

LICENSING SUB-COMMITTEE: 28 September 2022

Report of the Head of Regulatory Services

Application for Premises Licence - Variation

Application No: 076845

Name of Premises: Fairwater Hotel, St Fagans Road, Fairwater, Cardiff, CF5 3AH

Ward: Fairwater

1. **Application**

1.1 An application to vary a Premises Licence has been received from Marston's Plc in respect of Fairwater Hotel, St Fagans Road, Fairwater, Cardiff, CF5 3AH.

1.2 The applicant has applied for the following:

(1) Description of the nature of the variation (as stated by applicant):

"Application is made to vary the Premises Licence. The premises has had the benefit of a refurbishment which will cause works to be undertaken to both the interior and exterior of the premises.

The application is made to amend the Premises Licence in respect of the following Items.

1. Application is made to vary the internal and external layout of the premises as per drawings:

28/07/93131/404 GF - Ground Floor

28/07/93131/FF/404 - First Floor

Internally

To the lounge area, extension of fixed seating.

Appropriate redecoration and re-upholstery throughout.

Externally

To include within the licensed area the pre-existing beer garden In relation to retail sale of alcohol and late night refreshment

2. Hours

No change is sought in relation to the licensable activities undertaken and the hours of operation at the premises.

*HOWEVER, it is noted that the opening hours in respect of Sunday to Thursday are the same as the hours for licensable activities and do not provide a 30 minute wind down period as is best practice. **Application is therefore made to allow the premises to remain open until midnight Sunday to Thursday.***

3. Licensable Activities

Application is made to add the licensable activity of exhibition of films on the following hours:

Sunday to Thursday - 10:00 to 23:30

Friday and Saturday - 10:00 until midnight

4. Conditions

No change is proposed to the conditions or non-standard timings endorsed upon the licence”.

- (3) Unless otherwise indicated the premises may currently be open to the public during the following hours and for any hours consequential to the non-standard timings:

Sunday to Thursday: 09:00 to 23:30 hours

Friday and Saturday: 09:00 to 00:30 hours

From start of permitted hours on New Year’s Eve until start of permitted hours on New Year’s Day

- (4) To provide licensable activities during the following hours:

- (i) The sale by retail of alcohol for consumption on and off the premises:

Sunday to Thursday: 10:00 to 23:30 hours

Friday and Saturday: 10:00 to 00:00 hours

From start of permitted hours on New Year’s Eve until start of permitted hours on New Year’s Day

- (ii) The provision of regulated entertainment in the form of indoor sport:

Sunday to Thursday: 10:00 to 23:30 hours

Friday and Saturday: 10:00 to 00:00 hours

- (iii) The provision of regulated entertainment in the form of live music (indoors), recorded music (indoors):

Sunday to Thursday: 10:00 to 23:30 hours

Friday and Saturday: 10:00 to 00:00 hours

- (iv) The provision of late night refreshment (indoors):

Sunday to Thursday: 23:00 to 23:30 hours

Friday and Saturday: 23:00 to 00:00 hours

- 1.3 A site map showing the premises and the plans referred to above can be found in **Appendix A**.

2. **Promotion of Licensing Objectives**

- 2.1 The conditions proposed by the applicant to meet the licensing objectives are attached to the report and can be found in **Appendix B** along with a copy of the current licence conditions.
- 2.2 During the consultation period, an agreement was reached with the Neighbourhood Services team to amend the application and amend a condition currently attached to the licence. This agreement can be found in **Appendix C**.

3. Relevant Representations

3.1 Representations have been received from local residents. Copies of the representations can be found attached as ***Appendix D***.

4. Legal Considerations

4.1 In respect of the application the decision must be taken following consideration of the representations received with a view to promoting the licensing objectives, which are:

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

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

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

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

5. Issues for Discussion

5.1 The application should be determined and the appropriateness of any conditions on the licence needs to be discussed.

APPENDIX A

Site Map & Plan



CHIEF EXECUTIVE

Neuadd y Sir, Glanfa'r Iwerydd
 CAERDYDD CF10 4UW
 Tel: 029 20872088

County Hall, Atlantic Wharf
 CARDIFF CF10 4UW
 Tel: 029 20872087

Cyngor Caerdydd

Cardiff Council



Title

Scale: 1:1417

Date: 7/9/2022 at 8:43 AM

Coordinates:

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Ordnance Survey 100023376 (2014).

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 The drawing must be read & checked against any other specialist drawings provided by the company or by consultants.
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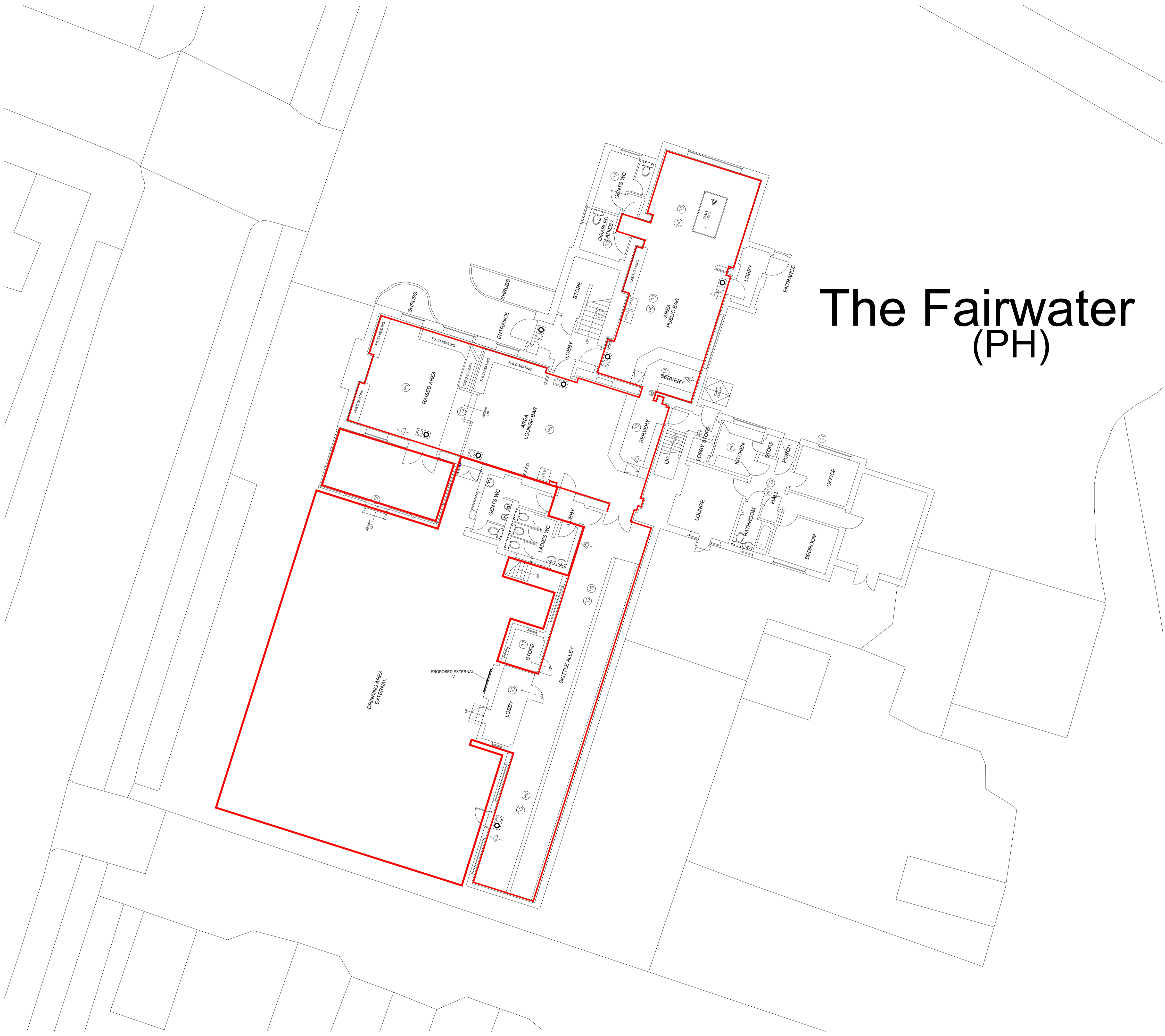
FIRE PREVENTION LEGEND

FD	1/2 HOUR FIRE RESISTING DOORS
EL	EMERGENCY LIGHT
EXIT	EXIT BOX - MAINTAINED EMERGENCY LIGHT WITH RUNNING MAN.
EXIT	EXIT SIGN
PB	DOORS FITTED WITH PUSH BARS
DH DS	AUTOMATIC FIRE DETECTION - HEAT / SMOKE
F	FIRE BLANKET
FV	FIRE EXTINGUISHER - DRY POWDER TYPE
FW	FIRE EXTINGUISHER - WATER TYPE
FV	FIRE EXTINGUISHER - CARBON DIOXIDE TYPE
N7	'FIRE EXIT - KEEP CLEAR' NOTICE
AWD	AUDIBLE WARNING DEVICE
CA	FIRE ALARM CALL POINT

PUBLIC AREAS

—	LICENSING ACTIVITY & CONSUMPTION OF ALCOHOL
—	AREA USED FOR CONSUMPTION OF ALCOHOL ONLY

The Fairwater (PH)

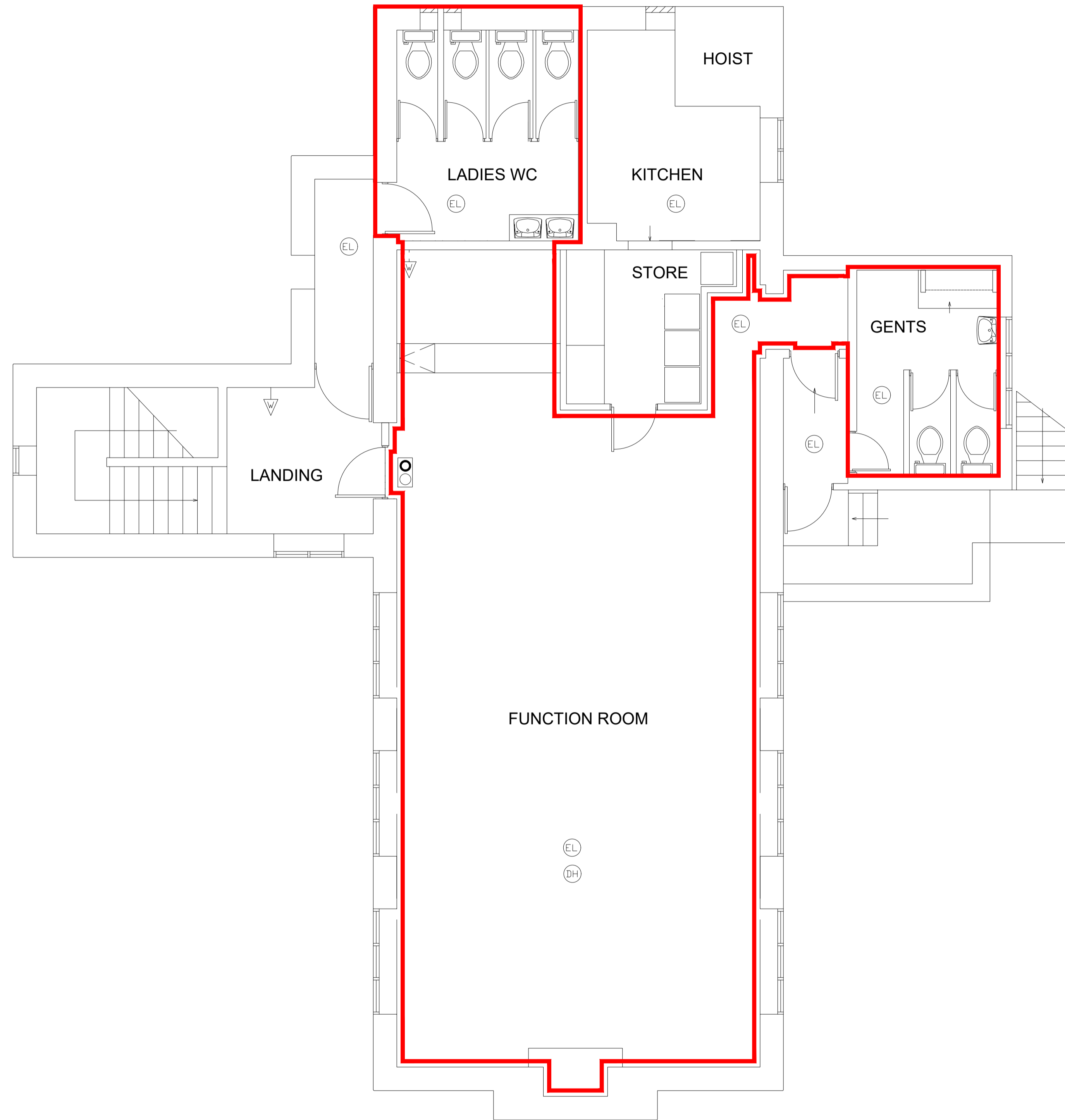


REV	DETAILS	BY
MARSTON'S		
PROJECT		
Fairwater Hotel St. Fagans Road, Town Centre, Cardiff CF5 3AH		
TITLE		
Ground Floor - Proposed Licence Plan		
SCALE		DATE
1:100 @ A1		July 2022
DRAWN BY	CHECKED BY	DRAWING NO.
AF	-	28/07/93131/GF/404
REV		
-		
MARSTON'S PLC, MARSTON'S HOUSE, BREWERY ROAD, WOLVERHAMPTON, WV1 4JT. Tel: 01902 711811		

Contractors responsibility to check all site dimensions & levels prior to commencing works.
 Contractor to comply in all respects with current building regulations & guidelines whether specified on this drawing or not.
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N7	'FIRE EXIT - KEEP CLEAR' NOTICE
🔊	AUDIBLE WARNING DEVICE
Ⓞ	FIRE ALARM CALL POINT
PUBLIC AREAS	
—	LICENSING ACTIVITY & CONSUMPTION OF ALCOHOL
—	AREA USED FOR CONSUMPTION OF ALCOHOL ONLY



REV	DETAILS	BY
PROJECT		
Fairwater Hotel St. Fagans Road, Town Centre, Cardiff CF5 3AH		
TITLE		
First Floor - Proposed Licence Plan		
SCALE		DATE
1:100 @ A1		July 2022
DRAWN BY	CHECKED BY	DRAWING No.
AF	-	28/07/93131/FF/404
REV		
-		
MARSTON'S PLC, MARSTON'S HOUSE, BREWERY ROAD, WOLVERHAMPTON, WV1 4JT. Tel: 01902 711811		

APPENDIX B

Operating Schedule

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,e) (please read guidance note 11)

The refurbishment will substantially improve the amenity of the premises and promote the four licensing objectives.

The above is provided by way of explanation and not intended to be converted into conditions.

b) The prevention of crime and disorder

No further risks have been identified which need to be addressed.

c) Public safety

No further risks have been identified which need to be addressed.

d) The prevention of public nuisance

No further risks have been identified which need to be addressed.

e) The protection of children from harm

No further risks have been identified which need to be addressed.

ANNEXES: CONDITIONS

Annex 1 - Mandatory Conditions**Mandatory conditions where licence authorises supply of alcohol**

- (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.

Mandatory conditions where licence authorises supply of alcohol for consumption on the premises

1. (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. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
3. (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.
4. 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."
5. 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



ANNEXES: CONDITIONS continued ...

permitted price.

6. For the purposes of the condition set out in paragraph 1-

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

(b) "permitted price" is the price found by applying the formula-

$$P = D + (DxV) \text{ <http://www.legislation.gov.uk/ukdsi/2014/9780111109120/images/ukdsi_9780111109120_en_001>}$$

where-

(i) P is the permitted price,

(ii) D is the rate 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

7. 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.

8. (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.

Annex 2 - Conditions consistent with the operating schedule

1. CCTV system shall be installed to a standard agreed with South Wales Police. The system shall be maintained and be operational at all times the premises are open to the public. The system shall cover all parts of the licensable areas to which the public have access (excluding toilets) and all exits and entrances used by customers. Images shall be kept for a minimum of 31 days. The images shall be produced to a Police employee immediately upon request when the premises are open and at all other times as soon as is reasonably practical. There will be sufficient staff training to facilitate the above, staff will be in possession of the appropriate passwords to operate the system. Signs will be prominently displayed advising customers that CCTV is in operation at the premises.

2. An incident log shall be used at the premises, it shall be made available on request to a member of police staff, which will record the following:

- a) All crimes reported to the venue
- b) Any complaints received
- c) Any incidents of disorder
- d) Any refusal of the sale of alcohol
- e) Any ejections
- f) Any visit by a representative of a responsible authority or a member of the emergency services
- g) Any failures of the CCTV system

3. Toilet checks to be conducted at random times with at least one every hour and a written record kept of these checks.

4. The Designated Premises Supervisor shall be a member of any active local pubwatch scheme or alternative.

5. The use of the external areas for licensable activity should cease at 23:30 hours.

6. Doors and windows closed at 23:00 hours if live music is being performed.

7. Prominent, clear and legible signage to be placed at all exits requesting that patrons respect the needs of local residents, leaving the premises and surrounding area quietly.

8. Portable appliance testing undertaken annually.



ANNEXES: CONDITIONS continued ...

9. No unaccompanied children will be allowed on the premises.

Non-standard timings

A further additional hour extending the terminal hour on the following occasions:

1st January, 1st March (St David's day), 17th March (St Patrick's day), Good Friday, Easter Saturday, Easter Monday, 1st May Bank Holiday Friday prior, 1st May Bank Holiday Saturday prior, 1st May Bank Holiday Sunday prior, 1st May Bank Holiday Monday, 2nd May Bank Holiday (Whitsun) Friday prior, 2nd May Bank Holiday Saturday prior, 2nd May Bank Holiday Sunday prior, 2nd May Bank Holiday (Whitsun) Monday, August Bank Holiday Friday prior, August Bank Holiday Saturday prior, August Bank Holiday Sunday prior, August Bank Holiday Monday, Boxing Day 26th December, December 27th, Christmas Eve

In the event of the transmission of any recognised international event which falls outside the current permitted hours on the Premises Licence to permit the activity commencing one hour before the start of the event and ending one hour after the end of the event. Details of which to be notified in writing to the police 14 days beforehand. The event will not proceed if the police serve, 7 days prior to the event, written notice upon the Designated Premises Supervisor. The sale of alcohol at such events will cease 30 minutes after the event finishes, unless it runs into permitted hours. There will be provision of a suitable, large screen television.



Helen Picton
Shared Regulatory Services

23 February, 2021



APPENDIX C

Neighbourhood Services Agreement

Licensing (Licensing Regulatory) / Trwyddedu (Rheoleiddio Trwyddedu)

From:
Sent: 05 September 2022 13:39
To:
Cc: Licensing (Licensing Regulatory) / Trwyddedu (Rheoleiddio Trwyddedu)
Subject: RE: Fairwater Hotel

EXTERNAL: This email originated from outside Cardiff Council, take care when clicking links.

ALLANOL: Daw'r e-bost hwn o'r tu allan i Gyngor Caerdydd, cymerwch ofal wrth glicio ar ddolenni.

Good Afternoon Michelle,

I appreciate your assistance with this.

There is no objection to the variation as the below are accepted.

Many thanks,

Jay



Jay Sampson
Swyddog Gwasanaethau Cymdogaeth
Neighbourhood Services Officer
Gwasanaethau Rheoliadol a Rennir
Shared Regulatory Services
Neuadd Y Ddinas, Caerdydd / City Hall, Cardiff / CF10 3ND

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Mae'r Cyngor yn croesawu gohebiaeth yn Gymraeg a Saesneg a byddwn yn sicrhau ein bod yn cyfathrebu â chi yn eich dewis iaith boed yn Gymraeg, yn Saesneg neu'n ddwyieithog dim ond i chi roi gwybod i ni pa un sydd well gennych. Ni fydd gohebu yn Gymraeg yn creu unrhyw oedi.

From:
Sent: 05 September 2022 13:33
To: Sampson, Jay
Cc: Licensing (Cardiff C.C.) <licensing@cardiff.gov.uk>
Subject: Fairwater Hotel

Dear Jay

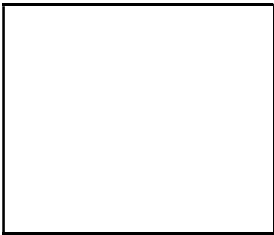
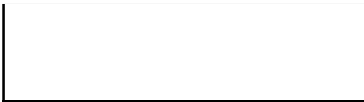
Further to our telephone conversation today I write to confirm I act on behalf of Marston's PLC and I have passed to them the comments you have made in connection with the licence variation application for the Fairwater Hotel.

In view of the comments raised my clients are willing to amend the application for the variation on the following basis:-

- 1 that the external undertaking of films shall cease at 19.00
- 2 that the wording of the existing condition 5 should be further clarified to reference recorded music and therefore read as follows-*Doors and windows shall be closed at 23.00 when recorded or live music is being performed.*

As per our discussion I have copied into the correspondence the licensing officer. I would be grateful if you could confirm your agreement to the operating schedule amendments and thank you for your assistance in this matter.

Kind Regards



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APPENDIX D

Other persons representations

Licensing (Licensing Regulatory) / Trwyddedu (Rheoleiddio Trwyddedu)

From:
Sent: 01 September 2022 16:29
To: Licensing (Licensing Regulatory) / Trwyddedu (Rheoleiddio Trwyddedu)
Subject: Fairwater Pub

I strongly disagree to the idea of a screen put up outside or in for entertainment this will only encourage the noise screaming fighting that already goes on over there constantly in beer garden , there are old and young children residents who have to get up early for work it's unbearable, the landlord is not approachable his attitude is why buy a house by a pub but he has turned this pub around , I have lived here 18 years and I have never complained about the noise you just took no notice then it would be quiet by 9 when we had the hot spell we could not even open the windows I have rang the noise environment about him , all the neighbours are complaining about him , so I hope this is not going ahead

Sent from my iPhone

Licensing (Licensing Regulatory) / Trwyddedu (Rheoleiddio Trwyddedu)

From:

01 September 2022 16:53

To:

Licensing (Licensing Regulatory) / Trwyddedu (Rheoleiddio Trwyddedu)

Subject:

Ref Fairwater pub St Fagans Rd

EXTERNAL: This email originated from outside Cardiff Council, take care when clicking links.

ALLANOL: Daw'r e-bost hwn o'r tu allan i Gyngor Caerdydd, cymerwch ofal wrth glicio ar ddolenni.

To whom it may Concern,

I am writing this email in regards to the Fairwater Pub St Fagans Rd Fairwater CF5 3AH.

I am concerned about the plans that have been submitted for outdoor entertainment to watch films. I currently live close to the fairwater pub and i'm concerned that the noise which is already very loud throughout the day to late evening is going to get worse. I currently have to shut my windows in the hot weather, as it's difficult to watch TV, the noise and shouting distresses my pets, it often wakes me up when i'm in bed, can sound intimidating at times using bad language. Myself and my family have made complaints to him but he feels it's our fault for living by a pub. I really feel if this outdoor entertainment planning was to go ahead the noise levels would increase further causing further problems in my household . I strongly object to the entertainment planning as being a resident in
yours sincerely

Licensing (Licensing Regulatory) / Trwyddedu (Rheoleiddio Trwyddedu)

From:
Sent: 04 September 2022 16:53
To: Licensing (Licensing Regulatory) / Trwyddedu (Rheoleiddio Trwyddedu)
Subject: Fairwater Hotel Proposed Variation

I am writing to you as I have just heard about the proposed variation to the Fairwater Hotel by Marstons. Plc.

I object to The idea of having outdoor movie nights in the garden until 11.00pm and 12.00pm .

I don't think it's appropriate as the pub and garden are in a quiet residential area.

The noise levels are already far too loud and finish too late and I am afraid that noise levels will increase further and the patrons will linger around long after it's finished . Currently the weather is hot and I am not able to open my doors or windows in the evenings because of noise levels from music outside and people shouting etc. which means I can't watch my tv or sleep my own home.

Currently on Sunday evenings the beer garden is still noisy until after midnight to 12.30ish then the patrons very often move to the road outside where we can hear them shouting and arguing.

I am not against the pub, music or people having a good time but it is far too loud and goes on too late especially when people have to work in the morning or when our children are in bed and can't sleep .

Sent from my iPhone