

Application Number: DM/2025/00831

Proposal: Modification of condition 2 relating to planning DM/2024/00741: we would like the operating hours to be extended.
We would like the following hours going forward:
Monday: 8AM-9PM
Tuesday: 8AM-9PM
Wednesday: 8AM-9PM
Thursday: unchanged
Friday: unchanged
Saturday: unchanged
Sunday: unchanged

Address: 30 Lion Street, Abergavenny, NP7 5NT.

Applicant: Mr Eoin Duggan

Plans: Location Plan

RECOMMENDATION: Approve

Case Officer: Kate Bingham
Date Valid: 26.06.2025

This application is presented to Planning Committee due to the number of representations received.

1.0 APPLICATION DETAILS

1.1 Site Description

This application relates to an existing cafe/bar in Abergavenny. The property is in the commercial centre of Abergavenny being located opposite Morrison's Supermarket. The building forms part of a terrace adjoining a private dwelling to the east and a hairdressing business with flats above to the west.

The property benefits from consent to be used as a cafe/bar with planning conditions restricting opening hours. The premises also has a licence that includes the sale of alcohol between 08.00 - 00.00 Monday to Sunday and live music between 08.00 - 23.00 Monday to Sunday. The licence covers both the inside and outside areas of the premises.

The site is within the Abergavenny Conservation Area but the property is not a listed building.

1.2 Proposal Description

This application seeks modification of condition 2 on consent DM/2024/00741 (Retrospective application for new patio and turfed area with trellis fence panel along wall for continued use in association with the cafe/bar). The condition as imposed restricts the use of the area to the following times:

*Tuesdays and Wednesdays 5pm finish
Thursdays 9pm finish
Fridays 10pm finish
Saturdays 10pm finish*

Sundays 9pm finish

The reason for the condition is 'in the interests of amenity and to ensure compliance with LDP Policy EP1'.

The proposed revised opening hours are as follows:

Mondays, Tuesdays and Wednesdays 9pm finish

No changes to the hours of operation on any other days are proposed.

The opening hours of the internal area of the cafe/bar are covered under the original consent for the use (application ref DM/2023/01614) to:

9am - 11pm Sunday to Thursday

9am - Midnight Fridays and Saturdays

This application relates to the outside area only.

2.0 RELEVANT PLANNING HISTORY (if any)

Reference Number	Description	Decision	Decision Date
DC/1990/00280	Double Sided Hanging Sign.	Approved	03.05.1990
DM/2024/00741	Retrospective application for new patio and turfed area with trellis fence panel along wall for continued use in association with the cafe/bar.	Approved	06.05.2025
DM/2023/01614	Change of Use to a café/bar	Approved	04.01.2024

3.0 LOCAL DEVELOPMENT PLAN POLICIES

Strategic Policies

S5 LDP Community and Recreation Facilities

S13 LDP Landscape, Green Infrastructure and the Natural Environment

S17 LDP Place Making and Design

Development Management Policies

EP1 LDP Amenity and Environmental Protection

DES1 LDP General Design Considerations

EP5 LDP Foul Sewage Disposal

4.0 NATIONAL PLANNING POLICY

Future Wales - the national plan 2040

Future Wales is the national development framework, setting the direction for development in Wales to 2040. It is a development plan with a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate-resilience, developing strong ecosystems and improving the health and well-being of our communities. Future Wales - the national plan 2040 is the national development framework and it is the highest tier plan, setting the direction for development in Wales to 2040. It is a framework which will be built on by Strategic Development Plans at a regional level and Local Development Plans. Planning decisions at every level of the planning system in Wales must be taken in accordance with the development plan as a whole.

Planning Policy Wales (PPW) Edition 12

The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales, as required by the Planning (Wales) Act 2015, the Well-being of Future Generations (Wales) Act 2015 and other key legislation and resultant duties such as the Socio-economic Duty.

A well-functioning planning system is fundamental for sustainable development and achieving sustainable places. PPW promotes action at all levels of the planning process which is conducive to maximising its contribution to the well-being of Wales and its communities.

5.0 REPRESENTATIONS

5.1 Consultation Replies

Abergavenny Town Council - Abergavenny Town Council supports the views expressed by Environmental Health Officer and local residents that:

there is the potential for noise from the customers excessively impacting on the occupiers of nearby residential accommodation, particularly at the adjacent 28 Lion Street.

MCC Environmental Health - As commented in DM/2024/00741, there is the potential for noise from the customers excessively impacting on the occupiers of nearby residential accommodation, particularly at the adjacent 28 Lion Street.

The impact I suggest would potentially be most significant during late evening hours on summer weekends when the café / bar use of the outside area will be maximised and the residents with windows open for ventilation or indeed looking to enjoy their own garden area. However, I am not in a position to substantiate a level of noise impact from increasing the opening hours as proposed on Mondays to Wednesdays on which I could base an objection.

SEWBRc Search Results - No significant ecological record identified.

5.2 Neighbour Notification

{\ul 5.2 Neighbour Notification}

140 comments have been received in response to the publication of this application. Due to the high number of representations received, those from immediate neighbours have been identified for ease of reference.

49 representations received objecting to the proposal on the following grounds:

30 Lion St, Abergavenny:

- How after only a short time with strict closing times can this request be valid?
- Have children in the house and the opening hrs of 9am - 10pm are already a problem having noise disturbance on the evenings of Thursday- Sunday.
- Beer garden has views into a bedroom window.

- Opening windows in the house is difficult with the lack of privacy/ noise and smells of cigarettes etc.
- Conversations had been had with the vendors to be considerate at this time and yet they chose not to be, with loud, large gatherings outside of the consented times.
- The sound echoes and the acoustics are obviously bouncing off the walls and hard surfaces, creating louder noise that can be heard all over the house even with the windows closed.
- The pubs that are nearby or have been in the past have not had beer gardens and haven't caused nuisance noise to us. I know that the Farmers Arms were really good about keeping the doors closed to lessen the noise.
- Living in town we do expect some noise, but not a beer garden next door.
- The noise from the establishment is disturbing the sleep patterns of the children and has made it difficult for them to enjoy their outside space.
- The garden is always noisy, but worse when it's busy and when people are drinking lots.
- It makes me sad, as it has changed our house.
- The beer garden now has over 14 benches and seats which will allow over 100 people to be in it at one time.
- The opening hours if passed would be nearly 90 hours per week. There would be no escape from it, open 7 days a week 8am - 9/10pm.
- Hearing people next door which can be up to 60 people or more drinking, shouting, speaking loudly, bands playing and people smoking.
- After reading some of the comments, it has to be said that the general public just come and go and have no idea of the continuous impact this would have on our home.

Other objections:

- Would cause additional impacts of noise and disturbance to the local residents.
- Significant concerns are the effect on the quality of home life, loss of privacy and well-being for those in the affected area.
- Adds no value to the residents of Abergavenny or the county itself.
- Does not help to meet the MCC council's aim of a safe place to live where people have a home and community where they feel secure.
- I note that a recent planning application for a glamping site was turned down because of possible anti-social behaviour and noise - and this in a rural setting with no close neighbours.
- It appears most of the supporters are clients, who have no idea about the inconvenience they pose to neighbours.
- Do not question the character of the licensees or their right to carry out a business which is clearly popular but this must be balanced and the location considered.
- Outside noise suppression is difficult in this property.
- How a small cafe which at one time seemed acceptable has received permission to become a pub with numerous loud guests and with extended licensing hours is beyond belief and I must conclude that somebody in authority has not taken a proper look at these premises and has failed in their duty of care to private householders.
- The pub has now converted an overgrown garden into a seating area for numerous guests which are loud and disturbing the local environment and this should not be allowed to happen and is also a public health hazard. This should be stopped immediately by revoking the alcohol licence and restricting the maximum number of guests within the very small cafe area.
- An initial licence for a cafe only should remain and not be allowed a change of use to a full blown noisy pub/catering facility.
- Abergavenny is well served with drinking establishments, many with outdoor seating. Is there a pressing need for this large beer garden and pub?
- The immediate vicinity of The Dug Out is primarily residential, and the impact of noise is disproportionately felt by the neighbours who have no choice but to endure the disruptive effects.
- The premises will devalue neighbouring properties.
- Since the garden has been in use this has had a serious mental health effect on the residents.

- Change of Use for permanent bench seats and coverings should be subject to separate planning in order to protect people who live so close to the premises. I can see no record of this being sought.
- The initial hours of use was stated as 'unknown'; subsequently 100 hours was mysteriously awarded (can find no record of audit trail for these hours).
- Noise pollution public disturbance vandalism through alcohol.
- To revise these hours is to have a complete disregard for any residential neighbours, particularly those in the adjacent property and the Environmental Health Officer's report stating his misgivings of expected noise and accompanying complaints.
- The Dugout has been located in a property which previously had no licence to sell alcohol. Surely, this business in the first instance should have been encouraged to be set up in one of the many empty public houses across the local community before even being granted permission in a previously unlicensed premises located next to a residential property.
- Is it reasonable to expect local residents to endure increased late night noise and foot traffic right outside their home for the sake of extended commercial activity?
- Concerns have been raised by other businesses in the ward on the impact both on themselves and the piecemeal and unclear approach to the overall change of use and adherence to licencing arrangements.
- Police and Pubwatch should be involved.
- If this business can't function within normal hours I would suggest the business model is incorrect.

91 representations received supporting the proposal for the following reasons:

Flat at 32 Lion Street:

- As a direct neighbour of The Dugout, I would like to express my full support for its application to extend operating hours.
- Many of the objections are being coordinated by a group of individuals rather than reflecting the genuine views of the immediate neighbours.
- Living right next door, I can confidently say we have never had any issues with noise or disturbance from the venue. In fact, I see this as a positive addition to the area.
- We live opposite a busy supermarket and car park. This is a town centre location where a certain level of noise is to be expected.
- The Dugout has been a respectful neighbour, and I see no reason why its extended hours should not be granted.

31 Lion Street:

- As immediate neighbours for over five years we feel it's important to provide an accurate and honest account of what it is truly like to live next door to this business. Many of the objections raised do not reflect our lived experience and, in our view, misrepresent the reality of The Dugout's presence in this community.
- The suggestion that The Dugout causes antisocial behaviour, nuisance, or excessive noise is completely at odds with our experience and we live right next door.
- The use of the garden has brought a sense of warmth and community to the street, not conflict.
- People enjoying food or drink outdoors is no different than any resident having a BBQ or guests in their own garden.

Other support:

- It must be acknowledged that this application is not to extend the licence of The Dugout into unsociable hours.
- Use of the garden is weather dependent and hence only happens for about six months of the year but greatly improves the appeal of the venue.
- I live opposite The Dugout, my kitchen window overlooks Morrisons car park, and I've never heard noise or seen anti-social behaviour coming from there.
- Great place with a community based approach.
- My kitchen window overlooks the car park in front of The Dugout, and I've never once been disturbed by noise or disruption.

- it seems inconsistent to single out The Dugout while accepting other sources of noise and activity.
- Extended hours shouldn't be viewed as disruptive by default when no harm has been demonstrated.
- As a neighbour living 100m down the street from the property I certainly have never become aware of any noise or other nuisance emanating from the premise since its opening.
- The additional hours would enable a consistent safe space for those that need it, knowing any day of the week that the facility is going to be open.
- A friendly and safe place.
- Staff are respectful and professional.
- The clientele is consistently respectful, and the atmosphere is more sedate than one might expect from a licensed premises.
- It is exactly the kind of venue that adds value to our town centre, offering a safe and sociable space for the community.
- The management team have clearly invested significant effort in establishing this business under challenging circumstances, and their commitment to creating a community hub should be commended.
- They have operated responsibly, closing earlier than many similar venues and showing consideration towards their neighbours.
- The premises are surrounded almost entirely by commercial properties, cafes, restaurants, and shops with only a single residence in close proximity.
- Don't see how the noise levels are any different (if anything I would say they are less) than when the Farmers Arms (Market Tavern) and Black Lion pubs were open in the same vicinity a few years back and open for a lot later.
- Supporting such businesses helps safeguard the vibrancy of our town centre.
- It has made a real contribution to improving social cohesion in the town, and extending its hours would only strengthen that.
- The ethos of the cafe seems centred around wellbeing, family time, and creating a relaxing safe space where you can find coffee later than the other coffee shops in town.
- They have various activities that demonstrate their commitment to the local community: running, yoga, etc.
- They set an example of how good businesses should give back to the community in this way.
- Suspect that the noise from people leaving nearby pubs, and even the traffic around Morrisons is worse.
- Their contribution to the charity Mind has been very admirable. The extra hours would give customers more opportunity to use it.
- 9pm is a more than reasonable time to open until.
- The application seems very reasonable given that the premises will close much earlier than other similar businesses in the location.
- Staff and owners are acutely aware of their surroundings and have worked hard to ease stresses on neighbours and surrounding businesses e.g. the nursery and erecting a fence to provide privacy for the family next door.
- Proactively trying to create a safe environment not only within the walls of the cafe but to others that are around them.
- Young entrepreneurs should be backed for their positivity, energy and efforts to be a force for good in the community.
- Extending its operating hours would allow greater flexibility for those who wish to enjoy a local, community oriented venue in the evening particularly on quieter days when fewer options are available.
- Morrisons supermarket located directly opposite the cafe already operates until 10pm setting a clear precedent for extended business hours in the immediate area. As such the cafe's proposed hours would be in keeping with the existing character and usage of the area during those times.
- Enhance the local evening economy.
- Provide a community space for residents during extended hours.
- Increased footfall and activity in the area, potentially improving safety and vitality.

- This improvement would help many others to feel that warm welcome and sense of inclusion as we did when we moved to Abergavenny.
- The business is completely inclusive of age, gender and ability and treat mental and physical wellbeing for their customers and members as a key outcome of their work both at the cafe and in the associated running club.
- Extending the hours would enhance what is already a thriving, well-run venue in a commercial area of the town centre. Rather than being a disturbance, it is a positive draw that supports local businesses and the wider Abergavenny economy.
- It is unlikely that there would be an increase in disturbance to residents but it would however provide a place for people and particularly the running club to meet in the evening.
- Value the positive effects on the local economy and the jobs that have been and will be created.
- Choosing to live in the town centre, you are not going to be faced with the peace and tranquillity you are looking for.
- It would continue to operate within permissions granted to the premises by the licensing department.
- Without evidence of anti-social behaviour or reduced levels of amenity beyond what should be expected within a town centre, it would be unfair to place onerous planning conditions restricting opening hours on this business, especially when other similar businesses in Abergavenny town centre are not subject to such limitations.
- The applicants have sought to ensure that the boundary between themselves and a sensitive receptor is managed in a way that increases privacy, and reduces visual impact of the cafe bar to neighbours.
- Extending their hours particularly to include Mondays and slightly later openings mid-week will not only improve accessibility for residents but also support the local economy by encouraging footfall, increasing town centre vibrancy, and helping to sustain local jobs.
- Unlike a traditional "noisy beer garden" found in Pubs around Abergavenny and surrounding areas, the garden at the rear of The Dugout cafebar is a very calming place to be with no rowdy behaviour and a quiet atmosphere.
- While it is important that neighbours have a voice, that voice should contribute to balanced progress, not automatically block any growth or evolution of a local business that is clearly working to enhance the community.
- For our town to thrive, we must be open to growth and supportive of forward-thinking establishments that bring life, inclusivity, and innovation. Extending The Dugout's opening hours is not just about business, it is about investing in the town's culture, health, and future.
- If this is turned down what message does this send to prospective business owners in the local area?

5.3 Other Representations

None.

6.0 EVALUATION

6.1 Good Design/ Place making

6.1.1 There are no physical changes proposed as part of this application.

6.2 Impact on Residential Amenity

6.2.1 As demonstrated by the many comments received in support of the application, the cafe/bar is a well-used community facility and the success of the business and reported contribution to help with mental health and well-being is to be applauded. However, this needs to be balanced against the impact that additional opening hours will have on local residential amenity. There are conflicting representations made by neighbouring occupiers about the level of unwanted noise being generated by the use of the outside area with the occupiers of no.30 Lion Street raising concerns about noise from the garden while those at nos. 31 and 32 reporting no (or very little)

noise disturbance at all. The configuration of the buildings, positioning of windows and how individuals use their homes will all have an impact on how noise from the cafe/bar is perceived and therefore all comments need to be carefully considered.

6.2.2 It is accepted that with the proposed extended opening hours there is the potential for longer periods of noise from the customers adversely impacting on the occupiers of nearby residential accommodation, particularly at the adjacent 28 Lion Street. This will be most significant during later evening hours on summer weekdays when the café / bar use of the outside area will be maximised and the residents with windows open for ventilation or indeed looking to enjoy their own garden area. In determining this application for extended opening hours, an assessment needs to be made on whether or not this disturbance is reasonable or if it would significantly harm local residential amenity.

6.2.3 Policy EP1 (Amenity and Environmental Protection) of the LDP provides that development should have regard to the privacy, amenity and health of occupiers of neighbouring properties. Development proposals that would cause or result in an unacceptable risk / harm to local amenity due to the various factors including noise, will not be permitted, unless it can be demonstrated that measures can be taken to overcome any significant risk. Criterion (d) of LPD Policy DES1 (General Design Considerations) also states that 'Development proposals will be required to maintain reasonable levels of privacy and amenity of occupiers of neighbouring properties, where applicable.

6.2.4 In this case, disturbance to the neighbouring properties will not necessarily be increased in terms of noise levels, but the duration of the disturbance will be lengthened by opening on a Monday (currently restricted) and an additional four hours on a Tuesday and Wednesday evening if the garden area is in use (until 9pm). The garden area is most likely to be used during the summer months when the weather permits.

6.2.5 In assessing whether or not the additional potential noise disturbance is likely to result in unacceptable harm to local residential amenity, the views of the Council's Environmental Health Department have been sought. They have advised that they are not currently in a position to substantiate a level of noise impact from increasing the opening on Mondays and by an additional four hours on Tuesdays to Wednesdays on which they could base an objection to the proposed modification to the condition.

6.2.6 In terms of any future complaints that may be received from neighbouring occupiers, the Council's Environmental Health Department has the responsibility for investigating complaints of noise nuisance, having regard to the statutory nuisance provisions of the Environmental Protection Act 1990. If unwanted noise creates an unreasonable and substantial interference with the use or enjoyment of a home, the Environmental Health department does have the power to investigate and act on such complaints. However, they are unlikely to be in a position to resolve complaints of noise which can be reasonably expected from the consented cafe/bar use of the rear garden e.g. voices / conversations of the customers. No formal noise complaints have been received to date.

6.2.7 In conclusion, while it accepted that extending the hours of use of the garden will result in some additional noise, it is not possible to conclude that this disturbance would result in additional unacceptable harm to residential amenity. Therefore, it is considered that on balance it would not be reasonable to refuse the application on this basis, given the 9pm limit. There would also be licencing controls to limit the future opening times in the event a justified complaint is received.

6.3 Biodiversity

6.3.1 The application site is within the Nutrient Sensitive Catchment Area of the River Usk Special Area of Conservation (SAC). Under regulation 63 of the Conservation of Habitats and Species Regulations 2017 it is necessary to consider whether the development should be subject to a Habitat Regulations Assessment. This is in particular reference to the impact of increased concentrations of Phosphates on designated SAC's. NRW has set new phosphate standards for the riverine SAC's of the Wye and Usk and their catchment areas. Development that may increase the concentration of phosphates levels will be subject to appropriate assessment and HRA.

6.3.2 This application has been screened in accordance with Natural Resources Wales' advice for planning applications within the river Special Areas of Conservation (SACs) catchments (v4 issued 28th June 2024). It is considered that this development is unlikely to increase nutrient inputs.

6.4 Response to the Representations of Third Parties and/or Town Council

6.4.1 This application does not seek to extend the alcohol licensing hours which are already 08.00 - 00.00 Monday to Sunday.

The initial change of use of the building to a cafe/bar covered both the building and the rear garden area. As such the principle of using the garden is established. Providing seating in the garden does not constitute development and therefore is beyond the remit of planning control. Similarly, revoking the alcohol licence and restricting the maximum number of guests would be a matter for the Licensing Authority rather than Planning.

6.4.2 Devaluation of property are not a material planning considerations. Furthermore, planning legislation does not provide for consideration of alternative sites in the determination of a planning application which in this case is a lawful A3 use.

6.4.3 The hours of use previously consented resulted from balancing the needs of the business with the impact on local residential amenity. Potential public disturbance and vandalism through alcohol use off the premises is a matter for The Police. The Police and Pubwatch have not been consulted on this application because the premises has an existing licence to sell alcohol. The Police are consulted on alcohol license applications in Wales under the Licensing Act 2003 as a Responsible Authority. They are notified of all applications and can make representations to the licensing authority, raising objections if they believe an application could negatively impact crime prevention, public nuisance, public safety, or the protection of children.

{\b 6.5 Well-Being of Future Generations (Wales) Act 2015}

6.5.1 The duty to improve the economic, social, environmental and cultural well-being of Wales has been considered, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (the WBFG Act). In reaching this recommendation, the ways of working set out at section 5 of the WBFG Act have been taken into account and it is considered that this recommendation is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives set out in section 8 of the WBFG Act.

6.6 Conclusion

6.6.1 While it accepted that extending the hours of use of the garden will result in some additional noise, it is not possible to conclude that this disturbance would result in additional unacceptable harm to local residential amenity. Therefore, it is considered that it would be unreasonable to refuse the application on this basis. The commencement of this outdoor use at 9am (rather than 8am as applied for) would tie in with the existing planning permission for the indoor cafe/ bar area.

6.6.2 For the reasons detailed above in this report, having regard to the relevant policies and all other material considerations the proposed development is considered to be acceptable subject to the conditions set out below.

7.0 RECOMMENDATION: APPROVE

Conditions:

1 The development shall be carried out in accordance with the list of approved plans set out in the table below.

REASON: To ensure the development is carried out in accordance with the approved drawings, for the avoidance of doubt.

2 There shall be no outdoor live music after 8pm on any day.

REASON: In the interests of amenity and to ensure compliance with LDP policies DES1 and EP1.

3 The outdoor premises shall not be used for the approved purposes outside the following times:

Monday - Thursdays 9am until 9pm

Fridays 9am until 10pm

Saturdays 9am until 10pm

Sundays 9am until 9pm.

REASON: In the interests of amenity and to ensure compliance with LDP policies DES1 and EP1.

INFORMATIVES

1 Due to the minor nature of the proposed development (including any demolition) and the location of the proposed development, it is considered that the proposals did not need to be screened under the Environmental Impact Assessment Regulations.