

Agenda



Licensing Sub-Committee

Date: Tuesday, 9 March 2021

Time: 10.00 am

Venue:

To: Councillors J Hughes (Chair), H Thomas (Deputy Chair), K Thomas, I Hayat, M Al-Nuaimi, J Cleverly, Y Forsey, J Watkins, T Suller and D Fouweather

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>Review of Premises Licence under Section 51 Licensing Act 2003. The Neon, Clarence Place, Newport, NP19 7AB</u> (Pages 17 - 72)	All Wards

Contact: Meryl James, Governance Officer,
E-mail: Democratic.services@Newport.gov.uk
Date of Issue: Tuesday, 23 February 2021

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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: 09 March 2021

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

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

Author Steve Pontin (Licensing Officer)

Ward Stow Hill

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

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

Action by Head of Law and Regulation

Timetable Statutory Consultation Period

Signed Steve Pontin

1. Review Application

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

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

The prevention of **crime and disorder**

& **public safety.**

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

The application was received by the Licensing Authority on 12th January 2021 and in accordance with section 51(3)(a) of the Licensing Act 2003 a copy of the application was served on the holder of the Premises Licence both via email and post and on all Responsible Authorities.

Following receipt of the application, the Licensing Authority advertised the application in accordance with the regulations of the Act, thereby inviting representations to be made by interested parties. Any representation in respect of this application made by a responsible authority or an interested party had to be received by the Licensing Authority by 9th February 2021.

2. Licensable Activities

The current premises licence holder is:

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

The current Designated Premises Supervisor is:

Mr Gerard Bryan

Licensable activities authorised by the Premises Licence:

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

Times the licence authorises the carrying out of licensable activities:

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

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

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

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

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

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

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

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

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

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

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

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

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

3. Representations

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

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

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

4. Background/Premises Licence History

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

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

5. Legal Considerations, Guidance, Policy Consideration

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

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

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

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

All decisions taken by the Sub-Committee must

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

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

Section 30. Reviews of licences

- 30.1 The Council can only review a licence where it is alleged by a "responsible authority", or other person that the licensing objectives are being breached. Responsible authorities will aim to give licence holders early warning of any concerns identified at the premises. Only responsible authorities or other persons (e.g. local residents, local organisations and councillors) can apply for the review of a licence; and determine its outcome at a hearing where an evidential basis for allegations made will be submitted. It views particularly seriously applications for the review of any premises licence which involves the
- use of licensed premises for the sale and distribution of controlled drugs and the laundering of the proceeds of drugs crimes;
 - use of licensed premises for the sale and distribution of illegal firearms;
 - evasion of copyright in respect of pirated films and music;
 - underage purchase and consumption of alcohol;
 - use of licensed premises for prostitution or the sale of unlawful pornography;
 - use of licensed premises for unlawful gaming;
 - use of licensed premises as a base for organised criminal activity;
 - use of licensed premises for the organisation of racist, homophobic or sexual abuse or attacks;
 - use of licensed premises for the sale of smuggled tobacco or goods;
 - use of licensed premises for the storage or sale of stolen goods;
 - the police being frequently called to attend to incidents of disorder;
 - prolonged and/or repeated instances of public nuisance
 - **serious risk to public safety have been identified and the management is unable or unwilling to correct;**
 - **Serious risk to children.**
- 30.2 The Licensing Sub-committee will consider all evidence provided at the hearing and apply appropriate weight to that evidence when making their decision.
- 30.3 The licensing sub-committee will consider all of the sanctions available to it provided for in the Act and guidance, including taking no action if appropriate. In cases where a licensing objective is seriously undermined, that revocation of the licence, even in the first instance, will be considered where appropriate to ensure the licensing objectives are promoted.
- 30.4 **In cases where a licensing objective is seriously undermined, the revocation of the licence, even in the first instance, will be seriously considered where appropriate to ensure the licensing objectives are promoted.**

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

Section 11 of the Guidance:

Powers of a licensing authority on the determination of a review

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

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

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

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

- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption)¹⁰;
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- suspend the licence for a period not exceeding three months;
- revoke the licence

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

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

11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate

response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.

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

6. Issues for discussion

- The content of the application made by Newport City Council Licensing Authority, acting in its role as a Responsible Authority, for a review of the Premises Licence and representations from Gwent Police and Aneurin Bevan University Health Board.
- Any evidence and mitigation provided by Licence Holder

7. Financial Summary

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

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

8. Risks

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

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

You will need to complete the following Risk table:

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

* Taking account of proposed mitigation measures

9. Links to Council Policies and Priorities

This report has been prepared in accordance with The Licensing Act 2003 and with regard to Newport City Council Statement of Licensing Policies 2015.

Comments of Chief Financial Officer

There are no financial implications arising directly from this report.

Comments of Monitoring Officer

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

Comments of Head of People and Business Change

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

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

Appendix A - Review Application by Licensing Authority

Newport City Council

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

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

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

(Insert name of applicant)

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

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description The Neon Clarence Place Newport South Wales	
Post town Newport	Post code (if known) NP19 7AB

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

Number of premises licence or club premises certificate (if known) 19/03464/LAPRE

Part 2 - Applicant details

I am

Please tick yes

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

or (B) below) ☐

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

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

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

Please tick ✓ yes

Mr ☐ Mrs ☐ Miss ☐ Ms ☐ Other title
(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick ✓ yes

☐

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

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Alastair Dearling Newport City Council Licensing Authority Civic Centre Civic Centre Godfrey Road Newport NP20 4UR
Telephone number (if any) 01635656656
E-mail address (optional) alastair.dearling@newport.gov.uk

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

- | | |
|---|---------------------------------------|
| | Please tick one or more boxes ✓ |
| 1) the prevention of crime and disorder | <input checked="" type="checkbox"/> X |
| 2) public safety | <input checked="" type="checkbox"/> X |
| 3) the prevention of public nuisance | <input type="checkbox"/> |
| 4) the protection of children from harm | <input type="checkbox"/> |

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

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

The regulations and guidance on the 17th December 2020 where:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Condition 9 of Neon Premises Licence stipulates:

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

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

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

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

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

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

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

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

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

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

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

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

Conclusion:

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

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

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

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

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

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

Please tick ✓ yes

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

☐

If yes please state the date of that application

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

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

No

yes

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

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

Part 3 – Signatures (please read guidance note 4)

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

Signature Alastair Dearling

.....

Date 12.1.21

.....

Capacity Licensing Manager

.....

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

Post town	Post Code
Telephone number (if any)	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)	

Notes for Guidance

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

APD/Neon1

NEWPORT CITY COUNCIL

STATEMENT OF WITNESS

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

Statement of: Steve Pontin

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

Occupation of Witness: Licensing Officer

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

Date: 06 January 2021

Signature: S M Pontin


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

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

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

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

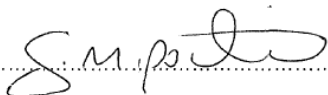
I further advised Mr Byers that he should ensure any other staff who may have keys for the premises should be informed not to open the premises, or that if they did so that they should not sell alcohol. Mr Byers was clear that he understood this instruction and again reiterated

Signature: 

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

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

Signature:.....

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The group walked the male off towards TREGARE STREET.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"YOUR TREATING US LIKE CRIMINALS, YOU CUNTS"

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

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

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

PC 1976 and I then stood down from the area.

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

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

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

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

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

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

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

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

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

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

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

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

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

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


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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

████████████████████

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

MG11 STATEMENT OF WITNESS

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

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

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

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

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

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

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

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

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

Signature of Witness		Signature Witnessed By	
Name:	#GWP531 AUSTIN, SIMON	Name:	
Signed Time:	21/12/2020 11:01	Signed Time:	

Apd/neon3

Fri 08/01/2021 12:56

Dear Mr Byers,

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

Yours Sincerely

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

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

Dear Mr Byers

Re : Neon

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

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

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

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

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

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

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

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

Yours Sincerely

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

Appendix B – A copy of the premises licence

Schedule 12

Part A

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

Premises Licence City of Newport



Premises Licence Number	19/03464/LAPRE
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Part 1 – Premises Details

Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code	
The Neon Clarence Place Newport South Wales NP19 7AB	
Telephone number	01633 533666

Where the licence is time limited the dates
Not Applicable

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

Times the licence authorises the carrying out of licensable activities
Sale by retail of Alcohol Monday to Wednesday inclusive 10:00 - Midnight

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

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

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

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

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

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

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

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

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

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

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

The opening hours of the premises

Friday and Saturday 09:00 - 03:00

Monday to Wednesday inclusive 09:00 - 00:30

Thursday 09:00 - 01:00

Sunday 09:00 - 03:00

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

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

Alcohol is supplied for consumption on the Premises

Part 2

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

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

Business Phone Number 01633 533666

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

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

Gerard Bryan
19 St Davids Heights
Miskin
CF72 8SW

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

Party Reference: 057981

Licensing Authority: Rhondda Cynon County Borough Council

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

Dated this 15th October 2019



Gareth Price
Head of Law and Regulation

Mandatory conditions

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

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

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

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

For the purposes of this section:

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

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

For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

8 The responsible person must ensure that -

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

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml; and

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

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

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

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

(2) In this condition:-

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

- (i) P is the permitted price,
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

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

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

- (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

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

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

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

Conditions consistent with the Operating Schedule

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

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

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

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

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

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

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

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

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

The door supervisor's name;

His/her Security Industry Authority full licence number;

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

Each entry shall be signed by the door supervisor.

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

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

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

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

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

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

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

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

Conditions attached after a hearing by the licensing authority

NIL.

Plans

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

Appendix C - Representation from Gwent Police & Health Board

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

From: Austin, Simon <Simon.Austin@gwent.police.uk>

Sent: 05 February 2021 10:25

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

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

Hello,

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

Regards,

Simon

Simon AUSTIN



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

Heddlu Gwent Police


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

Ffôn symudol | Mobile: **07464 654504**

E-bost | E-mail: simon.austin@gwent.pnn.police.uk

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



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

Representation from Aneurin Bevan University Health Board

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

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

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

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

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

**Representation from
Aneurin Bevan University Health Board**

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

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

From Police Officers accounts it is clear that:

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

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

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

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

**Representation from
Aneurin Bevan University Health Board**

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

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

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

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

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

Data from the ABUHB Incident Coordinating Centre Situational Awareness Report on 16th December 2020:

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

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

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

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

ABUHB Review of the Neon, Clarence Place, Newport – dated 8th February 2021

Representation from Aneurin Bevan University Health Board

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

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

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

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

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

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

Appendix A

Joint witness statement from Senior Sisters of Emergency Department, ABUHB

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

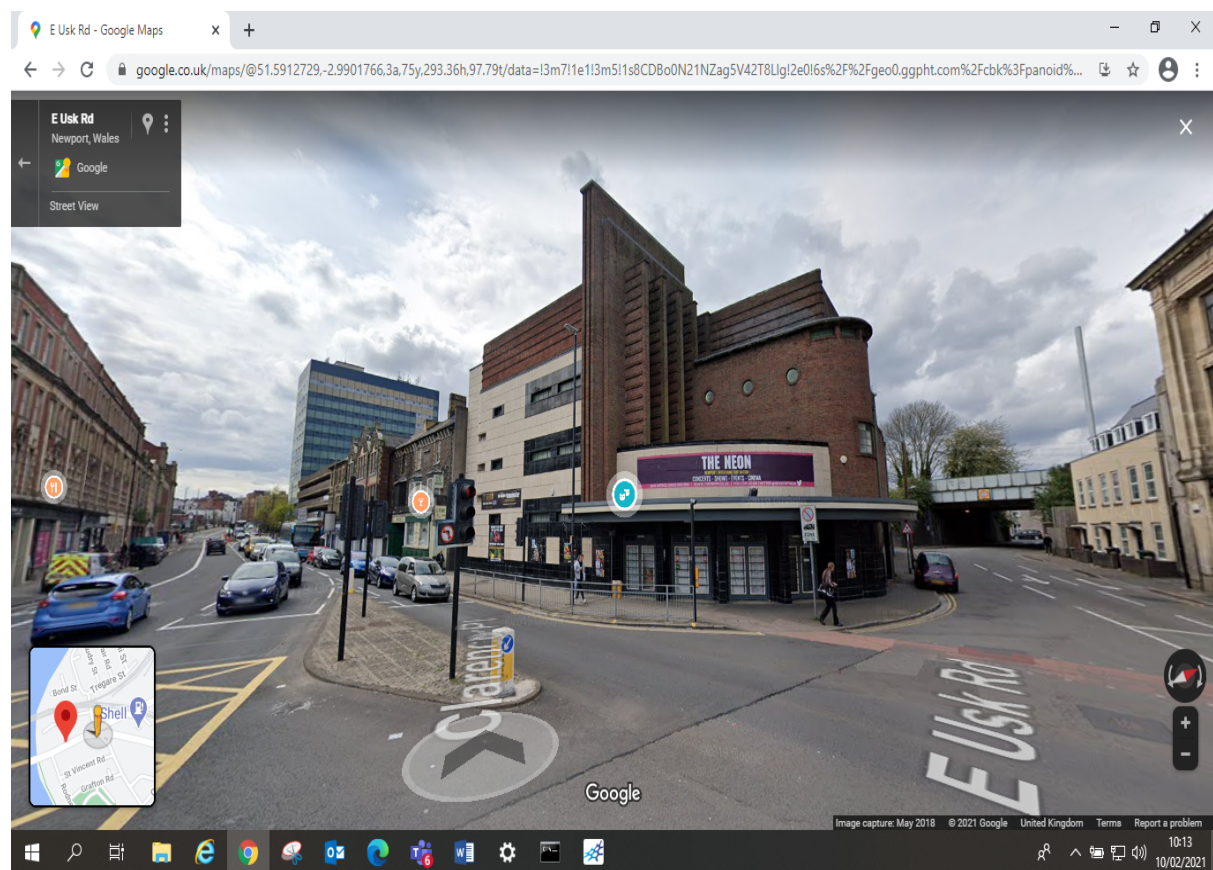
Some of the most difficult times which come to mind are staff having to support patients to make a phone call to say a final goodbye to family members including their children before we placed them in a coma, as they knew they may not survive; having to witness our patients dying without family members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

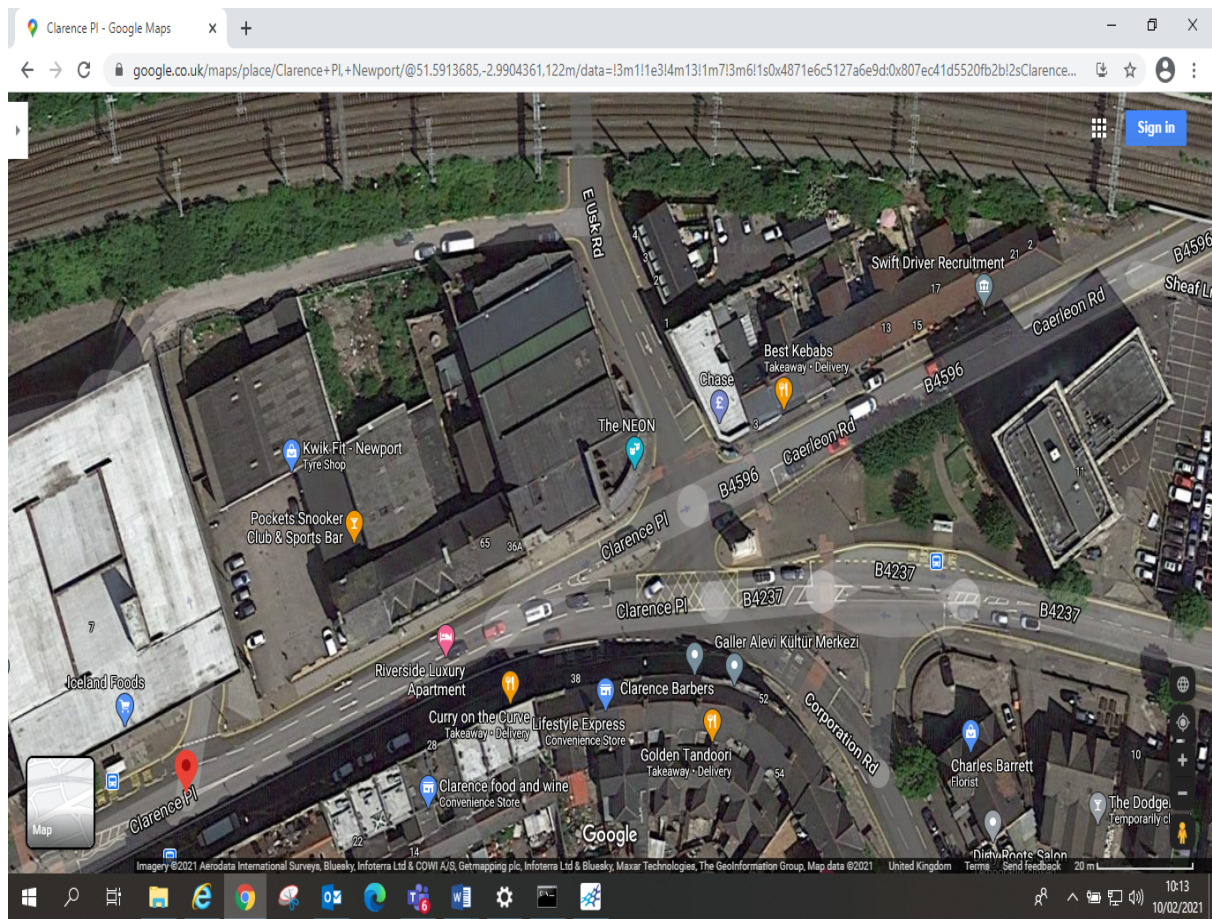
With the staff having worked so tirelessly throughout the pandemic, it is extremely hard for us to hear of local people blatantly disregarding the national guidelines on social distancing and risking the NHS becoming overwhelmed by this virus".

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

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

Appendix D – Location of The Neon, Clarence Place





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