

Agenda



Licensing Sub-Committee

Date: Tuesday, 9 April 2024

Time: 11.30 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>Bar Amber</u> (Pages 17 - 48) Review of Premises Licence under Section 51 Licensing Act 2003, "Bar Amber" 16 High Street, Newport South Wales, NP20 1FW.	Stow Hill

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Date of Issue: Monday, 25 March 2024

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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: 9th April 2024

Subject **Review of Premises Licence under Section 51 Licensing Act 2003, “Bar Amber” 16 High Street, Newport South Wales, NP20 1FW**

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

Author Alastair Dearling (Licensing Manager)

Ward Stow Hill

Summary An application for a review of the premises licence was made by Gwent Police, acting in its role as a Responsible Authority, on 14th February 2024 on the basis that the premises is undermining:

- The Prevention of Crime and Disorder
- Public Safety
- And Protection of Children from Harm.

Proposal To make a decision on the application to review the Premises Licence issued in respect:

Bar Amber, 16 High Street, Newport, NP20 1FW

Action by Head of Law and Regulation

Timetable Statutory Consultation Period

Signed

1. Review Application

- A review application under Section 51 of the Licensing Act 2003 was received on the 14th February 2024 from Gwent Police, to review the Premises Licence issued in respect of Bar Amber, 16 High Street, Newport, NP20 1FW The application for review relates to the following Licensing objectives:

The prevention of Crime and Disorder.
Public safety
and Protection from Children from harm.

A copy of the review paperwork and supporting documents can be found in **Appendix A** of this report. Any further supporting documentation submitted by the Police can be found in Appendix A. As part of the Police evidence, they will wish to present CCTV footage to the Licensing Committee, the Police may request that that footage is viewed in private at the hearing due to the possibility of ongoing criminal investigations.

The application was received by the Licensing Authority on 14th February 2024 and in accordance with section 51(3)(a) of the Licensing Act 2003 a copy of the application was served on the holder of the Premises Licence and on all Responsible Authorities.

Following receipt of the application, the Licensing Authority advertised the application in accordance with the regulations of the Act, thereby inviting representations to be made by interested parties. Any representation in respect of this application made by a responsible authority or an interested party had to be received by the Licensing Authority by 12th March 2024.

2. Licensable Activities

The current premises licence holder is:

Harvey's Leisure (South Wales) Limited,
Unit 3A
Boxer Trading Estate
Ponthir Road
Caerleon
Newport
NP18 3NY

The Current Designated Premises Supervisor (DPS) is:

Ryan Ashley Courtney

The Premises Licence relates to the following licensable activities:

Times the licence authorises the carrying out of licensable activities.

Sale by retail of Alcohol
Monday to Sunday inclusive 10:00 - 03:00

Provision of facilities for dancing
Monday to Sunday inclusive 10:00 - 03:00

Playing of Recorded Music
Monday to Sunday inclusive 10:00 - 03:00

Late Night Refreshment
Monday to Sunday inclusive 23:00 - 03:00

For the sale by retail of Alcohol and the provision of regulated entertainment, namely playing of Recorded Music and provision of facilities for dancing

i) New Year's Eve, from the end of permitted hours to the start of permitted hours on the following day

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

3. Representations

The Licensing Authority invited representation from responsible authority and “other persons” to be submitted before Midnight on the 12th March 2024. The Licensing Authority Received:

No further representation from any other responsible authority or “other persons” as defined in the Licensing Act 2003.

Though on the 29th of February 2024 the Licensing Authority arranged a mediation meeting with both Gwent Police, The Licence holder of Bar Amber (who is also the Owner of the Building) and the DPS / Management Team of Bar Amber who lease the premises.

Unfortunately, no representatives of Bar Amber Management Team or the DPS attended the meeting. As such Gwent Police made it abundantly clear to the licence holder that they were certainly not looking for a revocation or suspension of the premises licence, but simply looking to add further conditions to the premises licence so as to promote the four licensing objectives.

At the meeting it was discussed with the Licence Holder that the Premises was placed on an action plan after serious disorder took place after Newport County v Swindon Game in 2023 as indicated in the Police review paperwork. The action plan gave clear guidance to the Bar Amber Management Team and DPS to assist them to promote the Licensing objectives, specifically around when Newport County played at home.

The action plan and advice given by Gwent Police via the action plan was not implemented by Bar Amber, this may have contributed to the second serious disorder that took place in February 2024.

It was in the opinion of Gwent Police during the mediation meeting that the Premises was required to have clear and legally binding conditions on the Premises Licence to promote the licensing objectives. Again, Gwent Police at the mediation meeting made it abundantly clear they were not looking for a revocation or suspension of the Premises Licence and clearly would be happy to continue to work with the Bar Amber Management Team.

As such the below listed conditions were proposed to the Licence Holder by Gwent Police. The Licence holder stipulated he would present/discuss the proposed conditions with the Management Team of Bar Amber.

Both the Licensing Authority and Police stipulated that they would be happy to mediate further with the Management Team and discuss the proposed conditions, these conditions being:

- 1 SIA door staff should be present at the premise 3 hours before kick-off of a Newport County home game and 3 hours after the final whistle of Newport County Home game. Door staff should proactively manage the front door of the premises.
- No drinks should be taken outside the premises 3 hours before kick-off till 3 hours after the final whistle.
- No outside furniture should be utilised by customers 3 hours before kick-off and 3 hours after final whistle.
- A maximum of 60 customers are permitted inside the venue 3 hours before kick-off and 3 hours after final whistle.
- No under 18 are permitted in the premises 3 hours before kick-off and 3 hours after final whistle.
- The DPS or named manager(s) provided to Gwent Police should be present at the premises 3 hours before kick off and 3 hours after the final whistle. That named manager(s) should hold a personal licence.
- The current DPS to be removed from the premises.
- No persons looking under the age of 25 should be permitted into the premises without showing ID on match days.

A question was raised at the mediation meeting regarding the capacity of Bar Amber as this would clearly determine the number of SIA door staff required within any condition proposed by Gwent Police.

The Licence Holder stipulated he believed the capacity was approximately 60 persons. After reviewing the Premise plans this is likely to be correct in line with the Regulatory Reform (Fire Safety) Order 2005, what stipulates "normally"

The maximum occupancy of a room with only one exit will normally be 60 persons. This door may be inward opening.

If more than 60 people are present a minimum of two separate exits will be required which should open in the direction of escape.

At the conclusion of the meeting the Licence holder stipulated that he would agree to the proposed conditions but would again require to speak to Bar Amber management team.

The Licensing Authority was contacted by the Licence Holder shortly after the meeting to say Bar Amber had determined to surrender the lease to the premises. The Licensing Manager stipulated to the Licence Holder would Mediation be beneficial for all concerned, especially in light of Bar Amber Management team and DPS not attending the mediation meeting.

But from the publication of this report neither the Licensing Authority or Gwent Police have been contacted by Bar Amber Management Team or DPS to discuss the proposed conditions.

In the event of the premises no longer being a football supporters bar the conditions proposed by Gwent Police have slightly changed to stipulate:

The following conditions will only come into force at the written request of Gwent Police Licensing Team.

The request by the Police will only be made if the Police feel that there is potential for crime and disorder when Newport County play at home game.

- 1 SIA door staff should be present at the premise 3 hours before kick-off of a Newport County home game and 3 hours after the final whistle of Newport County Home game. Door staff should proactively manage the front door of the premises.
- No drinks should be taken outside the premises 3 hours before kick-off till 3 hours after the final whistle.
- No outside furniture should be utilised by customers 3 hours before kick-off and 3 hours after final whistle .
- A maximum of 60 customers are permitted inside the venue 3 hours before kick-off and 3 hours after final whistle.
- No under 18 are permitted in the premises 3 hours before kick-off and 3 hours after final whistle.
- The DPS or named manager(s) provided to Gwent Police should be present at the premises 3 hours before kick-off and 3 hours after the final whistle. That named manager(s) should hold a personal licence.
- The current DPS to be removed from the premises.
- No persons looking under the age of 25 should be permitted into the premises without showing ID on match days.

The Licence holder has confirmed to the Licence Authority he is happy to agree to the above conditions.

Background / Premises Licence History

The premises is located on High Street within the City Centre, the premises has held a licence since the introduction of the Licensing Act 2003 . During this time, it has been operated as a Late Night bar.

In September of 2022 the Premises was rebranded as “Bar Amber” and became a more sports focused bar with a number of Newport County Fans using the premises as an unofficial supporter’s club. A map and pictures of the location of the premises can be found in **Appendix D** of the report.

Harvey's Leisure (South Wales) Limited is both the owner of the property and the licence holder, though also holds a formal contract with the Management Team Bar Amber thus meaning the DPS of Bar Amber is legal responsible to comply with licence Conditions.

The legal case of Hall & Woodhouse v Poole Council makes it clear that the premises licence carries no automatic liability for unlawful acts of third parties.

It is opinion of Gwent Police that liability of the premises failing to meet the Licensing Objectives is mainly due to the current management team rather than Harvey’s Leisure (Licence holder).

30 Policy Considerations regarding a review of a Premises Licence

30. Reviews of licences

30.1 The Council can only review a licence where it is alleged by a “responsible authority”, or other person that the licensing objectives are being breached. Responsible authorities will aim to give licence holders early warning of any concerns identified at the premises. Only responsible authorities or other persons (e.g. local residents, local organisations and councillors) can apply for the review of a licence; and determine its outcome at a hearing where an evidential basis for allegations made will be submitted. It views particularly seriously applications for the review of any premises licence which involves the

- use of licensed premises for the sale and distribution of controlled drugs and the laundering of the proceeds of drugs crimes;
- use of licensed premises for the sale and distribution of illegal firearms;
- evasion of copyright in respect of pirated films and music;
- underage purchase and consumption of alcohol;
- use of licensed premises for prostitution or the sale of unlawful pornography;
- use of licensed premises for unlawful gaming;
- use of licensed premises as a base for organised criminal activity;
- use of licensed premises for the organisation of racist, homophobic or sexual abuse or attacks;
- use of licensed premises for the sale of smuggled tobacco or goods;
- use of licensed premises for the storage or sale of stolen goods;
- the police being frequently called to attend to incidents of disorder;
- prolonged and/or repeated instances of public nuisance
- serious risk to public safety have been identified and the management is unable or unwilling to correct;

- Serious risk to children.

30.2 The Licensing Sub-committee will consider all evidence provided at the hearing and apply appropriate weight to that evidence when making their decision.

30.3 The licensing sub-committee will consider all of the sanctions available to it provided for in the Act and guidance, including taking no action if appropriate. In cases where a licensing objective is seriously undermined, that revocation of the licence, even in the first instance, will be considered where appropriate to ensure the licensing objectives are promoted.

30.4 In cases where a licensing objective is seriously undermined, the revocation of the licence, even in the first instance, will be seriously considered where appropriate to ensure the licensing objectives are promoted.

Section 10.1 of the Council Licensing Policy:

Prevention of Crime and disorder 10.1 Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people, can be a source of crime and disorder problems.

10.2 The Licensing Authority will expect operating schedules (see section 27) to satisfactorily address these issues from the design of the premises through to the day-to-day operation of the business. Details of the factors that will need to be considered as part of the operating schedules are given in the Licensing Policies and matters for consideration when deciding applications, which are attached in the annex to this policy and in the Guidance notes for applicants.

10.3 Applicants are recommended to seek advice from the Licensing Authority's licensing officers and the police, as well as taking into account, as appropriate, local planning and transport policies, tourism, cultural and crime prevention strategies, when preparing their plans and operating schedules.

10.4 The Licensee/applicant should also use their own experience and knowledge of their customers and locations when drafting their operating schedule, which subsequently becomes the basis of conditions on the licence. Failure to do this may lead to a representation from the Authority, a responsible authority or other person. Applicants may wish to consider the following and are advised to refer to the Authority's 'Model Pool of Conditions' when considering an application

- Is there CCTV, and, if so what are the areas covered, does it have the ability to see clear full face recording of patrons entering, does it record the patron search area at the entrance. What is the retention period of recordings, how easy it to access, produce copies or download images if requested by Police and Licensing.
- Are Security Industry Authority (SIA) door staff employed and what checks are made to the validity of the SIA licence? What records are kept of SIA checks, search policy, entrance policy, restriction of patrons using outside areas, such as smoking areas, employment times of SIA and their training?
- Is there ID scanning on entry to the premises? Will there be 'No ID No Entry' policy in place?
- Is there a clear drug and weapon policy? Is there a regular documented training of this policy carried out with staff when drugs/weapons are seized or stored. Are areas or surfaces designed to prevent the likelihood of drug use at the premises?
- Has the use of plastic or toughened glass for serving of alcohol been considered, will glass bottles be handed over the bar? Are there restrictions of drinks being taken outside?
- Is there a proof of age scheme, do the premises have a challenge 25 policy? Are staff trained regularly on this policy and is it documented

10.5 The Licensing Authority recognise that although Gwent Police and other criminal justice services suffer the greatest resource burden from preventable alcohol related crime and

disorder the health system is also impacted. Preventable alcohol-related attendances and admissions have a negative impact on limited NHS resources, staff and other patients. Physical injury and the psychological impacts from violent incidents directly affect the health and wellbeing of individuals, their family, friends and work colleagues, our public service staff and licensed premise staff who deal with these incidents, and the local community.

15 Responsible Authorities will work together, sharing all available local data, and will use NHS sources of data to promote this licensing objective. 10.6 The Authority will endeavour to reduce crime and disorder throughout the County in accordance with its statutory duty under s.17 of the Crime and Disorder Act 1998.

10.7 Newport City Council, through agency working together and sharing information aim to identify and prevent sexual exploitation, modern slavery and human trafficking. Licence holders can help as they may become aware or come into contact with such victims. This may be in hotels, bars and restaurants, late night takeaways, off licences or other licensed premises. Licence holders, and staff employed in licensed premises, are in an ideal position to help protect people Modern slavery and human trafficking is a crime and a violation of fundamental human rights and can take various forms such as slavery, servitude and compulsory labour. The licence holder and staff who work in licensed premises should look for and ask themselves the following

- Has the person got any physical signs of abuse or neglect? Deprived of food, water, sleep, medical care or other life necessities?
- You see worrying behaviour towards someone.
- Is the victim in possession of a passport, identification or travel documents? Are these documents in possession of someone else?
- Does the victim act as if they were instructed or coached by someone else? Do they allow others to speak when spoken directly?
- Was the victim recruited for one purpose and forced to engage in some other job? Was their transport paid for by facilitators, whom they must pay back through providing services?
- Does the victim receive little or no payment for their work? Is someone else in control of their earnings?
- Was the victim forced to perform sexual acts?
- Does the victim have freedom of movement? Can they freely contact friends and family? Do they have limited social interaction?
- Has the victim or family been threatened with harm if the victim attempts to escape?
- Is the victim bonded by debt, or in a situation of dependence?

If there are concerns the licence holder are to report the matter to Modern Day Slavery helpline on 08000 121 700 or visit the website <https://www.modernslaveryhelpline.org/report> If someone is in immediate danger to call the Police on 999. In addition, all staff who are employed in the UK must have the right to work in the UK. Employing someone illegally without carrying out the prescribed checks can lead to robust sanctions against the licence holder

Revised Guidance issued under section 182 of the Licensing Act 2003

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

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

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

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

Revised Guidance issued under section 182 of the Licensing Act 2003

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

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

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

11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.

11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing

authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

4. Legal Considerations

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

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

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

- To implement the conditions and hours recommended by Gwent Police and agreed by Harvey's Leisure.
- To further modify the conditions of the Premises licence
- To exclude a licensable activity from the scope of the premises licence
- To remove the designated premises supervisor from the licence
- To suspend the premises license for a period not exceeding 3 months
- To revoke the premises licence
- Take No action in respect of the Premises Licence.

All decisions taken by the Sub-Committee must

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

5. Issues for discussion

The content of the application made by Gwent Police, acting in its role as a Responsible Authority, for a review of the Premises Licence.

Any evidence and mitigation provided by Licence Holder

6. 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					

7. 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	Chairperson. Legal Officer.

			proportionate. Members training.	
The licensing committee departing from the licensing policy.	Medium	Low	If the Committee wishes to depart from the Councils policy they must give good reason for this and obtain advice from the Legal Officer when departing from the Policies to ensure the decision is lawful. Members training.	Chairperson. Legal Officer.
The applicant does not have a fair hearing	High	Low	A Licensing Committee procedure should be followed by the committee. The Legal Officer alongside the Democratic Service Officer will advise the committee if at any stage an unfair hearing is taking place. Members training.	Democratic Service Officer. Chairperson. Legal Officer.

* Taking account of proposed mitigation measures

8. 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 2020.

APPENDIX A (Review Application from Gwent Police)

Newport City Council

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

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

I Superintendent Jason White on behalf of the chief officer of police for the Gwent Police area, apply for the review of a premises licence under section 53A of the Licensing Act 2003

Hereby apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the premises described in Part 1 below

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description	
Bar Amber 16 High Street Newport South Wales NP20 1FW	
Post town Newport	Post code (if known) NP20 1FW

Name of premises licence holder
Harvey's Leisure (South Wales) Limited

Number of premises licence
19/01962/LAPVM

Part 2 - Applicant details

I am

Please tick ✓ yes

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

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

✓

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

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

Please tick ✓ yes

Mr Mrs Miss Ms Other title

Surname

First names

Please tick ✓ yes

I am 18 years old or over

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

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Superintendent Jason White Newport Central Police Station 3 Cardiff Road, Newport, NP20 2EH
Telephone number (if any)
E-mail address (optional)

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

- | | Please tick one or more boxes X |
|---|---------------------------------|
| 1) the prevention of crime and disorder | X |
| 2) public safety | X |
| 3) the prevention of public nuisance | X |
| 4) the protection of children from harm | X |

4056Please provide as much information as possible to support the application (please read guidance note 3)

I formally request a review of Bar Amber current premises licence on the grounds of significant concern that the Licensing Objectives are not being promoted by Bar Amber. Gwent Police have serious concerns, specifically around the management team/door staff of the premises both currently and historically. Additionally, I believe there is a lack of appropriate management and a failure to act on patrons using the premises and causing serious and violent disorder between upper High Street and Cambrian Road and allowing patrons to return to gather further patrons to engage in violent disorder.

On the 24th March 2023, a meeting was held with Ryan Ashley Courtney (the owner of Bar Amber), PC 1703 CHESHIRE and Alastair Dearling from Newport City Council Licencing team. This was as a result of an incident on Saturday 4th February 2023 at Bar Amber between supporters of Newport County and Swindon Town FC. During the meeting, concerns were raised by both Gwent Police and Alastair Dearling in relation to this incident resulting in an Action Plan being undertaken with the premises. This action plan (below and attached) was arranged due to several incidents at the premises and the concerning behaviour of patrons attending the pub witnessed by police and council licensing officers either in person or via CCTV. Specifically, the ages of the persons involved, a distinct lack of control exhibited by door staff over the outside area at the premises was noted with the venue seemingly being a hub for individuals engaging in violent disorder reported.

The following Actions were agreed during this meeting dated 10/03/2023 – 10/04/2023.



First Level Licensing Action Plan

THIS ACTION PLAN is made on: Friday 10th March 2023

BETWEEN: Heddlu Gwent Police / Newport City Council Licensing Department

AND:

PREMISES: Bar Amber, High Street, Newport

This Action Plan has be put forward due to the incident that took place on Saturday 4th March 2023 at the premise Bar Amber after the Newport County vs Swindon Town match.

1. All person involved in the incident on Saturday the 4th February to banned from the premises for a minimum of a 12-month period.
2. The Outside area should not be utilised 1.5 hours after the final whistle of a Newport County home game. No drinks should be taken outside the premises for 1.5 hour period after final whistle of Newport County home game.
3. Door staff are required to have a HI VIS jacket / vest on all Newport County Home Games. Two door staff are required to be present 2 hours before Newport County home game and 1.5 hours after final whistle on match days.
4. Plastic glasses should utilise 2.5 hours before Newport County home game kick off and 1.5hours after the final whistle. No glass should be present on the premises between the hours.
5. CCTV to be installed outside the Premises to cover the outside area of the premises.
6. All under 18s must be accompanied by an adult on match days.

THIS ACTION PLAN WILL LAST 12 MONTHS

FROM: 10/03/2023

TO: 10/04/2023

Signed: _____

Date:

Print Name: _____

Signed: _____

Date:

(Police Officer)

Signed: _____

Date:

(Licensing manager)

On Saturday 6th January 2024 at approximately 18:30 hours, Gwent police received a report from a member of the public stating that 50 Football fans were fighting with one male reported to be unconscious of the floor. Officers have attended the scene and 4 arrests of persons believed to be involved were made with further individuals unidentified at the time of writing.

From reviewing the council CCTV systems, 12 individuals can be seen leaving Bar Amber and descending on to Cambrian Road where they appear to engage with other football fans (later known to be Eastleigh fans) drinking at THE JOHN WALLACE LINTON pub on Cambrian Road. CCTV shows the parties begin to goad one another before a brawl ensues between them with multiple punches and kicks thrown between the persons involved.

A short time later, CCTV shows 5 members of the brawl, reattend bar amber, run straight past the security at the door without challenge and re-enter the pub. Moments later, those 5 persons are seen once again leaving the premises in company with a further 7 persons who are then seen running over to Cambrian Road to join the brawl. Various members of the second party not involved in the original altercation are shown to be throwing punches and actively engaging in violence. CCTV also captures an unidentified elderly male being struck and kicked on the floor by the persons involved before being led away by an unknown female. The parties seemingly separate again before engaging on a third occasion with several projectiles seen to be thrown by the parties involved.

The crowd eventually disperse upon the attendance of various police officers who subsequently detain and arrest some of the persons involved.

Point **2SO04** from Bar Amber part A license conditions states that CCTV cameras shall be installed inside and outside of the premises and shall be operational at all times when the premises is trading. While it cannot be confirmed that cameras were completely operational during this incident, officers attending have requested footage in order to aide the investigation by identifying the persons involved. However, this request was refused by Ryan Courtney who has stated to officers that he wasn't willing to record the footage for that amount of time and provide to police. This contravenes part A of the licensing objectives whereby there is a responsibility of the designated Premises supervisor to adhere to the licensing objective of the prevention crime and disorder, prevent public nuisance and to ensure public safety.

In addition to this, point **5SO04** from Bar Amber part A license conditions states that There shall be no admission to unaccompanied children at any time. The ages of the persons arrested during the violent disorder, were, 23, 21, 15 and 17. While it cannot be proven that the children arrested during this incident were unaccompanied by an adult, the ages of the persons in attendance at the premises who were subsequently arrested are of concern. In order to adhere to the licensing objective of the protection of children from harm, there is a responsibility of the designated Premises supervisor to adhere to the set licensing objective which is clearly not been adhered to.

Condition **3SO09** states that Any person evicted from the premises and who is likely to cause further problems shall be reported to Heddlu Gwent Police. From researching on Gwent Police local systems, there have been no reports to Gwent police concerning any individuals evicted or likely to cause further issues linked to the premises supervisor or the premises itself. No names or imagery of the persons involved have been provided to Gwent Police and there have been seemingly no action taken by Bar Amber following this incident which contravenes the licensing objective of prevent public nuisance and also to ensure public safety.

In accordance with Section 13 of the Licensing Act 2003 and Section 101 of Police Act 1996 Gwent Police licencing officers, have devolved powers as a Responsible Authority from the Chief Constable, Pam Kelly. Gwent Police are not satisfied that Bar Amber had met their responsibility to promote the licensing objectives in the listed objectives.

Gwent Police Licencing recommend an urgent rectification of Bar Amber procedures to conform with their premises license and prevent any further breaches. Gwent Police were less than satisfied and expect significant improvement from the Premise Licence holder and Designated Premise Supervisor moving forward in the promotion of the licensing objectives following its previous Action Plan. If the Responsible Authorities did not see an improvement, then consideration will be made to a review of the Premise Licence which is now the recommended course of action.

From the evidence Gwent Police has produced, it is clear that although working with the premises and offering support and advice, that there has been continued breaches and disregard to the premises licence and actions plans.

The following conditions that have been breached are: -

- Prevent and reduce crime and disorder.
- Ensure Public Safety

**Prevent public Nuisance.
Protect children from harm**

Due to the above breaches Gwent Police Licencing feel as a responsible authority, we could not support the premises Bar Amber or feel confident that the premises has adhered to its responsibility towards its own premise licence.

Please tick ✓ yes											
Have you made an application for review relating to the premises before											
If yes please state the date of that application	Day Month Year <table border="1" style="margin-left: auto; margin-right: auto;"><tr><td style="width: 20px; height: 15px;"></td><td style="width: 20px; height: 15px;"></td><td style="width: 20px; height: 15px;"></td><td style="width: 20px; height: 15px;"></td><td style="width: 20px; height: 15px;"></td><td style="width: 20px; height: 15px;"></td><td style="width: 20px; height: 15px;"></td><td style="width: 20px; height: 15px;"></td><td style="width: 20px; height: 15px;"></td><td style="width: 20px; height: 15px;"></td></tr></table>										

If you have made representations before relating to the premises, please state what they were and when you made them No

Please tick ✓


yes

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

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.

Part 3 – Signatures (please read guidance note 4)

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

Signature  Supt Jason White

Date 14/02/2024

Capacity Superintendent

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)	
Post town	Post Code
Telephone number (if any)	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)	

Notes for Guidance

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

APPENDIX B Bar Amber Premises Licence

**Schedule 12
Part A**

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

**Premises Licence
City of Newport**



Premises Licence Number	19/01962/LAPVM
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Part 1 – Premises Details

Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code	
Bar Amber 16 High Street Newport South Wales NP20 1FW	
Telephone number	01633 267406

Where the licence is time limited the dates
Not Applicable

Licensable activities authorised by the licence
Sale by retail of Alcohol Provision of facilities for dancing Playing of Recorded Music Late Night Refreshment

Times the licence authorises the carrying out of licensable activities
Sale by retail of Alcohol Monday to Sunday inclusive 10:00 - 03:00

Provision of facilities for dancing
Monday to Sunday inclusive 10:00 - 03:00

Playing of Recorded Music
Monday to Sunday inclusive 10:00 - 03:00

Late Night Refreshment
Monday to Sunday inclusive 23:00 - 03:00

For the sale by retail of Alcohol and the provision of regulated entertainment, namely playing of Recorded Music and provision of facilities for dancing
i) New Year's Eve, from the end of permitted hours to the start of permitted hours on the following day.

The opening hours of the premises

Monday to Sunday inclusive 09:00 - 04:00

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

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

Alcohol is supplied for consumption on the Premises

Part 2

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

Harvey's Leisure (South Wales) Limited
3A Boxer Trading Estate
Ponthir Road
Newport
South Wales
NP18 3NY

Business Phone Number 01633 267406

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

Registered Business Number 3708019

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

Ryan Ashley Courtney
19 Merlin Crescent
Newport
South Wales
NP19 7LF

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

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

Dated this 2nd September 2022



Silvia Gonzalez-Lopez
Head of Environment and Public Protection

Mandatory conditions

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

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

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

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

For the purposes of this section:

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

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

For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

8 The responsible person must ensure that -

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

(i) beer or cider: ½ pint;

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml; and

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

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

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

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

(2) In this condition:-

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

(i) P is the permitted price,

(ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

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

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

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

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

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

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

Conditions consistent with the Operating Schedule

1SO00 No adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children, (for example, but not exclusively, nudity or semi nudity), regardless of whether children are present on the premises, are permitted within the premises at any time when the premises is open to the public, save for the provision of 1 gaming machine.

2SO1B The Premises Licence holder shall be a member of Pubwatch.

2H03 The premises shall be registered with Newport City Council's Anti-Crime Group Radio Network and there shall be a suitable radio located within the premises. The Designated Premises Supervisor shall abide at all times by the terms of the Radio Network agreement with Newport City Council.

2SO04 CCTV cameras shall be installed inside and outside of the premises and shall be operational at all times when the premises is trading.

3SO09 Any person evicted from the premises and who is likely to cause further problems shall be reported to Heddlu Gwent Police.

3SO15 All deliveries to the premises shall take place at sociable times only.

3SO16 All windows shall be double glazed.

3SO08 The entrance lobby shall remain in place, in order to reduce any noise emanating from the premises.

4P03 The means of escape provided for all persons on the premises shall be maintained unobstructed, immediately available and clearly identifiable and all exit doors which may need to be used by the public shall be kept unlocked at all times whilst the premises are in use. All exit signs shall be maintained in good repair and shall be properly illuminated.

4SO17 An annual inspection of all electrical installations shall be carried out, which includes the fire alarm and emergency lighting. Relevant certification shall be made available to an Authorised Officer on request.

4SO19 A fire alarm shall be provided and maintained in good working order and shall be checked on a weekly basis. The results of such a test shall be recorded in a log book.

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.

5SO04 There shall be no admission to unaccompanied children at any time.

Conditions attached after a hearing by the licensing authority

NIL.

Appendix C Representations Responsible Authorities / “Other Persons”

No other representations were made in regard to the review.

APPENDIX D

Location of premises



