

Meeting of:	<b>Licensing Sub-Committee</b>
Date of Meeting:	<b>Friday, 25 August 2023</b>
Relevant Scrutiny Committee:	Homes and Safe Communities
Report Title:	Variation of a Premises Licence
Purpose of Report:	To consider an application to vary a Premises Licence under the Licensing Act 2003
Report Owner:	Licensing Authority
Responsible Officer:	The Licensing Authority
Elected Member and Officer Consultation:	Statutory Consultation
Policy Framework:	This is a matter for decision by the Licensing Act 2003 Sub-Committee
<p>Executive Summary:</p> <ul style="list-style-type: none"> <li>To consider an application submitted by Sian Fox to vary a Premises Licence under the Licensing Act 2003 in respect of Foxy's Deli, 7 Royal Buildings, Victoria Road, Penarth CF64 3ED.</li> </ul>	

## **Recommendations**

- 1.** The Sub-Committee is required to determine the application having regard to the Council's Statement of Licensing Policy, the Guidance issued by the Home Office under Section 182 of the Licensing Act 2003, the application and any representations submitted.

If minded to grant the application, the Sub-Committee is requested to confirm whether any additional conditions are to be imposed or only those which are consistent with and set out in the operating schedule.

## **Reasons for Recommendations**

- 1.** To advise the Members of the options available to them under the Licensing Act 2003 in determining the matter.

### **1. Background**

- 1.1** The premises currently benefits from a premises licence; PRM AS0147 which authorises the following licensable activities during the hours stated:

The sale of alcohol for consumption on and off the premises:

Monday to Saturday	08:30 hours to 18:00 hours
Sunday	10:00 hours to 14:00 hours

- 1.2** A copy of the current premises licence is attached at Appendix A.

### **2. Key Issues for Consideration**

- 2.1** On 5 July 2023 the Licensing Authority received an application to vary the premises licence. The variation application is attached at Appendix B.

- 2.2** The applicant describes the proposed variation in the application as the following:

*"To extend the sale of alcohol for consumption on and off the premises:  
Monday to Thursday and Sunday 08:30 to 22:40 hours  
Friday and Saturday: 08:30 hours to 23:30 hours"*

- 2.3** The application requests:

The sale of alcohol for consumption on and off the premises:

Monday to Thursday: 08:30 hours to 22:40 hours  
Friday and Saturday: 08:30 hours to 23:30 hours  
Sunday: 08:30 hours to 22:40 hours

Opening hours:

Monday to Thursday: 08:30 hours to 23:00 hours  
Friday and Saturday: 08:30 hours to 00:00 hours  
Sunday: 08:30 hours to 23:00 hours

- 2.4** The application includes an Operating Schedule which sets out the steps the applicant proposes to take to promote the licensing objectives. These steps are detailed in Section M of the application form and can be found in Appendix B.
- 2.5** Two representations have been received in respect of the application, one from a local resident and one from a local landlord. A copy of the representations can be found in Appendix C.
- 2.6** As part of the local resident representation four videos have been submitted as supporting evidence. These videos will be shown/described to members during the hearing.
- 2.7** No representations were received from any of the Responsible Authorities.
- 2.8** The authority is only permitted to consider relevant representations as defined in Section 35 (5) of the Licensing Act 2003 that is, "*representations which are about the likely effect of the grant of the premises licence on the promotion of the licensing objectives*" which are not deemed frivolous or vexatious.
- 2.9** At the time this report was drafted, the representations had not been withdrawn and therefore a full hearing is necessary for the Licensing Sub-Committee to determine the application.

### **3. How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?**

- 3.1** This report relates to a regulatory function of the Council.

### **4. Climate Change and Nature Implications**

- 4.1** This report relates to a regulatory function of the Council.

## **5. Resources and Legal Considerations**

### **Financial**

- 5.1** Fees associated with the issue of Licences are set in statute and support the administration and enforcement of the Licensing Act 2003 functions.

### **Employment**

- 5.2** None.

### **Legal (Including Equalities)**

- 5.3** The Licensing Act 2003 (Section 4) states that it is the duty of all Licensing Authorities to carry out their functions under the Act with a view to promoting the licensing objectives. The licensing objectives are:

- a) The prevention of crime and disorder
- b) Public Safety
- c) The prevention of public safety
- d) Protection of children from harm

Each objective is of equal importance and should be of paramount consideration at all times.

- 5.4** Section 4(3) Licensing Act 2003 states that the Licensing Authority should have regard to the Council's Statement of Licensing Policy, the Statutory guidance issued under Section 182 of the Licensing Act 2003 and the Licensing Act itself, in this case in particular to:

- a) Paragraphs 1, 2, 3, 7, 8, 9, 11 and 12. There is no specific policy relating to the area for this type of application.
- b) Chapters 2, 8, 9 and 10 of the Statutory guidance, as revised July 2023.
- c) Sections 4, 9, 10, 11, 12, 13, 34, 35, 36, 182 and 183 of the Licensing Act 2003.

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

- a) Grant the application.
- b) Modify the conditions of the licence, by altering, omitting or adding to them, where relevant.
- c) Reject the whole or part of the application.

*(Section 35, Licensing Act 2003)*

- 5.6** In accordance with the requirements of the Act, copies of the application were forwarded to the Responsible Authorities.
- 5.7** The application has been advertised in accordance with the regulations; at the premises, in a local newspaper and on the Council's website.

## **6. Background Papers**

The Licensing Act 2003

The Secretary of State's Guidance issued under Section 182 of the Licensing Act 2003  
Regulations to the 2003 Act

Vale of Glamorgan Council's Statement of Licensing Policy

Licensing Act 2003

PRM AS0147

**Premises Licence**

## LOCAL AUTHORITY

**The Vale of Glamorgan Council**

Civic Offices  
Holton Road  
Barry  
Vale of Glamorgan  
CF63 4RU

[Licensing@valeofglamorgan.gov.uk](mailto:Licensing@valeofglamorgan.gov.uk)

tel: 01446 709105

web: [www.valeofglamorgan.gov.uk](http://www.valeofglamorgan.gov.uk)

**Part 1 - Premises Details**

## POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDANCE SURVEY MAP REFERENCE OR DESCRIPTION

**Foxy's Deli**

7 Royal Buildings, Victoria Road, Penarth, Vale of Glamorgan, CF64 3ED.

Telephone 02920 251666

## WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

## LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- the supply of alcohol

## THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
J. Supply of alcohol for consumption ON and OFF the premises	Monday to Saturday	8:30am	6:00pm
	Sunday	10:00am	2:00pm

## THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Saturday	8:30am	6:00pm
Sunday	10:00am	2:00pm

## WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

- J. Supply of alcohol for consumption ON and OFF the premises



Licensing Act 2003

**Premises Licence****PRM AS0147****Part 2****NAME, (REGISTERED) ADDRESS, TELEPHONE NUMBER AND EMAIL (WHERE RELEVANT) OF HOLDER OF PREMISES LICENCE**

Sian Fox

25 Mountjoy Place, Penarth, Vale of Glamorgan, CF64 2TB.  
Telephone 02920 251666**REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)****NAME, ADDRESS AND TELEPHONE NUMBER OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL**

Sian FOX

**PERSONAL LICENCE NUMBER AND ISSUING AUTHORITY OF PERSONAL LICENCE HELD BY DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES FOR THE SUPPLY OF ALCOHOL**

Licence No. VOG/PERS/11/2005-121

Issued by Vale of Glamorgan



**Premises Licence**

## ANNEXES

**ANNEX 1 - MANDATORY CONDITIONS****Supply of Alcohol (on or off sales)**

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

**Minimum Pricing (On and Off Sales)**

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

(<<http://www.legislation.gov.uk/ukdsi/2014/9780111113998>>);

(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 (<<http://www.legislation.gov.uk/ukdsi/2014/9780111113998>>).

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. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 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.

(2) 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.





## ANNEXES continued ...

**1****Irresponsible Drinks Promotions (On Sales)**

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).

**2- Free drinking water (On Sales)**

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

**3- Age verification Policy (Off sales)**

(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.



**Premises Licence**

ANNEXES continued ...

**4- Smaller Measures (On sales)**

The responsible person must ensure that-

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

(i) beer or cider: ½ pint;

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

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

(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."

**ANNEX 2 - CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE**

N/A

**ANNEX 3 - CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY**

N/A

*Below Section*

**H Picton**  
Head of Shared Regulatory Services



**Application to vary a premises licence under the Licensing Act 2003****PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

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

You may wish to keep a copy of the completed form for your records.

I/We **Sian Fox**

*(Insert name(s) of applicant)*

**being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in Part 1 below**

<b>Premises licence number</b> PRM AS0147
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**Part 1 – Premises Details**

Postal address of premises or, if none, ordnance survey map reference or description Foxy's Deli 7 Royal Buildings Victoria Road			
Post town	Penarth	Postcode	CF64 3ED

Telephone number at premises (if any)	02920 251666
Non-domestic rateable value of premises	£9800

**Part 2 – Applicant details**

Daytime contact telephone number	
E-mail address (optional)	
Current postal address if different from premises address	
Post town	
Postcode	

**Part 3 - Variation**

Please tick as appropriate

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

Yes

No

If not, from what date do you want the variation to take effect?

DD	MM	YYYY

Do you want the proposed variation to have effect in relation to the introduction of the late night levy? (Please see guidance note 1)  Yes  No

**Please describe briefly the nature of the proposed variation** (Please see guidance note 2)

To extend the sale of alcohol  
for consumption on and off  
the premises  
Mon - Thursday and Sunday  
8.30 - 22.40 .  
  
Friday + Saturday  
8.30 - 23.30

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

#### Part 4 Operating Schedule

Please complete those parts of the Operating Schedule below which would be subject to change if this application to vary is successful.

- | <b>Provision of regulated entertainment (Please see guidance note 3)</b>                                    | <b>Please tick all that apply</b> |
|---|-----------------------------------|
| a) plays (if ticking yes, fill in box A)  | <input type="checkbox"/>          |
| b) films (if ticking yes, fill in box B)  | <input type="checkbox"/>          |
| c) indoor sporting events (if ticking yes, fill in box C)   | <input type="checkbox"/>          |
| d) boxing or wrestling entertainment (if ticking yes, fill in box D)  | <input type="checkbox"/>          |
| e) live music (if ticking yes, fill in box E)   | <input type="checkbox"/>          |
| f) recorded music (if ticking yes, fill in box F)   | <input type="checkbox"/>          |
| g) performances of dance (if ticking yes, fill in box G)  | <input type="checkbox"/>          |
| h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H) | <input type="checkbox"/>          |

Provision of late night refreshment (if ticking yes, fill in box I)

Supply of alcohol (if ticking yes, fill in box J)

**In all cases complete boxes K, L and M**

A

Plays Standard days and timings (please read guidance note 8)			Will the performance of a play take place indoors or outdoors or both – please tick (please read guidance note 4)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 5)		
Mon					
Tue					
			<u>State any seasonal variations for performing plays</u> (please read guidance note 6)		
Wed					
Thur					
			<u>Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list</u> (please read guidance note 7)		
Fri					
Sat					
Sun					

B

Films Standard days and timings (please read guidance note 8)			<u>Will the exhibition of films take place indoors or outdoors or both – please tick</u> (please read guidance note 4)	Indoors	<input type="checkbox"/>			
				Outdoors	<input type="checkbox"/>			
				Both	<input type="checkbox"/>			
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 5)					
Mon								
Tue								
Wed						<u>State any seasonal variations for the exhibition of films</u> (please read guidance note 6)		
Thur								
Fri								
Sat						<u>Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list</u> (please read guidance note 7)		
Sun								

C

Indoor sporting events Standard days and timings (please read guidance note 8)			<u>Please give further details</u> (please read guidance note 5)
Day	Start	Finish	
Mon			
Tue			<u>State any seasonal variations for indoor sporting events</u> (please read guidance note 6)
Wed			
Thur			<u>Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list</u> (please read guidance note 7)
Fri			
Sat			
Sun			



D

Boxing or wrestling entertainments Standard days and timings (please read guidance note 8)			<u>Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick</u> (please read guidance note 4)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 5)		
Mon					
Tue			<u>State any seasonal variations for boxing or wrestling entertainment</u> (please read guidance note 6)		
Wed					
Thur			<u>Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list</u> (please read guidance note 7)		
Fri					
Sat					
Sun					

E

Live music Standard days and timings (please read guidance note 8)			Will the performance of live music take place <u>indoors or outdoors or both – please tick</u> (please read guidance note 4)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 5)		
Mon					
			State any seasonal variations for the performance of live music (please read guidance note 6)		
Tue					
			Non standard timings. Where you intend to use the premises for the <u>performance of live music at different times to those listed in the column on the left, please list</u> (please read guidance note 7)		
Wed					
Thur					
Fri					
Sat					
Sun					

F

Recorded music Standard days and timings (please read guidance note 8)			Will the playing of recorded music take place <u>indoors or outdoors or both – please tick</u> (please read guidance note 4)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 5)		
Mon					
			State any seasonal variations for the playing of recorded music (please read guidance note 6)		
Tue					
			Non standard timings. Where you intend to use the premises for the <u>playing of recorded music at different times to those listed in the column on the left, please list</u> (please read guidance note 7)		
Wed					
Thur					
Fri					
Sat					
Sun					

G

<b>Performances of dance</b> Standard days and timings (please read guidance note 8)			<b><u>Will the performance of dance take place indoors or outdoors or both – please tick</u></b> (please read guidance note 4)	Indoors	<input type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Mon			<b><u>Please give further details here</u></b> (please read guidance note 5)		
Tue					
Wed			<b><u>State any seasonal variations for the performance of dance</u></b> (please read guidance note 6)		
Thur					
Fri			<b><u>Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list</u></b> (please read guidance note 7)		
Sat					
Sun					

H

<p><b>Anything of a similar description to that falling within (e), (f) or (g)</b> Standard days and timings (please read guidance note 8)</p>			<p>Please give a description of the type of entertainment you will be providing</p>		
Day	Start	Finish	<p><b><u>Will this entertainment take place indoors or outdoors or both – please tick</u></b> (please read guidance note 4)</p>	Indoors	<input type="checkbox"/>
Mon				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Tue			<p><b><u>Please give further details here</u></b> (please read guidance note 5)</p>		
Wed					
Thur			<p><b><u>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</u></b> (please read guidance note 6)</p>		
Fri					
Sat			<p><b><u>Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list</u></b> (please read guidance note 7)</p>		
Sun					

I

<b>Late night refreshment</b> Standard days and timings (please read guidance note 8)			<b><u>Will the provision of late night refreshment take place indoors or outdoors or both – please tick</u></b> (please read guidance note 4)		Indoors	<input type="checkbox"/>
					Outdoors	<input type="checkbox"/>
					Both	<input type="checkbox"/>
Day	Start	Finish	<b><u>Please give further details here</u></b> (please read guidance note 5)			
Mon						
Tue						
Wed			<b><u>State any seasonal variations for the provision of late night refreshment</u></b> (please read guidance note 6)			
Thur						
Fri			<b><u>Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list</u></b> (please read guidance note 7)			
Sat						
Sun						

L

<b>Hours premises are open to the public</b> Standard days and timings (please read guidance note 8)			<b>State any seasonal variations</b> (please read guidance note 6)
Day	Start	Finish	
Mon	08:30	23:00	
Tue	08:30	23:00	
Wed	08:30	23:00	
Thur	08:30	23:00	
Fri	08:30	00:00	
Sat	08:30	00:00	
Sun	8.30	23:00	
			<b>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list</b> (please read guidance note 7)

Please identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking.

J

<b>Supply of alcohol</b> Standard days and timings (please read guidance note 8)			<b>Will the supply of alcohol be for consumption – please tick</b> (please read guidance note 9)	On the premises	<input type="checkbox"/>
				Off the premises	<input type="checkbox"/>
				Both	<input checked="" type="checkbox"/>
Day	Start	Finish	<b>State any seasonal variations for the supply of alcohol</b> (please read guidance note 6)		
Mon	08:30	22:40			
Tue	08:30	22:40			
Wed	08:30	22:40			
Thur	08:30	22:40			
Fri	08:30	<del>22:40</del> 23:30			
Sat	08:30	23:30			
			<b>Non-standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list</b> (please read guidance note 7)		
Sun	08:30	<del>23:30</del> 22:40			

K

<p><b>Please highlight any 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</b> (please read guidance note 10).</p> <p>None.</p>
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Please tick as appropriate

- I have enclosed the premises licence
- I have enclosed the relevant part of the premises licence

If you have not ticked one of these boxes, please fill in reasons for not including the licence or part of it below

Reasons why I have not enclosed the premises licence or relevant part of premises licence.

Licence is with the Licensing Authority

**M** Describe any additional steps you intend to take to promote the four licensing objectives as a result of the proposed variation:

**a) General – all four licensing objectives (b, c, d and e) (please read guidance note 11)**

**b) The prevention of crime and disorder**

- A CCTV system will be installed to an agreed standard approved by South Wales Police and will be maintained and always operated when the premises are open to the public. The system will cover all areas of the premises to which the public have access (excluding toilets) including all public entrances, exits and outside spaces. The images will be available for a minimum of 31 days. The images will be produced to a Police employee, in a readily playable format, immediately upon request when the premises are open to the public and at all other times as soon as reasonably practicable. There will be sufficient trained staff to facilitate the above.
- An incident record will be kept at the premises. Any incident of crime or disorder witnessed by staff or any incident reported by customers is to be noted in the log. The following information shall be recorded in relation to each incident:
  - Date and time of the incident
  - Name of person making the report
  - Names of the parties involved (if known) or description of the parties (in as much detail as possible)
  - Nature of the incident
  - Any action taken thereafter
  - Refusals of saleStaff will be trained in relation to their responsibility to complete an incident report. Access to incident reports shall be made available to South Wales Police on request.

**c) Public safety**

- All bottles and glasses will be removed from the public areas as soon as contents are empty.

**d) The prevention of public nuisance**

- Clearly legible notices shall be displayed at all exits from the premise requesting public and staff to respect the needs of local residents and to leave the premises and area quietly.
- Doors and windows shall be kept closed after 21:00, except for access and egress, to minimise noise impact on neighbouring properties.
- Customers shall not be permitted to use the outside areas after 22:00.
- On any evening when regulated entertainment is taking place, the premises management will undertake a risk assessment on the requirement of SIA registered doorstaff to be employed, from 19:00 until the close of the premises. A copy of this risk assessment will be made available to be viewed by responsible authority officers upon reasonable request.
- Any bars or service points will be situated within the curtilage of the main building. No bars or service points will be situated in the outside seating area.

**e) The protection of children from harm**

- The premises will operate a 'Challenge 25' policy. This policy will be brought to customers' attention by staff and through the display of appropriate signage. The only forms of identification recognised will be photographic identification cards, such as a driving licence, passport, HM Forces Card or proof of age scheme card with PASS logo.
- All customer focussed staff will receive relevant training in relation to alcohol sales and the promotion of the licensing objectives. This training will be refreshed annually with a record held on the premise. The training record shall be retained for a period of 12 months and will be made available for inspection upon request by a South Wales Police officer or other authorised person.

Checklist:

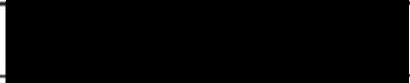
**Please tick to indicate agreement**

- I have made or enclosed payment of the fee; or
- I have not made or enclosed payment of the fee because this application has been made in relation to the introduction of the late night levy.
- I have sent copies of this application and the plan to responsible authorities and others where applicable.
- I understand that I must now advertise my application.
- I have enclosed the premises licence or relevant part of it or explanation.
- I understand that if I do not comply with the above requirements my application will be rejected.

**IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.**

**Part 5 – Signatures** (please read guidance note 12)

**Signature of applicant (the current premises licence holder) or applicant's solicitor or other duly authorised agent (please read guidance note 13). If signing on behalf of the applicant, please state in what capacity.**

Signature	
Date	5/7/23
Capacity	Licence holder

**Where the premises licence is jointly held, signature of 2nd applicant (the current premises licence holder) or 2nd applicant's solicitor or other authorised agent (please read guidance note 14). If signing on behalf of the applicant, please state in what capacity.**

Signature	
Date	
Capacity	

**Contact name (where not previously given) and address for correspondence associated with this application (please read guidance note 15)**

<b>Post town</b>		<b>Post code</b>	
<b>Telephone number (if any)</b>			
<b>If you would prefer us to correspond with you by e-mail, your e-mail address (optional)</b>			

**Notes for Guidance**

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

1. You do not have to pay a fee if the only purpose of the variation for which you are applying is to avoid becoming liable for the late night levy
2. Describe the premises. For example, the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place of consumption of these off-supplies of alcohol, you must include a description of where the place will be and its proximity to the premises.
3. In terms of specific regulated entertainments please note that:

**Appendix C**

Representation 1

From: [REDACTED]  
Sent: 20 July 2023 11:26  
To: Licensing  
Subject: Re Foxy's Deli

Good morning ,

We object to the application which has been submitted by Foxys Deli .

The residents above and to the sides numbers [REDACTED] have all agreed and licensing Foxys at unsocial hours will affect their living standards in my opinion and we are at risk of loosing our tenants and having empty apartments we cannot rent out due to the noise .

We leave in august and will be unable to attend any meetings or zoom meeting Regards [REDACTED]  
[REDACTED]

Representation 2

From: [REDACTED]  
Sent: Friday, July 28, 2023 12:20 PM  
To: Evans, Kirsty J  
Subject: Representation Submission in Relation to the Application for an Extension of Hours by Ms Sian Fox, TA Foxy's Deli, Royal Buildings, 7 Victoria Road, Penarth CF64-3ED

Representation Submission in Relation to the Application for an Extension of Hours by Ms Sian Fox, TA Foxy's Deli, Royal Buildings, 7 Victoria Road, Penarth CF64-3ED

Submission by [REDACTED]  
[REDACTED]

The basis of this representation is with regard to the high potential for Public Nuisance (Noise) that would be created by the granting of an extended premises license to the aforementioned person/premises.

Dear Licensing Committee,  
Introduction

I am writing to you to express my strong opposition to the recent licensing application submitted by Sian Fox for extended licensing hours at Foxy's Deli, 7 Victoria Road Penarth CF64 3ED. Whilst I understand the importance of supporting local businesses and economic growth, I believe that granting this license would contribute to significant noise pollution in the area, adversely impacting the well-being quality of life of the nearby residents, myself especially.

As you will see from the above addresses, I have lived directly above Foxy's Deli for the past twelve years. At present, and with the current alcohol license granted to Foxy's Deli, there have been no instances of what could be considered Public Nuisance (noise) emanating from these particular premises. Foxy's current opening hours are currently 0800-1700hrs and the business operates as a cafe/delicatessen therefore the potential for nuisance is low. However, if the business were to operate up until 2330hrs and serve alcohol then the potential for noise nuisance moves from low to medium/high.

The committee should note that there have been significant noise issues relating to the premises at No 8 Victoria Road, another licensed establishment (Gin 64), which is located some ten meters from my home. I have video recordings of previous noise issues, which I cannot append to this Representation, but will provide by separate cover. The videos will provide real examples of the potential for Public Nuisance from late night licensed premises in the vicinity.

I would also like to point out that at a similar distance from my property, in the opposite direction, is the Paget Rooms event venue. When events are taking place at the Paget Rooms the ambient noise levels close to my property increase significantly with rehearsals, people attending the events, the subsequent raised voices, taxis and vehicle movements associated with customers arriving and departing.

I do appreciate that events at the Paget Rooms are not a weekly occurrence but they still need to be taken into consideration in the overall scheme of the potential for nuisance noise.

The application for an extended license at Foxy's Deli, if granted, would mean that there would be three adjacent late night licensed premises within fifteen metres of each other on a very small section of Victoria Road, all serving alcohol into the late evening / early morning, with a combined capacity for a maximum of approximately six hundred and fifty people. The granting of a license to Foxy's Deli under the current application would also allow alcohol to be served for fifteen hours a day

Representation 2 – Continued

on weekends and is serving alcohol from 0830hrs in the morning reasonable in a residential area and is there really a business need?

Given my past personal experience, I consider that instances of Public Nuisance from the increased noise levels of an additional late night licensed premises are inevitable due to the amount of people possibly present. It is a given that some of these people will in certain levels of intoxication. The likelihood for Disorder and Crime is therefore also increased due to the aforementioned reasons. I find the proposals to extend the opening and licensing hours to 0830|-2240hrs and 0830-2330hrs on a Friday and Saturday evening for Foxy's Deli to be unacceptable, and I have no doubt that the increased noise will impact substantially upon my use and enjoyment of my property and have a detrimental effect

upon my already poor health. I am registered disabled and suffer with a number of debilitating chronic conditions.

**Parklets and Their Use**

It is extremely important for the Licensing Committee to note that the current licenses of both Foxy's Deli and Gin 64 allow them the use of external 'Parklets' provided by the Vale of Glamorgan Borough Council.

These Parklets provide outside seating and drinking areas for some thirty to forty people with standing room for others on the pavements until the late evening/early morning. The noise levels when these areas are in use is horrendous for a resident living directly above them. In the past I have made several complaints to your Environmental Health Team due to the excessive noise levels, obstruction of the pavements, people smoking in my doorway and leaving beer bottles in my plant pots. On a number of occasions my daughter has had to ring me from across the road requesting that I come down to our entrance door and ask people to move away because she was afraid to try to enter the flat.

I am quite sure that other residents have been hampered in going about their business, or intimidated by large groups of people drinking alcohol on the street.

I am willing to provide evidence of my previous complaints and append them to this representation for consideration. They will demonstrate real, rather than hypothetical nuisance noise issues that have arisen in the past and probably would do again if a late night alcohol license were granted to Foxy's Deli.

I appreciate that the Parklets are only in use in the warmer months, but this is the time when my windows are open and the ambient noise levels are way above what could possibly be considered reasonable. I can only hope that when considering their decisions that the Licensing Committee will try to imagine what it is like having forty plus, mainly younger people, having a social gathering up until midnight, under your open living room, bedroom windows to understand fully the potential for disturbance.

**Change of Business Ownership and Nature of Business for Foxy's Deli** Foxy's Deli currently closes at 1700hrs and the trading days are from Monday to Saturday. In the time that a license has been granted to these premises, it has seldom been used past the 1700 closing time, and only for the occasional 'themed' events. This arrangement has been acceptable.

I believe that the application for an extended license is not for the use of the current owners, but to enhance the potential for the sale of the business/premises with an extended alcohol license in place. I'm sure the applicant will confirm that the business/premises has been privately marketed for sale and the current business will not make use of the license hours and will probably not open beyond 1700 even if the license is granted.

If this license were to be granted, it may only be used by the potential new owners of the business/premises who may take it in a completely different direction and one that may be wholly

unsuitable for a residential area. How will the licensing committee protect the residents from the impacts from a potentially unknown business type with a license to serve alcohol from 0830 in the morning until 2330 on weekends, what contingencies are in place? Is a license to serve alcohol for fifteen hours a day on weekends really warranted and necessary in a predominantly residential area?  
Summary - The Potential for Public Nuisance (Noise) etc.

I hope that my representation and the evidence provided will give you issues to deliberate and consider. Could I request that a comprehensive noise impact is undertaken by an independent and qualified professional. The assessment should consider the cumulative effects of existing noise sources and the proposed business operation. If the license is considered necessary then noise mitigation measures should be introduced. The outside areas of the premises should have reduced use hours in line with licensing precedents already set. The applicant should consider soundproofing to the premises and offering secondary glazing to residents directly impacted by noise generated. Periodic, ongoing noise monitoring should also be undertaken and be a condition of the license.

I am very happy living in my flat and Penarth, and I wish to see the town thrive and prosper with new businesses being attracted. But it is only right that as a resident I am afforded the right to the peaceful enjoyment of my own home. It is my strong belief that if a license were granted to Foxy's Deli that if the business is sold to a wine/cocktail bar, bar or such like that the noise levels below my property would rise, especially in summer to levels that would constitute a Public Nuisance. This would have a huge impact upon my quality of life, and I fear also upon my health. Hence the reasons for this representation.

May I kindly request that my objections be taken into serious consideration during the evaluation of the licensing application. The well-being of residents and the preservation of a peaceful living environment should be given priority over economic interests.

Thank you for your attention to this matter. I trust that you will carefully weigh the potential impact on noise pollution/nuisance and make a decision that upholds the best interests of the community.

Yours faithfully, [REDACTED]



**Appendix C**

Representation 2 – Supporting Evidence (email chain between resident and Pollution Team)

**From:** [REDACTED]  
**Date:** 13 July 2021 at 13:36:54 BST  
**To:** "Brown, Sue F"  
**Subject:** Re: Noise Complaint REF 862948

Sent from my iPad

On 13 Jul 2021, at 13:32, [REDACTED] wrote:

Hi Sue,

As stated in my mail of the 24/6/21 I did want to speak to you and provided my number, but was disappointed that you did not call me.

The statutory nuisance noise issues we have been encountering are continuing and will send you some video footage showing the levels of noise being created.

I would invite you, or your colleagues to undertake an inspection on a sunny weekend evening to get a real feel for the noise levels. Perhaps noise monitoring equipment can be installed so an objective picture can be obtained rather than a subjective one.

I consider this complaint to be very much still

<Video.MOV>

I look forward to hearing from you at your earliest convenience

Regards,

[REDACTED]

Sent from my iPad

On 24 Jun 2021, at 18:29 [REDACTED] wrote:

Hi

Thank you for your email but I would really like to speak to you if possible,, my phone number is

[REDACTED]

Thank you

[REDACTED]

Representation 2 – Supporting Evidence (email chain between resident and Pollution Team Continued)

On 24 Jun 2021, at 16:42, Brown, Sue F wrote:

Good afternoon [REDACTED]

Apologises that I haven't been in touch until now.

I know [REDACTED] your partner has been trying to contact me, [REDACTED]  
[REDACTED]  
[REDACTED]

Thankfully now up and running, but still slow connection.

The above ref number 862948 refers to a complaint logged by the our admin staff in relation to GIN 64, however I note you also mention Foxy's Deli in your email, no separate complaint has been logged in relation to this premise, but both premises have been addressed.

Following the receiving of your complaints I made contact with my Covid enforcement colleagues as they proactively visit licensed premises and have visited both GIN 64 and Foxy's a number of times, pre and post indoor hospitality being allowed, since your contact including on Friday and Saturday nights.

Such proactive and complaint visits by my colleagues have been successful in terms of noise and Covid issues, and I understand that matters had improved with regard to GIN 64 and Foxy's.

However if this is not your experience please let me know.

Finally if you would like to discuss matters, rather than or as well as email, please let me know when it would be convenient and I will call you, however unfortunately I will only be available tomorrow morning, Friday, until 11:00.

Kindest regards

SUE

**Sue Brown | Neighbourhood Services Officer / Swyddog Gwasanaethau Cymdogaeth**

Shared Regulatory Services / Gwasanaethau Rheoliadol a Rennir

Bridgend, Cardiff and the Vale of Glamorgan / Pen-y-bont ar Ogwr, Caerdydd a Bro Morgannwg

Phone / Ffôn: 0300 123 6696

Email / Eboest: [SFBrown@valeofglamorgan.gov.uk](mailto:SFBrown@valeofglamorgan.gov.uk)

Website / Gwefan: <http://www.srs.wales> | <http://www.grhr.cymru>