

**MONMOUTHSHIRE COUNTY COUNCIL
REPORT**

SUBJECT: Application for a Premises Licence for Chepstow Racecourse, St Arvans, Chepstow NP16 6BE
DIRECTORATE: Chief Executive
MEETING: Licensing & Regulatory Sub-Committee
Date to be considered: 11th May 2016
DIVISION/WARDS AFFECTED: Chepstow

1. PURPOSE:

To consider an application for a Premises Licence under the Licensing Act 2003 for the Chepstow Racecourse, St Arvans, Chepstow, NP16 6BE.
A Copy of the application is attached as Appendix A.

2. RECOMMENDATION(S):

2.1 It is recommended that members consider and determine the application, on the basis of the information provided.

3. KEY ISSUES

3.1 The premises had previously operated and adhered to the conditions referred to in 3.2 to 3.5 below. The Licensing Section were notified by the applicant on 16th March 2016 that the company that held the licence for Chepstow Racecourse was dissolved in 2014. No Interim Authority or Transfer of licence took place at that time, and as such the previous licence had lapsed. With no licence in place the applicant has now made a new application for the Racecourse. A new application for Chepstow Racecourse was received on 16th March 2016, which is an exact replica of the times for regulated activities and the conditions previously operated by the premises, which is the basis of this report.

3.2 The application is for the following:

Supply of Alcohol (On and Off Sales)	Start	Finish
Monday to Sunday	10.00hrs	02 .00hrs
Recorded Music (Indoors and Outdoors) Monday to Sunday	10.00hrs	02.00hrs
Late Night Refreshments Monday to Sunday	23.00hrs	02.00hrs
Live Music (indoors and Outdoors) Monday to Sunday	10:00hrs	02:00 hrs

Performances of Dance (indoors and Outdoors) Monday to Sunday	10.00hrs	02.00hrs
Hours open to the Public Monday to Sunday		24.00hrs

3.3 The Legislative Reform (Entertainment Licensing) Order 2014 permits live and recorded music for 500 persons between the 08.00hrs – 23.00hrs in on licensed premises without the requirement of a licence. The payment received by Licensing Section for the application referred to in 3.1 was for a capacity level of between 10,000 to 14,999. It is therefore clear that this Order will not be applicable in this instance as the capacity level will exceed 500 people.

3.4 The applicant within the operating schedule has stated the following under the four licensing objectives. .

General - all four licensing objectives

1. On days when horseracing is taking place at the premises a risk assessment will be carried out to comply with the 'Green Guide/Guide to Safety at Sports Grounds.' When licensable activities take place a suitable risk assessment will also be carried out at the premises.

1 All reasonable requests made by the Licensing Authority regarding the risk assessment of the premises will be carried out.

2. When regulated entertainment events take place at the premises, guidance must be sought with Monmouthshire's Event Safety Advisory Group to ensure an adequate risk assessment will be put in place and the necessary control measures are implemented.

The Prevention of Crime and Disorder

1. The Licensee shall in all things conduct the premises in a decent, sober and orderly manner, and take whatever steps are necessary to ensure that there is no profanity, impropriety of language, dress, dance or gesture which is in any way offensive to public feelings or is likely to cause a breach of the peace.

2. CCTV is installed and working in agreement with the Police and Licensing Authority. Recording the inside and outside areas of the premises. Recordings will be made available for a minimum period of 28 days to the Police and Licensing Authority upon request. If the CCTV equipment fails, the Police and Licensing Authority will be informed as soon as possible and immediate steps will be taken to put the equipment back into action. A notice will be displayed at the entrance of the premises advising that CCTV is in operation.

3. When Regulated Entertainment takes place at the premises door supervisors licensed with the Security industry Authority must be employed, with a ratio of 1 door supervisor per 250 persons. The ratio of door supervisors per number of persons present can be changed if deemed appropriate by the Police and Licensing Authority, dependent on the size and nature of the event

4. All incidents of crime will be reported to the Police as soon as reasonably practical. Any disorder will be entered into an Incident Log. For every event held, a risk assessment will be prepared which will include an analysis and assessment of any crime and disorder at similar previous events.

5. The premises operate a zero drug policy and all staff will be suitably trained on this policy. The premise has a secure facility to store controlled drugs prior to collection by the Police.

Public Safety

1. Duly authorised officers of the Council, Police Constables and duly authorised officers of South Wales Fire and Rescue Service shall at all reasonable times have free ingress to the licensed premises and the Licensee or the person in charge in the absence of the Licensee shall comply with any reasonable safety measure that may be required of him by any duly authorised officer of the Council.

2. Lighting, Electrical Fittings etc.

3.a) All electrical fittings, wiring and appliances shall be constructed and maintained in a safe and satisfactory condition and to the satisfaction of the Council and whenever required to do so by the Council the licensee shall submit to the Council a certificate given by a qualified Electrical Engineer that the electrical installations have been examined and tested and are in a safe working condition.

b) All electric lamp holders within reach of the public shall be kept fitted with lamps or otherwise protected.

c) The Licensee shall ensure that socket outlets for use with temporary or portable Electrical

Equipment on or in the vicinity of any stage area, and any circuits associated with spotlights or other stage equipment shall be protected by one or more "Residual Current Devices" as necessary, having an adequate load current, rating and a 30 mA Tripping current.

a) Except with the permission of the Council in writing, and in accordance with any conditions attached to such permissions, scenery or stage properties shall not be kept or used on the platform or in any other part of the premises.

b) Except with the consent of the Council in writing and subject to any conditions, which may be attached to such permission. Explosives or highly inflammable substances shall not be brought in or used on the premises.

c) Toy balloons filled with inflammable gas shall not be used, sold or exhibited on the premises.

d) Limelight acetylene gas installations or steel cylinders for the storage of compressed air, oxygen, hydrogen or other liquid gas under pressure shall not be used except with the permission of the Council.

e) The Licensee and the staff of attendants shall take due precautions for the prevention of accidents.

f) Any outbreak of fire, however small, shall be reported immediately to the Fire Brigade.

g) All areas of the premises so designated by the Council, shall comply with Class 0 and Class I, as contained in the Building Regulations.

4. All druggery, matting and other floor coverings shall be secured and maintained so that they will not be likely to ruck or to be in any way a source of danger.

5. Conditions of Premises; Heating, Ventilations; Lavatories

All parts of the premises and fittings therein, including the seating, door fastenings and notices, shall be maintained at all times in good order and condition.

a) The public parts of the premises shall be kept properly and sufficiently ventilated and heated to the satisfaction of the Council.

b) Every heating appliance used in the premises, which is so situated as to be within reach by any member of the public shall be fitted with guards to comply to standards of construction and fitting, required by the Heating Appliances (Fire Guard) Regulations 1953 or any amendment thereto in the case of heating appliances of a type which are so designed that they are suitable for use in residential premises.

c) Without the consent of the Council in writing no portable heaters shall be used on the premises.

d) Every heating appliance situated in part of the premises to which the public are admitted shall be fixed in position.

6. The several lavatories, W.C.'s and urinals in the licensed premises shall at all times be kept in good order and repair, and be properly and effectually cleansed, ventilated, disinfected and supplied with water, and the doors leading thereto shall be suitably marked. The Licensee shall provide and maintain in a suitable position such number of sanitary conveniences for use of persons frequenting the premises, as the Council consider reasonable.

Control of Premises

7. The Licensee or some responsible person nominated by him in writing, not being a person under eighteen years of age, shall be in charge of and present in the premises at all times when the public are on the premises and there shall also be during that time a sufficient staff of attendants in the building for the purpose of securing safety.

8. The North Stand is prohibited for use by spectators.

9. In the absence of adequate daylight suitable and sufficient lighting is provided and maintained in any area accessible to the public.

Prevention of Public Nuisance

1. Noise Management Plan. Careful consideration will be given to implementing and exercising a noise management programme before and during events in the open air. (Including within temporary structures such as marquees, tents etc.) to manage music noise from the venue.

2. Pre Event Information

a) Each event is assessed on a case by case basis and noise limits applied to them depending on the event type, duration and finishing time. Each event will be subject to a noise assessment based on the information provided by the event promoter and will include predicted noise levels and a specific noise management plan. Alternatively, permission may be granted to hold an agreed number of major events per year with a higher noise limit, whilst smaller scale events would be subject to lower music noise limits. Consideration should also be made in applying noise limits for different event areas where the noise impact from may affect different noise sensitive properties. The event specific noise management plan to be submitted to the Environmental Health Department a minimum of 28 days prior to the event.

b) A noise model for the use of prediction of noise levels may be developed and retained by Chepstow Racecourse for proposed events. The data from the model will help provide

Information on the optimum stage locations and orientations as well as indicative event operating levels.

c) (Chepstow Racecourse will liaise with Monmouthshire County Council to advise them of all events proposed at the venue, including start and finish times of each event. Where possible the detail is to be provided by the 31st March for each year.

d) A letter will be circulated to local residents at least 2 weeks prior to each event, informing them of the details of the event and including start and finish times of both the event and any sound checks. The letter will also include a dedicated telephone number for noise complaints with the Duty Manager's telephone number made available via the venue answerphone and will be published on the Chepstow Racecourse website.

e) A telephone complaints line will be made available for the duration of each event. Should any noise complaints be received, a suitably qualified acoustic consultant will investigate the complaint and if noise levels are above those specified in the event specific noise management plan, immediate action would be taken to reduce the levels at the noise source. A complaints log should be maintained throughout the event, detailing addresses of complaints, times and actions.

The promoter will advise the Environmental Health Department of the likely times of rehearsals and sound-checks, although this is unlikely to be known until very near the production set up. The promoter will also agree timings for production set up.

f) The communications protocol will be reviewed at the end of each year so that effective and responsive communication channels are established and maintained between all relevant parties throughout the events.

3. Site design -A suitably qualified acoustic consultant will liaise with the production company, sound system supplier and local authority to review site plans find the most appropriate site layout that would minimise the noise impact at off-site locations for each event.

4. Sound Systems

a) The appointed acoustic consultant will review the sound systems and other noise sources and work with the promoter and the council to minimise noise disturbance.

b) All sound system suppliers will be informed of the requirements of strict noise management and the type and location/orientation of their systems. Their contract of hire will also specify that the overall control of sound levels will be set by the venue and/or their appointed agent (acoustic consultants).

c) Careful and detailed alignment of the sound systems must be ensured to optimise the coverage throughout the audience areas and balance this against the off-site environmental noise impact.

d) The sound systems for each stage will be set up in such a way as to minimise the noise impact at noise sensitive properties. Where possible, sound systems should be flown rather than ground stacked in order to focus the speakers downwards into the audience area. The speakers should have as narrow horizontal dispersion as possible and be directed inwards to reduce overspill from the intended coverage area. In addition, it is recommended that the sound system is hung as low as possible in order to take advantage of any barriers provided around the event arena and minimise the distances between sound sources and audience areas.

e) The sound systems should be set up in configurations which are as distributed as possible, with the use of delay speakers providing sound coverage to smaller audience areas. The advantage of this type of setup effectively means that the sound system does not have to operate at such high levels to provide even sound coverage to intended areas.

5. Sound Management Procedures - The sound management programme that should be followed for events is detailed below:

a) Sound propagation tests

Prior to the each event, the production team will carry out short sound checks and as part of this process, acoustic consultants will undertake sound propagation tests to correlate the music noise levels at the mixing desk with those observed at the most sensitive sound control positions. The results of these tests will be used to 'fine tune' the sound system in order to maximise the containment of music and set an appropriate sound limit at the mixer positions.

b) Sound management within the venue

The music sound levels at the mixing desk positions will be continually monitored in terms of 15minute and 1 minute LAeq values. The noise limit will be set in 15-minute intervals but the 1 minute values provide acoustic consultants with immediate information of the music noise levels.

c) As part of the managerial process, the sound engineers of any individual artistes appearing at the event will be informed prior to arriving at the mixer of the need to adhere to the sound limits and instructions issued to them in relation to sound control.

d) Sound monitoring outside of the venue Noise measurements outside of the site should be taken on a rotational basis at agreed monitoring locations and in response to any complaints that may be received. The most noise sensitive location should be established for each event and used as the primary location to manage

noise sources onsite. Action necessary to reduce music noise levels will be relayed to the mixer positions and immediate instructions issued to the sound engineers to resolve any potential problems. The noise monitoring locations will be agreed prior to each event during the planning stages. The noise monitoring locations and format for recording the monitoring results

Will be agreed with Environmental Health a minimum of 14 days prior to each event. The acoustic consultants monitoring results in the agreed format to be provided to Environmental Health on request within 7 days.

e) A telephone complaints line number would be confirmed prior to each event and advertised on the Chepstow Racecourse website.

f) Noise during load in /load out, Erection, dismantling and cleaning operations should only be undertaken between 08.00hrs and 20.00hrs between Monday and Saturday. Where possible, any operations that are considered to be noisy should cease at 18.00hrs on each day during the event build. A contact telephone number (not an answer phone) should be provided for the person in charge of these operations. White noise "Broadband" reversing alarms shall be used on any forklift vehicle within 100 metres

g) Any operations undertaken outside normal working hours should be carried out away from residential properties and noise levels checked regularly to ensure they are inaudible at those locations. Any operations that are considered to be noisy will be scheduled for the middle of the day.

h) If the load in /load out of production equipment onto stage trucks and lorries is to occur outside normal working hours, consideration should be made to minimise noise impact and includes the movements made by lorries and other associated vehicles such as fork lift trucks.

i) Practical steps to reduce the noise disturbance include a full briefing session to all rigging and supervisory staff prior to the event. Where practically possible these steps should include the following:

- Refrain from shouting when communicating
- Refrain from dropping scaffold bars etc.
- Use damping materials to line truck floors
- Locate trucks as near as possible to operation, reducing transit time and noise from fork lift trucks

j) When trucks are parked their engines will be switched off at all times.

The Protection of Children from Harm

1. Children under 16yrs will be allowed on the premises only when accompanied by an adult.

2. The premises has a 'proof of age' policy and all staff will be trained on this policy.

3.5 If granted the licence would also be subject to Mandatory Conditions which are attached to this report as Appendix B.

3.6 The applicant has a statutory duty to send copies of his/her Premises application to the 'Responsible Authorities' namely Heddle Gwent Police, South Wales Fire Service, The Local Health Board and departments of Monmouthshire County Council being the Environmental Health Section, Social Services, Planning, Licensing and Trading Standards Department, which was carried out by the applicant. A notice also has to be circulated in a newspaper within the area of the premises as well as a notices displayed at the premises to enable businesses and residents to make a representation, again this was duly carried out by the applicant. The application is also advertised via the Council's website, which gives details on how a person can make a representation and this was carried out by the Licensing Authority.

3.7 A representation was received against the application from Michael Richardson, Specialist Environmental Health Officer for Monmouthshire County Council on behalf of Environmental Health, as follows

My comments with regard to Chepstow Racecourses Premises Licence application are as follows:

Having appraised the application for a premises licence for the Chepstow Racecourse, I do not have any objections to a 2am finish for indoor events.

However, I do have concerns with regard to a 2am finish for outdoor amplified live or recorded music.

The Chepstow Racecourse licence which was in place existed under the Magistrates Court Act 1964 and was automatically transferred upon the enactment of the Licencing Act 2003 through Grandfather Rights.

In recent years Chepstow Racecourse have changed the sort of events being held at the premises to include festival type events, with a large crowd capacity, with late night finishes and amplified low frequency bass beat type music.

The Sunrise Festival was held at the Racecourse between 29th May 2014 and 2nd June 2014. This event, which included nights where music was played until 2am resulted in 20 complaints to the Environmental Health Section from members of the public. Complaints were received from members of the public living over 3 miles away from the premises.

Between the 5th June 2015 and the 7th June 2015 the Balter festival was held at the premises and resulted in 4 complaints from members of the Public.

The Green Gathering festival has been held at the premises for several years and has not resulted in complaints to the Environmental Health Section. It should be noted that the type of music played at the festival does not include amplified low frequency bass beat and music is not considered to be the main emphasis of the event.

Whilst Officers of this department have been and are prepared to work with event management teams at Chepstow Racecourse the emphasis is to try and mitigate any noise impact at nearby residential properties through effective noise management planning. However where the event and type of music played includes an amplified low frequency bass beat until 2am this will inevitably be audible at residential properties and has the potential to cause significant disturbance.

On consideration of these factors it is my opinion there is the significant potential for the key Licensing Act 2003 objective 'prevention of public nuisance' not to be met and on this basis I therefore object to this application.

In my opinion it would be acceptable for a condition introducing a limit on the number of event days finishing at 2am per calendar year which would enable Chepstow racecourse to continue with events such as the Green gathering Festival. I suggest that a 2am finish on 7 days per calendar year would be acceptable. Clearly a significant increase in the number of event days with a 2am finish above this limit will have the potential to increase noise impact and therefore disturbance to residents.

- 3.8 Michael Richardson provided further information to clarify the representation on behalf of Environmental Health referred to in 3.7 above and requested the following to also formulate his representation:-

To clarify my comments:

1) I recommend that live or recorded music played outdoors at the premises finish at midnight.

2) It would be acceptable to agree to a limited number of event days per calendar year for live or recorded music to be played outdoors with a finish time after midnight but no later than 2am.

3) In my view a limit of 7 event days per calendar year with a finish time after midnight but no later than 2am is acceptable (for live or recorded music played outdoors). This reflects the typical number of 2am finishes in recent years at the premises. Clearly an increase in the number of event days beyond this will increase the potential for noise disturbance to be caused to residents living in the locality.

3.9 Representations have been received from residents and these are attached as Appendix C. Representation was also received from two Councillors, namely Councillor David Dovey and Councillor Gethyn J Davies who represent their ward and these are also attached as Appendix C.

3.10 The Main concerns from the representations are:

Residents

- Increased parking in quiet residential areas in close proximity to the site
- Evacuation of the course hazardous during hours of darkness
- Noise levels are excessive after 11pm and disturb sleep
- Pop concerts attract teenagers unable to pay entry. They collect in nearby unlit wooded areas and misbehave
- Need for greater supervision or policing of the area
- Potential for vandalism
- Past events have led to littering in Welsh Street, damage to property and cases of urinating in gateways
- Need for supervision of access roads to the racecourse
- The noise levels in Kingsmark last year were horrendous.
- There was a number to ring which got you through to the organiser who in short were rude, abusive and unhelpful
- From our experience of previous festivals that have taken place at Chepstow Racecourse, because they finish so late there is an overpowering noise from music followed by alcohol problems of noises and public behaviour of the crowds leaving
- Large numbers of people, many in drink exit onto public roads in small hours
- Very loud music continues late into the night and can be heard over a wide area, disturbing sleep
- All amplified music should end by 23.30 and venue to be cleared within one hour at most

Councillor David Dovey

- Vehicles can be heard driving around the Racecourse grounds in the early hours after performances have finished that provides grounds for public safety
- Excessive noise and disruption in the early hours of the morning from music broadcast through speakers/amplifiers. The behaviour of the public as a result of excessive alcohol consumption- noise/behaviour. Excessive noise can be heard throughout the whole of Chepstow and across the border along the A48 beyond Sedbury towards Alvington. I have received complaints from residents in this area as well as Chepstow.
- The existing licence is cast too widely, as it stands the Racecourse could hold this type of event at any time during the year. It should be reviewed.
- The cut off time for amplified music should be restricted to midnight. I have no objection to the Green Festival where amplifiers are not used, neither do I have objections to concerts where the performances close at 11.00pm. I am aware of the need to for the Racecourse to be profitable but that can be achieved without the excessive noise and time that comes with

festivals/performances of this nature. Events that took place last year also lead one to question whether the Racecourse are capable of policing events of this nature. The issue is the noise levels into the early hours of the morning of festivals performances into the early hours of the morning and the potential number under the present terms of the licence.

Councillor Gethyn Davies

- In the past I have received many complaints from residents in my Ward (Woodcroft-Tutshill) The distance from the Racecourse across the Wye Valley is less than a mile and at night the sound from the Double Bass travels and sounds as if it is being played in my back garden
- This excessive noise which goes on until the early morning after which the transport leaving with people singing and shouting can be heard

3.9 Representations made under the Licensing Act 2003 must be made under the four key licensing objectives, namely:-

- The prevention of crime and disorder;
- Public Safety;
- The prevention of public nuisance; and
- The protection of children from harm.

However, Section 9.9 of the Guidance issued by the Home Office states:

It is recommended that, in borderline cases, the benefit of the doubt about any aspect of a representation should be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it.

3.10 In accordance with 9.2 of the Home Office Guidance issued under Section 182 of the Licensing Act 2003 a hearing is not required if no representations were received or such representations were withdrawn. Furthermore, a hearing is not required if conditions have been agreed and agreed by all parties. Negotiation between the applicant and objector was carried out by the Licensing Authority and all parties wish to continue the application and representation, respectively. As such, no agreement was reached and a hearing is required.

4. REASONS:

4.1 The determination of an application is to be considered in accordance with Section 18 of the Licensing Act 2003.

4.2 In section 9.4 of the Guidance issued under section 182 of the Licensing Act 2003, the Secretary of State recommends that, a representation would only be “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives.

4.3 Monmouthshire County Council’s Policy on Prevention of Nuisance are set out in Section 11 and read as follows:

Prevention of public nuisance

Licensed premises can have significant potential to impact adversely on persons in the vicinity and further afield through public nuisances that arise from their operation.

Subject to case law the Licensing Authority interprets ‘public nuisance’ in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or

otherwise engaged in normal activity in the vicinity of a licensed premises.

Applicants will be encouraged to demonstrate in their Operating Schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance.

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

- they are situated in a residential or noise sensitive area; or
- extended opening hours are proposed.

The Licensing Authority recognises that beyond the immediate vicinity of the premises the control that a licence-holder can exert over its patrons diminishes and individuals who engage in anti-social behaviour are accountable in their own right.

When addressing the issue of prevention of public nuisance in their operating schedule, the applicant may identify steps to show that those factors that impact on the prevention of public nuisance objective have been considered.

5. RESOURCE IMPLICATIONS:

5.1 Nil

6. CONSULTEES:

Heddlu Gwent Police, South Wales Fire Service and the following departments from Monmouthshire County Council, namely, Environmental Health, Social Services, Planning, Trading Standards, Licensing and the Local Health Board

7. BACKGROUND PAPERS:

Licensing Act 2003

Guidance issued under Section 182 of the Licensing Act 2003 dated March 2015.

Monmouthshire County Council's Statement of Licensing Policy dated 1st July 2015.

The Legislative Reform (Entertainment Licensing) Order 2014

8. AUTHOR:

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