10:25

**To:** Dearling, Alastair (Licensing Manager) <[Alastair.Dearling@newport.gov.uk](mailto:Alastair.Dearling@newport.gov.uk)>

**Subject:** RE: LA2003, S51 Application for Review of Premises Licence - The Neon, Clarence Place, Newport, NP19 7AB

Hello,

I, Simon Austin, in my capacity as a Licensing officer for Gwent Police support the premises licence review brought by Newport City Council on the premises Neon, Clarence Place, Newport.

Regards,

Simon

**Simon AUSTIN**



**Cwnstabl Heddlu 531 | PC 531 Austin**  
**Swyddog Atal Niwed/Trwyddedu | Harm Prevention**  
**Officer/Licensing**  
**Ymyrraeth ac Atal | Intervention and Prevention**  
**Casnewydd / Sir Fynwy | Newport / Monmouthshire**

Heddlu Gwent Police


Ffôn | Tel: **01633 245229** Ext: **720 2070**

Ffôn symudol | Mobile: **07464 654504**

E-bost | E-mail: [simon.austin@gwent.pnn.police.uk](mailto:simon.austin@gwent.pnn.police.uk)

**Pencadlys yr Heddlu | Police Headquarters | Croesyceiliog |**  
**Cwmbrân | NP44 2XJ**



|   |   |   |   |
|---|---|---|---|
| <b>Representation from<br/>Aneurin Bevan University Health Board</b>  |   |   |   |
| <b>Representation made to support the Review of a Premise Licence</b> |   |   |   |
| <b>Responsible Authority Details</b>                                  |   |   |   |
| Name of Responsible Authority   |   | Aneurin Bevan University Health Board   |   |
| Name and title of Signatory   |   | Dr Sarah Aitken, Director of Public Health<br>Aneurin Bevan University Health Board                 |   |
| Signature   |   |                   |   |
| Contact for more details  |   | Jackie Williams<br><a href="mailto:Jackie.williams6@wales.nhs.uk">Jackie.williams6@wales.nhs.uk</a> |   |
| Date Representation Made  |   | 8 <sup>th</sup> February 2021   |   |
| <b>Premise Details</b>  |   |   |   |
| Premise Name  |   | The Neon  |   |
| Address and Licence No  |   | Clarence Place<br>Newport<br>South Wales<br>19/03464/LAPRE  |   |
| <b>Relevant Licensing Objective/s</b>                                 |   |   |   |
| Prevention of Crime & Disorder  | X | Public Safety   | X |
| Prevention of Public Nuisance   |   | Protection of Children from Harm  |   |

## **Representation from Aneurin Bevan University Health Board**

The Aneurin Bevan University Health Board (ABUHB) make this representation in support of Newport City Council Licensing Authority's application for a review of the Neon, Newport.

ABUHB make this representation after being made aware of the events of the 17<sup>th</sup> December 2020 where The Neon, on Clarence Place, Newport hosted a wake which was contrary to Regulation 12(2) of The Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020. This wake took place, despite the premises being informed of the rules and regulations by an Officer from Newport Licensing Authority on the 16<sup>th</sup> of December 2020.

Newport City Council have highlighted in their representation the relevant regulations and guidance in place on the 17<sup>th</sup> December 2020 where:

- A gathering of up to 15 people can take place for these purposes (these limits do not include children under 11 or staff working at the event). If it is indoors, then the gathering will need to take place in regulated premises (such as funeral directors, pubs, restaurants, hotels or community centres) and there are limits on the type of activity that can take place – for example loud music should not be played, and any food provided should be served at the table rather than at a buffet.
- Wakes held in licensed premises such as pubs, restaurants or hotels must finish by 6pm and alcohol must not be sold or supplied for consumption on the premises at any point. (The word supplied also means customers bringing their own alcohol to consume on a licence premises.)

We have been assured by Newport City Council Licensing Team that Steve Pontin (Licensing Officer) contacted the Premises Licence Holder of The Neon, Mr Andrew Byers, on 16th December 2020, after being advised that a large wake was being planned to take place in Newport, with the Neon being the suggested venue.



**Representation from  
Aneurin Bevan University Health Board**

We have also been advised that Steven Pontin, in his conversation with Mr Byers, had been assured by Mr Byers that the Neon was closed and did not expect to open again in the near future. Also, we have been advised that Officer Pontin clearly communicated to Mr Byers that he should ensure any other staff who may have keys to the premises be informed not to open the premises, and that Mr Byers was clear that he understood this instruction and again reiterated to Officer Pontin that he had no intention of opening any time soon.

However, a wake did in fact take place at the Neon, Clarence Place, Newport on the 17<sup>th</sup> December. And that this fact came to light after Gwent Police were contacted on the 17<sup>th</sup> December and advised that a wake was going to take place, with a planned free bar at Neon Club, Clarence Place AND also from subsequent Police Officer accounts from visiting the Neon (detailed within the Newport City Council's representation).

From Police Officers accounts it is clear that:

- More than 15 people were witnessed people either entering or leaving the Neon
- There was visible evidence of alcohol being consumed in and on leaving the premise, and some people were intoxicated

Both these activities are clearly in breach of the regulations and guidance in place on the 17<sup>th</sup> December 2020. And therefore undermined both the Crime and Disorder and Public Safety objectives set out in the Licensing Act 2003.

From reading the Newport City Council Licensing Authority's representation, and from his own admission, Mr Byers clearly failed to:

- Make contact with the family who organised the wake, and whom he had originally agreed with to hold this wake at the Neon, to advise they could not go ahead, and

**Representation from  
Aneurin Bevan University Health Board**

- To inform all key holders of the building not to let anyone in the premises despite the clear instructions from Steve Pontin, Licensing Officer, the day before the wake.

My Byers also admitted that upon knowing that the wake was taking place, upon becoming aware that a catering company had entered the Neon premises, he allowed the wake to go ahead.

The Health Board agree with Newport City Council Licensing that by allowing the wake to go ahead outside the regulations demonstrates irresponsible management by both the Licence holder Mr Byers and the Designated Premises Supervisor Gerard Bryan, who is the person who is responsible for the everyday running of a licence premises.

These actions are irresponsible as they not only placed those who attended the wake at increased risk of Covid-19 but anyone else these customers may have come into contact with after the wake.

This incident occurred at a time when it widely reported that Wales was be going to full lockdown. On 17<sup>th</sup> December 2020 there had already been 2,921 deaths from Coronavirus in Wales (reported to PHW on 15<sup>th</sup> December 2020). In mid-December it was very clear that we were still in the middle of a severe pandemic, and the threat of death from Coronavirus had not gone away.

**Data from the ABUHB Incident Coordinating Centre Situational Awareness Report on 16<sup>th</sup> December 2020:**

**UK update - As of 6:04pm on 16/12/2020**

- Total number of confirmed positive cases – **1,913,277**
- Total number of deaths in all settings – **65,520**
- Number of confirmed daily deaths – **612**

**Welsh update - As of 09:00am 15/12/2020**

- Total number of confirmed positive cases – **103,098**
- Number of newly confirmed positive cases – **530**
- Number of new testing episodes – **3,396**
- Total number of confirmed deaths (reported to PHW) – **2,921**
- Number of newly reported deaths – **30**

## Representation from Aneurin Bevan University Health Board

### **ABUHB update - As of 09:00am 15/12/2020**

- Total number of confirmed positive cases – 20,339
- Number of new confirmed cases – 111
- Total number of confirmed deaths – 551
- Number of newly reported deaths – 6
- Number of consecutive days without positive case – 0

In conclusion the Health Board are in agreement with Newport City Council Licensing team that The Neon operated contrary to the contravenes The Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020, as amended, risking public safety.

Regulations and Welsh Government Guidance are in place to protect the public and reduce the transmission from coronavirus in Wales.

Although the Health Board appreciate the economic and social consequences of a local lockdown, particularly for licensed premises, in not adhering to the regulations and guidance, the Neon placed the people attending the wake and the wider community who they subsequently came into at increased risk of coronavirus. For this reason, ABUHB wholly support the review of the Neon.

If this is possible, witness statements from ABUHB staff are included in the Appendices.

## **Appendix A**

### **Joint witness statement from Senior Sisters of Emergency Department, ABUHB**

"As frontline NHS workers we have always been prepared to work above and beyond what is expected of us. Saving people's lives is what we do. However, nothing prepared us for the impact on our service or our lives from this pandemic. We have witnessed things we never expected to.

Some of the most difficult times which come to mind are staff having to support patients to make a phone call to say a final goodbye to family members including their children before we placed them in a coma, as they knew they may not survive; having to witness our patients dying without family members or friends being at their bedside. It has been heart breaking. For those patients that have survived, for some their recovery will be long and the long term consequences of Covid are still unknown. Whilst we are fortunate to have the support of the employee wellbeing service, we are unsure what the long term consequences of the events will be on staff wellbeing as well.

With the staff having worked so tirelessly throughout the pandemic, it is extremely hard for us to hear of local people blatantly disregarding the national guidelines on social distancing and risking the NHS becoming overwhelmed by this virus".

### **Witness Statement from Dr Adrian Neal, Head of ABUHB Employee Wellbeing Service**

"The impact of Coronavirus on our staff's mental wellbeing has been significant. Referrals to our Employee Wellbeing Service are double the same period last year, and we currently have a waiting list of over 100 members of staff".

## Appendix D – Location of The Neon, Clarence Place

