

Agenda



Licensing Sub-Committee

Date: Friday, 15 September 2023

Time: 10.00 am

Venue: Council Chambers - Civic Centre

To: Councillors K Thomas (Chair), F Hussain, S Adan, C Baker-Westhead, R Howells, D Mayer, A Pimm, D Fouweather, M Kellaway, J Cleverly and A Morris

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>Ruperra Arms</u> (Pages 17 - 66) The consideration and decision in respect of an application by Benjamin Hourahine under Section 34 Licensing Act 2003 for the variation of a Premises Licence in respect of Ruperra Arms, 73 Caerphilly Road, Newport. NP10 8LJ.	Graig

Contact: Emily Mayger, Governance Team,
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Date of Issue: Thursday, 31 August 2023

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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: 15th September 2023
Item No:

Subject Licensing Variation Application

Purpose The consideration and decision in respect of an application by Benjamin Hourahine under Section 34 Licensing Act 2003 for the variation of a Premises Licence in respect of Ruperra Arms, 73 Caerphilly Road, Newport. NP10 8LJ.

Author Steve Pontin

Ward All Wards

Summary The Licensing Committee have statutory and delegated powers to take decisions in relation to licensing applications. The Licensing Committee will make the decision on the application pursuant to the Licensing Act 2003.

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

Contact Licensing Officer

Action by Head of Law and Regulation

Timetable Statutory Consultation Period

Signed Steve Pontin

1. Application

An application made by Benjamin Hourahine under section 34 of the Licensing Act 2003 for the Variation of a Premises Licence was served on the Licensing Authority of Newport City Council on 20th July 2023. (A copy of the application can be found in Appendix 1 of this report).

In accordance with statutory provisions, copies of the application were served on each of the Responsible Authorities and details of the application were advertised on the premises and in the South Wales Argus, giving the Responsible Authorities and any Other Persons until midnight on 17th August 2023 to make written representations regarding the application.

Mr Benjamin Hourahine seeks a variation of a Premises Licence on Ruperra Arms , 73 Caerphilly Road, Newport, South Wales NP10 8LJ. The variation being sought by the applicant so as to extend the licence area of the current Premises Licence to include an external area of the site and to permit the installation of an external bar for sale of alcohol by retail. With the outside bar operating from 13:00hrs till 21:30hrs, with the external seating area will remain open till 23:20hrs on a Monday to Saturday inclusive and 22:50 on Sunday, in line with the current premises licensing hours for outside area but clearly the area has now been extended by the applicant.

The variation of the application also looks to remove the following conditions from the current premises Licence:

Remove condition 1A07, which states

:

"This Licence shall be subject to the restrictions pursuant to Section 59, 68(3), 166, 168, and 201 and the exceptions pursuant to Section 63 and 171 of the Licensing Act 1964."

Remove condition 5S020, which states:

"Accompanied children shall be permitted within the dining area of the premises only."

Remove condition 5S004, which states:

"There shall be no admission to the premises of unaccompanied children at any time".

Condition 5S004 is to be replaced by the following condition (and which is also cited in section 16(e) as a further condition in relation to the Protection of Children From Harm):

"There shall be no admission to the premises of unaccompanied children (persons under the age of 16 years old) at anytime. Such persons must be accompanied by persons who are aged 18 years old and above."

The Premises is located in a semi rural area of Bassaleg, the premises is surrounded by a number of residential properties and the premises has historically been a Public House/"Gastro Pub". The Premises Licence holder has determined to convert part of the existing car park to allow both seating and vertical drinking alongside a provision of an outside bar.

(Location and photographs can be found in Appendix 2 of the report.)

2. Licensable Activities

The variation does not seek to extend Licensing Activities that are currently on the existing Premises Licence, these being :

Supply of Alcohol: Monday till Saturday 11:00 till 00:00hrs
Sunday 12:00 till 23:30hrs
Christmas Eve 11:00till 00:30
Christmas Day 12:00 till 23:30
Boxing Day 11:00 till 23:30
Good Friday 12:00 till 23:30

Late Night Refereshment Monday till Saturday 23:00hrs till 00:00hrs
Sunday 23:00hrs till 23:30hrs

Christmas Eve 11:00till 00:30
Christmas Day 12:00 till 23:30
Boxing Day 11:00 till 23:30
Good Friday 12:00 till 23:30

If the Licensing Committee were to grant the variation to the outside area, the premises would also be entitled to:

- Live or recorded music between between 8am and 11pm
- If the music is amplified live music or recorded music (e.g. DJs or a disco for example), the audience consists of no more than 500 people

This provision is automatically made under the provisions of the Live Music Act 2015.

3. Promotion of the Licensing Objectives

The applicant has described in an Operating Schedule, the steps that will be taken to promote the four licensing objectives if the application is granted. These are contained in section 16 of the application form which is found within Appendix 1 of this report.

4. Representations

Responsible Authority Representations

On 2nd August 2023 a formal representation was received from Heddli Gwent Police acting in their capacity as a Responsible Authority, objecting to the application on the basis that the application could undermine the licensing objectives of prevention of crime and disorder. The representation was withdrawn by the Police as the applicant agreed to attach the proposed conditions proposed in the Police representation.

On 15th August 2023 a formal representation was received from Newport City Council Licensing Authority in their capacity as a Responsible Authority, objecting to the

application on the basis that the application could undermine the licensing objectives of prevention of public nuisance.

On 15th August 2023 a formal representation was received from Newport City Council Environmental Health Noise team in their capacity as a Responsible Authority, objecting to the application on the basis that the application could undermine the licensing objective of prevention of public nuisance.

No other representations were received from any further Responsible Authorities.

(Full details of the representations can be found as Appendix 3 of this report.)

Other Person Representations

Four formal representations opposing the variation were received from other persons:

1. Mr Mike Price, 1a Cowshed Lane, Bassaleg, Newport, NP10 8HZ
2. Mr Jon Philips, unknown
3. Mr Russell Scaplehorn and Dr Amanda Woodward, The Barn, Pentrepoeth Road, Bassaleg, Newport, NP10 8LL
4. Mr Stephen Thomas, 1 Pentrepoeth Road, Bassaleg, Newport, NP10 8LN

(Full details of the representations can be found within Appendix 3a of this report).

5. Licensing History

The Premises has historically been a licenced premise pre the Licensing Act 2003 and since 2005 the premises has generally operated as what could be described as a local pub / Gastro pub.

The current Licence holder Benjamin Hourahine took over the licence premises on the 08.03.2018, Mr Hourahine also is the named Designated Premises Supervisor (DPS) and remains as the DPS.

The Licensing Authority has received complaints from Local Residents regarding the objective of public nuisance. Though these have not been established by the Licensing Authority or Environmental Health Noise team of Newport City Council, this does not prove or disprove if the premises is causing a public nuisance. The Authority has recently received a number of recording / complaints from local residents that have brought about their representations to the variation. The evidence is exhibited in Appendix 4 of this report and the Licensing Authority have been informed that the Responsible Authorities (excluding the Police) have used the evidence to formulate their representations and this evidence will also be relied upon by a number of Other Persons who have made representations.

6. Policy Considerations

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

11. Prevention of Public nuisance

- 11.1 Licensed premises have significant potential to impact adversely on persons living and working (including those carrying on business) in the area around the premises, and also further afield through public nuisances that arise from their operation. It is therefore important that in considering the promotion of this licensing objective, Licensing Authorities and Responsible Authorities focus on the effect of the licensable activities at the specific premises on these parties which may be disproportionate and unreasonable
- 11.2 The definition of what may be considered as a potential or actual 'public nuisance' is to be interpreted in line with its broad common law meaning established through relevant case law. This is the interpretation which the Licensing Authority will apply when considering such matters. Matters giving rise to 'public nuisance' are mainly accepted to include issues relating to noise, light pollution, odour and litter. It may also arise as a result of the adverse effects of dust, insects, accumulations or any other matter which is determined to have an adverse impact on the living and working environment of other persons living and working in the area of the licenced premises. Clearly licenced premises have a responsibility under the Public Nuisance objective to clear up litter/rubbish caused by customers in the near vicinity of the licence premises. Premises are advised to undertake regular litter picks and provide adequate bins for their customers. Applicants will be encouraged to demonstrate in their Operating Schedule what suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance including litter
- 11.3 The Licensing Authority recognise that limiting the public nuisance that may be associated with licensed premises and their operation is an important factor for health and well-being. The Licensing Authority recognise the key links to health and well-being from public nuisance in terms of disturbed sleep, stress caused by nuisance and pollution. Disturbed sleep and stress can add to residents' mental and physical health issues, and their wider wellbeing. Lack of sleep can have an impact on the immune system and can contribute to heart disease and diabetes. Lack of sleep can also contribute to anxiety and depression. Stress can contribute to anxiety and depression, and cardiovascular diseases. Applicants should consider the potential impact their premise may have on public nuisance particularly from noise and put in place mitigating measures.
- 11.4 The Licensing Authority expects applicants for premises licences and club premises certificates to have made relevant enquiries and considerations about the local area before submitting their application. The purpose of this is to enable the applicant to consider the most appropriate controls for potential inclusion in the operating schedule with a view to ensuring their activities do not undermine the licensing objective with regard to the prevention of public nuisance. It is important to recognise that the impacts of licensed activity are not contained within a building. Inevitably there is a wider impact as people travel to and from the premises or congregate outside whilst it is in operation. Nuisance is best managed by careful consideration of the suitability of the selected site and any necessary mitigation at an early stage.
- 11.5 Applicants will be encouraged to demonstrate in their Operating Schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance. When a suitable site

is identified, operating schedules should be prepared on the basis of a risk assessment of the potential sources of nuisance posed by the premises operation to those who may be impacted by their activities. The operating schedule should demonstrate an understanding of the level of risk of nuisance and include positive measures to manage any potential risks.

11.6 The Licensing Authority recommends that licensees apply a high standard of control to minimise the potential for any public nuisance that may arise from their operation of the premises, particularly where: • they are situated in a residential or noise sensitive area; or • extended opening hours are proposed

11.7 The Licensing Authority recognises that beyond the immediate area surrounding the licensed premises the control that a licence-holder can exert over its patrons diminishes and individuals who engage in anti-social behaviour are accountable in their own right. However, applicants are encouraged to consider the actions they may take as a responsible licence-holder to mitigate the potential adverse impact of patrons. The operating schedule should again be used to demonstrate an understanding of the potential risks and the positive measures that may be implemented to manage such issues. Applicants are also encouraged to engage with “other persons” for example local residents, local Business and local community groups at an early stage prior to a submission of an application. It is recommended that if a licence is granted that the premises continues to engage with Newport City Council Environment Teams for example PINT (Pride In Newport Team) and the local Community and to ensure a good level communication between the premises and local community

11.8 Applicants are encouraged to engage with the Licensing Authority and other relevant Responsible Authorities (such as Environmental Health) at an early stage and prior to the submission of an application, wherever reasonably practicable. These Authorities will be able to provide advice in respect of appropriate control measures that may be put in place, and included in the operating schedule, to mitigate the potential risks of public nuisance occurring

11.9 The Well-being of Future Generations (Wales) Act 2015, Noise & Soundscape Management The Well-being of Future Generations (Wales) Act 2015 (hereinafter referred to as the WFG Act 2015) places a duty on Local Authorities including the Licensing Authority to embody sustainable development principles aimed at achieving seven prescribed well-being goals as part of its fundamental operation; this includes the delivery of its Licensing function. One of the cornerstone areas of consideration is the management of noise and its impact on health and well-being.

11.10 The Statutory Licensing guidance issued under Section 182 of the Licensing Act 2003 does not currently provide any reference to how operationally Licensing Authorities are to have regard to the requirements of the WFG Act 2015 specifically as it may relate to the promotion of the Licensing Objective, the Prevention of Public Nuisance. It is clear however in the Welsh Government’s ‘Noise and Soundscape Action Plan 2018-2023’ that there is recognition of the impact of noise. The Licensing Authority will have regard to this action plan when determining applications (please refer to section 17 Integrating strategies below).

7. Legal Considerations

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

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

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

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

All decisions taken by the Sub-Committee must

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

8. Issues for discussion

- a) The proposed variation application to extend the Licence area into the premises car park and also remove conditions attached to the existing Premises Licence.
- b) The content of the operating schedule in promoting the four licensing objectives.
- c) The representations made in respect of the application.
- d) Newport City Council's Statement of Licensing Policy
(<https://www.newport.gov.uk/documents/Policies/Licensing-Act-2003-Statement-of-Policy-2021.pdf>)
- e) Revised Guidance issued under section 182 of the Licensing Act 2003.
(<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>)

9. List of Appendices

- 1. Application for variation of a Premises Licence
- 2. Location pics of application site
- 3. Representation from Responsible Authority(s)
- 3(a). Representation from Other Persons
- 4. Photo and video evidence provided by Mr Price And Mr Thomas

10. 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					

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.	Chairperson. Legal Officer.

			Members training.	
The applicant does not have a fair hearing	High	Low	<p>A Licensing Committee procedure should be followed by the committee.</p> <p>The Legal Officer alongside the Democratic Service Officer will advise the committee if at any stage an unfair hearing is taking place.</p> <p>Members training.</p>	<p>Democratic Service Officer.</p> <p>Chairperson.</p> <p>Legal Officer.</p>

* Taking account of proposed mitigation measures

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.

APPENDIX 1

**Copy of application for Variation of a Premises Licence at Ruperra Arms , 73
Caerphilly Road, Newport, South Wales.**



* required information

Section 1 of 18

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

System reference

Not Currently In Use

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

Your reference

HDG1/3

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

Are you an agent acting on behalf of the applicant?

☒ Yes

☐ No

Put "no" if you are applying on your own behalf or on behalf of a business you own or work for.

Applicant Details

* First name

Benjamin

* Family name

Hourahine

* E-mail

claire.morris@kuits.com

Main telephone number

0161 838 7888

Include country code.

Other telephone number

☐ Indicate here if the applicant would prefer not to be contacted by telephone

Is the applicant:

☐ Applying as a business or organisation, including as a sole trader

☒ Applying as an individual

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

Continued from previous page...

Address

* Building number or name	Koh Tao
* Street	310 Wilmslow Road
District	Fallowfield
* City or town	Manchester
County or administrative area	
* Postcode	M14 6XQ
* Country	United Kingdom

Agent Details

* First name	Kult Steinhart Levy LLP	
* Family name	n/a	
* E-mail	claire.morris@kults.com	
Main telephone number	0161 838 7888	Include country code.
Other telephone number		
<input type="checkbox"/> Indicate here if you would prefer not to be contacted by telephone		

Are you:

- ☒ An agent that is a business or organisation, including a sole trader
- ☐ A private individual acting as an agent

A sole trader is a business owned by one person without any special legal structure.

Agent Business

Is your business registered in the UK with Companies House? ☒ Yes ☐ No

Note: completing the Applicant Business section is optional in this form.

Registration number	OC334768	
Business name	Kult Steinhart Levy LLP	If your business is registered, use its registered name.
VAT number	-	Put "none" if you are not registered for VAT.
Legal status	Limited Liability Partnership	
Your position in the business	Limited Liability Partnership	
Home country	United Kingdom	The country where the headquarters of your business is located.

Continued from previous page...

Agent Registered Address Address registered with Companies House.

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Section 2 of 18

APPLICATION DETAILS

This application cannot be used to vary the licence so as to extend the period for which the licence has effect or to vary substantially the premises to which it relates. If you wish to make that type of change to the premises licence, you should make a new premises licence application under section 17 of the Licensing Act 2003.

I/we, as named in section 1, being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in section 2 below.

* Premises Licence Number

Are you able to provide a postal address, OS map reference or description of the premises?

☒ Address ☐ OS map reference ☐ Description

Postal Address Of Premises

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Premises Contact Details

Telephone number

Non-domestic rateable value of premises (£)

Section 3 of 18

VARIATION

Continued from previous page...

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

☒ Yes ☐ No

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

☐ Yes ☒ No

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

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

Describe Briefly The Nature Of The Proposed Variation

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

Ruperra Arms is a local pub with extensive food offering.

The variation has two key aims:

1. To license part of the external area of the site and to permit the installation of an external bar for sale of alcohol by retail. Sales from the external bar to take place between 13.00 and 21.30 only.

2. To provide an updated operating schedule that:

- a) Removes condition 1A07 on the premises licence, as the statutory provisions cited within it have been superseded by the Licensing Act 2003.
- b) Strengthens the conditioning on the premises licence, particularly in relation to the licensing of the external area and the introduction of policies to manage the newly licensed external area.
- c) Removes condition 55020, which restricts the presence of accompanied children to the dining room.
- d) Strengthens condition 55004 to reflect the requirements of s145 of the Licensing Act 2003 in relation to accompanied children on the premises.

Accordingly, section 16 of this application form confirms the additional conditioning being offered to support the variation to the nature and extent of the licensed area. Section 15 of this application form confirms the conditions that the applicant seeks to remove.

The purpose of the application is to provide a bar outside to ease congestion at the small inside bar offering, particularly during the warmer days. Accordingly, the application does not seek to increase the current capacity limit of the premises (see condition 45001).

No changes are being sought in relation to the overall hours of operation of the premises or its closing times (including the beer garden).

Service from the external bar will take place between 13:00 and 21:30 only. The external seating area will remain open

<p><i>Continued from previous page...</i></p> <p>around this time frame as per condition 3H07, which states "The beer garden shall close at 23:20 on Monday to Saturday Inclusive and at 22:50 on Sunday".</p> <p>The operating schedule has been reviewed and revised generally, but also to reflect the licensing of the external area and how all four licensing objectives will be supported when it is in use. This application is accompanied by a revised and complete operating schedule (in Word) for clarity and to assist the responsible authorities' review of the application. It is coded to confirm which conditions are existing and those that are newly proposed by the premises.</p> <p>This application has had due regard to Newport City Council's 'Licensing Act 2003 - Code of Good Practice for Licensed Premises'.</p> <p>For the avoidance of doubt, the currently licensed area is to remain licensed. The application seeks to extend the licensed area overall to include the external area as per the plans lodged with the application (which include the existing and proposed plans). No other part of the premises is being 'de-licensed'."</p>
Section 4 of 18
PROVISION OF PLAYS
<p>See guidance on regulated entertainment</p> <p>Will the schedule to provide plays be subject to change if this application to vary is successful?</p> <p> <input type="radio"/> Yes <input checked="" type="radio"/> No </p>
Section 5 of 18
PROVISION OF FILMS
<p>See guidance on regulated entertainment</p> <p>Will the schedule to provide films be subject to change if this application to vary is successful?</p> <p> <input type="radio"/> Yes <input checked="" type="radio"/> No </p>
Section 6 of 18
PROVISION OF INDOOR SPORTING EVENTS
<p>See guidance on regulated entertainment</p> <p>Will the schedule to provide indoor sporting events be subject to change if this application to vary is successful?</p> <p> <input type="radio"/> Yes <input checked="" type="radio"/> No </p>
Section 7 of 18
PROVISION OF BOXING OR WRESTLING ENTERTAINMENTS
<p>See guidance on regulated entertainment</p> <p>Will the schedule to provide boxing or wrestling entertainments be subject to change if this application to vary is successful?</p> <p> <input type="radio"/> Yes <input checked="" type="radio"/> No </p>
Section 8 of 18
PROVISION OF LIVE MUSIC
See guidance on regulated entertainment

Continued from previous page...
Will the schedule to provide live music be subject to change if this application to vary is successful? <input type="radio"/> Yes <input checked="" type="radio"/> No
Section 9 of 18
PROVISION OF RECORDED MUSIC
See guidance on regulated entertainment
Will the schedule to provide recorded music be subject to change if this application to vary is successful? <input type="radio"/> Yes <input checked="" type="radio"/> No
Section 10 of 18
PROVISION OF PERFORMANCES OF DANCE
See guidance on regulated entertainment
Will the schedule to provide performances of dance be subject to change if this application to vary is successful? <input type="radio"/> Yes <input checked="" type="radio"/> No
Section 11 of 18
PROVISION OF ANYTHING OF A SIMILAR DESCRIPTION TO LIVE MUSIC, RECORDED MUSIC OR PERFORMANCES OF DANCE
See guidance on regulated entertainment
Will the schedule to provide anything similar to live music, recorded music or performances of dance be subject to change if this application to vary is successful? <input type="radio"/> Yes <input checked="" type="radio"/> No
Section 12 of 18
PROVISION OF LATE NIGHT REFRESHMENT
Will the schedule to provide late night refreshment be subject to change if this application to vary is successful? <input type="radio"/> Yes <input checked="" type="radio"/> No
Section 13 of 18
SUPPLY OF ALCOHOL
Will the schedule to supply alcohol be subject to change if this application to vary is successful? <input type="radio"/> Yes <input checked="" type="radio"/> No
Section 14 of 18
ADULT ENTERTAINMENT
Highlight any adult entertainment or services, activities, or other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children.

Continued from previous page...

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

Not applicable

Section 15 of 18

HOURS PREMISES ARE OPEN TO THE PUBLIC

Standard Days And Timings

MONDAY

Start

End

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

Start

End

TUESDAY

Start

End

Start

End

WEDNESDAY

Start

End

Start

End

THURSDAY

Start

End

Start

End

FRIDAY

Start

End

Start

End

SATURDAY

Start

End

Start

End

SUNDAY

Start

End

Start

End

State any seasonal variations.

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

<p><i>Continued from previous page...</i></p> <div style="border: 1px solid black; height: 20px; margin-top: 5px;"></div> <p>Non standard timings. Where you intend to use the premises to be open to the members and guests at different times from those listed above, list below.</p> <p>For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.</p> <div style="border: 1px solid black; padding: 5px; margin-top: 5px;"> <p>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.</p> </div> <p>Identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking.</p> <div style="border: 1px solid black; padding: 5px; margin-top: 5px;"> <p>Remove condition 1A07, which states: "This Licence shall be subject to the restrictions pursuant to Section 59, 68(3), 166, 168, and 201 and the exceptions pursuant to Section 63 and 171 of the Licensing Act 1964."</p> <p>Remove condition 55020, which states: "Accompanied children shall be permitted within the dining area of the premises only."</p> <p>Remove condition 55004, which states: "There shall be no admission to the premises of unaccompanied children at any time".</p> <p>Condition 55004 is to be replaced by the following condition (and which is also cited in section 16(e) as a further condition in relation to the Protection of Children From Harm): "There shall be no admission to the premises of unaccompanied children (persons under the age of 16 years old) at any time. Such persons must be accompanied by persons who are aged 18 years old and above."</p> </div> <p><input checked="" type="checkbox"/> I have enclosed the premises licence</p> <p><input type="checkbox"/> I have enclosed the relevant part of the premises licence</p> <p>Reasons why I have failed to enclose the premises licence or relevant part of premises licence.</p> <div style="border: 1px solid black; height: 40px; margin-top: 5px;"></div>
<p>Section 16 of 18</p>
<p>LICENSING OBJECTIVES</p> <p>Describe the steps you intend to take to promote the four licensing objectives:</p> <p>a) General – all four licensing objectives (b,c,d,e) List here steps you will take to promote all four licensing objectives together.</p> <div style="border: 1px solid black; padding: 5px; margin-top: 5px;"> <p>See conditions on existing operating schedule</p> </div> <p>b) The prevention of crime and disorder</p>

Continued from previous page...

1. The premises shall operate a CCTV system that complies with the minimum requirements of the Newport Police Licensing Team.
2. In relation to the CCTV system, the premises licence holder must ensure that:
 - 2.1. Cameras are located within the premises to cover all public areas (not including the toilets) and all entrances and exits;
 - 2.2. The external area used by customers is covered by CCTV
 - 2.3. The system records clear images enabling the identification of individuals;
 - 2.4. All recorded footage is securely retained for a minimum period of twenty-eight days;
 - 2.5. The CCTV system operates at all times the premises are open for licensable activities;
 - 2.6. All equipment must have constant and accurate time and date generation;
 - 2.7. The CCTV system is fitted with security functions to prevent recordings being tampered with;
 - 2.8. There is at least one member of trained staff at the premises during opening hours able to provide viewable copies on request to police or authorised local authority officers as soon as is reasonably practicable in accordance with all relevant data protection legislation.

External bar

3. A member of staff shall be present whenever the external bar is in operation.
4. The external bar shall be secured at all times it is not in use.
5. Service from the external bar shall take place between 13:00 and 21:30pm only.
6. All alcohol shall be held in locked containers (such as cupboards, fridges) when the bar is closed to the public.

c) Public safety

1. There will be a First Aid box on site.
2. Regular safety checks shall be carried out by staff.
3. Management shall liaise with the Fire Authority as necessary to ensure compliance with all necessary fire regulations.
4. The premises shall maintain public liability insurance.

d) The prevention of public nuisance

1. An 'External Bar and Outside Area Policy' will be implemented and adhered to (see attached).
2. The exterior of the building shall be cleared of litter at regular intervals.
3. Notices will be positioned at the exits to the building requesting customers to keep noise to a minimum and to leave the premises in a quiet manner.

e) The protection of children from harm

1. There shall be no admission to the premises of unaccompanied children (persons under the age of 16 years old) at any time. Such persons must be accompanied by persons who are aged 18 years old and above.
2. The Challenge 25 scheme must be operated to ensure that any person who appears to be under the age of 25 shall provide documented proof that he/she is over 18 years of age. Proof of age shall only comprise a passport, photo card driving licence, an EU/EEA national ID card or similar document, an HM Forces warrant card, a card bearing the PASS hologram, or any electronic or biometric age verification technology approved by the licensing authority.

Continued from previous page...

3. The premises shall display prominent signage indicating that the Challenge 25 scheme is in operation.

4. The premises shall display prominent signage indicating that it is an offence to buy or attempt to buy alcohol for a person who is under 18 and for a person under the age of 18 to buy or attempt to buy alcohol.

5. Staff training will include the Challenge 25 Policy and its operation. In particular, staff shall be trained to take such action as is necessary to prevent the sale of alcohol to persons over the age of 18 where those customers are engaged in the distribution of alcohol to persons under the age of 18. The training must be given to a new member of staff before they commence employment and all staff must receive refresher training every 6 months.

Section 17 of 18

NOTES ON REGULATED ENTERTAINMENT

In terms of specific **regulated entertainments** please note that:

- **Plays:** no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500.
- **Films:** no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
- **Indoor sporting events:** no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
- **Boxing or Wrestling Entertainment:** no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000. Combined fighting sports – defined as a contest, exhibition or display which combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.
- **Live music:** no licence permission is required for:
 - o a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
 - o a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - o a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.
 - o a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - o a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.
- **Recorded Music:** no licence permission is required for:
 - o any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - o any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - o any playing of recorded music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.

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- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500. However, a performance which amounts to adult entertainment remains licensable.
- Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
 - o any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
 - o any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
 - o any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
 - o any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

Section 18 of 18

PAYMENT DETAILS

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

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

*If the premises rateable value is in Bands D or E and the premises is primarily used for the consumption of alcohol on the premises then you are required to pay a higher fee as follows:

Band D (£87001 to £125000) the fee is £900.00
 Band E (£125001 and over) the fee is £1,905.00

If you own a large premises, the application is subject to an additional fee based upon the maximum number of persons in attendance at any one time as follows:

Capacity 5000-9999	£1,000.00
Capacity 10000-14999	£2,000.00
Capacity 15000-19999	£4,000.00
Capacity 20000-29999	£8,000.00
Capacity 30000-39999	£16,000.00
Capacity 40000-49999	£24,000.00
Capacity 50000-59999	£32,000.00
Capacity 60000-69999	£40,000.00
Capacity 70000-79999	£48,000.00
Capacity 80000-89999	£56,000.00
Capacity 90000 and over	£64,000.00

* Fee amount (£)

190.00

DECLARATION

- I/we understand it is an offence, liable on conviction to a fine up to level 5 on the standard scale, under section 158 of the Licensing Act 2003, to make a false statement in or in connection with this application.

Continued from previous page...		<input checked="" type="checkbox"/>
Ticking this box indicates you have read and understood the above declaration		
This section should be completed by the applicant, unless you answered "Yes" to the question "Are you an agent acting on behalf of the applicant?"		
* Full name	<input type="text" value="Kult Stelnart Levy LLP"/>	
* Capacity	<input type="text" value="Solicitors and authorised agent of Applicant"/>	
* Date	<input type="text" value="20"/> / <input type="text" value="07"/> / <input type="text" value="2023"/> <small>dd mm yyyy</small>	
<input type="button" value="Add another signatory"/>		
Once you're finished you need to do the following: 1. Save this form to your computer by clicking file/save as... 2. Go back to https://www.gov.uk/apply-for-a-licence/premises-licence/newport/change-1 to upload this file and continue with your application. Don't forget to make sure you have all your supporting documentation to hand.		
IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.		
OFFICE USE ONLY		
Applicant reference number	<input type="text" value="HDG1/3"/>	
Fee paid	<input type="text"/>	
Payment provider reference	<input type="text"/>	
ELMS Payment Reference	<input type="text"/>	
Payment status	<input type="text"/>	
Payment authorisation code	<input type="text"/>	
Payment authorisation date	<input type="text"/>	
Date and time submitted	<input type="text"/>	
Approval deadline	<input type="text"/>	
Error message	<input type="text"/>	
Is Digitally signed	<input type="checkbox"/>	
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 Next >		

REVISED OPERATING SCHEDULE (EXISTING¹ AND PROPOSED CONDITIONS²)

Prevention of Crime and Disorder

1. The premises shall operate a CCTV system that complies with the minimum requirements of the Newport Police Licensing Team.
2. In relation to the CCTV system, the premises licence holder must ensure that:
 - 2.1. Cameras are located within the premises to cover all public areas (not including the toilets) and all entrances and exits;
 - 2.2. The external area used by customers is covered by CCTV
 - 2.3. The system records clear images enabling the identification of individuals;
 - 2.4. All recorded footage is securely retained for a minimum period of twenty-eight days;
 - 2.5. The CCTV system operates at all times the premises are open for licensable activities;
 - 2.6. All equipment must have constant and accurate time and date generation;
 - 2.7. The CCTV system is fitted with security functions to prevent recordings being tampered with;
 - 2.8. There is at least one member of trained staff at the premises during opening hours able to provide viewable copies on request to police or authorised local authority officers as soon as is reasonably practicable in accordance with all relevant data protection legislation.

External bar

1. A member of staff shall be present whenever the external bar is in operation.
2. The external bar shall be secured at all times it is not in use.
3. Service from the external bar shall take place between 13:00 and 21.30pm only.
4. All alcohol shall be held in locked containers (such as cupboards, fridges) when the bar is closed to the public.

Public Safety

1. 4SO01: There shall be no more than 110 persons permitted on the licensed premises at any one time.
2. 2SO34: Lighting shall be provided to all external areas of the premises and car park.
3. 4SO20: All emergency lighting shall be provided and maintained in good working order and shall be checked on a monthly basis. The results of such a test shall be recorded in a log book which shall be made available for inspection by an Authorised Officer on request.
4. There will be a First Aid box on site.
5. Regular safety checks shall be carried out by staff.

¹ The existing conditions consistent with the Operating Schedule on the current premises licence are in blue font.

² The proposed conditions offered in this application are in standard black font.

6. Management shall liaise with the Fire Authority as necessary to ensure compliance with all necessary fire regulations.
7. The premises shall maintain public liability insurance.

Public Nuisance

1. 3SO51: All windows within the dining area of the premises shall be double glazed.
2. 3SO76: All rubbish shall be kept in lidded and sealed bins.
3. An 'External Bar and Outside Area Policy' will be implemented and adhered to (see attached).
4. The exterior of the building shall be cleared of litter at regular intervals.
5. Notices will be positioned at the exits to the building requesting customers to keep noise to a minimum and to leave the premises in a quiet manner.

Conditions attached after a hearing by the licensing authority

6. 3H07: The beer garden shall close at 23:20 on Monday to Saturday inclusive and at 22:50 on Sunday.





The Protection of Children From Harm

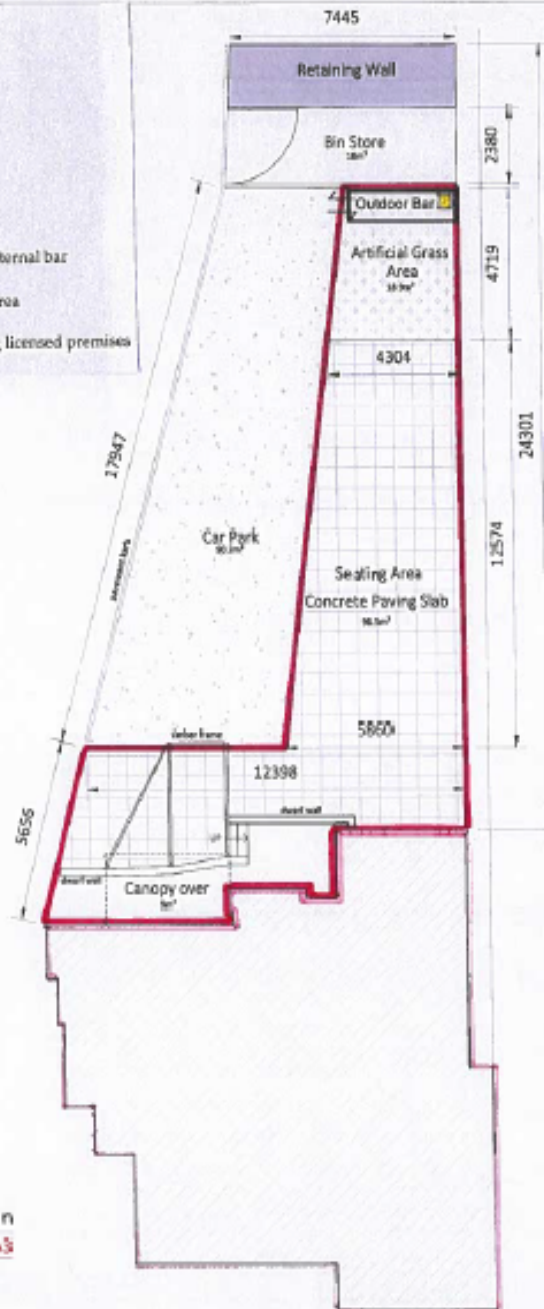
5. There shall be no admission to the premises of unaccompanied children (persons under the age of 16 years old) at any time. Such persons must be accompanied by persons who are aged 18 years old and above.
6. The Challenge 25 scheme must be operated to ensure that any person who appears to be under the age of 25 shall provide documented proof that he/she is over 18 years of age. Proof of age shall only comprise a passport, photo card driving licence, an EU/EEA national ID card or similar document, an HM Forces warrant card, a card bearing the PASS hologram, or any electronic or biometric age verification technology approved by the licensing authority.
7. The premises shall display prominent signage indicating that the Challenge 25 scheme is in operation.
8. The premises shall display prominent signage indicating that it is an offence to buy or attempt to buy alcohol for a person who is under 18 and for a person under the age of 18 to buy or attempt to buy alcohol.
9. Staff training will include the Challenge 25 Policy and its operation. In particular, staff shall be trained to take such action as is necessary to prevent the sale of alcohol to persons over the age of 18 where those customers are engaged in the distribution of alcohol to persons under the age of 18. The training must be given to a new member of staff before they commence employment and all staff must receive refresher training every 6 months.

OUTDOOR BAR DIMENSIONS

Length 370.60 cm
Depth 190.80 cm
Height 202.80 cm

KEY

-  Fire extinguisher
-  Ingress / egress from external bar
-  New external licensed area
-  Ground floor of existing licensed premises



Site Plan
1:200 @ A3



12 Oak Court,
Barnesley Park,
Barnsley, S70 2DZ
Tel: 0119 245 4944
Fax: 0119 245 4945
www.hurleyanddaves.co.uk

This drawing must not be copied, altered, reproduced or used in any way without the written consent of the author.

File Number: 0-1000000

12 Oak Court,
Barnsley Park,
Barnsley, S70 2DZ
Tel: 0119 245 4944
Fax: 0119 245 4945

DETAILED SITE INFORMATION

Client: H2O Group
Project: Rugsby Arms, Camphill Rd, Barnsley, West Yorkshire
Site: Existing Site Plan

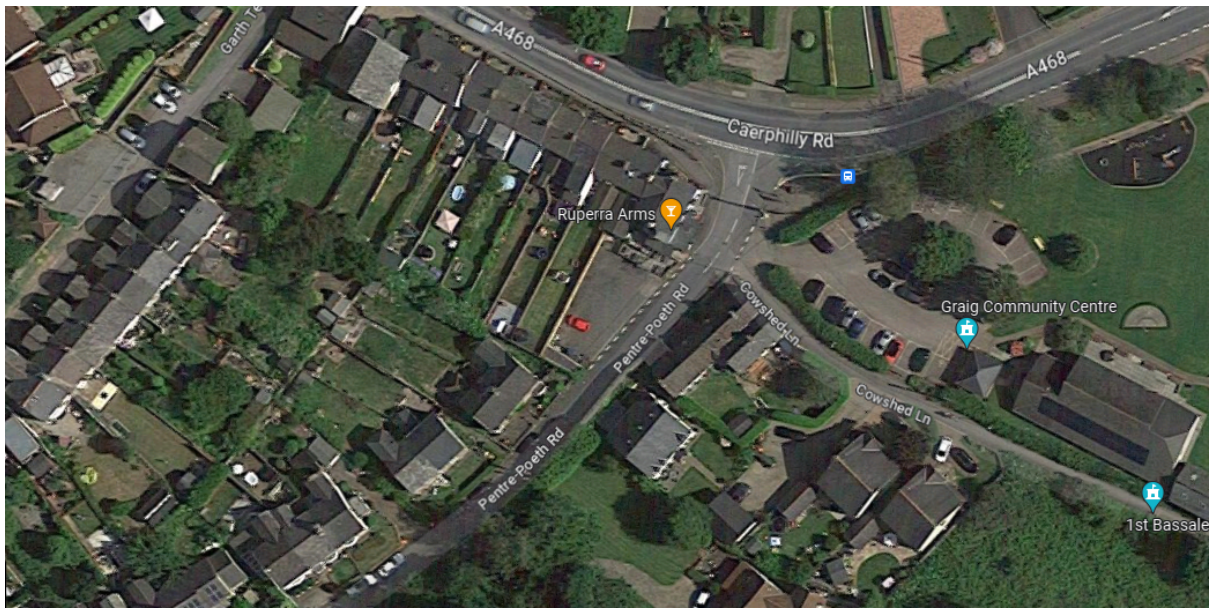
Drawing No:
HD 0001 AR 01 00 100

Scale: 1:200 @ A3
Date: June 2021
Drawn: SD
Checked: YD
Approved:

**RUPERRA ARMS
EXTERNAL BAR AND OUTSIDE AREA POLICY**

1. Any outside area used by customers will be covered by the CCTV system which will be installed at the premises.
2. Routine access to the outside area shall be via the main building to the premises or via the disabled access ramps.
3. A member of staff shall be present whenever the external bar is in operation.
4. The outside area shall be monitored by staff or door staff (when employed) regularly when it is in use.
5. The outside area will be cleaned regularly.
6. Drinking receptables shall be regularly removed from the external area.
7. Suitable receptacles shall be provided for smokers to dispose of cigarette butts.
8. Signs will be displayed in the outside area requesting customers keep noise to a minimum.
9. Signs will be displayed in the outside area request customers to leave the Ruperra Arms in a quiet manner.
10. Patrons who disregard signage and verbal instructions regarding noise will be asked to move inside and/or leave the premises.
11. The external bar shall be secured and alarmed when it is closed to the public. All alcohol shall be held in locked containers (cupboards, fridges) when the bar is closed to the public.
12. All cash and any other items of value shall be removed from the external bar when it is closed to the public.

Appendix 2
Location photographs of Ruperra Arms







Appendix 3
Representation From Responsible Authorities



RESPONSIBLE AUTHORITY RESPONSE TO LICENSING APPLICATIONS

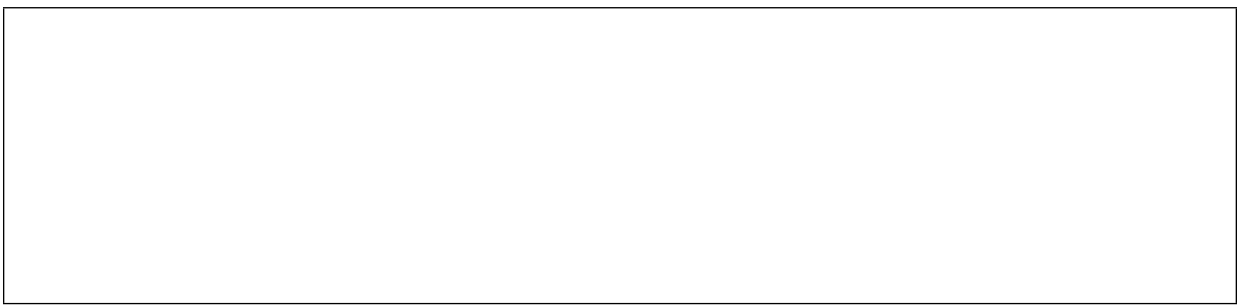
RESPONSIBLE AUTHORITY – Gwent Police

Name of Applicant	Benjamin Hourahine
Premises	Ruperra Arms, 73 Caerphilly Road, Newport, NP10 8LJ

Your Name	PC MARK WILLIAMS 1689
Job Title	Police Constable
email Address	Mark.antony.williams@gwent.police.uk
Contact Telephone Number	07870912407
Date	02/08/2023

Which of the four Licensing Objectives does your representation relate to?	
The Prevention of Crime and Disorder	x
Public Safety	x
The Prevention of Public Nuisance	
The Protection of Children from Harm	

Please outline the reasons for your Representations
<p>The Ruperra Arms has requested a full variation to the license.</p> <p>Due to the full variation of the current license, Gwent Police would advocate adding further conditions and rewording of a condition to support the applicant in the promotion of the licensing objectives and bringing the premises licence up to modern standards expected by the responsible authorities.</p>



What conditions could be added to the licence to remedy your representation that the Licensing Sub-Committee could take into account

The suggested conditions and variations to the license are as follows:

The applicant has suggested in the *external* area policy: Any outside area used by customers will be covered by the CCTV system which will be installed at the premises.

Gwent police would like this reworded to:

CCTV shall be in use at the premises.

(i) Where a CCTV system is to be installed, extended or replaced, it shall be to an appropriate standard as agreed with the Licensing Authority in consultation with the Police.

Where a CCTV system is to be installed, it shall be fully operational by the day the licence is granted.

(ii) The CCTV equipment shall be maintained in good working order and continually record when licensable activity takes place and for a period of two hours afterwards;

(iii) The premises licence holder shall ensure images from the CCTV are retained for a period of 28 days. This image retention period may be reviewed as appropriate by the Licensing Authority;

(iv) The correct time and date will be generated onto both the recording and the real time image screen;

(v) If the CCTV equipment (including any mobile units in use at the premises) breaks down the Premises Licence Holder shall ensure the designated premises supervisor, or in his/her absence other responsible person, verbally informs the Licensing Authority and the Police as soon as is reasonably practicable. This information shall be contemporaneously recorded in the incident report register and shall include the time, date and means this was done and to whom the information was reported. Equipment failures shall be repaired or replaced as soon as is reasonably practicable and without undue delay. The Licensing Authority and the Police shall be informed when faults are rectified;

(vi) The premise licence holder shall ensure that there are trained members of staff available during licensable hours to be able to reproduce and download CCTV images into a removable format at the request of any authorised officer of

	<p>the Licensing Authority or a constable;</p> <p>(vii) The system shall also record clear images permitting the identification of individuals.</p> <p>(viii) There shall be clear signage indicating that CCTV equipment is in use and recording at the premises during operating hours.</p> <p>The premises licence holder shall require the designated premises supervisor, or in his / her absence other responsible person, to keep an 'incident / refusals' logbook in a bound book in which full details of all incidents are recorded. This shall include details of any refused sales and shall give details of the persons involved, incident description, time and date, actions taken and final outcome of the situation. This shall be completed as soon as possible and, in any case, no later than the close of business on the day of the incident. The time and date when the report was completed, and by whom, is to form part of the entry. The logbook is to be kept on the premises at all times and shall be produced to an authorised officer of the Licensing Authority or a constable when required. These records shall be kept for a minimum of 12 months.</p>
<p>Are you prepared to discuss these representations with the applicant by way of mediation?</p>	<p>Yes. The representations made are reasonable and appropriate. If the applicant agrees to the conditions as proposed, Gwent Police will withdraw their representations.</p>

DATE: 15 August 2023

TO: Environmental Licensing Team

FROM: Noise and Neighbourhood Team

Objection Notice issued under Section 34 Licensing Act 2003

APPLICATE: Mr Benjamin Hourahine

ADDRESS: Koh Tao
310 Wilmslow Road
Fallowfield
Manchester
M14 6XQ

VENUE: Ruperra Arms
73 Caerphilly Road
Newport
South Wales
NP10 8LJ

DETAILS: S34 application to vary present conditions on licensed premises to include use of extended external areas of public areas and external bar area

I can confirm that the above-mentioned Section 34 variation of premises license was received by the Noise and Neighbourhood Team on the 20th July 2023 and allocated to the undersigned on the 14th August 2023.

I wish to object against this Section 34 premises application, Reference Number 23/12359/ABRLV by virtue of Section 182 Licensing Act 2003 (amended guidance).

Should the above application be granted, there are concerns that residents will be effected/disturbed and that therefore the licensing objective "prevention of public nuisance" will be undermined, in that;

The authority has received complaints from residents previously about noise from patrons using the external garden area so generating excessive noise that could materially interfere with the use and enjoyment of the residents' properties.

Locality

The Ruperra arms is a semi-rural local public house with a main a road at the front and a small road to the side with residential housing surrounding the building and adjacent external

patio/beer garden. This area has been extended to include an external bar area in a lockable container type store.

Continued

Sound sensitive receptors (Local residences or facilities)

The nearest noise sensitive receptor (Home) is adjacent to the rear of the external garden and bar area (**30 ft**) and opposite is less than **60ft** from the nearest resident's property.

There has been issues with residents being effected by noise from patrons leaving the premises and also allegations of statutory noise that has not as yet been proven but should be mentioned.

On this basis an **Objection** on the grounds of prevention of public nuisance is hereby lodged in respect to this application.

Should the applicants be willing to accept the recommended Prevention of Public Nuisance licensing conditions as outlined below in Appendix A; the Noise & Neighbourhood Team has no further objection and will withdraw this Representation.

Appendix A:

Beer garden shall be closed to patrons after 21.00hrs (All days)

No amplified music or speakers (Including speakers used in live entertainment) within beer garden at any time.

Maximum capacity of the beer garden at any time shall not exceed 25 persons

Regards

Michael Coughlan
Pollution Control Officer

DATE: 15th August 2023

TO: Licensing Authority

FROM: Licensing Authority Acting as a Responsible Authority

Application for a premises licence variation to be granted under the Licensing Act 2003

PREMISE DETAILS: RUPERRA ARMS, CAERPHILLY RD, BASSALEG, NEWPORT NP10 8LJ

I refer to the above-mentioned variation application for a premises licence, which was received by Licensing Authority on the 20th July 2023 for comment. I wish to make representation under the following Licensing Objectives:

- Public Nuisance

The applicant is seeking to vary its premises licence to include significant large outside areas including an outside bar. The Licensing Authority considers the proposals will have a detrimental impact on local residents who live within the vicinity of the premises under the grounds of Public Nuisance

The large outside area proposed was previously the public house car park thus meaning the variation has basically doubled the size of the premises and it will very much become a focal point for customers to use.

Clearly the Licensing Authority understands the premises intentions of the variation, as outside areas have increasingly become more and more popular due to the smoking ban and Covid. In many cases the Licensing Authority has very much supported outside drinking area as this can bring significant benefits for Licence premises. The use of outside areas (beer gardens) are no longer reserved for just the summer months and outside areas are utilised all year round.

Even with the proposal of very strong management control in the proposed outside area, unfortunately due to location of the outside area the variation as it stands if granted would likely have a significant impact on neighbouring properties.

Unfortunately the operating schedule found within the variation application in the opinion of the Licensing Authority acting as a Responsible Authority is not sufficient to prevent Public Nuisance to local residents. The proposed notices to remind customers to keep the noise to a minimum and leave the premises in a quiet manner sadly will have little impact on preventing public nuisance as outlined in the applicants operating schedule.

As the premises has already made changes to the outside area before seeking a licensing variation or planning consent (though the premises has not been operating the outside bar) local residents have already provided evidence that the proposed variation has potential to have a significant impact on the licensing objective of public nuisance. The evidence provided by local residents via recordings demonstrates that it is very likely if the outside area variation was granted those neighbours closest to the premises will have to endure what could be described as "Wetherspoon's" environment both clearly within both their gardens and also within their properties. Meaning it is very likely they will have to endure constant noise of people chatting, talking and at points shouting loudly. For this reason it is felt that the application should be refused in its current format. It is important to consider the Council's own policy especially regarding the impact of noise can have on a person's life.

11. Prevention of Public nuisance

16 11.1 Licensed premises have significant potential to impact adversely on persons living and working (including those carrying on business) in the area around the premises, and also further afield through public nuisances that arise from their operation. It is therefore important that in considering the promotion of this licensing objective, Licensing Authorities and Responsible Authorities focus on the effect of the licensable activities at the specific premises on these parties which may be disproportionate and unreasonable

11.2 The definition of what may be considered as a potential or actual 'public nuisance' is to be interpreted in line with its broad common law meaning established through relevant case law. This is the interpretation which the Licensing Authority will apply when considering such matters. Matters giving rise to 'public nuisance' are mainly accepted to include issues relating to noise, light pollution, odour and litter. It may also arise as a result of the adverse effects of dust, insects, accumulations or any other matter which is determined to have an adverse impact on the living and working environment of other persons living and working in the area of the licenced premises. Clearly licenced premises have a responsibility under the Public Nuisance objective to clear up litter/rubbish caused by customers in the near vicinity of the licence premises. Premises are advised to undertake regular litter picks and provide adequate bins for their customers. Applicants will be encouraged to demonstrate in their Operating Schedule what suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance including litter

11.3 The Licensing Authority recognise that limiting the public nuisance that may be associated with licensed premises and their operation is an important factor for health and well-being. The Licensing Authority recognise the key links to health and well-being from public nuisance in terms of disturbed sleep, stress caused by nuisance and pollution. Disturbed sleep and stress can add to residents' mental and physical health issues, and their wider wellbeing. Lack of sleep can have an impact on the immune system and can contribute to heart disease and diabetes. Lack of sleep can also contribute to anxiety and depression. Stress can contribute to anxiety and depression, and cardio-vascular diseases. Applicants should consider the potential impact their premise may have on public nuisance particularly from noise and put in place mitigating measures.

11.4 The Licensing Authority expects applicants for premises licences and club premises certificates to have made relevant enquiries and considerations about the local area before submitting their application. The purpose of this is to enable the applicant to consider the most appropriate controls for potential inclusion in the operating schedule with a view to ensuring their activities do not undermine the licensing objective with regard to the prevention of public nuisance. It is important to recognise that the impacts of licensed activity are not contained within a building. Inevitably there is a wider impact as people travel to and from the premises or congregate outside whilst it is in operation. Nuisance is best managed by careful consideration of the suitability of the selected site and any necessary mitigation at an early stage.

11.5 Applicants will be encouraged to demonstrate in their Operating Schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance. When a suitable site is identified, operating schedules should be prepared on the basis of a risk assessment of the potential sources of nuisance posed by the premises operation to those who may be impacted by their activities. The operating schedule should demonstrate an understanding of the level of risk of nuisance and include positive measures to manage any potential risks.

11.6 The Licensing Authority recommends that licensees apply a high standard of control to minimise the potential for any public nuisance that may arise from their operation of the premises, particularly where

: • they are situated in a residential or noise sensitive area; or

• extended opening hours are proposed

11.7 The Licensing Authority recognises that beyond the immediate area surrounding the licensed premises the control that a licence-holder can exert over its patrons diminishes and individuals who engage in anti-social behaviour are accountable in their own right. However, applicants are encouraged to consider the actions they may take as a responsible licence-holder to mitigate the potential adverse impact of patrons. The operating schedule should again be used to demonstrate an understanding of the potential risks and the positive measures that may be implemented to manage such issues. Applicants are also encouraged to engage with “other persons” for example local residents, local Business and local community groups at an early stage prior to a submission of an application. It is recommended that if a licence is granted that the premises continues to engage with Newport City Council Environment Teams for example PINT (Pride In Newport Team) and the local Community and to ensure a good level communication between the premises and local community 11.8 Applicants are encouraged to engage with the Licensing Authority and other relevant Responsible Authorities (such as Environmental Health) at an early stage and prior to the submission of an application, wherever reasonably practicable. These Authorities will be able to provide advice in respect of appropriate control measures that may be put in place, and included in the operating schedule, to mitigate the potential risks of public nuisance occurring

Unlike recorded music, patrons of the premises volume can not be controlled by management as such is very difficult to mitigate the noise from the garden area. The Premises is in a highly residential area and as such the proposed variation of the License should be refused due to the potential impact on local residents.

It could also be considered that removing the vast majority of the car park area has also caused public nuisance with patrons no longer parking in the car park but parking vehicles right outside residents homes entrances once again causing a potential public nuisance to local residents. Clearly any person living next to a public house will have to endure noise from the premises but the variation is felt that noise from the old car park area will amount to clear public nuisance

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

Yours Sincerely,

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

Appendix 3 a
Representation From Other Persons.

Dear Alistair and Steve,

Objection to vary license: - Ruperra Arms, Caerphilly Road, Bassaleg

As you are aware there are problems with the unlicensed beer garden at the above address which lies opposite our house. No1 Pentre-Poeth Road is a listed building situated next door to us, so we are in a conservation area, this restricts or should restrict what happens around these settings. The restrictions on windows and insulation makes a huge difference to noise that penetrates our homes, this just seems to be totally ignored, along with the steadily increasing size of the beer garden with no respect for those living around it.

We moved into our house in January 2007 when there was no beer garden and we were living an enjoyable life until Ben took over in 2017. From day one his attitude to neighbours has been terrible. He really does have a "I can do what I want when I want" attitude. As stated the now ever-expanding beer garden can now has SEVENTEEN tables with seats for six on each (102 people), there's a further seating for 4 (used for smoking) and a further 6 seats on the first parking space nearest the pub and 4 more by the front door to the pub on the pavement.

As you will be aware the amount of seating outside alone is more than his current license allows never mind the seating inside, this is supposed to be a small village pub that serves meals and not somewhere where nearly 200 people could gather with no ability of control.

We have all endured high levels of noise from the day the beer garden was created and have complained to both licensing and planning consistently. Since Ben took over the original four tables have increased quite rapidly with no intervention to stop the expansion and so the noise levels and poor behaviour have also increased.

The complete lack of control over the patrons has been on-going since day one and I am aware my neighbour has sent footage to licensing to prove this, I will send some footage of 2nd June this year when a family were in the first table next to the first parking space. The footage shows the noise levels which were over-powering my television on a Sunday evening, you can also see the little boy on his scooter back and fore actually going on the road, you can see Gail Evans the manager sat on the next table taking no notice and then goes back into the pub.

We have complained directly to the pub on a number of occasions only to be meet with hostility and bad attitude, on one occasion we were told "we have a beer garden, hard luck" hardly a neighbourly sentiment. On another occasion I sent a text to Ben asking him to stop the noise from outside, on this occasion his staff were outside, again there was no attempt to ask people to be quieter. Ben's reply to this reasonable request was to stop harassing him and his staff and phone the police or licensing. We are aware that Ben himself might only be at the premises one every two or three months and Gail is left to her own devices so it seems, she doesn't work many evenings and they only seem to have very young staff who obviously will not have the ability to control any situation that arises.

Last week I had a visit from the Police because Ben had complained that I was continuously ringing the Pub and his mobile and of course the truth was greatly embellished to suit his purpose. Once the situation was explained to the police officer and proof provided from my phone, as well as footage details, she was going back to speak to the Pub to make them aware of their responsibility to curtail the noise situation. This again proves that there is a complete lack of respect from Ben and Gail regarding the surrounding neighbours and their ability to run an establishment in a correct and proper manner.

We feel that the application should be refused on the following grounds:-

1. Uncontrolled levels of noise nuisance from the beer garden.
2. The noise will be nuisance to the residents of the area.
3. The licence variation will increase the nuisance of noise and the spoil the character of the area.
4. No attempt has ever been made by the pub owners or management to reduce the level of noise.

In this regard, I believe the following statutes are relevant:

- The Licensing Act 2003, which sets out the four licensing objectives:
 - o Preventing crime and disorder
 - o Protecting public safety
 - o Preventing public nuisance
 - o Protecting children from harm
- The Environmental Protection Act 1990, which regulates noise pollution.
- The Noise Act 1996, which also regulates noise pollution.
- The Planning (Listed Buildings and Conservation Areas) Act 1990, which protects listed buildings.

On another note Ben's inability to run an establishment with complete disregard to the licensing rules along with no respect for neighbours, this can be seen in this article from the Manchester area.

<https://www.manchestereveningnews.co.uk/whats-on/whats-on-news/antwerp-mansion-council-closed-rushulme-14342397>.

Finally, we fully appreciate Ben has a business to run and employs a few members of staff, under normal situations an application should be made before any works are carried out and not after.

We are also entitled to the enjoyment of our home and this expansion is detrimental to this totally, the beer garden has and does cause a lot of un-needed stress and lack of sleep.

Regards,

Mike Price

Dear Steve,

I am objecting strongly to the licence variation of the grounds that there's no control over the beer garden since Ben purchased the business and people are not controlled by the management, the noise is far too much and makes my life a nightmare and they just do not seem not to care about any of their neighbours at all.

I feel that the area has become a total nightmare even without the new bar along with unlicensed beer garden that has no planning either the parking situation is now already spilling over into the surrounding areas, this alone should be enough to refuse the application along with the increase levels of noise will become too much to bear.

Regards Jon

Dear Alastair and Steve

Please take this email as our own objection to the current application received from the Rupperra Arms public house.

We are also in full support of the further details set out in the email you have received from our neighbour Mr Stephen Thomas of Fair Oaks, 1 Pentre-poeth Road dated 15th August 2023. Summarised below:-

In this matter, we believe the Council's main obligations are to consider the following factors:

- The extent of the noise nuisance from the existing beer garden
- The likelihood that the proposed licence variation would increase the noise nuisance
- The impact of the noise nuisance on the residents of the area
- The impact of the noise nuisance on the character of the area
- The steps that the pub owners have taken to reduce the noise nuisance

In this regard, we believe the following statutes are relevant:

- The Licensing Act 2003, which sets out the four licensing objectives:
 - Preventing crime and disorder
 - Protecting public safety
 - Preventing public nuisance
 - Protecting children from harm
- The Environmental Protection Act 1990, which regulates noise pollution
- The Noise Act 1996, which also regulates noise pollution
- The Planning (Listed Buildings and Conservation Areas) Act 1990, which protects listed buildings

When we moved into The Barn, Pentre-poeth Road some 25 years ago the Rupperra Arms was an unassuming public house with adequate parking and small outside smoking area (we enjoy using the pub indoors). As you are aware this is not now the case and the growth of the beer garden and current application is of grave concern to us.

Concerns are:-

- Totally inappropriate road and carpark layout for increased use on an already busy road junction.
- We regularly see near miss incidents with:-
 - Customers inadvertently walking into the road or congregating in the road.
 - Customers children playing games or running out into the road from the pub premises.
 - Local public and customers put at increased risk due to increased congestion adjacent to carpark and further up Pentre-poeth Road due to customers parking (sometimes inappropriately)
 - Customers pulling out inadvertently with their vehicles onto the road from the pub carpark.
- There really is a situation where there is a serious accident waiting to happen!
- Increased noise for longer and later periods.
- Inappropriate behaviour.
- Reduction in local residents quality of life.
- Negative impact on local surroundings.

We look forward to hearing from you.

If you could please acknowledge receipt of this email it would be appreciated.

Regards

Mr Russell Scaplehorn & Dr Amanda Woodward

Dear Alistar and Steve

Application to vary licence; Ruperra Arms pub, Caerphilly Road, Bassaleg

Thank you for your time this morning. I would say at the outset that I have also copied the generic planning email address. We have sent many mails on this topic inviting Planning to respond but they have yet to do so. If no response is received on this occasion, we would welcome a copy of the Council's complaint procedure.

In this matter, I believe the Council's main obligations are to consider the following factors:

- The extent of the noise nuisance from the existing beer garden
- The likelihood that the proposed licence variation would increase the noise nuisance
- The impact of the noise nuisance on the residents of the area
- The impact of the noise nuisance on the character of the area
- The steps that the pub owners have taken to reduce the noise nuisance

In this regard, I believe the following statutes are relevant:

- The Licensing Act 2003, which sets out the four licensing objectives:
 - Preventing crime and disorder
 - Protecting public safety
 - Preventing public nuisance
 - Protecting children from harm
- The Environmental Protection Act 1990, which regulates noise pollution
- The Noise Act 1996, which also regulates noise pollution
- The Planning (Listed Buildings and Conservation Areas) Act 1990, which protects listed buildings

In considering these points, I think it's fair and measured to consider the various problems we have reported with the pub previously, and the fact that our own house, being listed means that additional weight should be given to the increased propensity for noise problems, since these can only be combated by disregard for its listed status or at very significant expense.

I think it is also reasonable to consider the conduct of management and measures (or lack thereof) that have previously been put in place to address the concerns that have been reported in the past. It is our contention, there has been lack of regard for the neighbours of the pub in recent years and that, we believe, belies the rhetoric of the application.

As you are aware, I live directly opposite the pub at Fairoaks, 1 Pentre-poeth Road. The building is grade 2 listed and has single glazed windows, and the wooden front door that doesn't possess the same sound insulating property of modern, flush-fitting materials.

As you are also aware, I have, on many previous occasions raised concerns with you regarding noise nuisance and potential after-hours serving of alcohol at the pub. In regard to the later, such incidents are now thankfully rarer than when I raised concerns during 2018 and 2019. I have my own views as to why this is so.

It is still the case that the licence holder, Ben Hourahine, is largely absent from the premises and the pub appears to be run by Gail Evans. Gail doesn't appear to work many evening shifts and the pub is then mainly staffed by a young team. I believe this to be an important point, since the relative age

and experience of the team makes it less likely that they can help control noise and environmental issues that occur at the pub. That being said, Gail herself doesn't appear to have much in the way of consideration for her neighbours or sympathy for the pub's residential setting when it comes to controlling noise problems. I can evidence this point.

When we moved into our house in December 2017, the pub was a quiet village inn with no significant beer garden – just three tables located to the immediate rear of the pub. During the course of last year, the beer garden has encroached significantly into an area that was previously used exclusively as a car park.

We are surprised that that this change of use has not previously drawn the attention of either the Council's planning department or licensing department. Aside from the effects on traffic congestion caused through double parking – and our own front gate being frequently blocked by inconsiderate parking – the potential for noise nuisance through the use of the much-enlarged beer garden has grown considerably to the extent that the current outdoor licence barely seems fitting.

That Ben has decided to sanction the significant expansion of the beer garden – and now the construction of an outside bar area – without consultation of residents or before attaining the necessary licence comes as little surprise. Ben has previously been asked to remove outdoor constructions that he erected without the requisite consent. He also appears to have been involved in other ventures that have apparently contravened local regulations;

<https://www.manchestereveningnews.co.uk/whats-on/whats-on-news/antwerp-mansion-council-closed-rushulme-14342397>

Whilst our previous problems with pub are documented, we in no way are personalising our concerns detailed in this letter. Indeed, we have made numerous attempts in the past to be neighbourly to Ben and his staff; offering to provide footage from our security cameras when the pub was broken into and Gail's tyres slashed. We have also frequented the pub from time to time for family meals. Whilst we are frustrated that such consideration has not been reciprocated, our objections to the proposed licence variation are objective rather than emotive, and are set-out below but with implicit reference to the criteria set-out at the start of this note.

Since there is no functional reason for the bar (the distance between the outside bar and the bar area inside is probably less than 40 metres – and walking to and from the inside bar to the outside seating area is hardly an inconvenience to either staff or clientele), we can only assume the purpose of the outside bar is to attract more people to the outside area. This will inevitably give rise to an escalation of noise and profanity, both of which are audible to us currently. In addition to the general noise, shouting and singing we have experienced during the better weather and longer evenings in the summer, profanity is frequently audible to us from our lounge even with the TV turned up to the maximum. Opening windows in the summer is impossible as the noise would be even less bearable. The beer garden's setting and high wall fence along the perimeter of its terraced neighbour means that sound is naturally amplified. There have been times when my wife and I have tried to get an early night (we run our own accountancy, tax and business advisor firm and frequently work twelve hour days), but have had difficulty sleeping because of the noise emanating from the beer garden. Because of this amplification effect and the poor sound insulation qualities of our older building, this is true even when the clients are not particularly rowdy.

We have spoken with planning regarding the possibility of the Conservation Officer permitting the installation of double-glazed windows. We have been told, that whilst such an application may be considered, double-glazed windows would have to be of the heritage style. We have had tentative quotes for the same and a complete installation is likely to be around £70k. Why should we have to

make such investment just because it is deemed that Ben's commercial interests trump our right to quite enjoyment of our own home?

We have taken time to read and consider the mitigation proposals included the application to vary the licence and in our view this are unlikely to be effective. We have attempted to raise in writing to Ben our previous concerns in regard to the noise issues we have experienced. Our emails and letters have gone unanswered which we aver reflects a lack of any real desire on Ben's part to take into account the environmental consequences of his business. Indeed, I'm aware that another neighbour has contacted the pub on occasions when the noise is particularly excessive and those complaints have been met with indifference and hostility. Upon previous intervention of the Council, Ben agreed to place some signs asking patrons to respect neighbours but these have been wholly ineffective. Just four weeks ago, I left my house at 10pm to collect my daughter from a party. They were three older male customers leaving the pub, two of whom set-off towards Ffos-fran and the other in the opposite direction towards the TA. In what obviously passes for older middle-aged male humour, one of the pub's clients dropped his trousers and under apparel and bent over and urged his drinking companion to "kiss his man cunt". The gentleman inviting his companion to undertake what looked like an unsavoury pastime was standing on the corner of Pentre-poeth Road and Caerphilly Road outside of the pub's front windows. I'm not a prude and enjoy drinking socially, and understand that some behaviour is born out of excess. I also understand that pub management cannot always mandate client behaviour. However, in the years that we have witnessed behaviour at the pub, we have never seen proactive management of noise nuisance; indeed we contend quite the opposite. In light of this, it is difficult to imagine that the proposed licence variation will make it less likely that we will have to witness such scenes, as the primary purpose of the outside bar appears to be to encourage greater consumption of alcohol without having the inconvenience of being served at the regular indoor bar.

Regardless of whether there is any alcohol left in the outside bar, we also believe it will warrant the attention of potential thieves and therefore give rise to anti-social behaviour, quite separate from the noise issue. The distance from the bar to my house is probably less than 20 metres and is only separate from the end terrace house on Pentre-poeth Road by the width of the bin store. Notwithstanding the potential for break-ins, since the carpark is open and cannot be secured, the bar itself is likely to give rise to the increased congregation of young people in the early hours of the morning when the pub is closed.

Since we have lived in our house, the pub has been the subject to an actual break-in which we witnessed and reported to the police, and what Ben described on social media as another break-in. I reviewed the footage from our security camera and could see that the doors had, in fact, been left unlocked and the thieves simply walked in and helped themselves to stock.

We in no way wish to deprive Ben of making legitimate living, nor to provide employment opportunities to locals. Nor do we wish to surrender the quite enjoyment of our own home, and for that reason, we have collated evidence that we believe supports our position, despite the covert nature of this evidence gathering being counter to our instincts.

In closing, I would like to summarise our objections, viz:

- We don't understand why the massive extension to the beer garden and associated change of use of the car park has not been considered by the Council's Planning department. We have sent many emails on the subject and haven't even received the courtesy of acknowledgement of email. We believe if this issue was properly considered, we may not be in the position we currently are; and

- The proposed variation will, self-evidently lead to a significant increase in noise pollution; and
- That the proposed mitigation measures put forward by management are very likely to prove ineffective for the reasons set out in this note; and
- That it is impossible for us to mitigate the increase in noise levels due to the age and protected status of our home;
- That granting the variation would be to allow Ben's commercial interests to trump our right to quiet enjoyment of our own home; and
- That the outside bar will lead to an increase in anti-social behaviour that is not related to noise, including the potential for increased theft and break-ins; and
- The fact that the bar garden cannot ever be "closed" and secured exacerbates greatly all of the issues noted above.

I look forward to hearing from you. In the meantime, I have, as requested, made available a small selection of video and photographic evidence that supports the contentions noted above. These can be found by Dropbox, I have sent invites to you both.

If you could please acknowledge receipt of this email it would be appreciated.

Kind regards

Steve

APPENDIX 4

Photo and Video Evidence of Mr Price and Mr Thomas

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