

Agenda



Licensing Sub-Committee

Date: Tuesday, 6 June 2017

Time: 1pm

Venue: Committee Room 1 - Civic Centre

To: Councillors D Davies (Chair), H Thomas (Deputy Chair), M Cornelious, Berry and J Cleverly,

Item		Wards Affected
1	<u>Apologies for Absence</u>	
2	<u>Declarations of Interest</u>	
3	<u>Licensing Sub-Committee Code of Practice</u> (Pages 3 - 16)	
4	<u>Application for a Variation of the Premises Licence for Rooty's - 40 Cambrian Road, Newport, NP20 4AB</u> (Pages 17 - 52)	Stow Hill

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Conduct and Procedure of Licensing Sub-committee

1 Membership and appointment of Chair

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

2 Ward Councillors

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

3 Lobbying

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

4 Chair of the Licensing Sub-Committee

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

5 Quorum

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

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

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

6 Statutory Guidance

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

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

7 Notice of Hearings

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

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

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

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

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

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

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

8 Timescale for arranging hearings

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

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

9 Form of Notice

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

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

10 Information to be provided

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

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

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

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

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

11 Requirements for Applicants and any other persons

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

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

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

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

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

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

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

13 The Hearing

13.1 Exclusions

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

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

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

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

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

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

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

14 Failure of parties to attend the hearing

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

15 Procedure at the hearing

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

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

16 Site Visits

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

17 Determination of applications

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

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

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

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

18 Right of appeal

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

19 Record of proceedings

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

20 Irregularities

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

Organisation of Cases for the Hearing

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

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

Principles of Decision-Making

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

- 4 All licensing applications must be considered on the basis of whether they promote the four licensing objectives set out in the Act and incorporated in the Statement of Licensing Policy, namely
 - The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm

- 5 In reaching their decisions under the Act, the Licensing Sub-Committee must have regard to all relevant considerations including (but not limited to)
 - The relevant statutory provisions
 - Relevant Statutory Guidance issued under Section 182 of the Act
 - The Council's Statement of Licensing Policy
 - The licensing objectives
 - The material facts based on the relevant evidence presented and representations received
 - The individual merits of each case
 - The public interest

- 6 The Licensing Sub-Committee must disregard any irrelevant considerations, including (but not limited to) information or evidence which is not relevant to the application or to the promotion of the licensing objectives. Members must also disregard any party political considerations or decisions taken in political group meetings.

- 7 Members of the Licensing Sub-Committee must act fairly, objectively and impartially throughout. They must not show any bias or predetermination and must keep an open mind on all applications until they have heard all the relevant representations and evidence. Members must not prejudge any application, express any view on the merits of any application, organise any support or opposition to any application, in advance of the hearing. Any Member with a "closed mind" on any application would be disqualified from sitting on the Licensing Sub-Committee which considers that application.

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

Procedure to be Followed at The Hearing

1 Preliminaries and Opening remarks

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

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

The Chair introduces the members and the officers present.

2 Apologies/declarations of interest

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

3 Introductions

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

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

4 Applications

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

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

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

5 Report from Licensing Officer

The Licensing Officer presents the Report outlining

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

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

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

7 The Applicant's case

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

8 The Objector(s) case

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

9 Closing Statements

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

10 Decision

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

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

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

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

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

11 Repeat process for each hearing

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Report

Licensing Sub-Committee

Part 1

Date: 6 June 2017

Item No: 4

Subject Licensing Application

Purpose The consideration and decision in respect of an application by NP Clubs Ltd for the grant of an application under Section 34 Licensing Act 2003 to vary the Premises Licence in respect of 'Rooty's' 40 Cambrian Road, Newport NP20 4AB.

Author William Stephen Lewis, Senior Licensing Officer

Ward All Wards

Summary The Licensing Committee have statutory and delegated powers to take decisions in relation to licensing applications. The Licensing Committee will make the decision on the application made pursuant to the relevant legislation under which the application has been made.

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

Action by Head of Law & Regulation

Timetable Immediate

This report was prepared after consultation with:

- Head of Law & Regulation

Signed

1. Application

- a. An application by NP Clubs Limited under section 34 of the Licensing Act 2003 for a variation of a Premises Licence currently issued in respect of premises located at 40, Cambrian Road, Newport was served on the Licensing Authority of Newport City Council on 20th March 2017 **(A copy of the application can be found in Appendix 1 of this report)**.
- b. The premises subject of this application has traded as a Licensed Premises since July/August of 2016. The primary activity of the premises being a restaurant where the provision of alcohol was ancillary to the provision of table meals.
- c. This application seeks to remove conditions 14 to 19 attached to the Premises Licence that requires the premises to trade as a restaurant as follows:
14. *Children should not be permitted on the premises after 22:00hrs unless the premise is running as 100% sit down restaurant.*
 15. *The premises will trade primarily as a restaurant and the bar will be ancillary to premises' main use as a restaurant.*
 16. *At any given time, a minimum of 50% of the public trading area on the first floor set aside for tables and chairs and 100% on the second floor.*
 17. *There shall be a full meals menu and waiter or waitress service of food available at all times.*
 18. *There will be no change to the operating style.*
 19. *All vacant tables in the restaurant will be laid for dining at all times.*

The application further seeks to extend the hours for the provision of Licensable Activities as follows:

- Playing of Recorded Music - 08:00 until 02:30 Monday to Sunday inclusive.
 - Provision of Late Night Refreshment – 23:00 until 02:00 Monday to Sunday inclusive.
 - Supply of alcohol - 08:00 until 02:00 Monday to Sunday inclusive
- d. The premise is located at 40 Cambrian Road, Newport and in close proximity to several other late night venues that benefit from Premises Licences for the provision of alcohol and regulated entertainment. **(Location map and street photographs are attached at Appendix 2)**
- e. In accordance with statutory provisions, copies of the application were served on each of the responsible authorities and details of the application were advertised on the premises and in the South Wales Argus, giving the responsible authorities and any other persons until 17th April 2017 to make written representations.

2. Licensable Activities authorised by the current Premises Licence

- **Showing of Films** - 08:00hrs until 01:30 Monday to Sunday inclusive.
- **Provision of Live Music** – 08:00 until 01:30 Monday to Sunday inclusive.
- **Playing of Recorded Music** - 08:00 until 01:30 Monday to Sunday inclusive.
- **Provision of Late Night Refreshment** – 23:00 until 01:30 Monday to Sunday inclusive.
- **Supply of alcohol** - 08:00 until 01:30 Monday to Sunday inclusive.

On New Year Eve the above terminal hour is extended until 02:00 for all Licensable Activities.

- **Hours Open to the Public** - 08:00hrs until 02:00 Monday to Sunday inclusive.
On New Year Eve the Closing time is extended until 02:30.

3. Licence History of the Premises.

- a. An application under Section 17 Licensing Act 2003 for the grant of a Premises Licence to NP Clubs Ltd in respect of Rooty's was heard by Newport City Council Licensing Sub-Committee on 20th July 2016 as a result of representations made by the responsible authorities of Heddlu Gwent Police, Newport City Council Licensing Department and Newport City Council Environmental Health Department.
- b. The Licensing Sub-Committee resolved to grant the application but modified the times applied for and an agreement was reached with the applicant that conditions proposed by the responsible authorities would be attached to the Premises Licence. **(Copy included at Appendix 3 of this report.)**

4. Promotion of the Licensing Objectives

The promotion of the Licensing Objectives is achieved by compliance with the statutory requirements of the Licensing Act 2003, compliance with 'mandatory conditions' attached to all alcohol licensed premises and compliance with the conditions detailed within the Operating Schedule of the Premises Licence.

The applicant asserts that the deletion of conditions 14 to 19 of the current Operating Schedule will have no adverse impact and that the remaining conditions are sufficient in the promotion of the Licensing Objectives.

5. Representations (Responsible Authorities)

An objection in respect of the application was received from Heddlu Gwent Police concerning an amendment in respect of a condition associated with the provision of door supervisors.

This objection was withdrawn following mediation where the applicant and Police agreed on an amended condition regarding the provision of door supervisors.

6. Representations (Other Persons)

On 12th April 2017 the Licensing Authority were served by way of electronic email attachment a letter of objection **(copy included at Appendix 4 of this report)** to the application from Underwood and Co Solicitors on behalf of Guinevere Holdings Limited, the owners of 1-3 Station Approach and 54-55 High Street, Newport. (Under development proposed to be a Premier Inn)

The ground for the objection indicated that the granting of the variation would lead to a public nuisance and breach that Licensing Objective as a consequence of the removal of conditions that restricted the primary use of 'Rooty's' as a restaurant.

The content of the letter of objection made reference to existing Licensed Premises at Cambrian Road, namely 'Warehouse 54' 'Blind Tiger' and 'the Courtyard' and referred to a dispute between Guinevere Holdings Limited and Mr Iftekahar Haris/NP Clubs Ltd and an ongoing Civil Action between those parties regarding noise nuisance.

The objection letter also referred to the hearing by Newport City Council Licensing Sub-committee on 20th July 2016 and incorrectly suggested that conditions proposed by Newport City Council Environmental Health (Pollution Control) Officer had been omitted from the Premises Licence.

In response to receipt of this objection Mr Alastair Dearling (Principal Licensing Officer) corresponded with Underwood & Co solicitors by email (**copy included at Appendix 5**) verifying that the conditions proposed by Newport City Council Pollution Control Officer were in fact attached as conditions 20 to 25 of the Premises Licence. It was further advised that the application for variation did not seek to remove these conditions and that the Pollution Control Officer was satisfied that these conditions were sufficient to promote the Licensing objectives and that no objection to the application would be served.

The email also informed that an objection by Police had been withdrawn after mediation in relation to door supervision where an amended condition was agreed by the applicant.

Underwood & Co were requested to confirm whether client would wish to continue with an objection having been made aware of the above details.

On 18th April 2017 in accordance with statutory provisions a copy of the representation from Underwood & Co solicitors was served on NP Clubs Ltd by email attachment. (**copy included at Appendix 6**)

On 19th April 2017 an email/attachment (**copy included at Appendix 7 of this report**) was received by the Licensing Authority from Mr Iftekhhar Haris regarding the objection from Underwood & Co/Guinevere Holdings in which he disputed that the objection complied with the provisions of the Licensing Act in respect of the promotion of the Licensing Objectives and that they related to the commercial interests of Guinevere Holdings.

On the same date an email was sent to Mr Haris with an attachment letter (**copy included at Appendix 8 of this report**) to clarify changes within the Licensing Act 2003 which has replaced those matters referred to in his letter and that consequently the objection was considered to be valid despite some inaccuracies, certain points were raised which address the Licensing objectives and in such borderline cases the benefit of the doubt should be given to the person making the representation.

On 21st April 2017 an email with an attachment letter was received by the Licensing Authority from Mr Haris. This letter again questioned the validity of the objection of Guinevere Holdings and suggested that in this case they did not qualify as an 'other person' to be able to make a valid representation.

7. Policy Considerations

Relevant extracts of the Statement of Licensing Policy as regards this application include:

IMP 1 The Council will normally grant applications for premises licences and club premises certificates subject to conditions which are consistent with the Operating Schedule and any mandatory conditions prescribed within the Act. Where relevant representations are received the Council may impose additional conditions as considered necessary in order to promote the licensing objectives which arise out of those representations.

IMP 2 The Council will strike a fair balance between the benefits of a licensed premises to a community and the risk of disturbance to local residents. Consequently in certain areas, upon receipt of representations by any Responsible Authority or any other person, the Council may restrict the hours of operation of licensable activities.

IMP 3 The Council will normally grant premises licences for a time period of not earlier than 10.00 a.m. and a terminal hour of no later than 11.30 p.m. for those premises licensed to sell alcohol for consumption on the premises and which are located in primarily residential areas. However, hours beyond 11.30 p.m. may be permitted:

- a. for premises located in predominantly commercial areas, such as the City Centre and where there is a high level of accessibility to public transport services;
or
- b. the licensable activities would not be likely to cause adverse impact especially on local residents, and that, if there is a potential to cause adverse impact, appropriate measures will be put in place to prevent it;
or
- c. there will not be any increase in the cumulative adverse impact from these or similar activities, on any neighbouring residential area and the activity will not be likely to lead to a demonstrable increase in car parking demand in surrounding residential streets or on roads.

G2 The Council will attach conditions to licences, which are tailored to the individual style and characteristics of the premises. Such conditions will normally be drawn from the Council's pool of conditions. Where appropriate, additional conditions will be formulated based on an individual case following receipt of relevant representations.

8. Legal Considerations

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

- a. Prevention of crime and disorder
- b. Public Safety
- c. Prevention of Public Nuisance
- d. Protection of Children from Harm

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

- a. To grant the application as applied
- b. To grant the application and modify what is requested by the application in respect of activities, times and conditions, by altering, omitting or adding to them, where relevant.
- c. Reject the whole or part of the application.

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.

9. Issues for discussion

- 7.1 The proposed licensable activities and permitted hours sought by the application.
- 7.2 The representations made in respect of the application.
- 7.3 Newport City Council's Statement of Licensing Policy

List of Appendices

1. Copy of an application by NP Clubs Limited for the grant of a variation of a Premises Licence under S34 Licensing Act 2003.
2. Location of Licensed Premises and Photographs of frontage and locality.
3. Copy of current Premises Licence for Rooty's 40 Cambrian Road, Newport
4. Copy of representation of 12/04/17 from Underwood & Co Solicitors representing Guinevere Holdings Limited.
5. Copy of email sent by Licensing Authority to Underwood & Co solicitors following receipt of their representation produced at Appendix 4.
6. Copy of Email sent by Licensing Authority to NP Clubs Ltd advising them of receipt of representation/objection to their application for the variation of the Premises Licence in respect of 'Rooty's'.
7. Copy of letter of 12th April 2017 received electronically by the Licensing Authority from Mr Iftekhar Haris/NP Clubs Ltd following service upon him of the representation of Underwood & Co/Guinevere Holdings Ltd.
8. Copy of letter electronically sent by the Licensing Authority to Mr Haris in response to his letter of 12th April 2017.
9. Response to Mr Dearlings letter of 19th April 2017 questioning the validity of the objection of Guinevere Holdings Limited.

Appendix 1 - Copy of an application by NP Clubs Limited for the grant of a variation of Premises Licence under S34 Licensing Act 2003 at 40 Cambrian Road, Newport.



Newport
Application to vary a premises licence
Licensing Act 2003

For help contact
 environment.licensing@newport.gov.uk
 Telephone: 01633 656656

* required information

Section 1 of 17

You can save the form at any time and resume it later. You do not need to be logged in when you resume.

System reference This is the unique reference for this application generated by the system.

Your reference You can put what you want here to help you track applications if you make lots of them. It is passed to the authority.

Are you an agent acting on behalf of the applicant?
 Yes No
 Put "no" if you are applying on your own behalf or on behalf of a business you own or work for.

Applicant Details

* First name

* Family name

* E-mail

Main telephone number include country code.

Other telephone number

Indicate here if you would prefer not to be contacted by telephone

Are you:
 Applying as a business or organisation, including as a sole trader
 Applying as an individual
 A sole trader is a business owned by one person without any special legal structure. Applying as an individual means you are applying so you can be employed, or for some other personal reason, such as following a hobby.

Applicant Business

Is your business registered in the UK with Companies House? Yes No
 Note: completing the Applicant Business section is optional in this form.

Registration number

Business name If your business is registered, use its registered name.

VAT number Put "none" if you are not registered for VAT.

Legal status

Continued from previous page...

Your position in the business

Home country The country where the headquarters of your business is located.

Registered Address Address registered with Companies House.

Continued from previous page...

Non-domestic rateable
value of premises (£)

13,000

Section 3 of 17

VARIATION

Do you want the proposed
variation to have effect as
soon as possible?

Yes No

Do you want the proposed variation to have effect in relation to the
introduction of the late night levy?

Yes No

You do not have to pay a fee if the only
purpose of the variation for which you are
applying is to avoid becoming liable to the
late night levy.

If your proposed variation
would mean that 5,000 or
more people are expected to
attend the premises at any
one time, state the number
expected to attend

Describe Briefly The Nature Of The Proposed Variation

Describe the premises. For example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies, you must include a description of where the place will be and its proximity to the premises.

the removal of conditions from 14 to 19
the change of hours, existing 1.30am - 2am to 2am - 2.30am

Section 4 of 17

PROVISION OF PLAYS

Will the schedule to provide plays be subject to change if this application to
vary is successful?

Yes No

Section 5 of 17

PROVISION OF FILMS

Will the schedule to provide films be subject to change if this application to
vary is successful?

Yes No

Section 6 of 17

PROVISION OF INDOOR SPORTING EVENTS

Will the schedule to provide indoor sporting events be subject to change if
this application to vary is successful?

Continued from previous page...

Yes

No

Section 7 of 17

PROVISION OF BOXING OR WRESTLING ENTERTAINMENTS

Will the schedule to provide boxing or wrestling entertainments be subject to change if this application to vary is successful?

Yes

No

Section 8 of 17

PROVISION OF LIVE MUSIC

Will the schedule to provide live music be subject to change if this application to vary is successful?

Yes

No

Section 9 of 17

PROVISION OF RECORDED MUSIC

Will the schedule to provide recorded music be subject to change if this application to vary is successful?

Yes

No

Standard Days And Timings

MONDAY

Start

End

Start

End

Provide timings in 24 hour clock (e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

TUESDAY

Start

End

Start

End

WEDNESDAY

Start

End

Start

End

THURSDAY

Start

End

Start

End

FRIDAY

Start

End

Start

End

SATURDAY

Start

End

Start

End

Continued from previous page...

SUNDAY

Start

End

Start

End

Will the playing of recorded music take place indoors or outdoors or both?

Indoors Outdoors Both

Where taking place in a building or other structure select as appropriate. Indoors may include a tent.

State type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.

State any seasonal variations for playing recorded music.

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Non-standard timings. Where the premises will be used for the playing of recorded music at different times from those listed above, list below.

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

Section 10 of 17

PROVISION OF PERFORMANCES OF DANCE

Will the schedule to provide performances of dance be subject to change if this application to vary is successful?

Yes No

Section 11 of 17

PROVISION OF ANYTHING OF A SIMILAR DESCRIPTION TO LIVE MUSIC, RECORDED MUSIC OR PERFORMANCES OF DANCE

Will the schedule to provide anything similar to live music, recorded music or performances of dance be subject to change if this application to vary is successful?

Yes No

Standard Days And Timings

Continued from previous page...

MONDAY

Start

End

Start

End

Provide timings in 24 hour clock (e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

TUESDAY

Start

End

Start

End

WEDNESDAY

Start

End

Start

End

THURSDAY

Start

End

Start

End

FRIDAY

Start

End

Start

End

SATURDAY

Start

End

Start

End

SUNDAY

Start

End

Start

End

Provide a description of the type of entertainment that will be provided.

Will this entertainment take place indoors or outdoors or both?

Indoors

Outdoors

Both

Where taking place in a building or other structure select as appropriate. Indoors may include a tent.

State type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.

Continued from previous page...

State any seasonal variations for entertainment.

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Non-standard timings. Where the premises will be used for entertainment at different times from those listed above, list below.

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

Section 12 of 17

PROVISION OF LATE NIGHT REFRESHMENT

Will the schedule to provide late night refreshment be subject to change if this application to vary is successful?

Yes No

Standard Days And Timings

MONDAY

Start
Start

End
End

Provide timings in 24 hour clock (e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

TUESDAY

Start
Start

End
End

WEDNESDAY

Start
Start

End
End

THURSDAY

Start
Start

End
End

FRIDAY

Start
Start

End
End

Continued from previous page...

SATURDAY

Start

End

Start

End

SUNDAY

Start

End

Start

End

Will the provision of late night refreshment take place indoors or outdoors or both?

- Indoors Outdoors Both

Where taking place in a building or other structure select as appropriate. Indoors may include a tent.

State type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.

State any seasonal variations.

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Non standard timings. Where the premises will be used for the provision of late night refreshment at different times from those listed above, list below.

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

Section 13 of 17

SUPPLY OF ALCOHOL

Will the schedule to supply alcohol be subject to change if this application to vary is successful?

- Yes No

Standard Days And Timings

Continued from previous page...

MONDAY

Start

End

Start

End

Provide timings in 24 hour clock (e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

TUESDAY

Start

End

Start

End

WEDNESDAY

Start

End

Start

End

THURSDAY

Start

End

Start

End

FRIDAY

Start

End

Start

End

SATURDAY

Start

End

Start

End

SUNDAY

Start

End

Start

End

Will the sale of alcohol be for consumption?

- On the premises Off the premises Both

If the sale of alcohol is for consumption on the premises select on, if the sale of alcohol is for consumption away from the premises select off. If the sale of alcohol is for consumption on the premises and away from the premises select both.

State any seasonal variations.

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Continued from previous page...

Non-standard timings. Where the premises will be used for the supply of alcohol at different times from those listed above, list below.

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

Section 14 of 17

ADULT ENTERTAINMENT

Highlight any adult entertainment or services, activities, or other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children.

Provide information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups etc gambling machines etc.

Section 15 of 17

HOURS PREMISES ARE OPEN TO THE PUBLIC

Standard Days And Timings

MONDAY

Start

End

Start

End

Provide timings in 24 hour clock (e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

TUESDAY

Start

End

Start

End

WEDNESDAY

Start

End

Start

End

THURSDAY

Start

End

Start

End

FRIDAY

Start

End

Start

End

Continued from previous page...

SATURDAY

Start 08:00

End 02:30

Start

End

SUNDAY

Start 08:00

End 02:30

Start

End

State any seasonal variations.

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Non standard timings. Where you intend to use the premises to be open to the members and guests at different times from those listed above, list below.

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

Identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking.

- I have enclosed the premises licence
- I have enclosed the relevant part of the premises licence

Reasons why I have failed to enclose the premises licence or relevant part of premises licence.

Section 16 of 17

LICENSING OBJECTIVES

Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b,c,d,e)

List here steps you will take to promote all four licensing objectives together.

Continued from previous page...

The remaining conditions of the operating schedule are sufficient in the promotion of the Licensing Objectives.

b) The prevention of crime and disorder

c) Public safety

d) The prevention of public nuisance

e) The protection of children from harm

Section 17 of 17

PAYMENT DETAILS

This fee must be paid to the authority. If you complete the application online, you must pay it by debit or credit card.
The fee to vary a Premises Licence is determined by the non domestic rateable value of the premises.
To find out a premises non domestic rateable value go to the Valuation Office Agency site at http://www.voa.gov.uk/business_rates/index.htm

Band A (No RV to £4300) the fee is £100.00
Band B (£4301 to £33000) the fee is £190.00
Band C (£33001 to £87000) the fee is £315.00
Band D (£87001 to £125000) the fee is £450.00*
Band E (£125001 and over) the fee is £635.00*

*If the premises rateable value is in Bands D or E and the premises is primarily used for the consumption of alcohol on the premises then you are required to pay a higher fee as follows:
Band D (£87001 to £125000) the fee is £900.00
Band E (£125001 and over) the fee is £1,905.00

If you own a large premises, the application is subject to an additional fee based upon the maximum number of persons in attendance at any one time as follows:
Capacity 5000-9999 £1,000.00
Capacity 10000 -14999 £2,000.00

Continued from previous page...

Capacity 15000-19999	£4,000.00
Capacity 20000-29999	£8,000.00
Capacity 30000-39999	£16,000.00
Capacity 40000-49999	£24,000.00
Capacity 50000-59999	£32,000.00
Capacity 60000-69999	£40,000.00
Capacity 70000-79999	£48,000.00
Capacity 80000-89999	£56,000.00
Capacity 90000 and over	£64,000.00

* Fee amount (£)

ATTACHMENTS

AUTHORITY POSTAL ADDRESS

Address

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

DECLARATION

* I/we understand 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.

Ticking this box indicates you have read and understood the above declaration

This section should be completed by the applicant, unless you answered "Yes" to the question "Are you an agent acting on behalf of the applicant?"

* Full name

* Capacity

Date (dd/mm/yyyy)

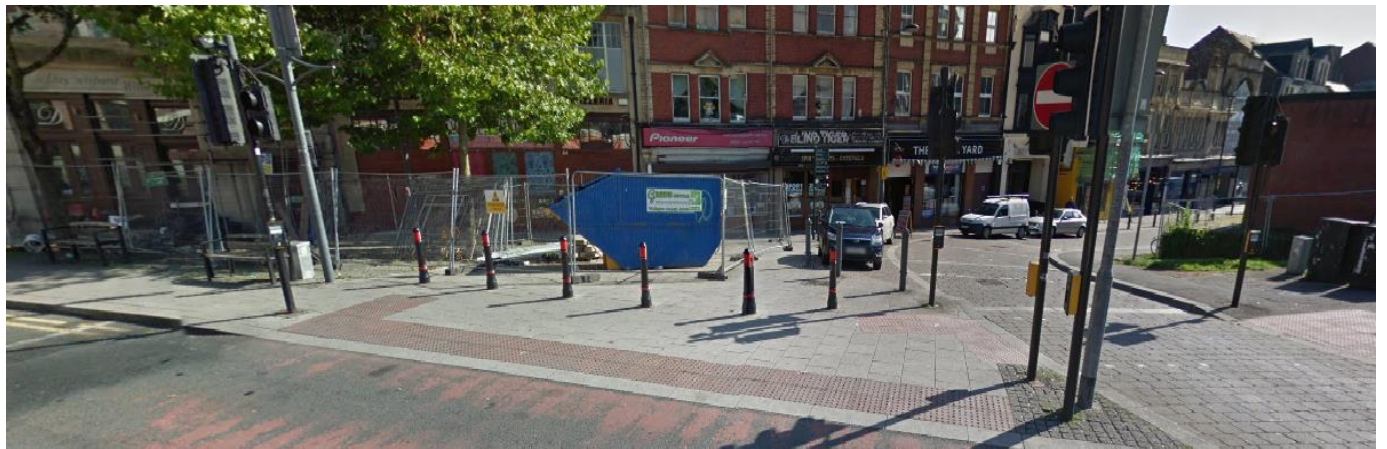
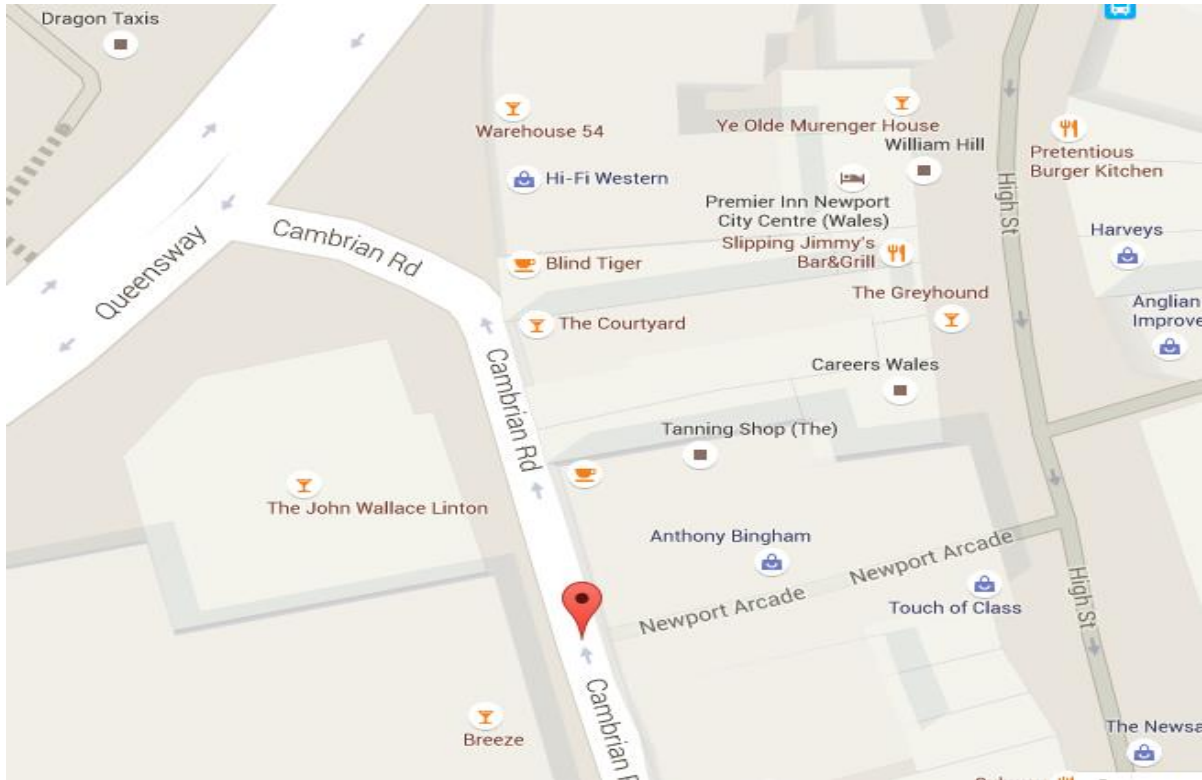
Once you're finished you need to do the following:

1. Save this form to your computer by clicking file/save as...
2. Go back to <https://www.gov.uk/apply-for-a-licence/premises-licence/newport/change-1> to upload this file and continue with your application.

Don't forget to make sure you have all your supporting documentation to hand.

IT IS AN OFFENCE, LIABLE ON SUMMARY CONVICTION TO A FINE NOT EXCEEDING 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

Appendix 2 - Location of proposed Licensed Premises and Photographs of frontage and locality.



Appendix 3- Copy of current 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



Premises Licence Number	16/00989/LAPRE
--------------------------------	----------------

Part 1 – Premises Details

Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code Rooty's 40 Cambrian Road Newport South Wales NP20 4AB
Telephone number

Where the licence is time limited the dates Not Applicable
--

Licensable activities authorised by the licence Sale by retail of Alcohol Exhibition of a Film Performance of Live Music Playing of Recorded Music Late Night Refreshment

Times the licence authorises the carrying out of licensable activities Sale by retail of Alcohol Exhibition of a Film Playing of Recorded Music Monday to Sunday inclusive 08:00 - 01:30 Performance of Live Music Monday to Sunday inclusive 19:00 - 01:30 Late Night Refreshment Monday to Sunday inclusive 23:00 - 01:30 Non Standard Timing for all Licensable Activities on the Premises Licence are extended by 30 minutes until 0200 on New Years Eve.
--

The opening hours of the premises Monday to Sunday inclusive 08:00 - 02:00
--

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

NP Clubs Ltd
54 Cambrian Road,
Newport,
Gwent,
NP20 4AB

Registered number of holder, for example company number, charity number (where applicable)
Registered Business Number 08311938

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

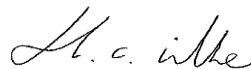
Christopher Chick
16 Park Street,
Cwmcarn,
NP11 7EL

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

Party Reference: NCC/15/0404 Licensing Authority: Newport City Council

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

Dated this 20th July 2016



Helen Wilkie
Public Protection Manager

Mandatory conditions

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

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

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

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

For the purposes of this section:

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

4 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

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

2. Plastic/Polycarbonate glasses should only be used at the written request of Gwent Police and will cover high risk events for example sporting events that could potentially cause disorder.

3. CCTV will be installed inside (outside) the premises. The cameras will cover all internal areas accessible to the public and areas immediately outside the premises. The date and time settings on the system must be correct and the CCTV system must be capable of recording images to a suitable medium that allows reply. Recordings must be retained for a minimum of 28 days. Staff shall be trained in the maintenance and operation of the CCTV system with a record kept of the date and name of person trained. A trained member of staff should be on duty to operate the system whenever the premises are open. Records shall be made available for inspection by the police and other responsible authorities as requested.
4. The Premise Licence Holder shall participate in Newport City Centre's Radio net; the radio must be functioning at all times when licensing activities are provided.
5. 1 Door supervisors to be positioned at entrance of premises /exit (other than fire exits) to ensure that no customer leaves with any bottles or glasses. From 21:00hrs till close, Friday, Saturday, Bank holiday Sunday, New Year's Eve or at request of Gwent Police. (unless the premises operates as 100% as a sit down restaurant)
6. Door Staff will wear high visibility armbands which clearly displays their SIA licence at all times and produce their badge upon the request of a Responsible Authority. 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
7. 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.
8. A Challenge 21 or 25 policy shall be operated at the premises at all times. All staff shall check identification of all persons who appear to be less than 21 or 25 years old. This check shall be made by examining either a passport, photographic driving licence or a PASS approved proof of age card. No other form of identification shall be accepted.
9. Publicity materials notifying customers of the operation of the Challenge 21 or 25 schemes shall be displayed at the premises, including a Challenge 21 or 25 sign of at least A5 size at each point of sale.
10. 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.
11. Staff training on the effects of alcohol and how to spot early signs of customers becoming drunk should be provided to give them the knowledge and confidence to deal with drunken patrons.
12. Staff should be aware of their responsibilities under the Licensing Act 2003 and be able to recognise appropriate 'cut off' points for serving drunken customers, so as to reduce the likelihood of fights or aggressive behaviour.
13. No Alcohol drinks are permitted outside the venue.
14. Children should not be permitted on the premises after 22:00hrs unless the premise is running as 100% sit down restaurant.
15. The premises will trade primarily as a restaurant and the bar will be ancillary to premises' main use as a restaurant.
16. At any given time, a minimum of 50% of the public trading area on the first floor set aside for tables and chairs and 100% on the second floor.
17. There shall be a full meals menu and waiter or waitress service of food available at all times.

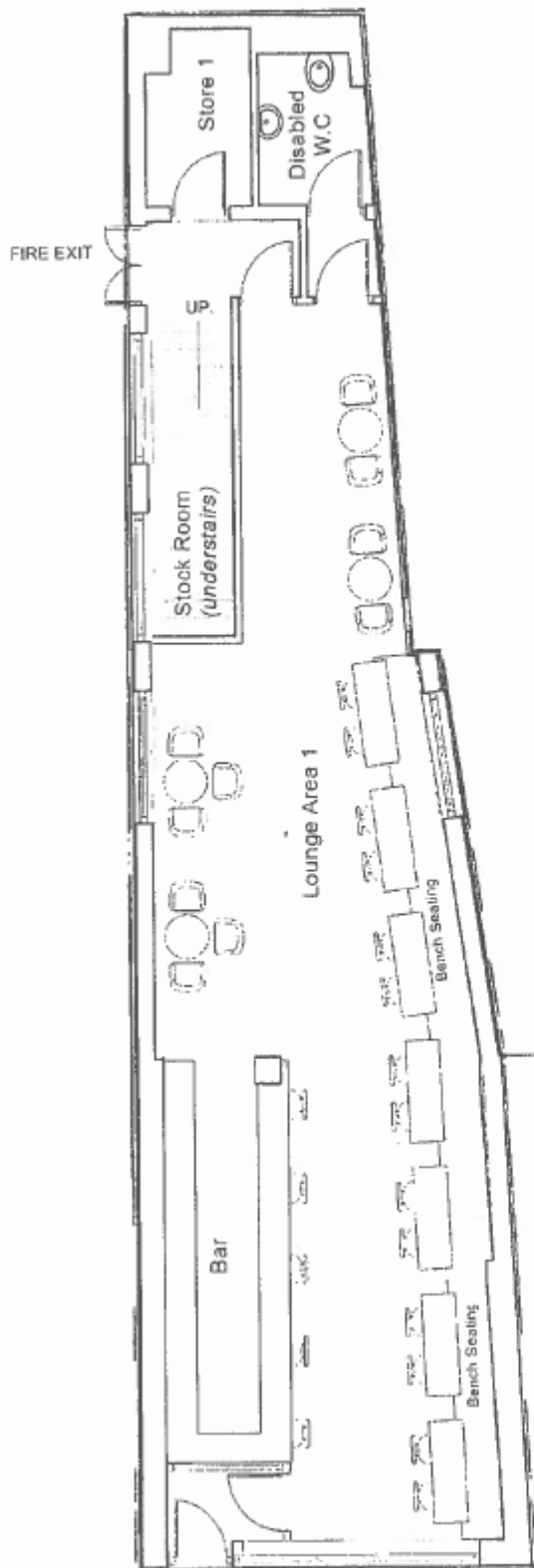
18. There will be no change to the operating style.
19. All vacant tables in the restaurant will be laid for dining at all times.
20. There shall be no movement of equipment associated with the entertainment from the premises between the hours of 12 midnight and 08:00 hours.
21. Acoustic door seals fitted to all external doors and that they are maintained so as to minimise the escape of sound from the premises;
22. Sealed acoustic/double/secondary glazing windows are fitted to minimise sound escape from the premises.
23. Works should be carried out to sound insulate/attenuate any ventilation/extract system within the kitchen area, so as to prevent sound break-out from the premises. Note: Noise can escape through an air intake just as easily as through an extraction system.
24. All external doors shall be kept closed, allowing access and egress, whilst entertainment is being provided;
25. All external fire doors shall be kept closed, allowing emergency egress, whilst entertainment is being provided;

Conditions attached after a hearing by the licensing authority

NIL.

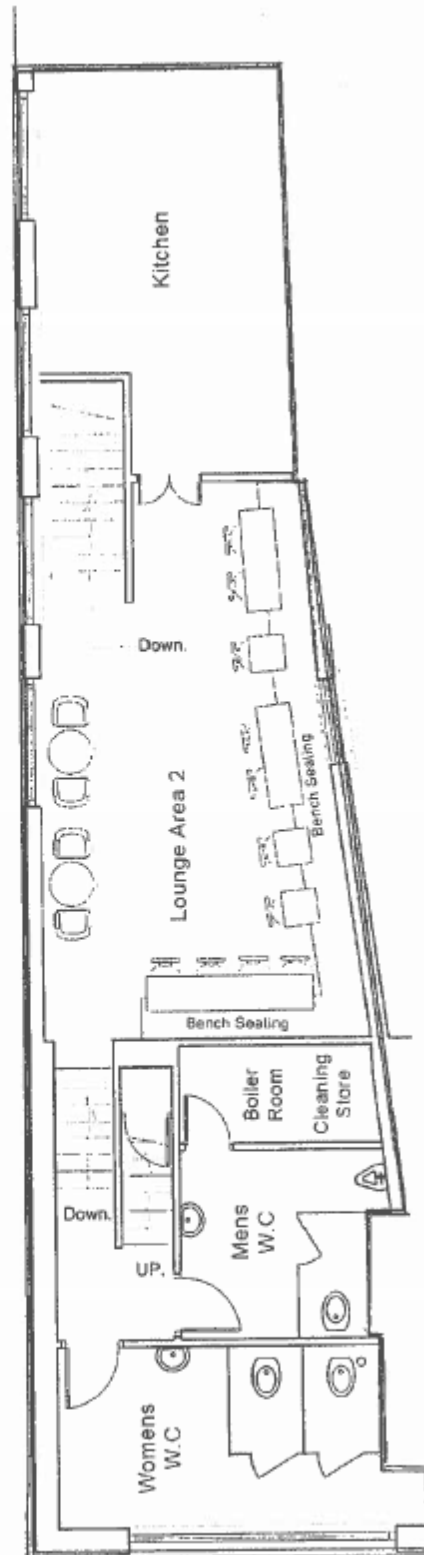
Plans

Please see attached plans (P16/00989/LAPRE)



PROPOSED GROUND FLOOR PLAN

PLAN SCALE 1:100



PROPOSED FIRST FLOOR PLAN

Appendix 4 - Representation of 12/04/17 from Underwood & Co Solicitors representation Guinevere Holdings Limited.

- 2 -

Newport City Council
Licensing Services

12 April 2017

Rooty's, 40 Cambrian Road, Newport NP20 4AB

It is clear from the material which was before the Licensing Sub-Committee on 20 July 2016 that there were very serious reservations about the grant of the premises licence for 40 Cambrian Road. Against this background, and no doubt in the light of IMP2 of the Statement of Licensing Policy, the premises licence was granted on the basis which was encapsulated in condition 15, in the following terms:

“15. The premises will trade by primarily as a restaurant and the bar will be ancillary to premises’ main use of the restaurant.”

It is this condition, along with others similar, which the applicant applies to remove, to all of which our client objects. If these conditions are removed, it is inevitable that the premises at 40 Cambrian Road will operate similarly to those at 46 Cambrian Road, 48-50 Cambrian Road and 54 Cambrian Road, not as a restaurant, but instead as a late-night bar with excessively high levels of music noise without any, or any adequate, measures to mitigate this, thereby adding to the nuisance caused to the Hotel (which is 43 metres away) and the consequent difficulties in the opening of the *Premier Inn*.

We note that, in a memorandum dated 27 May 2016, Mr Brian Miles, the Council’s Pollution Control Officer, suggested a number of detailed conditions which should be imposed if the Licensing Sub-Committee were otherwise minded to grant the premises licence. In the event, none of the proposed conditions relating to noise levels was imposed. This makes it all the more important that the application to vary the premises licence should be dismissed, to avoid the disturbance to our client and others which will otherwise inevitably occur.

We hope we have set out clearly our client’s position. We should be happy to address any queries you may have. We look forward to hearing from you.

Yours faithfully


Underwood Solicitors LLP

020 7526 6017
predfern@underwoodco.com

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London W1G 8LN
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FAX +44 (0)20 7526 6001
DX 9074 West End
www.underwoodco.com

Your ref William Lewis
Our ref PAR/CHS.2235.25 (20086268)

12 April 2017

Underwood&Co.

Newport City Council
Licensing Services
Information Station
Old Station Building
Queensway
Newport NP20 4AX

By e-mail : william.lewis@newport.gov.uk

Dear Sirs

Rooty's, 40 Cambrian Road, Newport NP20 4AB

We are instructed by Guinevere Holdings Limited of The Old Baptist Chapel, Newport Road, Castleton, Cardiff CF3 2UR. Our client owns freehold property at 1-3 Station Approach, Newport NP9 4AA and 54-55 High Street, Newport NP20 1GA (together "the Hotel").

We understand that Mr Iftekhar Haris has applied to vary the premises licence granted on 20 July 2016 to N P Clubs Limited for *Rooty's*, 40 Cambrian Road, Newport NP20 4AB. The application is for the removal of conditions 14 to 19 of the premises licence and, as we understand it (although the position is not entirely clear), to extend the licensing hours from 1:30am to 2:30am. Our client objects to the proposed variation on the grounds that, if granted, this would be likely to lead to a public nuisance, in breach of one of the licensing objectives.

Over the past few years, our client has comprehensively renovated the Hotel, which is subject to an agreement to lease to Premier Inn Hotels Limited with a view to operating as a *Premier Inn*. Unfortunately it has not proved possible to complete the lease, and thereby the opening of the *Premier Inn*, because of excessive and unlawful music noise levels, constituting both a public nuisance and a private nuisance, from other premises operated by Mr Iftekhar Haris and/or N P Clubs Limited, being *The Courtyard* at 46 Cambrian Road, *Blind Tiger* at 48/50 Cambrian Road and *Warehouse 54* at 54 Cambrian Road. These noise levels are the subject of a dispute between our client and Mr Iftekhar Haris/N P Clubs Limited which will be resolved by proceedings for an injunction to restrain the noise nuisance, and for damages, to be issued shortly by our client in the Chancery Division of the High Court.

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Registered Office 40 Welbeck Street, London W1G 8LN
Authorised and regulated by the Solicitors Regulation Authority
In correspondence the Members may also be referred to as Partners

Members

Justin Roche
Paul Redfern
Louise Reid

Mark Smith
Neil Sabharwal

James McLean
David Wyatt

Consultant

Peter Hughes

Appendix 5 - Copy of email sent to Underwood & Co solicitors following receipt of their representation produced at Appendix 4

From: Alastair Dearling (Licensing Manager)
Sent: 13 April 2017 14:34
To: 'CSUTTON@UNDERWOODCO.COM'
Subject: RE: Rooty's, 40 Cambrian Road, Newport NP20 4AB

Dear Sirs

Re: Premises Licence Variation Rooty's, 40 Cambrian Road, Newport NP20 4AB

I write in regard to your objection to the variation of hours for Rooty's Bar and note your concerns regarding entertainment noise from the premises variation.

In regard to the noise conditions stipulated By Mr Miles (Pollution Control Officer) they were in fact attached to the premises licence at the licensing hearing and are reflected in condition 20 and 25 of the premises licence (see below for the conditions) the conditions were mediated before the hearing including removing the condition regarding only, ambient (low level) background recorded music shall be played 08:00hrs till 3:30hrs hours Monday to Sunday was not attached as felt this condition was not required to promote the Licensing Objective due to other conditions proposed. The variation of the premises licence does not seek to remove these conditions.

Of course the variation is looking to extend the hours of the premises licence by 1 hour and seeks to remove condition that will mean the premises could trade as a bar rather than an restaurant. I have been informed by Pollution Control they feel the current conditions are sufficient to promote the Licensing Objectives and won't be objecting to the variation. Gwent Police have made representation regarding the application but this objection has been mediated to include extra door staff on premises to reflect the later hour and change to a bar.

If light of the above could you confirm in writing if your client wishes to formally object to the application, if so I will of course be happy to arrange a licensing hearing to determine the application.

If you do have any questions or queries please don't hesitate to contact myself directly

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

Appendix 6 - Email sent to NP Clubs Ltd advising them of receipt of representation/objection to their application for the variation of the Premises Licence in respect of 'Rooty's'

From: William Lewis (Senior Licensing Officer)
Sent: 18 April 2017 11:17
To: info@newportvenues.com
Cc: Alastair Dearling (Licensing Manager)
Subject: Rooty's Variation of Premises Licence.

Dear Mr Haris

I refer to the application of 20th March 2017 by NP Clubs for a full variation of the Premises Licence 16/00989/LAPRE in respect of 'Rooty's' 40 Cambrian Road, Newport.
The consultation period ended at midnight on 17th April 2017.

On 12th April 2017 a letter of representation (copy attached) was served on the Licensing Authority by Underwood Solicitors on behalf of Guinevere Holdings objecting to the application on the grounds that if granted it would lead to an undermining of the Licensing Objective attending to 'Public Nuisance'.

As paragraph 6 of the letter is incorrect relative to conditions not being imposed upon the Premises Licence that attend to noise attenuation, Mr Alastair Dearling, Principal Licensing Officer has corresponded with Underwood Solicitors advising that noise attenuation issues were addressed by the attachment of conditions 20 to 25 of the granted Premises Licence.

Underwood solicitors have been requested to advise the Licensing Authority whether they wish to maintain their representation in light of confirmation that has been provided to them which contradicts their assertion that such conditions had not been applied to the Premises Licence. We are awaiting their response.

Should their client confirm that they wish to object to the grant of the variation on the basis of the remaining content of their letter of representation then the Licensing Authority will refer the application to Newport City Council Licensing Sub-Committee for a full hearing on a date to be confirmed.

If you require any further information or wish to discuss the application please telephone me on the number below.

William S Lewis

Uwch Swyddog Trwyddedu / Senior Licensing Officer
Y Gyfraith a Rheoleiddio / Law & Regulation
Cyngor Dinas Casnewydd / Newport City Council
01633 851332
william.lewis@newport.gov.uk

Appendix 7 - Copy of letter from Mr Iftekhar Haris/NP Clubs Ltd following service upon him of the representation of Underwood & Co/Guinevere Holdings Ltd

48 Cambrian Road
Newport
NP20 4AB

Newport City Council
Licensing Services
Information Station
Queensway
Newport
NP20 4AX

Via email William.lewis@newport.gov.uk

19th April 2017.

Dear Sirs

Application to vary Premises Licence Rooty's 40 Cambrian Road Newport

I refer to the representations dated 12th April 2017 which were made by Underwood & Co on behalf of their client Guinevere Holdings Limited, enquiries at the Land Registry reveal that this company is incorporated in the British Virgin Islands.

The provisions of section 13(3) of the Licensing Act 2003 (the Act) state that representations in respect of a licensing application can only be made by an interested party, paragraphs a and c of section 13(3) state that an interested party can either be a person living in the vicinity of the premises or a person involved in a business in that vicinity. Section 193, the definitions section, of the Act does not include a definition of 'person' which, if such a definition had been included, could include in the word person a corporate body, therefore the word person must be given its ordinary meaning which means a natural person. Accordingly Guinevere Holdings Limited is not an interested party within the meaning of the Act and its representations must be disregarded.

If it is accepted by the Council that Guinevere Holdings Limited is an interested party within the meaning of the Act then I submit that its being party to an uncompleted agreement to lease, which I believe may have already been terminated, does not constitute being involved in a business in the vicinity of the premises and therefore that the provisions of section 13(3) c of the Act have not been satisfied.

I note that Underwood & Co state that its client intends issuing proceedings in the High Court in the near future. Whilst periodic threats to issue proceedings of an unspecified nature have been made over the last 12 months, no letter of claim has been received by me as required by the Civil Procedure Rules.

I submit that the representations are not made in accordance with the provisions of the Act and that the primary motive is not to procure the promotion of the Licensing Objectives but is to protect the commercial interests of the objector and that, even if, which I deny, the objector has the right to make the representations, the representations are not relevant and I refer to paragraph 9.4 of the Statutory Guidance in this respect.

Yours faithfully

IFTEKHAR HARIS - APPLICANT

Appendix 8 - Copy of letter electronically sent to Mr Haris in response to his letter produced at Appendix 7

Ask for/Gofynnwch **Alastair Dearling**
Ūr Ref/Ein Cyf
Your Ref/Eich Cyf
Tel/Ffôn 01633 656656
Direct Dial/Rhif Union 01633 851328
DX 99463 Newport (Gwent) 3
E-Mail/E-Bost Alastair.dearling@newort.gov.uk
Internet/Rhyngrwyd www.newport.gov.uk/

**Law and Regulation
Y Gyfraith a Rheoleiddio**



NP Clubs Limited
48 Cambrian Road
Newport
NP20 4AB

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

19th April 2017

Dear Mr Haris

Thank you for email regarding the objection from Guinevere Holding Ltd. I have noted your points within the email, though it should be noted that changes in the Licensing Act 2003 (on 25th April 2012 via the Police Reform & Social Responsible Act 2011) removed the term 'interested party' and 'vicinity' and replaced it with "other person" as such I consider that Guinevere Holding Ltd do meet the terms of "Other Person".

It is also noted within Guinevere Holding Ltd representation that there are a number irrelevant points made within the representation that could not be considered in licensing proceeding as they relate to another premises (Warehouse 54) and certain points do not relate to the 4 licensing objectives, though part of the representation do raise points relating to the licensing objectives and as stipulated in revised Licensing Act 2003 Guidance (April 2017)

"In borderline cases the benefit of doubt about any aspect of a representation should be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it"

A number of points were also raised by Guinevere Holding Ltd regarding noise conditions that they believed had not been attached to the original premises licence. As I am sure you are aware a number of conditions were attached to the premises licence by the Licensing Sub-Committee at the original application hearing. I have highlighted this in writing to Underwood & Co and am awaiting their response in respect of if their client still wishes to continue with the representation in light of this information.

Currently, I have not received a response from the objector (though it has only been 2 working days). As such, I have to take the stance that representation stands and that the Licensing Authority will be required to arrange a hearing to determine the application.

Unfortunately due to Council elections in May, a Licensing Sub-Committee will not be legally determined until after the elections and as such your application will not be able to be determined in the time limits set under the Licensing Act 2003 Hearing Regulations.

Under Section 12(b) of Licensing Act 2003 (Hearing) Regulation the Licensing Authority are empowered to extend the hearing date if it's in the public interest. I feel it is imperative that members determining your application have had adequate training before determining this

application especially as the committee could be formed of new members. As such the hearing is unlikely to be heard until June 2017 (I will of course keep you updated on the date)

As you are aware there are provisions within the Licensing Act via temporary event notice to extend your hours. As no representation has been received by the Police or Environmental Health (Noise team) regarding the premises variation it is unlikely that they would object to TEN applications to 2:30am.

If you do have any questions or queries regarding the above please don't hesitate to contact myself. I will of course contact you with any response that I receive from Guinevere Holding Ltd and in the event that they do not wish to continue with their representation the varied Premises Licence shall be issued.

Yours sincerely,

Alastair Dearling

Principal Licensing Officer

Appendix 9 - Response to Mr Dearling letter of 19th April 2017 questioning the validity of the objection of Guinevere Holdings Limited.

48 Cambrian Road
Newport
NP20 4AB

Mr A Dearling
Principal Licensing Officer
Newport City Council
Licensing Services
Information Station
Queensway
Newport
NP20 4AX

Via email alastair.dearling@newport.gov.uk
Cc William.lewis@newport.gov.uk

20th April 2017.

Dear Sirs

Application to vary Premises Licence Rooty's 40 Cambrian Road Newport

I refer to your email dated 19th April and to your comment that you consider Guinevere Holdings Limited an 'other person' within the meaning of the provisions of section 105 of the Police Reform and Social Responsibility Act 2011 (the 2011 Act) which amended the Licensing Act 2003. I have considered the provisions of section 105(3) of the 2011 Act which substituted the wording relating to interested parties with 'persons who live or are involved in a business in the relevant licensing authority'. The 2011 Act contains no definition or interpretation section which extends the meaning of 'person' to include non-natural persons such as foreign corporations. I therefore submit that whilst a director or other officer of Guinevere Holdings Limited would be an 'other person' within the meaning of the 2011 Act the foreign registered company or corporation on whose behalf the objection was made is not.

Yours faithfully

IFTEKHAR HARIS - APPLICANT

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