

# Agenda



## Licensing Sub-Committee

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Date: Monday, 23 July 2018

Time: 3.00 pm

Venue: Committee Room 1 - Civic Centre

To: Councillors D Davies (Chair), H Thomas (Deputy Chair), G Berry, J Cleverly, M Cornelious, T Holyoake, A Morris, M Rahman, W Routley, C Ferris and J Hughes

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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>Rothbury House 10 Stow Park Circle, Newport, NP20 4HE</u> (Pages 17 - 44)	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 Report

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### Part 1

Date: 23<sup>rd</sup> July 2018

**Subject** An application for the grant of a Provisional Statement under Section 29 Licensing Act 2003

**Rothbury House 10 Stow Park Circle, Newport, NP20 4HE**

**Purpose** The consideration and decision in respect of an application under Section 29 Licensing Act 2003.

**Author** Alastair Dearling (Licensing Manager)

**Ward** Stow Hill

**Summary** An application for a grant of a Provisional Statement was served on the Licensing Authority on 29<sup>th</sup> May 2018 in respect of premises called Rothbury House at 10 Stow Park Circle, Newport, NP20 4HE. These applications are required to be advertised in accordance with the Licensing Act 2003. This application has attracted representations which are considered valid and requires determination by Newport City Council Licensing Sub-Committee.

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

**Action by** Head of Law and Regulation

**Timetable** Statutory Consultation Period

**Signed**

## **1. Application**

1. On 29<sup>th</sup> May 2018 an application was received by the Licensing Authority from RDP Law Limited on behalf of their client Mr Pasquali Cinotti. This application is seeking the grant of a 'provisional statement' under Section 29 Licensing Act 2003.
2. A provisional statement is an assurance that a premises licence will be issued once a premises has been constructed, altered or extended. A provisional statement does not have limited duration. The requirements of determination of such an application must attend to Sections 29 - 31 Licensing Act 2003 (see section 3 Legal Considerations, Guidance, Policy Consideration).
3. The application (see Appendix 1) refers to a derelict grade II listed property 'Rothbury House' at 10, Stow Park Circle, Newport to be developed as a 7 room boutique hotel with a restaurant and seeks authorisation for the supply of alcohol:

Monday to Sunday between 08:00hrs and 23:00 hrs, both on and off the premises.

&

24 hours for those guest's resident at the hotel.

The authorisation for provision of Late Night Refreshment is also sought between 2300 and 0000 daily.

The application **does not** seek any form any regulated entertainment.

The location of the premises can be found in Appendix 2 of this report.

## **2. Representations:**

### **1. Responsible Authority – Licensing Authority.**

A representation served by Licensing Officer William Lewis was received on 21st June 2018 (Appendix 3). However following confirmation from the applicant of acceptance of conditions proposed to be attached to the Provisional Statement, the representation was withdrawn.

### **2. Other Persons**

- a) Mr John Farrow 14, Stow Park Circle, Newport NP20 4HF (Appendix 4)
- b) Claire Jones 3, Stow Park Gardens, Newport NP20 4HP (Appendix 5)

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

### **Section 29 Licensing Act 2003 application for the grant of a provisional statement**

- (1) This section applies to premises which—
  - (a) are being or are about to be constructed for the purpose of being used for one or more licensable activities, or
  - (b) are being or are about to be extended or otherwise altered for that purpose (whether or not they are already being used for that purpose).
- (2) A person may apply to the relevant licensing authority for a provisional statement if—
  - (a) he is interested in the premises, and
  - (b) where he is an individual, he is aged 18 or over.
- (3) In this Act "provisional statement" means a statement issued under section 31(2) or (3)(c).
- (4) Subsection (2) is subject to regulations under—
  - (a) section 54 (form etc. of applications etc.);
  - (b) section 55 (fees to accompany applications etc.).
- (5) An application under this section must also be accompanied by a schedule of works.
- (6) A schedule of works is a document in the prescribed form which includes—

- (a) a statement made by or on behalf of the applicant including particulars of the premises to which the application relates and of the licensable activities for which the premises are to be used,
- (b) plans of the work being or about to be done at the premises, and
- (c) such other information as may be prescribed.

(7) For the purposes of this Part, in relation to any premises in respect of which an application for a provisional statement has been made, references to the work being satisfactorily completed are to work at the premises being completed in a manner which substantially complies with the schedule of works accompanying the application.

### **Section 30 Licensing Act 2003. Advertisement of application for provisional statement**

(1) This section applies where an application is made under section 29.

(2) The duty to make regulations imposed on the Secretary of State by section 17(5) (advertisement etc. of application) applies in relation to an application under section 29 as it applies in relation to an application under section 17.

(3) Regulations made under section 17(5)(a) by virtue of subsection (2) may, in particular, require advertisements to contain a statement in the prescribed form describing the effect of section 32 (restriction on representations following issue of a provisional statement).

### **Section 31 Licensing Act 2003. Determination of application for provisional statement**

(1) This section applies where the relevant licensing authority—

- (a) receives a provisional statement application, and
- (b) is satisfied that the applicant has complied with any requirement imposed on him by virtue of section 30.

(2) Where no relevant representations are made, the authority must issue the applicant with a statement to that effect.

**(3) Where relevant representations are made, the authority must—**

- (a) hold a hearing to consider them, unless the authority, the applicant and each person who has made such representations agree that a hearing is unnecessary,
- (b) determine whether, on the basis of those representations and the provisional statement application, it would consider it [F1 appropriate] to take any steps under section 18(3)(b) if, on the work being satisfactorily completed, it had to decide whether to grant a premises licence in the form described in the provisional statement application, and
- (c) issue the applicant with a statement which—
  - (i) gives details of that determination, and
  - (ii) states the authority's reasons for its decision as to the steps (if any) that it would be [F2 appropriate] to take under section 18(3)(b).

(4) The licensing authority must give a copy of the provisional statement to—

- (a) each person who made relevant representations, and
- (b) the chief officer of police for each police area in which the premises are situated.

(5) In this section “relevant representations” means representations—

- (a) which are about the likely effect on the licensing objectives of the grant of a premises licence in the form described in the provisional statement application, if the work at the premises was satisfactorily completed, and
- (b) which meet the requirements of subsection (6).

(6) The requirements are—

- (a) that the representations are made by [F3 a responsible authority or other person] within the period prescribed under section 17(5)(c) by virtue of section 30,
- (b) that the representations have not been withdrawn, and
- (c) in the case of representations made by [F4 a person who is not a responsible authority], that they are not, in the opinion of the relevant licensing authority, frivolous or vexatious.

(7) Where the authority determines for the purposes of subsection (6)(c) that any representations are frivolous or vexatious, it must notify the person who made them of the reasons for its determination.

(8) In this section “provisional statement application” means an application made in accordance with section 29.

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

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

**In each case the Sub-Committee may make the following determination under Section 18 (3)(b) Licensing Act 2003 that states**

Where relevant representations are made, the authority must—

(a) hold a hearing to consider them, unless the authority, the applicant and each person who has made such representations agree that a hearing is unnecessary, and

**(b) having regard to the representations, take such of the steps mentioned in subsection (4) (if any) as it considers for the promotion of the licensing objectives.**

(4) The steps are—

(a) to grant the licence subject to—

(i) the conditions mentioned in subsection (2)(a) modified to such extent as the authority considers **[F2appropriate]** for the promotion of the licensing objectives, and

(ii) any condition which must under section 19, 20 or 21 be included in the licence;

(b) to exclude from the scope of the licence any of the licensable activities to which the application relates;

(c) to refuse to specify a person in the licence as the premises supervisor;

(d) to reject the application.

#### **4. Issues for discussion**

The proposed licensable activities and permitted hours sought by the application.

The content of the operating schedule in promoting the four licensing objectives.

- The representations made in respect of the application.
- Newport City Council’s Statement of Licensing Policy
- Any conditions that are required by the Panel to be attached to the Premises Licence in order to promote the four Licensing Objectives, in light of the information contained in the applicant’s operating schedule and representations received.

**Appendix 1**

**Copy of application under Section 29 Licensing Act 2003 for grant of Provisional Statement**

**Application for a provisional statement to be granted under the Licensing Act 2003**

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

You may wish to keep a copy of the completed form for your records.

I/We Pasquale Cinotti

*(Insert name(s) of applicant)*

**apply for a provisional statement under section 29 of the Licensing Act 2003 for the premises described in Part 1 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003**

**Part 1 – Premises Details**

Postal address of premises or, if none, ordnance survey map reference or description			
Rothbury House 10 Stow Park Circle			
Post town	Newport	Postcode	NP20 4HE
Telephone number at premises (if any)			
Non-domestic rateable value of premises		£	

**Part 2 - Applicant Details**

Please state whether you are applying for a premises licence as

Please tick all that apply

- a) an individual or individuals \*  please complete section (A)
- b) a person other than an individual \*
  - i. as a limited company  please complete section (B)
  - ii. as a partnership  please complete section (B)
  - iii. as an unincorporated association or  please complete section (B)
  - iv. other (for example a statutory corporation)  please complete section (B)
- c) a recognised club  please complete section (B)
- d) a charity  please complete section (B)

- e) the proprietor of an educational establishment  please complete section (B)
- f) a health service body  please complete section (B)
- g) a person who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales  please complete section (B)
- ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in an independent hospital in England  please complete section (B)
- h) the chief officer of police of a police force in England and Wales  please complete section (B)

\* If you are applying as a person described in (a) or (b) please confirm:

Please tick as appropriate

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or
- I am making the application pursuant to a
  - statutory function or
  - a function discharged by virtue of Her Majesty's prerogative

**(A) INDIVIDUAL APPLICANTS** (fill in as applicable)

Mr <input checked="" type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
Surname Cinotti			First names Pasquale		
I am 18 years old or over				<input checked="" type="checkbox"/>	Please tick yes
Current postal address if different from premises address		<b>Unit G1 Tesco Store Newport Retail Park Spytty Road</b>			
Post town	<b>Newport</b>		Postcode	<b>NP19 4TX</b>	
Daytime contact telephone number			<b>01633 270210</b>		
E-mail address (optional)	gemellidesserts@hotmail.com				

**SECOND INDIVIDUAL APPLICANT (if applicable)**

Mr <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
Surname			First names		
I am 18 years old or over				<input type="checkbox"/>	Please tick yes
Current postal address if different from premises address					
Post town		Postcode			
Daytime contact telephone number					
E-mail address (optional)					

**(B) OTHER APPLICANTS**

**Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned**

Name
Address
Registered number (where applicable)
Description of applicant (for example, partnership, company, unincorporated association)
Telephone number (if any)
E-mail address (optional)

What is the nature of your interest in the premises?

Owner

### Part 3 – Schedule of works

Is the premises

Please tick as appropriate

about to be constructed

being extended or altered

Please give details of the work and please attach plans of the work being done or about to be done at the premises

This derelict grade II listed villa, last used as a nursing home, is to be refurbished and converted in to a 7-bed luxury boutique hotel with a side extension on the ground floor (an orangery) which is to be used as a high-quality restaurant.

Planning and listed building consents have been granted by the Council. Please see the attached plans.

The works will involve the building of an orangery (side extension); the demolition of outbuildings and the construction of replacement outbuildings and a rear extension along with car parking and landscaping.

If a provisional statement is granted the applicant intends to complete the works – as approved by the Council when granting planning permission within six to twelve months at an estimated cost of between £500,000 and £1 million.

Please give particulars of the premises to which the application relates (please read guidance note 1)

The premises consist of a derelict late 19th century grade II listed villa located in its own grounds within the Stow Park Conservation Area. The villa was last used as a nursing home. That was a commercial use. Previously the Council had granted consent to convert the building into 7 flats.

The proposed conversion is much more sensitive to the existing historic fabric than the previous scheme.

There is sufficient land within the boundaries of the property to provide enough parking for both staff and all customers whether they will be guests of the hotel or visitors to the restaurant.



Which licensable activities will the premises be used for?

Provision of regulated entertainment

Please tick Yes

- a) plays (optional, fill in box A)
- b) films (optional, fill in box B)
- c) indoor sporting events (optional, fill in box C)
- d) boxing or wrestling entertainment (optional, fill in box D)
- e) live music (optional, fill in box E)
- f) recorded music (optional, fill in box F)
- g) performances of dance (optional, fill in box G)
- h) anything of a similar description to that falling within (e), (f) or (g) (optional, fill in box H)

**Provision of late night refreshment** (optional, fill in box I)

**Supply of alcohol** (optional, fill in box J)

**Complete boxes K, L and M (optional)**

**Part 4 – OPTIONAL – you may fill in this section if you choose to**

General description of premises (please read guidance note 1)

This derelict grade II listed villa, last used as a nursing home, is to be refurbished and converted in to a 7-bed luxury boutique hotel with a side extension on the ground floor (an orangery) which is to be used as a high-quality restaurant.

Planning and listed building consents have been granted by the Council. Please see the attached plans.

The works will involve the building of an orangery (side extension); the demolition of outbuildings and the construction of replacement outbuildings and a rear extension along with car parking and landscaping.

If a provisional statement is granted the applicant intends to complete the works – as approved by the Council when granting planning permission within six to twelve months at an estimated cost of between £500,000 and £1 million.

**I**

<b>Late night refreshment</b> Standard days and timings (please read guidance note 6)			<b><u>Will the provision of late night refreshment take place indoors or outdoors or both – please tick</u></b> (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
<b>Day</b>	<b>Start</b>	<b>Finish</b>	<p><b><u>Please give further details here</u></b> (please read guidance note 3)</p> <p>This provision is requested to cover the odd occasion when the completion of a meal in the restaurant goes beyond 23.00 hours and when otherwise the service of a hot coffee or hot dessert (sweet) would constitute a breach of the licence.</p> <p>The restaurant will be closed and all of its customers will have left the premises on all standard days by 12 midnight.</p> <p><b><u>State any seasonal variations for the provision of late night refreshment</u></b> (please read guidance note 4)</p> <p><b><u>Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list</u></b> (please read guidance note 5)</p> <p>Christmas Eve, New Years Eve and special national days such as Royal Weddings.</p>		
Mon	23.00	24.00			
Tue	23.00	24.00			
Wed	23.00	24.00			
Thur	23.00	24.00			
Fri	23.00	24.00			
Sat	23.00	24.00			
Sun	23.00	24.00			

**J**

<b>Supply of alcohol</b> Standard days and timings (please read guidance note 6)			<b>Will the supply of alcohol be for consumption – please tick</b> (please read guidance note 7)	On the premises	<input type="checkbox"/>
				Off the premises	<input type="checkbox"/>
				Both	<input checked="" type="checkbox"/>
Day	Start	Finish	<p><b>State any seasonal variations for the supply of alcohol</b> (please read guidance note 4)</p> <p>The premises will be a hotel – hence the need for 24-hour licensing for the supply of alcohol to residents and their bona fide guests.</p> <p>The opening hours of the restaurant will be between 08.00 and 23.00 hours and alcohol will not be supplied to customers of the restaurant outside those hours (save for non-standard special occasions such as Christmas Eve, New Year’s Eve and national special days such as Royal Weddings).</p> <p>The off-sales provision is sought for those customers of the restaurant who simply wish to take home with them a bottle of wine, for example.</p> <p><b>Non standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list</b> (please read guidance note 5)</p>		
Mon	0.00	24.00			
Tue	0.00	24.00			
Wed	0.00	24.00			
Thur	0.00	24.00			
Fri	0.00	24.00			
Sat	0.00	24.00			
Sun	0.00	24.00			

**K**

**Please highlight any 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** (please read guidance note 8).

None

L

<b>Hours premises are open to the public</b> Standard timings (please read guidance note 6)			<b><u>State any seasonal variations</u></b> (please read guidance note 4)  The premises are to be used as a luxury boutique hotel and the opening hours for the restaurant will be between 08.00 and 23.00 hours.
Day	Start	Finish	
Mon	0.00	24.00	<b><u>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list</u></b> (please read guidance note 5)
Tue	0.00	24.00	
Wed	0.00	24.00	
Thur	0.00	24.00	
Fri	0.00	24.00	
Sat	0.00	24.00	
Sun	0.00	24.00	

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

**a) General – all four licensing objectives (b, c, d and e) (please read guidance note 9)**

The premises are to be used as a luxury hotel and restaurant and therefore, save for the prevention of public nuisance, the other licensing objectives are not engaged such that any step to promote them is needed.

**b) The prevention of crime and disorder**

None required

**c) Public safety**

None required

**d) The prevention of public nuisance**

The applicant and his staff intend to be good neighbours and, in that regard, customers will be requested, and signs placed at exits from the premises asking customers, to leave quietly so as not to disturb neighbours.

**e) The protection of children from harm**

None required

**Checklist:**

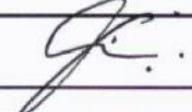
**Please tick to indicate agreement**

- I have made or enclosed payment of the fee.
- I have enclosed the plans of the works to be done at the premises.
- I have sent copies of this application and the plan to responsible authorities and others where applicable.
- I understand that I must now advertise my application.
- I understand that if I do not comply with the above requirements my application will be rejected.

**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.**

Part 5 – Signatures (please read guidance note 10)

**Signature of applicant or applicant’s solicitor or other duly authorised agent** (see guidance note 11).  
**If signing on behalf of the applicant, please state in what capacity.**

Signature	
Date	21/5/2018
Capacity	OWNER

**For joint applications, signature of 2<sup>nd</sup> applicant or 2<sup>nd</sup> applicant’s solicitor or other authorised agent** (please read guidance note 12). **If signing on behalf of the applicant, please state in what capacity.**

Signature	
Date	
Capacity	

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 13).

MR ROBERT DAVIES  
RDP LAW LIMITED  
WENTWOOD HOUSE  
LANGSTONE BUSINESS VILLAGE

Post town	NEWPORT	Postcode	NP18 2HJ
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Telephone number (if any)	01633 413500
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If you would prefer us to correspond with you by e-mail, your e-mail address (optional).

GENERAL NOTES

1. The architect is not responsible for the accuracy of the information provided in this plan. The architect is not responsible for the accuracy of the information provided in this plan. The architect is not responsible for the accuracy of the information provided in this plan.

2. The architect is not responsible for the accuracy of the information provided in this plan. The architect is not responsible for the accuracy of the information provided in this plan. The architect is not responsible for the accuracy of the information provided in this plan.

3. The architect is not responsible for the accuracy of the information provided in this plan. The architect is not responsible for the accuracy of the information provided in this plan. The architect is not responsible for the accuracy of the information provided in this plan.

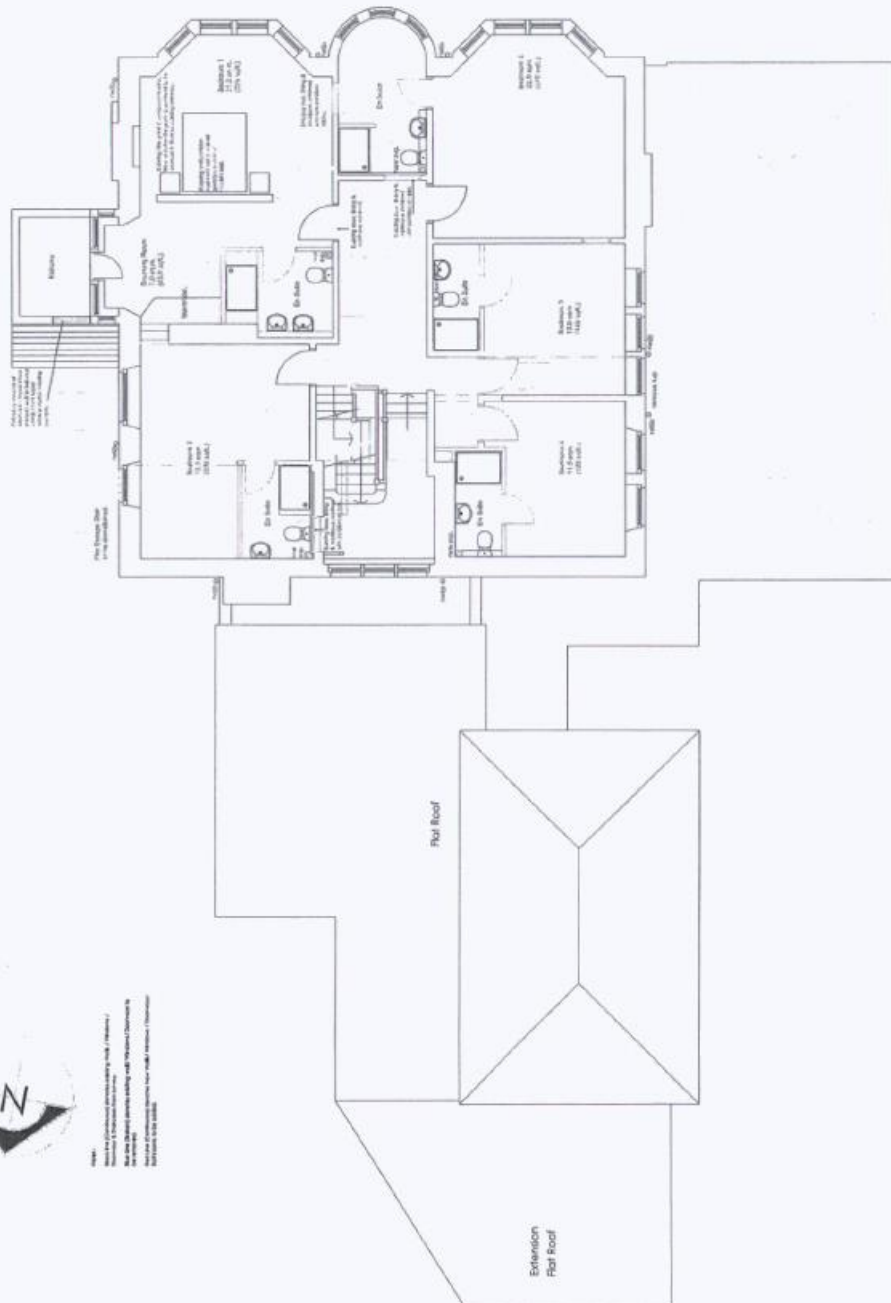
4. The architect is not responsible for the accuracy of the information provided in this plan. The architect is not responsible for the accuracy of the information provided in this plan. The architect is not responsible for the accuracy of the information provided in this plan.

5. The architect is not responsible for the accuracy of the information provided in this plan. The architect is not responsible for the accuracy of the information provided in this plan. The architect is not responsible for the accuracy of the information provided in this plan.

NO.	REVISION	DATE	BY	CHKD.
1	ISSUED FOR PERMITTING	08/16/16	PL	PL
2	ISSUED FOR PERMITTING	08/16/16	PL	PL
3	ISSUED FOR PERMITTING	08/16/16	PL	PL
4	ISSUED FOR PERMITTING	08/16/16	PL	PL
5	ISSUED FOR PERMITTING	08/16/16	PL	PL
6	ISSUED FOR PERMITTING	08/16/16	PL	PL
7	ISSUED FOR PERMITTING	08/16/16	PL	PL
8	ISSUED FOR PERMITTING	08/16/16	PL	PL
9	ISSUED FOR PERMITTING	08/16/16	PL	PL
10	ISSUED FOR PERMITTING	08/16/16	PL	PL

NO. PASQUALE CHHOTI  
 10 STOW PARK CIRCLE  
 NEWPORT, RI 02880  
 FIRST FLOOR PLAN  
 AS PROPOSED  
 DATE: AUGUST 2016  
 DRAWN BY: PL  
 CHECKED BY: PL  
 APPROVED BY: PL  
 DATE: AUGUST 2016

ARCHITECT  
 PL  
 10 STOW PARK CIRCLE  
 NEWPORT, RI 02880  
 TEL: 401-863-1111  
 WWW.PLARCHITECTURE.COM



FIRST FLOOR PLAN - AS PROPOSED

GENERAL NOTES

The contractor shall verify the location of all existing and proposed utility lines, including but not limited to, water, sewer, gas, and electrical. The contractor shall be responsible for obtaining all necessary permits and approvals from the appropriate authorities. The contractor shall be responsible for protecting all existing utility lines and structures. The contractor shall be responsible for providing all necessary safety measures and signage. The contractor shall be responsible for maintaining access to all adjacent properties and public utilities. The contractor shall be responsible for providing all necessary site access and egress. The contractor shall be responsible for providing all necessary site security. The contractor shall be responsible for providing all necessary site cleanup and restoration. The contractor shall be responsible for providing all necessary site documentation and records. The contractor shall be responsible for providing all necessary site communication and coordination. The contractor shall be responsible for providing all necessary site management and supervision. The contractor shall be responsible for providing all necessary site safety and health measures. The contractor shall be responsible for providing all necessary site environmental protection measures. The contractor shall be responsible for providing all necessary site quality control measures. The contractor shall be responsible for providing all necessary site cost control measures. The contractor shall be responsible for providing all necessary site schedule control measures. The contractor shall be responsible for providing all necessary site risk management measures. The contractor shall be responsible for providing all necessary site compliance measures. The contractor shall be responsible for providing all necessary site reporting measures. The contractor shall be responsible for providing all necessary site communication and coordination. The contractor shall be responsible for providing all necessary site management and supervision. The contractor shall be responsible for providing all necessary site safety and health measures. The contractor shall be responsible for providing all necessary site environmental protection measures. The contractor shall be responsible for providing all necessary site quality control measures. The contractor shall be responsible for providing all necessary site cost control measures. The contractor shall be responsible for providing all necessary site schedule control measures. The contractor shall be responsible for providing all necessary site risk management measures. The contractor shall be responsible for providing all necessary site compliance measures. The contractor shall be responsible for providing all necessary site reporting measures.

Item	Description	Quantity	Unit	Price	Total
1	Excavation	100	cu yd	10.00	1000.00
2	Concrete	500	cu yd	20.00	10000.00
3	Rebar	1000	lb	0.50	500.00
4	Formwork	1000	sq ft	1.00	1000.00
5	Foundation	100	sq ft	10.00	1000.00
6	Structural Steel	1000	lb	0.50	500.00
7	Roofing	1000	sq ft	1.00	1000.00
8	Interior Finishes	1000	sq ft	1.00	1000.00
9	Exterior Finishes	1000	sq ft	1.00	1000.00
10	MEP	1000	sq ft	1.00	1000.00

Notes: For client approval

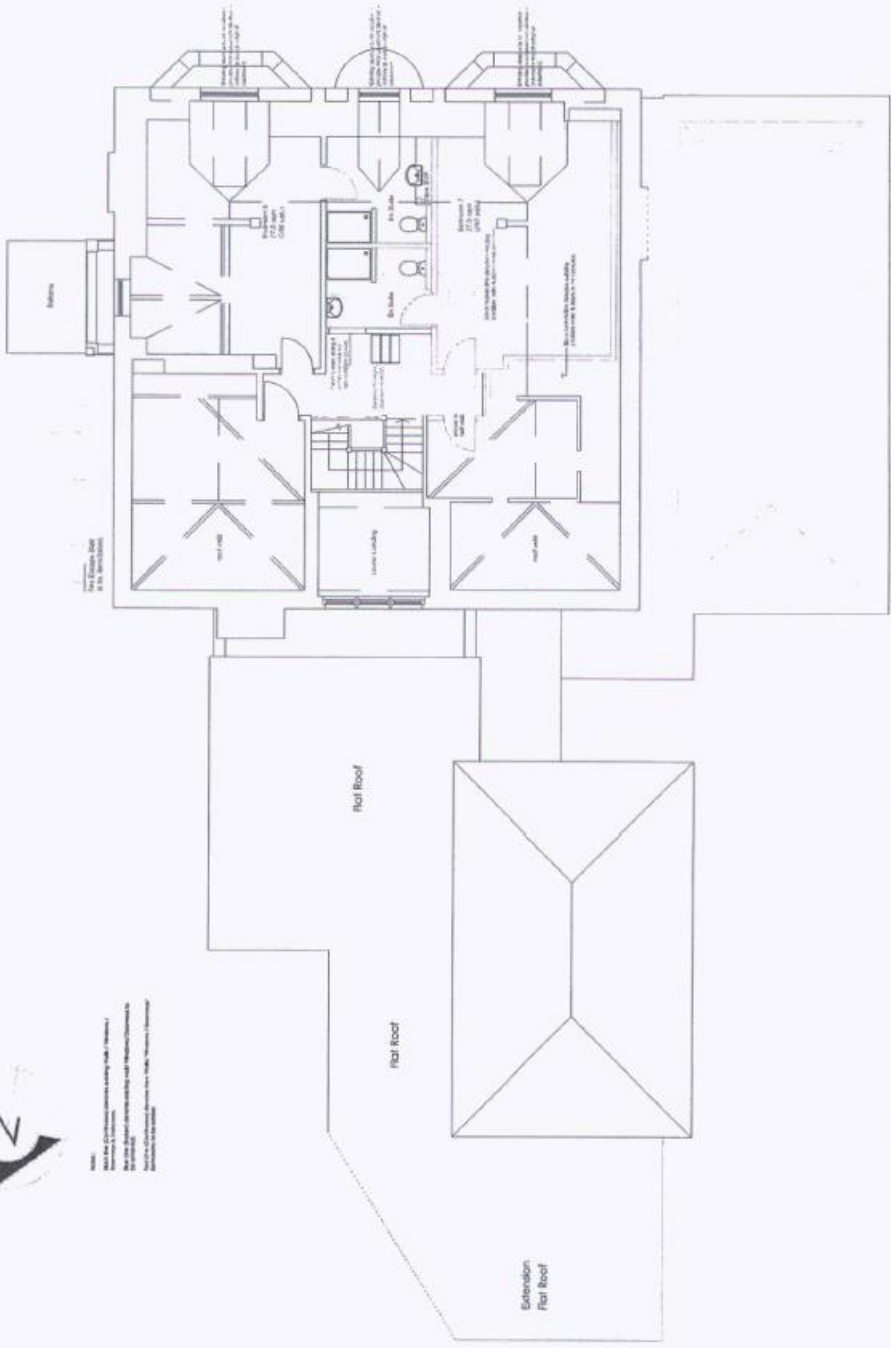
PASQUALE CIVOTIL

10 TOW PARK CIRCLE  
NEWPORT

SECOND FLOOR PLAN  
AS PROPOSED.

Date	By	Checked	Approved
11.30	ENY	SMS	
1855	PL-204		C
AUGUST 2014			

ADDRESS: 10 TOW PARK CIRCLE, NEWPORT, RI 02880-1000  
 PHONE: 401-863-1000  
 FAX: 401-863-1001  
 WWW.PASQUALECIVOTIL.COM



SECOND FLOOR PLAN - AS PROPOSED



North Arrow  
 Scale: 1/8" = 1'-0"  
 Date: 08/14/14



GENERAL NOTES

The Architect is not responsible for the design of the structure or the construction of the same. The contractor shall be responsible for the design of the structure and the construction of the same.

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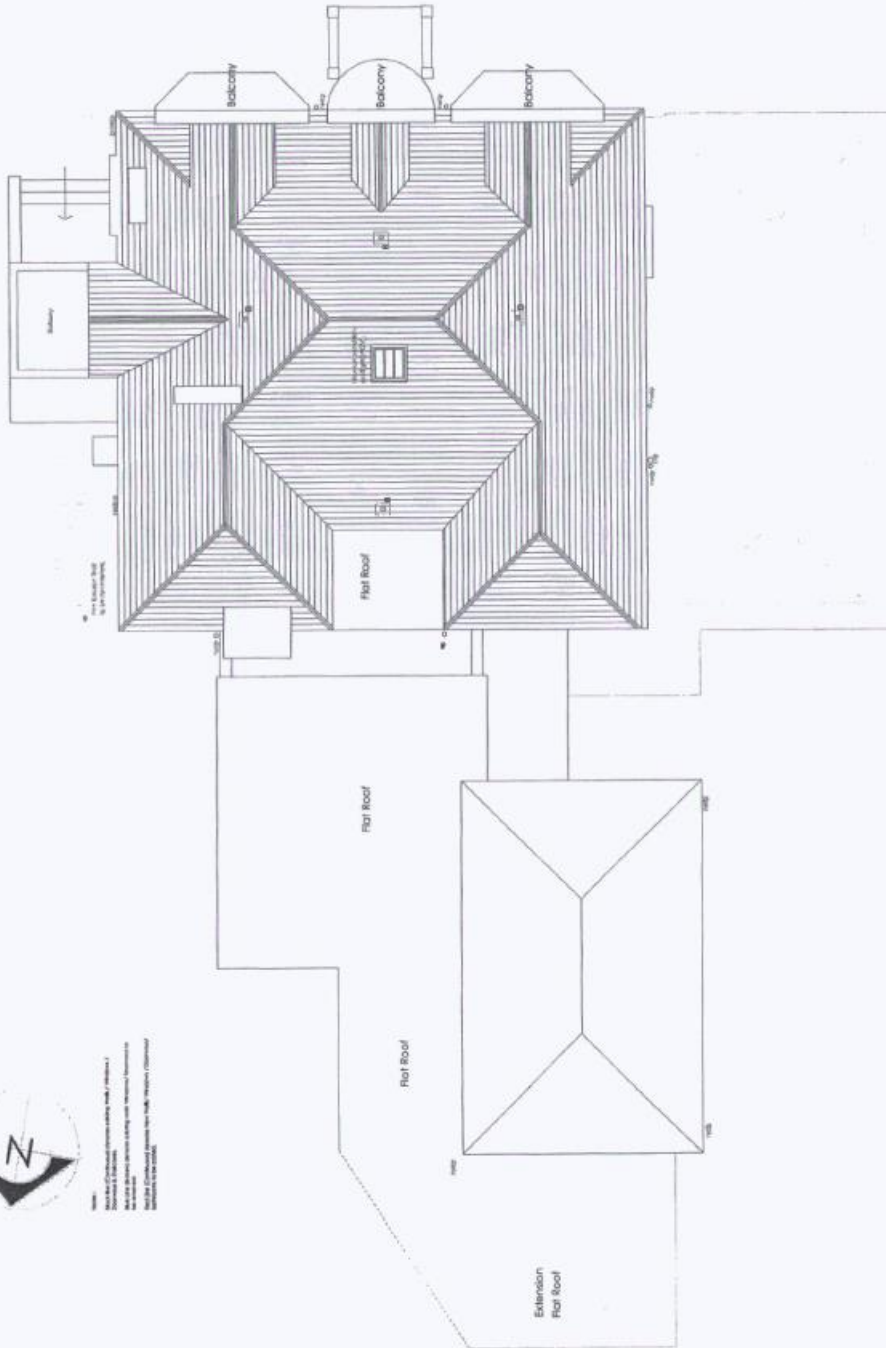
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NOTES:  
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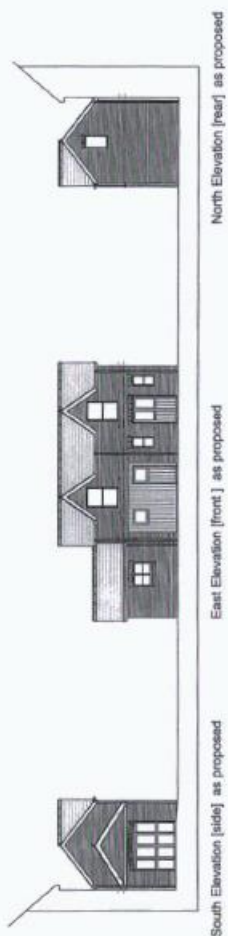


ROOF PLAN - AS PROPOSED

010  
 CONTRACTS  
 1100 PINE  
 ST. SUITE 200  
 NEW YORK, NY 10028  
 TEL: 212 691 1000  
 FAX: 212 691 1001  
 WWW: 010CONTRACTS.COM



GENERAL NOTES



1. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL RESIDENTIAL CODE BOOK (IRC) AND THE INTERNATIONAL BUILDING CODE (IBC).

2. ALL MATERIALS SHALL BE NEW UNLESS OTHERWISE NOTED.

3. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL RESIDENTIAL CODE BOOK (IRC) AND THE INTERNATIONAL BUILDING CODE (IBC).

4. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL RESIDENTIAL CODE BOOK (IRC) AND THE INTERNATIONAL BUILDING CODE (IBC).

5. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL RESIDENTIAL CODE BOOK (IRC) AND THE INTERNATIONAL BUILDING CODE (IBC).

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9. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL RESIDENTIAL CODE BOOK (IRC) AND THE INTERNATIONAL BUILDING CODE (IBC).

10. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL RESIDENTIAL CODE BOOK (IRC) AND THE INTERNATIONAL BUILDING CODE (IBC).

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Scale: For Client Approval

Client: PASQUALE CHOTTI

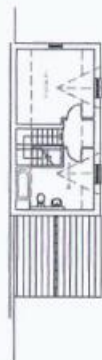
Address: 10 STONY PARK CIRCLE NEWPORT

Project: C/O CH HOUSE PLANS & ELEVATIONS AS PROPOSED

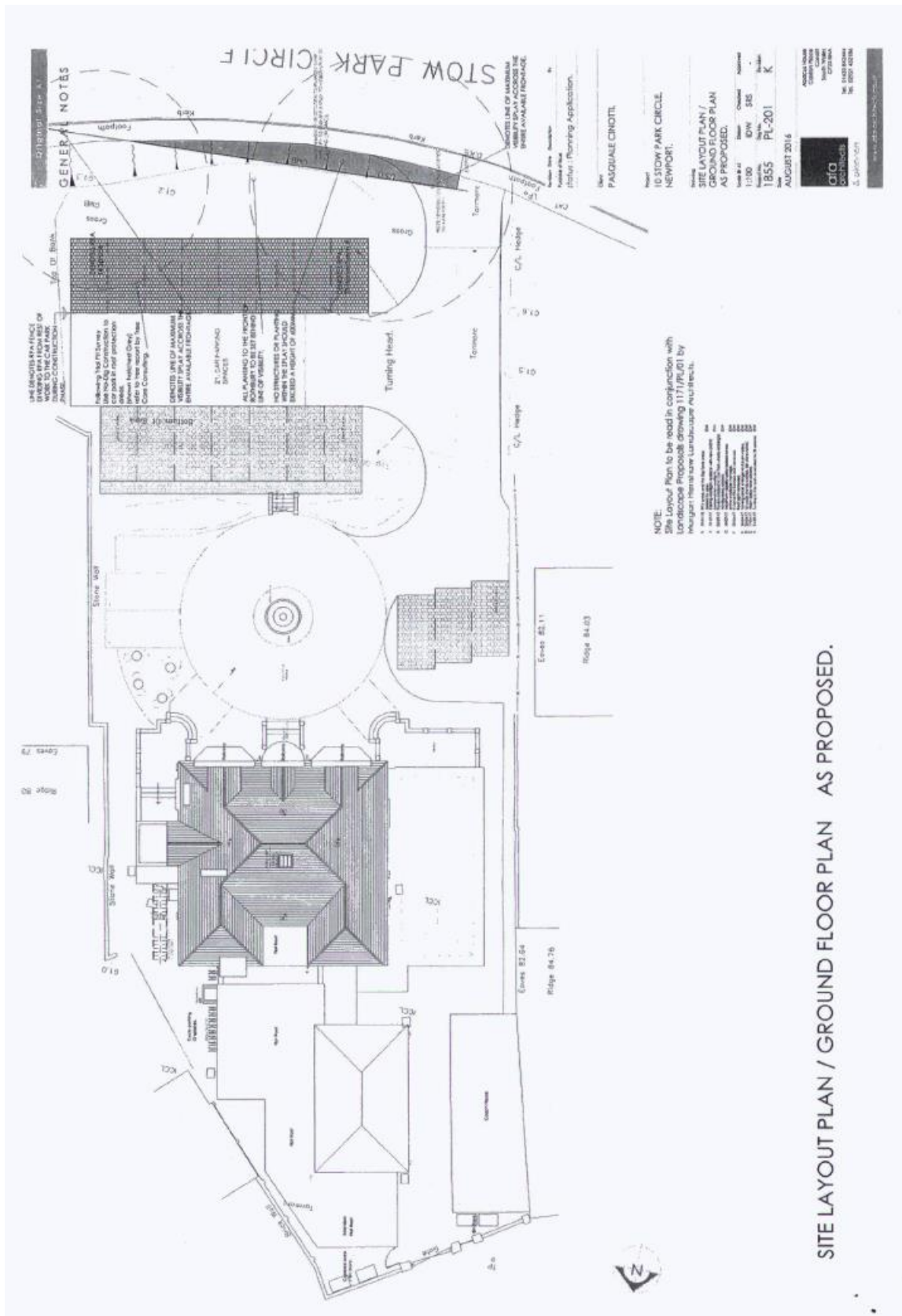
Scale: 1/8" = 1'-0" DWG: 1855 PL-207

Date: SEPTEMBER 2016

Daniel Newman  
 Civil Engineer  
 License No. 10000  
 State of New Jersey  
 www.danielnewman.com







SITE LAYOUT PLAN / GROUND FLOOR PLAN AS PROPOSED.

**Appendix 2 Location of Premises**



### **Appendix 3**

#### **Licensing Authority-Responsible Authority representation**

#### **LICENSING ACT 2003**

#### **NOTICE OF OBJECTION under Section 18 Licensing Act 2003**

#### **TO AN APPLICATION BY PASQUALE CINOTTI UNDER SECTION 29 LICENSING ACT 2003 FOR A PROVISIONAL STATEMENT TO BE GRANTED IN RESPECT OF ROTHBURY HOUSE 10, STOW PARK CIRCLE, NEWPORT, NP20 4HE.**

Newport City Council's Licensing Authority acting in their capacity as a 'Responsible Authority' by virtue of Section 182 (4) Licensing Act 2003 (amended guidance) wish to object to the grant of this application on the grounds that:

- clarification is required in respect of the Seasonal Variations and Non Standard Timings with regard to the proposed licensable activities of the Supply of alcohol and provision of late night refreshment.
- The proposed operating schedule does not provide clear and measurable steps to ensure the promotion of the Licensing Objectives of (a) Prevention of Crime and Disorder (b) Prevention of Public Nuisance (c) Public Protection and (d) Protection of Children from Harm.

This objection is open to mediation with the applicant and shall be withdrawn if the following proposals are agreed.

- Seasonal Variations/Non Standard Timings require specific timings for the provision of licensable activities.

The following conditions are volunteered to be attached to the Provisional Statement and any subsequent application for a Premises Licence to be granted.

- Save for resident guests at the hotel, the supply of alcohol shall be restricted to persons who are dining at the premises restaurant.
- In accordance with the mandatory requirement for implementation of an age verification policy, the Designated Premises Supervisor will operate the nationally recognised scheme 'Challenge 21' and all staff shall be trained in respect of this scheme which details that persons who appear to be below 21 years will be required to provide photographic proof of age before being supplied with alcohol and where such proof is not produced no supply shall be made. Notices that this scheme is in operation shall be displayed at the entrance to the premises.

**William Stephen Lewis  
Licensing Officer  
Newport City Council.**

## Appendix 3

### Copy of letter of objection from Mr John Farrow

14 Stow Park Circle,  
Newport,  
Gwent  
NP20 4HF.  
15<sup>th</sup> June 2018.

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

**Re: Grant of Provisional Statement, Licensing Act 2003.**  
**ROTHBURY HOUSE, 10 STOW PARK CIRCLE, NEWPORT.**

I am the owner of 14 Stow Park Circle, NP20 4HF and share a boundary in the form of a residential party wall 18 metres long to the west elevation of the applicants' site. I have lived in Stow Park Circle for thirty seven years.

This is primarily a residential area largely surrounded with houses and flats and two nursing homes for the elderly within 25 metres of the boundary of the site.

*My living and bed rooms are within 7 metres of the public rooms of the proposed hotel and restaurant business.*

My main concern is the disturbance from **noise** (particularly at unsocial hours) not just from within the building, but the external activities from any use as an overflow area into the gardens or a smoking area. The nuisance of noise can have many sources from loud conversation to the slamming of car doors, etc. Smells from food, alcohol and cigarettes are another concern.

The specific planning limitation for a maximum of 24 covers in the restaurant can easily be abused as can some licensing conditions instanced by the no-go area of Newport town centre late at night. So called "closing time" does not mean people leave the area. Visit Clifton, Bristol (also a residential conservation area) and witness the impact of late night drinking there!



More worrying is the wording of the application....."sale and supply of alcohol and **late night** refreshment." Late night in Newport town centre probably means 3- 4am or later, whereas in Stow Park Circle many residents go to bed about 9 pm and the nursing home residents even earlier. This is far too imprecise and not acceptable.

What your decision may undoubtedly prove is that no location in Newport is safe from commercial development intruding into the lives of local residents, whilst the designated commercial centre lies increasingly abandoned.

For the avoidance of doubt, I am not objecting to a sensible and responsible attitude for the provision of alcohol to hotel residents during reasonable hours, but we all know this can only be the thin edge of the wedge. The conduct of the comings and goings of diners and non resident drinkers will be the real problem, which in truth we all know is almost impossible to police.

Yours faithfully



John Farrow.

## Appendix 4

### Copy of letter of objection from Claire Jones.

3 Stow Park Gardens

Newport

NP20 4HP

19<sup>th</sup> June 2018

Dear Sirs

**Re Grant of Provisional Statement in relation to late night licence for the supply of alcohol and refreshment at the Rothbury Stow Park Circle (proposed 7 bed hotel & restaurant)**

My husband & I live in the cul de sac opposite the entrance to the proposed development and are concerned at the proposed application to grant a late night licence for the provision of alcohol and refreshments.

1. The need for a late night licence can only be for the provision of alcohol and refreshments to potential wedding guests at the nearby registry office and therefore will cause a problem with parking, noise, drunken behaviour of non residents leaving a conservation area after the majority of not all residents and those in Care homes will be asleep.
2. On the basis that the licence is to apply to residents only after say 10pm there would be a reduced chance of nuisance to neighbouring properties
3. The granting of a late night licence in a residential conservation area changes the nature and ambiance of the Circle and will increase the level of traffic together with those driving whilst intoxicated and potentially driving the wrong way around the circle (as happens frequently from those exiting the Registry office and also cars driving into the cul de sac expecting it to lead out of the Circle as there is insufficient signage at any point. This is clearly a danger not only to residents but to others who use the Circle for access to Caerperllan Road. The Circle is a narrow Road and excessive parking on the streets and the gardens will lead to obstructions and accidents and the potential inability of Ambulances being able to drive to the Care Homes in the Circle thus putting the Elderly & Vulnerable at risk.
4. Finally we feel that the grant of a late night licence will then lead to applications for late night music and other wedding associated applications which will alter the area and lead to disruption, noise, public nuisance and distress to the neighbours.

Please take our representations into account and we look forward to hearing from you with the date of the hearing pursuant to the Licensing Act 3003.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Jones', with a large loop at the start and a small flourish at the end.

Mrs Claire Jones

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