

**Swindon Borough Council**  
**Licensing Act 2003 – Licensing Panel**

**NOTICE OF HEARING**

**Date of Hearing:** Tuesday, 24 January 2017

**Place of Hearing:** Committee Room 2, Civic Offices

**Time of Hearing:** 5.30 p.m.

**Panel Members:**

Conservative Councillors

Malcolm Davies

Nick Martin

Labour Councillors

Peter Watts

**Committee Officer:** Shaun Banks (Telephone 01793 463606)

Email: email: sbanks@swindon.gov.uk

Address: Swindon Borough Council, Civic Offices, Euclid Street, Swindon SN1 2JH

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**AGENDA**

- 1. Appointment of Chair**
- 2. Apologies for Absence**
- 3. Minutes** (Pages 9 - 18)  
To receive the minutes of the meetings held on 4<sup>th</sup> October and 15<sup>th</sup> November 2016.
- 4. Declarations of Interest**  
Members are reminded that at the start of the meeting they should declare any known interests in any matter to be considered, and also during the meeting if it becomes apparent that they have an interest in the matters being discussed.
- 5. Consideration of an Objection Notice in respect of a Temporary Event Notice at 37/38 Fleet Street, Swindon SN1 1RE together with a copy of each relevant representation made and supporting documents** (Pages 19 - 46)

**Date of Despatch:** 19 January 2017

**Access Arrangements** – The Venue is wheelchair accessible and an infrared receiver hearing system is provided. If you would wish to attend the meeting but have any special requirement to enable you to do so please contact the Committee Clerk above, as soon as possible prior to the date of the meeting.

If you would like to receive any of the pages contained in this agenda in a larger print size please contact the Committee Officer whose name appears on the first page of this agenda.

## **INFORMATION TO ACCOMPANY NOTICE OF HEARING**

### Action following receipt of Notice of Hearing:

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A party shall give to the Licensing Panel within the period of time provided for in the following provisions of this regulation a notice (in the form attached) stating: -

- Whether he intends to attend or be represented at the hearing.
- Whether he considers a hearing to be unnecessary.
- In a case where a party wishes any other person (other than the person he intends to represent him at the hearing) to appear at the hearing, the notice referred to in paragraph (1) shall contain a request for permission for such other person to appear at the hearing accompanied by details of the name of that person and a brief description of the point or points on which that person may be able to assist the authority in relation to the application, representations or notice of the party making the request.

### The following notice periods apply:

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No later than one working day in respect of:

- Cancellation of interim authority notice following police objection, or
- Counter notice following police objection to temporary event notice.

No later than two working days before the first day of hearing:

- Review of premises licence following closure order or review of premises licence following review notice;
- Determination of application for conversion of existing licence;
- Determination of application for conversion of existing club certificate; or
- Determination of application by holder of justices' licence for grant of personal licence.

In any other case, the party shall give the notice no later than five working days before the day or the first day on which the hearing is to be held.

### Right of attendance, assistance and representation:

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A party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified.

The hearing will take place in public. However the Licensing Panel may exclude the public from all or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking place in public. For these purposes a party and any person assisting or representing a party may be treated as a member of the public.

The Licensing Panel may require any person attending the hearing who in their opinion is behaving in a disruptive manner to leave the hearing and may:

- refuse to permit that person to return, or
- permit him to return only on such conditions as the authority may specify.

Any such person may, before the end of the hearing, submit to the authority in writing any information which they would have been entitled to give orally had they not been required to leave.

#### Representations and Supporting Information:

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At the hearing a party shall be entitled to:

- Give further information as appropriate in response to a point upon which the Licensing Panel has given notice that clarification is required (Note – if clarification is required from any party this will have been indicated in the Notice of Hearing);
- If given permission by the Licensing Panel, question any other party; and
- Address the authority.
- Failure of Parties to attend the Hearing

If a party has informed the authority that he does not intend to attend or be represented at a hearing, the hearing may proceed in his absence.

If a party who has not so indicated fails to attend or be represented at a hearing the authority may: -

- Where it considers it to be necessary in the public interest, adjourn the hearing to a specified date, or
- Hold the hearing in the party's absence.
- Where the authority holds the hearing in the absence of a party, the authority shall consider at the hearing the application, representations or notice made by that party.
- Where the authority adjourns the hearing to a specified date it must forthwith notify the parties of the date, time and place to which the hearing has been adjourned

#### Procedure:

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A summary of the procedure that will normally be followed at the hearing is attached.

It should be noted that this is a general procedure intended to cover matters that will normally be applicable at all Hearings. However depending on the circumstances of each individual case, it is recognised that other issues may need to be considered as preliminary points at the hearing. These may include (but are not limited to): -

- Whether to proceed in the absence of a party;
- Whether to admit new documents or information submitted at the hearing;
- Whether it is in the public interest to exclude members of the public from the hearing or any part of it;

- Whether any party wished to withdraw representations previously submitted
- Whether to disregard any information given by a party or any person to whom permission to appear at the hearing is given by the authority which is not relevant to:
  - Their application, representations or notice (as applicable) or in the case of another person, the application representations or notice of the party requesting their appearance, and
  - The promotion of the licensing objectives

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**Procedure for licensing committee or licensing panel hearings,  
where an objection notice has been submitted by the  
Police to a temporary event notice**

- 1) The general facts will be put to the hearing by an officer of the Licensing Authority.**
- 2) The Police will present their objection to the temporary event notice(s). They may clarify and support (but not add to) their written objection.**
- 3) Members of the Licensing Committee (or Panel) may ask questions arising from the Police presentation. The person who has served the temporary event notice(s) may at this stage ask the Police to give a brief clarification of any point that they have made.**
- 4) The applicant and / or their solicitor or representative will be invited to make representations to counter the objection notice submitted by the Police and to respond to points made by the Police in their submission. No unreasonable limits will be placed on the right of the applicant to make their case.**
- 5) Members of the Licensing Committee (or Panel) may ask questions arising from the submission made by the person who has applied for the temporary event notice(s).**
- 6) The Police will be allowed to ask the person who applied for the temporary event notice to give a brief clarification of any point they have made and they will be permitted to ask questions of person who has submitted the temporary event notice(s). They shall not be permitted to restate or develop their original representations and must limit their comments to issues that arise directly from comments made by the person who has submitted the temporary event notice(s) or their representative.**
- 7) Members of the Committee or Panel hearing the application will then discuss the objection notice in private, accompanied only by non-partisan officers who are there in a support role.**
- 8) Should any person present act in a disruptive manner the Chair will first warn him or her about their conduct and then, if the Chair considers it appropriate, may require the person concerned to leave the meeting forthwith. Where a party to the hearing insists on wasting the time of the hearing by needlessly repeating points that have been well aired, their actions may be judged to be disruptive and they may be asked to leave.**

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**LICENSING PANEL**

**TUESDAY, 4 OCTOBER 2016**

PRESENT:- Councillors Alan Bishop, Maureen Penny and Vera Tomlinson

**14. Appointment of Chair**

Resolved – That Councillor Vera Tomlinson be Chair of this Panel.  
(Councillor Tomlinson took the Chair.)

**15. Declarations of Interest**

The Chair reminded Members of the need to declare any known interests in any matters to be considered at the meeting. Councillor Vera Tomlinson made a non prejudicial declaration of interest in respect of Agenda Item No. 4 as she knew one of the objectors who made a submission.

**16. Application for the grant of a Premises Licence in respect of Moredon Off Licence, 275 Whitworth Road, Moredon, Swindon**

The Panel considered (a) a report of the Council's Licensing Manager setting out details of an application for a Premises Licence for Moredon Off Licence, 275 Whitworth Road, Swindon, SN2 3BU, (b) written representations from Whitworth Road Residents Association, Rodbourne Cheney Residents Association, Mr S Hatt, Mr R Kimber and Miss P Strange (local residents) opposing the grant of a licence, (c) oral representations against the grant of a premises licence by Councillor Peter Watts (Ward Councillor), (d) oral representations by local residents in support of their written submissions opposing the grant of a premises licence, (e) conditions proposed by Wiltshire Police for inclusion on the premises licence, if granted, (f) oral submissions in support of the application by Ms Gonul Howell (applicant), (g) questions from Members to the applicant and objectors and answers received, and (h) the Council's procedure for licensing hearings, the Secretary of State's Guidance and the Council's Statement of Licensing Policy.

The Council's Licensing Officer introduced the report noting that:

- The application was for a premises licence for an Off-Licence at 275 Whitworth Road, Swindon.
- The premises had previously been a Post Office and had not previously held a premises licence.
- That a petition containing eight signatures opposing the grant of a premises licence had been received after the end of the consultation period. The wording of this petition had been included, for information, in the agenda papers pack but would not form part of the panel's consideration.
- The Police had submitted proposed conditions for inclusion on the premises licence, should this be granted, and the applicant had agreed to the conditions requested.
- The proposed designated premises licence holder lived within thirty minutes of the store location.

Councillor Peter Watts' made representations on behalf of local residents at Walker House, Whitworth Road Residents Association and Rodbourne Cheney Residents Association opposing the grant of a premises licence. These representations can be broadly summarised as:

- That local people believed that there was no need for an off-licence in the area around 275 Whitworth Road, Swindon as they believed the three supermarkets in the immediate vicinity catered for local needs (the opening hours of these stores covering Monday to Saturday 08:00 to 23:00 hours and Sunday 10:00 to 22:00 hours).
- There were currently parking problems on Whitworth Road and these would be exacerbated by an off-licence. There was currently one space with a maximum stay time of 30 minutes outside the premises and three others in close proximity on the road with a maximum one hour stay during daytime.
- After 5:00pm and on weekends the car parking spaces associated with the premises were used by local residents.
- The car parks for Farm Foods and Co-operative stores were for customer use only and were regulated by a local company.
- There were double yellow lines on both sides of Whitworth Road in the vicinity.
- The Road to the side of 275 Whitworth Road was private and offered access to the residential accommodation behind the proposed store.
- Residents already suffered problems of obstruction with cars blocking the alley.
- There were five flats that formed part of the 275 Whitworth Road premises (three accessed from the front and two from the rear) and they had the same landlord as the applicant.
- There was a real concern that the residents of these flats would suffer a loss of amenity through customers parking inconsiderately should the premises licence be granted.
- The site had previously been a post office and had operated at less intrusive hours.
- The Panel should give weight to the fact that so many local people had concerns in respect of the application.
- That should the premises licence be granted it was requested that this be through a temporary permission so that the effect of the business on the local community could be monitored and confirmed at a later date if there were no substantive problems. (It was noted that this was not an option available to the Panel.)

Representations were made by objectors on behalf of local residents, opposing the grant of a premises licence. These can be broadly summarised as:

- Parking problems along Whitworth Road had been a major issue when the Post Office at 275 Whitworth Road was operating and residents believed that, with the extended hours requested for the premises licence, this would become considerably worse; especially in the evening.
- Whitworth Road had previously been a B Road, which was not designed for high volumes of casual traffic and this was likely to cause problems for local residents.
- The extended hours of operation and the 08:00 start meant that it would add

to traffic during the morning school “run”.

- The operation until after 22:00 would lead to additional loss of amenity for residents through additional noise in the evening.
- There was restricted parking in the area and the car parks for Farm Foods and the Co-operative were only for use by customers of those shops.
- There was the real possibility that the premises could act as a magnet for younger people creating additional noise problems.
- There were two other outlets in the close vicinity that sold alcohol after 22:00 and local residents didn’t believe another one was required.

The objectors responded to questions put in respect of:

- Private parking provisions in the vicinity for local residents and in particular those in the area immediately adjacent to 275 Whitworth Road.
- Increased traffic problems on Whitworth Road arising from increased levels of traffic using the road.
- Residents’ views that an off-licence at 275 Whitworth Road would lead to increased volumes of traffic and parking problems.
- That the extended hours of operation requested would exaggerate the problems caused because they would be prevalent at later times.
- Access arrangements for the flats to the rear of 275 Whitworth Road.
- Whether the premises were currently in use.
- The planning permission in force for the premises allowing a convenience store to operate there.
- The opening hours of the other shops in the vicinity.
- Problems experienced at the premises when it operated as a Post Office.
- Previous levels of complaints regarding parking problems in that area of Whitworth Road.
- Parking restrictions currently in force on Whitworth Road.
- The potential for increased litter with the opening of an of-licence at the site.

The applicant commented on a number of issues, including, but not limited to:

- The application for a premises licence was intended to compliment the general store that was being opened.
- The store would include reference to Rodbourne Cheney to reflect its location.
- That parking was not considered to be an issue as the store was fairly small in size and was intended to cater for local residents.
- Due to its location and size it was not anticipated that it would attract a lot of passing trade.
- That the applicant was content to reduce the hours requested from 00:00 to 23:00 to help reduce the risk of noise nuisance to local residents.
- The premises had been run as a convenience store and/or Post Office for approximately 20 years.

The applicant responded to questions put by the Panel on:

- Issues with local car parking and where customers would be likely to park if the spaces available immediately outside the premises were taken.

- Whether the store would operate regardless of whether a premises licence was granted.
- Deliveries to the premises and whether these could be managed to avoid busy traffic periods and how they would be managed if no car parking spaces were available.
- The rationale for the hours of operation requested.
- The clientele that was expected to use the premises.

Resolved - After considering: -

1. The application for a premises licence made by the Applicant; and
2. Representations and material put forward on behalf of the Objectors;

and taking into account: -

1. The Secretary of State's Guidance; and
2. The Licensing Authority Licensing Statement:

and having in mind the promotion of the Licensing Objectives in particular: -

- i. The prevention of crime and disorder;
- ii. The prevention of public nuisance;

the Panel determined that a Premises Licence be granted subject to: -

1. The permitted hours for the sale of alcohol be:  
Monday to Saturday 08:00 until 23:00.  
Sunday 08:00 until 22:30.
2. That the conditions requested by the Police and set out in the hearing papers shall be applied to the Premises Licence.

### Reasons

1. The Panel was satisfied that the conditions proposed by the Wiltshire Police, and agreed by the applicant (confirmed by the applicant at the hearing) would minimise the impact on the amenities of local residents and uphold the Licensing Objectives.
2. The Panel noted that the applicant had offered an amendment to the end sale time for alcohol and determined that in the light of this offer the end time be amended to 23:00 in order to help protect the amenity of local residents.
3. The Panel carefully considered the written and oral representations of those who opposed the application and the written and oral submissions of the applicant and were mindful that there had been no objections from the Statutory Authorities.
4. The Panel noted that applicants had confirmed the store would be opening regardless of the grant or otherwise of a premises licence.

5. Whilst carefully considering the objectors representations the Panel was mindful that harm caused by the grant of a licence needed to be definitively linked to the application and needed to be evidence based.

6. The Panel noted that whilst acknowledging current issues within the locality there was no evidence further nuisance would arise from the operation of the sale of alcohol at the premises give that the hours of operation were in line with nearby shops.

The Chair reminded both parties that they had a right of appeal to the Magistrates' Court against the determination of the panel and that any such appeal, must be commenced within 21 days of the determination.

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## **LICENSING PANEL**

**TUESDAY, 15 NOVEMBER 2016**

PRESENT:- Councillors Alan Bishop, Vera Tomlinson and Peter Watts

### **17. Appointment of Chair**

Resolved – That Councillor Peter Watts Chair this meeting of the Panel.  
(Councillor Watts took the Chair.)

### **18. Minutes**

Resolved – That the minutes of the meetings held on 28<sup>th</sup> and 30<sup>th</sup> September 2016 be confirmed and signed.

### **19. Declarations of Interest**

The Chair reminded Members of the need to declare any known interests in any matters to be considered at the meeting. No declarations were made.

### **20. Application to vary the Premises Licence for New College, New College Drive, Swindon, SN3 1AH**

The Panel considered (a) a report of the Council's Licensing Manager setting out details of an application to vary the premises licence held by New College, New College Drive, Swindon, SN3 1AH, (b) written representations opposing the application received from a local resident, (c) oral submissions opposing the application for variation from Councillor Steve Allsopp and a local resident, (d) oral submissions in support of the application from the applicant, (e) questions from members to the applicant and objector and answers received, (f) the Council's procedure for licensing hearings, the Secretary of State's Guidance and the Council's Statement of Licensing Policy.

The Council's Licensing Manager introduced the report noting:

- The variation was to permit the sale of alcohol for consumption between the hours of 17:00 and 22:00 hours Monday to Friday and 11:00 to 22:00 hours Saturday and Sunday and 11:00 to 22:00 hours during periods of curriculum downtime.
- Events were held in the Phoenix Theatre.
- The sale of alcohol was for consumption on the premises.
- Conditions offered by the applicant relating to CCTV, training and Challenge 25 checks were set out within the agenda papers.
- There was a no glass policy within trading areas and the use of door staff was risk assessed.
- No comments had been received from the statutory authorities and the conditions set out on pages 34 to 35 of the agenda papers had been discussed with Wiltshire Police.
- The existing premises licence permitted licensable activities 08:00 to 00:00 hours daily.
- A representation had been received from one local resident.

Councillor Steve Allsopp made representations on behalf of a local resident opposing the variation of the premises licence. These representations can be broadly summarised as:

- The sale of alcohol in the auditorium was not opposed as it was ancillary to its use and well managed, but the sale of alcohol outside of this area as shown on the plans on page 43 of the agenda papers was opposed.
- Local concerns were that the variation might lead to undesirable events in the future should the college come under financial pressure.
- That there was a planning application for a 3G football pitch adjacent to the site and there was local concern that users of that facility would be able to access alcohol.
- The additional hours requested were a concern locally.
- The sale of alcohol within an education setting was of concern.

The applicant commented on a number of issues and responded to questions put in respect of:

- That the college had been operating events using requested hours for a year through the use of Temporary Event Notices without adverse issues.
- The reason for the variation was to provide the college with greater flexibility in arranging events as the maximum number permitted under Temporary Event Notices had been used in the preceding year.
- The application was for the area marked in red in the application (the theatre) and did not involve the sale of alcohol to students at the college.
- The sale of soft drinks currently exceeded the sale of alcohol at events as most people attending events drove to the college.
- There was no intention to undertake any drinks promotions.
- The bar was set up after students had left the premises.
- There was clear signage during events that the sale of alcohol would only be made to people producing event tickets.
- Sales were restricted to the college building and did not include the 3G pitches this was clearly defined in the submitted plans.
- That licensed SIA door staff were employed for events after undertaking a risk assessment.
- Periods of curriculum downtime were schools holidays when students were not on campus.
- The supervised use of the premises by students outside of core teaching periods.

Resolved - After considering: -

The application for a premises licence made by the Applicant; and

1. Representations and material put forward on behalf of the Objectors;

and taking into account: -

1. The Secretary of State's Guidance; and



## 2. The Licensing Authority Licensing Statement:

and having in mind the promotion of the Licensing Objectives in particular: -

- i. The prevention of crime and disorder;
- ii. The prevention of public nuisance;

the Panel determined that a Premises Licence for the main college building be granted subject to: -

1. The permitted hours for the sale of alcohol be:  
Monday to Saturday 17:00 until 22:00 hours Monday to Friday  
Saturday and Sunday 11:00 until 22:00.

During periods of core curriculum downtime:  
Monday to Sunday 11:00 to 22:00 hours.

2. That the conditions offered by the applicant and set out in the hearing papers shall be applied to the Premises Licence.

### Reasons

1. The Panel was satisfied that the conditions proposed by the applicant would minimise the impact on the amenities of local residents and uphold the Licensing Objectives.
2. The Panel noted that the applicant had confirmed that the application was for the main college building and did not include sports pitches or the college sports hall.
3. The Panel carefully considered the written and oral representations of the local resident and Ward Councillor who opposed the application and the written and oral submissions of the applicant and were mindful that there had been no objections from the Statutory Authorities.
4. Whilst carefully considering the objectors representations the Panel was mindful that harm caused by the grant of a licence needed to be definitively linked to the application and needed to be evidence based.

The Chair reminded both parties that they had a right of appeal to the Magistrates' Court against the determination of the panel and that any such appeal, must be commenced within 21 days of the determination.

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## **Licensing Act 2003 – Temporary Event Notice – Consideration of an Objection Notice**

**Licensing Panel**

**Date:**

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Author: Kathryn Ashton – Licensing Manager  
Wards: Central  
Parishes Affected: None

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### **1. Purpose and Reasons**

To consider an objection notice given by Wiltshire Police, in respect of a Temporary Event Notice, (hereinafter generally referred to as 'TEN'), received by the Licensing Authority and submitted by 'premises user' Mr Liam O Neill for an event to be held at the premises formerly known as Fantasy Lounge, 37-38 Fleet Street, Swindon, SN1 1RE

### **2. Recommendations**

The Committee is recommended to:

2.1 In the light of the objection, to determine whether to allow the temporary event notices or to issue a counter notice.

2.2.1 The Licensing Authority may take the following steps:

After having regard to the representations, if Members consider it appropriate for the promotion Licensing Objectives in respect of the Prevention of Crime & Disorder and the Protection of Children from Harm – they may:

- a. Give the premises user a counter notice to prevent the temporary event from taking place; or,
  - b. Give the premises user a notice viz. 'Conditions on a Temporary Event Notice and a Statement of Conditions', imposing one or more conditions from a premises licence that exists in respect of the same premises for which the temporary event notice is given; or,
  - c. In such cases where it decides not to give a counter notice, it must give the premises user, the Chief Officer of Police and Environmental Health, (EH), notice of the decision;
- 2.3 In any case where a counter notice or a notice viz. 'Conditions on a Temporary Event Notice Statement of Conditions', is issued, the Licensing Authority must:
- a. Give the premises user the counter notice and a notice stating the reasons for its decision; and,
  - b. Give the party making the objection a copy of both these notices.

# Licensing Act 2003 – Temporary Event Notice – Consideration of an Objection Notice

Licensing Panel

Date:

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## 3.0 Detail- Summary of the Temporary Event Notice and Police Objections

- 3.1 The TEN was received by the Licensing Authority on 11 January 2017. The TEN was submitted by Mr Liam O Neill for an event to be held at the premises formerly known as Fantasy Lounge, 37-38 Fleet Street, Swindon, SN1 1RE, and relates to the supply of alcohol, and the provision of regulated entertainment, namely live and amplified recorded music to take place on Friday 27th – Saturday 28th January 2017 from 20:00hrs – 03:00hrs.
- 3.2 A copy of the TEN is attached as **Appendix A**.
- 3.3 Ms Sian Kalynka, Acting Licensing Manager of Wiltshire Police submitted a representation in respect of the temporary event notice within the required three working days of receipt and this was received by an e-mail sent to the Licensing Authority on Thursday 12th January 2017. The representation was made by Ms Sian Kalynka as, in the opinion of Ms Kalynka, the Licensing Objective in respect of the Prevention of Crime & Disorder would be undermined should the temporary event take place.
- 3.4 A copy of the Police objection is attached as **Appendix B**.

## 4. Operating History

- 4.1 Mr Liam O Neill has submitted a number of TENs in the past for one off events at this and other venues within the town. The premises is currently not in use. The Premises operated as a small night club/ lap dancing venue in the town centre of Swindon. The Premises licence is current although the premises is not operating. A copy of the licence is attached at **Appendix C**.

## 5. Relevant Considerations

- 5.1 A Temporary Event Notice can be given by an individual known as a 'premises user' and authorises the user to conduct one or more licensable activities at the premises for no more than 168 hours (seven days). TENs are designed to authorise relatively small-scale ad hoc events for up to 499 persons.
- 5.2 Temporary Event Notices permit licensable activities to take place subject to the following rules, having recently been changed by the Police Reform and Social Responsibility Act 2011:
- a. the number of times a premises user may give a TEN (50 times in a calendar year for a personal licence holder and five times in a calendar year for other people);

## **Licensing Act 2003 – Temporary Event Notice – Consideration of an Objection Notice**

**Licensing Panel**

**Date:**

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- b. the number of times a TEN may be given for any particular premises (15 times in a calendar year);
  - c. the maximum duration of an event authorised by a TEN is 168 hours (seven days);
  - d. the maximum total duration of the events authorised by TENs in relation to individual premises (21 days in a calendar year);
  - e. the maximum number of people attending at any one time (499 or less); and
  - f. the minimum period between events authorised under separate TENs in relation to the same premises (not including withdrawn TENs) by the same premises user (24 hours).
- 5.3 TENs can be used to extend the hours licensable activities take place, to add licensable activities not currently catered for, or to hold licensable activities at premises not currently licensed.
- 5.4 The 'premises user' must give the TEN to the relevant Licensing Authority and also send a copy to (1) the Chief Officer of Police and (2) to the local authority exercising Environmental Health functions. Upon receipt of a TEN, the Licensing Authority is required to issue an acknowledgement of the TEN.
- 5.5 The purpose of the notification requirement is to enable the Licensing Authority to check that the limitations set down in the Act, as set out in 5.2 of the report, are being observed and to intervene if they are not.
- 5.6 If the Police, or a Local Authority exercising Environmental Health functions, are satisfied that allowing the premises to be used in accordance with the TEN will undermine the licensing objectives, they may object to a TEN to the Licensing Authority, explaining the reason(s) why.
- 5.7 However, at any time before a hearing is held, the Chief Officer of Police or the local authority exercising Environmental Health functions may, with the agreement of the premises user, modify the TEN to address the concerns.
- 5.8 In the alternative, where an objection is made requesting that conditions from an existing premises licence or club premises certificate in respect of the same premises for which the TEN has been made; and the premises user agrees to impose those conditions; and if all parties agree that a hearing is unnecessary; the Licensing Authority may issue a notice (Conditions on a Temporary Event Notice) and a statement of conditions without a formal hearing before the Licensing Authority's Sub-Committee.
- 5.9 If there are no objections by the Police or the local authority exercising Environmental Health functions, or a TEN has been modified, or a notice, viz.

# **Licensing Act 2003 – Temporary Event Notice – Consideration of an Objection Notice**

**Licensing Panel**

**Date:**

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‘Conditions on a Temporary Event Notice and a Statement of Conditions’, has been served, the Licensing Authority has no power under the Act to stop permitted temporary events taking place once they have started. However, a Local Authority may have powers under other legislation, for example, to deal with statutory noise nuisance.

5.10 The Chief Officer of Police has the power to seek court orders to close premises for up to 24 hours in a geographical area that is experiencing, or likely to experience, disorder. Police also have the power to close down instantly, for up to 24 hours, premises in respect of which a TEN has effect, that are:

- Disorderly;
- Likely to become disorderly; or,
- Are causing disturbance by excessive noise from the premises.

Such orders may only be made where it is necessary in the interests of public safety in cases of disorder or to prevent nuisance in the case of noise coming from the premises.

## **6. Policy and Statutory Considerations**

6.1 In making their decision, the Licensing Panel must have regard to the following:

- The promotion of the Licensing Objectives;
- The Licensing Act 2003;
- The Statutory Guidance issued by the Secretary of State in accordance with Section 182 of the Act;
- The representations, including supporting information, presented by all the parties; and
- Swindon Borough Council’s Statement of Licensing Policy.

6.2 Any TEN will be considered on its individual merits. Equally, any person permitted by the Act to make relevant representations to the committee will have those representations considered on their individual merit.

6.3 The Act does not permit the Licensing Authority to attach any additional terms, limitation or restriction on the carrying on of licensable activities at such events under the authority of a TEN other than those that may already exist on an existing premises licence or club premises certificate in respect of the same premises for which the temporary event notice has been submitted. Premises users are not required to be on the premises for the entire duration of the event, but they will remain liable to prosecution for certain offences that may be

## Licensing Act 2003 – Temporary Event Notice – Consideration of an Objection Notice

**Licensing Panel**

**Date:**

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committed at the premises during the temporary event if the event is not adequately managed or supervised including the laws governing sales of alcohol to persons under 18 years.

*Swindon Borough Council's Statement of Licensing Policy.*

- 6.4 The Sub-Committee is reminded to have regard to the Policy in general when making their decision.

*Section 182 Guidance Published by the Secretary of State*

- 6.5 Section 7.10 of the Guidance states: "Although ten clear working days is the minimum possible notice that may be given, licensing authorities should publicise their preferences in terms of advance notice and encourage premises users to provide the earliest possible notice of events planned by them. Licensing authorities should also consider publicising a preferred maximum time in advance of an event by when TENs should ideally be given to them."
- 6.6 Section 7.6 of the Guidance states: "The police or "local authority exercising environmental health functions" ("EHA") may intervene to prevent such an event taking place by sending an objection to the licensing authority, which the licensing authority must consider on the basis of the statutory licensing objectives and decide whether the event should go ahead. The police or EHA ("relevant persons" for the purposes of TENs) may also intervene by agreeing a modification of the proposed arrangements directly with the TENs user. If a relevant person sends an objection, this may result in the licensing authority imposing conditions on a TEN but only where the venue at which the event is to be held has an existing premises licence or club premises certificate. When giving a TEN, the premises user should consider the promotion of the four licensing objectives. The licensing authority may only otherwise intervene if the statutory permitted limits on TENs would be exceeded."
- 6.7 Section 7.35 of the Guidance states: "Such cases might arise because of concerns about the scale, location, timing of the event or concerns about public nuisance. However, in most cases, where (for example) alcohol is supplied away from licensed premises at a temporary bar under the control of a personal licence holder (for example, at weddings with a cash bar or small social or sporting events), this should not usually give rise to the use of these powers."
- 6.8 Section 7.28 of the Guidance states: "If the Licensing Authority receives an objection notice from the Police that is not withdrawn, it must (in the case of a standard TEN only) hold a hearing to consider the objection (unless all parties agree that this is unnecessary). The licensing committee may decide to allow the licensable activities to go ahead as stated in the notice. If the notice is in

# Licensing Act 2003 – Temporary Event Notice – Consideration of an Objection Notice

**Licensing Panel**

**Date:**

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connection with licensable activities at licensed premises, the Licensing Authority may also impose one or more of the existing licence conditions on the TEN (insofar as such conditions are not inconsistent with the event) if it considers that this is appropriate for the promotion of the licensing objectives. If the authority decides to impose conditions, it must give notice to the 'premises user', which includes a statement of conditions (a "notice (statement of conditions)"), and provide a copy to each relevant party. Alternatively, it can decide that the event would undermine the licensing objectives and should not take place. In this case, the Licensing Authority must give a counter notice."

- 6.9 Section 7.36 of the Guidance states: "The Police may contact the 'premises user' to discuss their objections and try to come to an agreement, which will allow the proposed licensable activities to proceed. The TEN can be modified. The other relevant person has to agree"

## *The Licensing Act 2003 Regulations*

- 6.10 The Sub-Committee should have regard to the Hearings Regulations published by the Government under the Licensing Act 2003.

## *Human Rights Act 1998*

- 6.11 Human Rights Act provides that: "Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No-one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

The term "possession" includes a Licence as well as a home and the things it contains.

- 6.12 The Act further provides:

"(1) it is unlawful for a public authority to act in a way which is incompatible with a Convention right.

(2) Subsection (1) does not apply to an act if:

- (a) as the result of one or more provisions of primary legislation, the authority could not have acted differently; or
- (b) in the case of one or more provisions of, or made under, primary legislation which cannot be read or given effect in a way which is compatible with the



# **Licensing Act 2003 – Temporary Event Notice – Consideration of an Objection Notice**

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Convention rights, the authority was acting so as to give effect to or enforce those provisions.”

- 6.13 However, it is recognised that the Council’s Statement of Licensing Policy and Statutory Guidance cannot anticipate every possible scenario or set of circumstances that may arise. Therefore, subject to both the Policy and Guidance having been properly and carefully considered, Licensing Authorities may depart from them if they have a justifiable reason to do so. If doing so, Licensing Authorities will need to give full reasons for their actions

## **7. Legal Considerations**

- 7.1 In order to comply with the statutory provisions contained within Section 104(2) of the Act, the Chief Officer of Police or a local authority exercising Environmental Health functions must be satisfied that allowing the premises to be used in accordance with the TEN would undermine one or more of the licensing objectives and the objection notice must state the reasons why he is so satisfied. This notice must be given to the relevant Licensing Authority and the premises user no later than three working days after the Chief Officer of Police or the local authority exercising Environmental Health functions is given a copy of the TEN.
- 7.2 Whilst the Police or the local authority exercising Environmental Health functions may suggest additional measures that the ‘premises user’ may implement to uphold the licensing objectives, these requirements cannot be attached as terms or conditions of the TEN and are, therefore, merely aspirational and unenforceable at law. The Act only allows modification of the TEN so far as it relates to matters contained within the prescribed notice (i.e. licensable activities, proposed dates and timings) or for the inclusion of one or more conditions that already exist on an existing premises licence or club premises certificate in respect of the same premises for which the TEN is submitted.

## **8. Appeal Rights**

- 8.1 Rights of appeal are available both to the premises user who gave the TEN and to the Police or local authority exercising Environmental Health functions. The ‘premises user’ can appeal where the Licensing Authority has given a counter notice and the Police can appeal where their objection has not been upheld and no counter notice has been given.
- 8.2 The Guidance states at 12.10: “It is important that a Licensing Authority should give comprehensive reasons for its decisions in anticipation of any appeals. Failure to give adequate reasons could itself give rise to grounds for an appeal. It is particularly important that reasons should also address the extent to which the decision has been made with regard to the Licensing Authority’s statement of

# Licensing Act 2003 – Temporary Event Notice – Consideration of an Objection Notice

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policy and this Guidance. Reasons should be promulgated to all the parties of any process which might give rise to an appeal under the terms of the 2003 Act.”

## **9. Alternative Options**

- 9.1 When considering an Objection Notice there is no option to defer a decision or to defer the hearing itself to a later date.

## **10. Implications, Diversity Impact Assessment and Risk Management**

- 10.1 There are no direct financial implications arising from the report. Failure to reach a reasonable conclusion, based on the facts, could lead to breach of the licensing objectives or to unwarranted damage to the business in question. Either scenario could raise issues of compensation. In the case of an appeal, the Council could become liable for costs. The Council provides training for Members who sit on the Licensing Committee, as one of the measures to mitigate financial risk.

### *Legal and Human Rights Implications*

- 10.2 A declaration has been made by the Secretary of State, that the Licensing Act is compliant with the Human Rights Act.

### *Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)*

- 10.3 This report and decisions are made within the context of the Licensing Act 2003.

### *Links to One Swindon, Strategic Objectives, Plans and Policies*

- 10.4 This report and decisions are made within the context of the Licensing Act 2003.

### *Diversity Impact Assessment*

- 10.5 This report and decisions are made within the context of the Licensing Act 2003.

### *Risk Management*

- 10.6 The Council provides training for Members who sit on the Licensing Committee, as one of the measures to mitigate financial and legal risk.

## **11. Consultees**

- 11.1 The Board Director Finance, Revenues, Benefits and Property (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports.

# **Licensing Act 2003 – Temporary Event Notice – Consideration of an Objection Notice**

**Licensing Panel**

**Date:**

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## **12. Background Papers**

- 12.1 Swindon Borough Council's Licensing Statement
- 12.2 Licensing Act 2003 and Subsequent Regulations

## **13. Appendices**

- 13.1 Appendix A – Copy of Temporary Event Notice
  - Appendix B – Police Representation
  - Appendix C – Copy of Existing Premises Licence for 37-38 Fleet Street, Swindon, SN1 1RE

**Licensing Act 2003 – Temporary Event Notice – Consideration of an  
Objection Notice**

**Licensing Panel**

**Date:**

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## E & P Licensing

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**From:** jadu-www@rsvm129.servers.jadu.net on behalf of noreply@swindon.gov.uk  
**Sent:** 11 January 2017 13:28  
**To:** E & P Licensing  
**Subject:** Form completion: Temporary Event Notice

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

**Categories:** passed to BSU, Dealt With by FIMA

## FORM DETAILS

Web Reference No: 79192  
Form Title: Temporary Event Notice  
Date Started: 11.01.17  
Time Started: 13:04:07  
Date Completed: 11.01.17  
Time Completed: : 13:27:39  
Status: Pending

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## USER DETAILS

Site user email:

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## USER INPUTS

Question	Response
<i>Title:</i>	Mr
<i>Title (if Other):</i>	
<i>First Name:</i>	Liam
<i>Last Name:</i>	ONeill
<i>Date of Birth:</i>	[REDACTED]
<i>Place of Birth:</i>	[REDACTED]
<i>National Insurance Number:</i>	[REDACTED]
<i>Telephone:</i>	[REDACTED]
<i>Mobile Number:</i>	[REDACTED]
<i>Address Line 1:</i>	[REDACTED]
<i>Address Line 2:</i>	
<i>Town:</i>	Swindon
<i>Post Code:</i>	[REDACTED]
<i>Daytime telephone number:</i>	[REDACTED]
<i>Evening telephone number:</i>	
<i>Mobile telephone number:</i>	[REDACTED]

**Question****Response**

Fax number:

Have you been known by any previous name (e.g. by a maiden name):

No

Is the correspondence address the same as the premises user's address:

Yes

Address Line 1:

37-38 Fleet St

Address Line 2:

Town:

Swindon

Post Code:

SN1 1RE

Ordnance Survey References (if app):

If you intend to use only part of the premises at this address or intend to restrict the area to which this notice applies, please give a description and details below:

Please describe the nature of the premises:

Former gentlemen club

Door Policy § Any staff or private areas and cellars are to be kept locked and secured whilst the premises are open to the public. § Emergency exits are alarmed when the premises are open to the public so that staff are immediately notified of unauthorised opening or tampering. § 8 CCTV cameras are installed inside and outside the premises. The cameras cover all internal areas accessible to the public and areas immediately outside the premises. The date and time settings are on the system. The recordings are in real time and on hard drive with the availability to copy disks for other agencies such as the police. Recordings are kept for a minimum period of 31 days. § Premises should be searched inside and out for suspect packages before, during and after opening hours. Evidence of this will be on CCTV and a written document with the times that such checks have been made will be kept at reception. Anything that is cause for concern will be dealt with appropriately. § A door admissions policy including any age restrictions, expected dress standards or the screening of hand bags will be displayed to inform customers that we reserve to carry out these searches without prejudice. This will be clearly displayed at the entrance to the premises. § Drinking vessels are from plastic or polycarbonate or cans suitable in inside and outside areas. § A zero tolerance policy to the use of drugs and being brought into carrying of weapons in the premises will be enforced. Posters will be displayed throughout the premises to remind customers of zero tolerance policy. For clarification these will be displayed at the following locations in the building: 1 in reception, 1 behind the bar, 1 in each toilet, 1 in the outside

Please describe the nature of the event:



## Question

## Response

smoking area and shared corridors. § An enclosed outdoor smoking area will be set up at the rear of the venue. § Challenge 25 policy will be in effect at all times throughout the venue and posters displayed throughout the Venue. § Last orders will be called 30 minutes before closing of the venue. § Last entry to the venue will be 01:00 § Emergency services contact details will be in manager phone book (paper based) located at reception on top of CCTV DVR unit, as well as all door staff will have a personal copy in paper format, on their person. Staff Policy § Well trained staff will contribute to well-run premises or understanding of and a responsible approach to the sale of alcohol, provision of the Licensing Act 2003 entertainment and late night refreshment. § All staff are advised of licensing law in writing before they are allowed to serve alcohol. Training is provided on premises'. A record is kept of the date and name of person trained or advised and available for inspection by the police or licensing authority. This will be carried for each staff member on the date of the event so it's clear that we have conformed to the licensing law stipulations and staff are fully aware of measures, and crime and prevention. § Staff should be trained to remain vigilant during opening hours and report any suspicious activity to manager or the Police. Door staff will be employed at the venue through Gold Shield Security (3-4) to supervise admissions and customers inside/outside the venue. Any person performing the role of a door supervisor must be licensed with the Security Industry Authority (SIA) and SIA badges must be clearly displayed whilst working. Door staff should be easily identifiable by wearing a uniform, high visibility jackets or arm bands. Door staff sign into a register detailing their full SIA licence number, their name, contact details and the time and date their duty commenced and concluded. We are very please with the last event we held, we have a detailed record from our door staff of when they arrived and left, and all checks they carried out, which is available on request. We are very looking forward to working with the local authorities to ensure future and well run events are as successful as the last.

*Please state the licensable activities that you intend to carry on at the premises:*

*Please state the licensable activities that you intend to carry on at the premises:*

*The supply of alcohol by or on behalf of a club to, or the order of, a member of the club:*

*The provision of regulated entertainment:*

The sale by retail of alcohol

The provision of regulated entertainment

Question	Response
The provision of late night refreshment: Please state the dates on which you intend to use these premises for licensable activities:	27/01/2017 - 28/01/2017
Please state the times during the event period that you propose to carry on licensable activities (please give the times in 24 hour clock):	27/01/2017 20:00 to 28/01/2017 03:00
Please state the maximum number of people at any one time that you intend to allow to be present at the premises during the times when you intend to carry on licensable activities, including any staff, organisers or performers:	120
If the licensable activities will include the supply of alcohol, please state whether the supplies will be for consumption on or off the premises, or both:	On the premises only
Do you currently hold a valid personal licence:	Yes
Issuing licensing authority :	[REDACTED]
Licence number:	[REDACTED]
Date of issue:	[REDACTED]
Date of expiry:	
Any further relevant details:	No
Have you previously given a temporary event notice in respect of any premises for events falling in the same calendar year as the event for which you are now giving this temporary event notice:	No
Has any associate of yours given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice:	No
Has any person with whom you are in business carrying on licensable activities given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice:	No
If answering yes, please state the total number of temporary event notices your business colleague (s) have given for events in the same calendar year:	
Has any business colleague of yours already given a temporary event notice for the same premises in which the event period: a) Ends 24 or less before; or b)	No



**Question****Response**

*Begins 24 hours or less after the event proposed in this notice:*

*If there is any further information which you need to provide in support of the application, please advise it here:*

*You must confirm that you have read the notice above, before your transaction can be completed.:*

*How do you wish to pay:*

We look forward to having a meeting with yourselves at appeal, as no doubt, PC Mike Diffin will issue a counter notice and as we are professional in our conduct, we will attend an appeal to get to the bottom of the issue he appears to have with our events.

I have read the above notice

Online



**From:** Kalynka, Sian [<mailto:Sian.Kalynka@wiltshire.pnn.police.uk>]  
**Sent:** 12 January 2017 10:04  
**To:** E & P Licensing <[E&PLicensing@swindon.gov.uk](mailto:E&PLicensing@swindon.gov.uk)>; Kathryn Ashton <[KAshton@swindon.gov.uk](mailto:KAshton@swindon.gov.uk)>; Fiona MacAdam <[FMacAdam@swindon.gov.uk](mailto:FMacAdam@swindon.gov.uk)>; Esther Bingham <[EBingham@swindon.gov.uk](mailto:EBingham@swindon.gov.uk)>  
**Cc:** Diffin, Michael <[Michael.Diffin@wiltshire.pnn.police.uk](mailto:Michael.Diffin@wiltshire.pnn.police.uk)>  
**Subject:** FW: Temporary Event Notice - Mr Liam O'Neill, 37-38 Fleet Street, Swindon

Dear Licensing,

Wiltshire Police are in receipt of the below Temporary Event Notice on 11/01/17 submitted by Mr Liam O'Neill. Wiltshire Police wish to object to this TEN on the grounds of crime and disorder.

On the 26/11/16 Mr O'Neill held an event during which a licensing check was conducted. At the time of the check Mr O'Neill was found to be in breach of a number of the conditions and policies that he had included in his TEN application. The applicant continues to submit TEN applications for late night events within the town centre night time economy including the same conditions that he could not previously comply with.

Mr O'Neill did not have in place any policies in relation to security, drugs and entry there was no evidence of staff training and no age verification system in place.

There were also only 2 door staff on at the time of the visit when Mr O'Neill had stated that he would have 3-4 members of door staff on duty throughout the event. These breaches are offences under s131(1) Licensing Act 2003.

Wiltshire Police cannot agree to an event run by the applicant to go ahead when he has demonstrated a complete lack of understanding of the licensing objectives and shown his complete inability to run a night time economy venue.

Please consider this an objection to the application for a Temporary Event Notice on the grounds that it would undermine the crime prevention objective.

If you need anything further please let me know.

Kind Regards

Sian

**Siân Kalynka 6454**  
Acting Licensing Manager  
01380 861554

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Licensing Authority  
5<sup>th</sup> Floor, Wat Tyler West  
Beckhampton Street  
Swindon  
SN1 2JG  
Tel: 01793 466113  
licensing@swindon.gov.uk

## 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)

<b>Premises Licence Number</b>	881150587LAPDPS
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#### Part 1 – Premises Details

<b>Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code</b>
Fantasy Lounge 37 - 38 Fleet Street Swindon SN1 1RE
<b>Telephone number</b> Nil

<b>Where the licence is time limited the dates</b>
Not Applicable

<b>Licensable activities authorised by the licence</b>
Performance of Dance Playing of Recorded Music Sale by Retail of Alcohol

<b>Times the licence authorises the carrying out of licensable activities</b>
Performance of Dance Tuesday 21:00 - 04:00 Wednesday 21:00 - 04:00 Thursday 21:00 - 04:00 Friday 21:00 - 04:00 Saturday 21:00 - 04:00

Playing of Recorded Music

Tuesday 21:00 - 04:00

Wednesday 21:00 - 04:00

Thursday 21:00 - 04:00

Friday 21:00 - 04:00

Saturday 21:00 - 04:00

Sale by Retail of Alcohol

Tuesday 21:00 - 04:00

Wednesday 21:00 - 04:00

Thursday 21:00 - 04:00

Friday 21:00 - 04:00

Saturday 21:00 - 04:00

Non-standard Timings

Playing of Recorded Music, Performance of a Dance, Sale by Retail of Alcohol

Sunday prior to Bank Holidays 21:00 to 04:00

**The opening hours of the premises**

Tuesday to Saturday 21:00 - 04:30

Sunday immediately prior to Bank Holiday 21:00 - 04:30

**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 both on and off the premises

## Part 2

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

Mr Charles Dowie  
Fantasy Lounge  
37 Fleet Street  
Swindon  
SN1 1RE

Email Address - chas375@btinternet.com

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

Not Applicable

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

Mr Charles Dowie



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

Personal Licence No: [REDACTED]

Licensing Authority: Swindon Borough Council

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

**Dated this 20<sup>th</sup> October 2015**

A handwritten signature in blue ink, appearing to read 'K. Ashton'.

Kathryn Ashton  
**Licensing Manager**

## **Mandatory Conditions**

1. No supply of alcohol may be made under the premises licence
  - (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
  - (b) 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. (1) 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.  
  
(2) 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).
4. The responsible person must ensure that free potable water is provided



on request to customers where it is reasonably available.

5. (1) The premises licence holder or club premises certificate 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.
- 6.
- (a) The responsible person must ensure that 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;
  - (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.
7. (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) For the purposes of the condition set out in paragraph (1)
- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
  - (b) "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;
- (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 given by Paragraph (b) of paragraph (2) would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- (4) (a) Sub-paragraph (4)(b) below applies where the permitted price given by Paragraph (2)(b) above 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.
- (b) 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.
8. Each individual who is required by a condition of this licence to be at the premises to carry out a security activity shall:
- (a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or
  - (b) be entitled to carry out that activity by virtue of section 4 of that Act.

### **Conditions consistent with the Operating Schedule**

9. There shall be 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 except pole/lap dancing.
10. CCTV equipment which is fit for purpose and properly maintained shall cover the trading and entrance areas when the premises are open for business. CCTV recordings shall be kept for the full 28 days permitted by the Office of the Information Commissioner and shall be made available to enforcement officers on request.

11. Suitable training shall be given to staff who sell alcohol. A training record shall be kept and shall be made available to enforcement officers on request. Refresher training shall be provided to those staff at least every six months.
12. A 'Challenge 25' policy shall be applied. Staff shall challenge any customer who appears to be 25 years or under and shall not sell alcohol to them unless they show a valid form of identification in the form of passport, a photo driving licence, a government issued identity card or a PASS accredited ID or its equivalent successor card.
13. Where an alcohol sale is refused or disorder takes place on the premises, the details shall be recorded in a log book which shall be provided to enforcement officers on request. An entry shall be made if a customer is either escorted from the premises or is detained there. All entries shall include a date and time.
14. No persons other than performers engaged in the approved adult entertainment shall be in a state of undress at any time.
15. No performer shall remain in a state of undress in any part of the premises to which the public have access, unless engaged in a performance at the time.
16. The premises licence holder shall seek documentary proof of age for any person who is allowed to perform adult entertainment on the premises. No person shall be so permitted unless they have submitted valid proof of age. Copies of the proof of age documents submitted for each performer shall be kept on the premises and shall be shown to any enforcement officer on request.
17. Secure and private changing facilities shall be provided for all performers. No person other than performers, authorised staff or enforcement officers shall be permitted to enter the changing area at any time when the premises are open to customers.
18. A safe and unobstructed route to safety for performers shall be provided and maintained.
19. The premises shall be arranged and lobbies constructed so that no nudity or any entertainment having any sexual content be viewed for any point outside the premises.
20. Whilst there shall be no prohibition on public dancing, no person who appears as a performer shall be permitted to dance with any customer on the premises at any time.
21. No promotional mechanism (including any sign) shall be used on the building where the character of the promotional mechanism is likely to offend passers-by.

22. Suitable signage shall be placed inside the premises beside the exit, requesting that customers behave in a considerate manner as they leave the building.
23. A member of staff shall be positioned at the exit as customers start to leave reminding them not to linger and behave as they leave the building.
24. At all times when the premises are open for business there shall be a minimum of two licensed door supervisors present. Notwithstanding that, sufficient door supervisors shall be provided at all times, based on a risk assessment which takes into account the general need for access control and the maintenance of order but also provides for the close supervision of customers and performers, to ensure that standards of propriety are maintained.
25. Any door supervisor working at the premises shall at all times wear a highly visible item, of clothing or accessory such as an armband, to immediately identify them as being a door supervisor.
26. A sufficient number of door supervisors shall be present in the vicinity of any performance area. The pole dancing area shall be secure of any intrusion and watched by a member of staff with a primary duty (other than in an emergency) to ensure that propriety is maintained and performers are secure.
27. The premises licence holder shall engage with the local Pubwatch scheme or any well supported successor or alternative to that scheme, in particular by participating in the banning scheme operated by the Pubwatch and meeting the associated requirement in relation to the sharing of information about individuals.
28. No promotion shall be entered into, where its effect is likely to be the over-consumption of alcohol.
29. No persons under the age of 18 shall be permitted to enter or remain on the premises at any time when it is open for business.

#### **Conditions attached after a hearing by the Licensing Authority**

30. There shall be a minimum of 4 SIA registered door supervisors, excluding the Premises DPS, on duty from 22:00 on a Thursday, Friday, Saturday or any session which begins on a Sunday prior to a Bank Holiday. The manager shall undertake a Risk Assessment of Door Staff provision at all times.
31. The maximum permitted capacity for the venue shall be 120 patrons

plus staff.

32. A dispersal policy shall be formulated in conjunction with the Police and shall be applied with the objective of ensuring the safe and quiet dispersal of customers at the end of the evening.
33. No person shall be permitted to take a glass bottle into the smoking area after 22:00hrs.
34. No ashtrays manufactured from glass or any other heavy material which might facilitate their use as weapons shall be placed in any smoking area.
35. Polycarbonate, shatter-to-safe, plastic, paper or other inherently safer types of container shall be used at all times the premises is open.
36. There shall be a last entry time for admission to the premises of 02:30.
37. A CCTV camera shall be installed to cover the entrance/Exit area of the premises and shall have a clear unobstructed view of the front door of the premises.
38. A register shall be kept on the premises, in which shall be recorded the details of door supervisors, to show clearly which door supervisors are on duty at any given time. Together with that record, information shall be recorded about each individual door supervisor, to include their full name, their SIA badge number and the identity of their employer. In addition the Head Door Supervisor, or other such manager of the Door Supervisors on site shall be identified in the record, together with his or her details and hours of duty. The DPS/Manager shall not include themselves as a member of the door staff.
39. Door supervisors shall be instructed to undertake walk around checking for intoxicated patrons or underage customers at least every thirty minutes from 21:00 until closing. These checks shall cover all public areas including both toilets. A log detailing these inspections shall be kept by Door supervisors and shall be signed at the end of the evening.
40. The bar shall be cleared of customers within 30 minutes of the bar closing, following a session where alcohol has been sold.

## **Plans**

No changes to original plans

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