



City and County of Swansea

Notice of Meeting

You are invited to attend a Meeting of the

Statutory Licensing Sub Committee

At: Council Chamber - Guildhall, Swansea

On: Wednesday, 17 April 2019

Time: 10.00 am

Chair: Councillor Penny Matthews

Membership:

Councillors: S J Gallagher and P Lloyd

Agenda

Page No.

- 1 Apologies for Absence.
- 2 Disclosures of Personal and Prejudicial Interests.
www.swansea.gov.uk/disclosuresofinterests
- 3 Licensing Act 2003, Section 34 Application to Vary a Premises Licence - Boo's Kitchen, 2 Woodville Road, Mumbles, Swansea. 1 - 20

A handwritten signature in cursive script that reads 'Huw Evans'.

Huw Evans
Head of Democratic Services
Tuesday, 9 April 2019

Contact: Democratic Services - 636923

Agenda Item 3



Cyngor **Abertawe**
Swansea Council

**Report of the Divisional Licensing Officer
Statutory Licensing Sub Committee
17 April 2019**

Licensing Act 2003 Section 34 Application to Vary a Premises Licence

- 1. Premises: Boo's Kitchen, 2 Woodville Road, Mumbles, Swansea.**
- 2. Applicant : Angharad Bethan Boo**
- 3. Application to Vary a Premises Licence**
 - 3.1 An application to vary a premises licence was received by this authority on the 20th February 2019.

The premises currently operates under a premises licence

Supply of Alcohol

Monday & Tuesday 1100-1800 Wednesday to Saturday 1100-2200
 - 3.2 A copy of the existing premises licence including the current conditions is attached at Appendix A.

The application proposes to extend the supply of alcohol Monday to Sunday 1000-2300
- 4. Background**

The premises is a local independent café situated within a residential area. The premises licence was granted in 2012. The current premises licence holder has been trading since May 2018 and selling alcohol from July 2018.

Members should note that when the licence was granted in 2012, the following condition was attached to the licence

"Sunday - The premises is to remain closed to the public."

This condition is not an enforceable condition and therefore should be removed from the licence and disregarded by Members for consideration today.

A location plan of the premises is attached at Appendix B.

5. Promotion Of The Licensing Objectives

5.1 The Licensing Act 2003 contains four licensing objectives, namely:-

- (i) Prevention of Crime and Disorder
- (ii) Public Safety
- (iii) Prevention of Public Nuisance
- (iv) Protection of Children from Harm

Each of these objectives is of equal importance and the application must demonstrate how they are to be promoted.

6. RELEVANT REPRESENTATIONS

6.1 Responsible Authorities

- a) **South Wales Police**
No representations.
- b) **Trading Standards**
No representations.
- c) **Mid and West Wales Fire Authority**
No representations.
- d) **Health and Safety**
No representations.
- e) **Planning Authority**
No representations.
- f) **Pollution Division**
No representations.
- g) **Child Protection**
No representations.
- h) **Primary Care Trust/Local Health Board**
No representations.
- i) **Licensing Authority**
No representations.

j) Immigration
No representations.

j) Other Persons

Representations have been received from 2 residents.

These are attached at Appendix C.

7. Policy Considerations

7.1 In considering this application Members should have regard to the Council's current statement of Licensing Policy adopted in July 2018. Specifically in relation to this application;

(i) Deregulation – Foreword

(d) Certain activities are now no longer required to be licensed due to changes in legislation as a result of deregulation. Amendments made to the 2003 Act by the Live Music Act 2012 and the Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013, Legislative Reform Order 2014 and the Deregulation Act 2015, means that a licence is not required for the following activities to the extent that they take place between 08:00- 23:00 on any day:

Live music, where the live music comprises;

- A performance of unamplified live music
- A performance of live amplified music in a workplace with an audience of no more than 500 people; or
- A performance of live or recorded music on licensed premises which takes place in the presence of an audience of no more than 500 people, subject to certain conditions being met.

Recorded music, where recorded music comprises;

- Any playing of recorded music on licensed premises which takes place in the presence of an audience of no more than 500;
- Any playing of recorded music in unlicensed premises, subject to certain conditions being met.
- Dance – no licence is required for performances on any day provided that the audience does not exceed 500.

Where de-regulated activities take place on licensed premises any licence conditions relating to 'live' music or entertainment will be suspended, but it is possible to impose new, or reinstate existing conditions following a review of a premises licence or club premises certificate.

(ii) Control – Section 4

Paragraph 4.4 The Licensing Authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public, living, working or engaged in normal activities in the area concerned. It will be expected that any representation made by “Other Persons” will indicate how the application will directly affect them in relation to one or more of the licensing objectives.

Paragraph 4.5 Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and beyond the direct control of the persons holding the relevant authorisation.

(iii) Licensing Hours – Section 7

Paragraph 7.1 When determining individual licence applications for premises the licensing hours will be decided having regard to the individual merits of each application. The presumption will be to grant the hours as requested unless there are objections to those hours raised by responsible authorities or other persons on the basis of the licensing objectives.

Paragraph 7.4 The Licensing Authority will closely examine the hours of business for premises which are situated in predominately residential areas and will impose strict conditions relating to noise control where representations are received and it is considered appropriate.

(iv) Integrating Strategies – Section 9

Paragraph 9.6 The Council, when acting as a Licensing Authority will have regard to the needs of the local tourist economy and employment situation for the area as appropriate.

(v) Duplication – Section 11

Paragraph 11.1 The Licensing Authority will avoid as far as possible any duplication with other regulatory regimes.

Paragraph 11.2 Where legislation is already in force which relates to the four licensing objectives, further controls which duplicate these legal requirements will not be enforced through licence conditions, e.g. Fire Safety and Health & Safety at Work legislation.

Paragraph 11.3 In particular, Planning and Licensing regimes will be properly separated to avoid duplication and inefficiency.

Licensing applications will not be a re-run of a planning application and the licensing decisions will not cut across decisions taken by a planning committee or permissions granted on appeal. There is no legal basis for the Licensing Authority to refuse an application because it does not have planning permission. The Licensing Authority will advise all new applicants to liaise with planning services to ensure they apply for any necessary permissions.

(vi) Conditions – Section 12

Paragraph 12.3 The Licensing Authority will attach conditions to licences or certificates that are tailored to the individual size, style, characteristics and activities taking place at the premises or event concerned.

(vii) Applications for Licences, Certificates, Authorisations and Reviews – Section 15

Paragraph 15.1 The Licensing Authority will consider each application received on its merits in the context of the four licensing objectives.

Paragraph 15.4 The Licensing Authority also accepts that Other Persons or responsible authorities, as defined in the Act, have the right to make representations in respect of an application, or to seek a review of a licence or certificate within the provisions of the Act. Such representations will be considered on their merits and how they relate to the likely effect of the grant of the licence or certificate on the promotion of at least one or more of the licensing objectives. Also, how the representations are relevant to the promotion of one or more of the licensing objectives in the case of a review of a licence or certificate. When a petition is submitted as a representation it will only be considered if it relates to one or more of the four licensing objectives and it is demonstrated that the details of the representation have been made clear to each signatory i.e. that the heading is included on each page of the petition. A relevant representation may be positive or supportive in nature as opposed to being negative but it must still demonstrate that the licensing objectives are being promoted.

7.2 A copy of the Policy has previously been circulated to Members.

An update to date copy of the Policy may be found via the following link:

<https://www.swansea.gov.uk/article/4280/Statement-of-licensing-policy>

8. Guidance Issued By The Home Secretary

8.1 Members should also have regard to the relevant parts of the current guidance issued by the Home Secretary in April 2018, in particular;

- (i) Introduction – Chapter 1
- (ii) Licensing Objectives – Chapter 2
- (iii) Applications For Premises Licences – Chapter 8
- (iv) Determining Applications – Chapter 9
- (v) Conditions attached to Premises Licences – Chapter 10
- (vi) Promotion of Equality – Chapter 14 paragraphs 14.66 -14.67

Specifically in relation to this application;

- (i) Public Nuisance – Chapter 2
Paragraph 2.19 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.

Paragraph 2.21 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.

- (ii) Considering cases where licensing and planning applications are made simultaneously – Chapter 9
Paragraph 9.45 Where businesses have indicated, when applying for a licence under the 2003 Act, that they have also applied for planning permission or that they intend to do so, licensing committees and officers should consider discussion with their planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs.

- (iii) Planning and building control – Chapter 14
Paragraph 14.64 The statement of licensing policy should indicate that planning permission, building control approval and licensing regimes will be properly separated to avoid duplication and inefficiency. The planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice versa. However, as set out in chapter 9, licensing committees and officers should consider discussions with their planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs

Paragraph 14.65 There are circumstances when, as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law. Proper integration should be assured by licensing committees, where appropriate, providing regular reports to the planning committee.

- 8.2 A copy of the Home Secretary's Guidance has previously been circulated to Members.

An update to date copy of the Guidance may be found via the following link:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705588/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_April_2018_.pdf

9. Determination Of The Application

- 9.1 The decision must be based on the individual merits of the application and the representations received, with a view to promoting the licensing objectives outlined in paragraph 5 above.
- 9.2 In addition in arriving at the decision Members should have regard to the relevant provisions of the Council's Statement of Licensing Policy and the Secretary of State's Guidance as previously provided. Reasons must be provided for any departures from the Policy or Guidance.

9.3 In reaching the decision the Committee must, having regard to the representations, take such steps mentioned below (if any) as it considers appropriate for the promotion of the licensing objectives:-

(a) to modify the conditions of the licence to include ,but not necessarily limited to , the removal of the condition:

“Sunday - The premises is to remain closed to the public.”

(b) to reject the whole or part of the application;

The Licensing Sub Committee's instructions are requested.

Background Papers:	Licence Application
Contact Officer:	Rachel Loosemore
Extension:	01792 635600

LICENSING ACT 2003

Premises Licence
Part A

Premises licence number

SJ052337

Part A1 – Premises Details

Boo's 2 Woodville Road Mumbles			
Post town	Swansea	Post code	SA3 4AD
Telephone number	01792 406000/406766		

Where the licence is time limited the dates

Not applicable

Licensable activities authorised by the licence

Supply of Alcohol

The times the licence authorises the carrying out of licensable activities**Supply of Alcohol**

Monday & Tuesday 11.00 - 18.00

Wednesday - Saturday 11.00 - 22.00

The opening hours of the premises

Monday & Tuesday 11.00 - 18.30

Wednesday - Saturday 11.00 - 22.30

Sunday - The premises is to remain closed to the public.

Where the licence authorises supplies of alcohol whether these are on and/or off supplies

Both

Part 2

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

Mrs Angharad Bethan Boo
Westernside Cottage
Horton
Swansea
SA3 1LQ

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

Not applicable

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

Mrs Angharad Bethan Boo
Westernside Cottage
Horton
Swansea
SA3 1LQ

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

Personal Licence Holder Number : CCCI/02137 Cardiff

Annex 1 – Mandatory conditions

1. No supply of alcohol may be made under the Premises Licence -
 - i) At a time when there is no Designated Premises Supervisor in respect of the Premises Licence or;
 - ii) At a time when the Designated Premises Supervisor does not hold a Personal Licence or their 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.

4. (1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange, or participate in any irresponsible promotions in relation to the premises.

(2) 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 in a manner which carries a significant risk to leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children-

(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 (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);

(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;

(d) Provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on -

(i) the outcome of a race, competition or other event or process, or
(ii) the likelihood of anything occurring or not occurring;

(e) 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.

5. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without the assistance by reason of a disability).

6. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

7. 1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

(2) 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 a holographic mark.

8. The responsible person shall 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 : 1/2 pint ;
- (ii) gin, rum, vodka or whisky : 25ml or 35ml ; and
- (iii) still wine in a glass ; 125ml ; and

(b) customers are made aware of the availability of these measures.

Annex 2 – Conditions consistent with the Operating Schedule

1. Other than for Off Sales in sealed containers, no glassware or glass bottles are to be taken outside the building by patrons of the premises.

2. No consumption of alcohol or other refreshments to be permitted

after the terminal hour for the supply of alcohol in the external drinking area.

3. Alcohol consumed in any external areas shall be only consumed by patrons seated at tables.

4. External areas to be regularly supervised by staff of the premises when in use.

5. The number of persons permitted in the premises at any one time (including staff) shall not exceed 40 persons.

6. Adequate and appropriate supply of first aid equipment and materials shall be available for customers on the premises.

7. The supply of alcohol shall be by waiter or waitress service only with the exception of any pre booked private functions.

8. Notices shall be prominently displayed on the premises, and at all exits requesting patrons to respect the needs of local residents and to leave the area quietly.

Annex 3 – Conditions attached after a Hearing by the Licensing Authority

9. No smoking notices shall be prominently displayed in all external areas.

10. A direct telephone number for the manager at the premises shall be made publicly available at all times the premises is open. This telephone number is to be made available to residents in the vicinity.

11. A challenge 21 proof of age scheme shall be operated at the premises where the only acceptable forms of identification shall bear their photograph, date of birth and holographic mark.

12. A log shall be kept detailing all refused sales of alcohol. The log shall include the date and time of the refusal, name of the member of staff and a description of the individual refused. The log shall be available for inspection at the premises by the Police or an authorised officer of the council at all times whilst the premises is open.

13. The premises is to keep up to date records for inspection of staff

training in respect of age related sales.

14. Notices shall be clearly displayed in the premises to emphasise to customers that the prohibition on providing the sale of alcohol to persons under the age of 18 years.

Annex 4 – Plans

Plans submitted with application 30th April 2012

Director of Place	
Authorised Officer	

Dated: 30th November 2017

Ref: PLH

LICENSING ACT 2003

Premises licence summary

Premises licence number

SJ052337

Premises details

Postal address of premises, or if none, ordnance survey map reference or description

Ty Junction
2 Woodville Road
Mumbles

Post town Swansea**Post code** SA3 4AD**Telephone number**

01792 406000/406766

Where the licence is time limited the dates

Not Applicable

Licensable activities authorised by the licence

Supply of Alcohol

The times the licence authorises the carrying out of licensable activities**Supply of Alcohol**

Monday & Tuesday 11.00 - 18.00

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The opening hours of the premises

Monday & Tuesday 11.00 - 18.30

Wednesday - Saturday 11.00 - 22.30

Sunday - The premises is to remain closed to the public.

Where the licence authorises supplies of alcohol whether these are on and/or off supplies

Both

Name, (registered) address of holder of premises licence

Mrs Angharad Bethan Boo
Westernside
Horton
Swansea

SA3 1LQ

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

Not applicable

Name of designated premises supervisor where the premises licence authorises for the supply of alcohol

Mrs Angharad Bethan Boo

State whether access to the premises by children is restricted or prohibited

Director of Place	
Authorised Officer	

**Please note that it is a legal requirement to display
This Premises Licence Summary**



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This plan is for illustrative purposes only and should not be used as a legal document. Boo's Kitchen, 2 Woodville Road, Mumbles

Appendix B

Scale: 1:500
Date: 01/04/2019
Created by: Rachel.Losemore

City and County of Swansea
 Licensing Division,
 Environment Department,
 Civic Centre
 Oystermouth Road,
 Swansea
 SA13SN

Directorate of Place
Licensing
13 MAR 2019
Ref.
Logged by.
For action by.

From - 16th March 2019

Swan

Re Planning application no 2019/0503/S73
 Variation of Opening hours and licensing hours

This letter is to object the above variation of the opening hours and licensing hours for the above cafe.

Boo's cafe is situated on the corner of Woodville Road which is a quiet residential street. Unfortunately permission has been given to these premises on an earlier occasion primarily because residents do not understand that objections to licensing have to be made in writing to the Licensing department as well as objections to the planning office. As you will see if you look at the many objections to this planning a large percentage object to the licensing also.

We have a large percentage of retirees in this road and to allow alcohol to be served late of a night will disrupt sleep, ad more noise to the area with

customers of the wine bar leaving after 11.30 pm, more parking problems (Woodville Road is saturated with vehicles) for residents who simply cannot park by their houses not least outside of their houses , door banging etc.

Boo's cafe have not used their current alcohol license since moving here in 2018. They actually close at 6pm.

There are plenty of cafes/wine bars and public houses on Mumbles and Newton Roads so putting alcohol premises in a residential area is not acceptable.

A few years ago Swansea Council Licensing stated that due to the problems Mumbles had a few years ago regarding the Mumbles Mile and the amount of drinking establishments in the area that they were not going to grant as many licensing permits. I have been noting over the last couple of years that alcohol licenses are being given out like sweets. Mad Hatter cafe have recently applied for the same thing as have Cafe Play. It seems as though if you start off as a cafe, apply for an alcohol license, apply for an extension then change to a Wine Bar, it is easier to get permission. The last thing we want is another "Mumbles Mile" and all the problems we had.

Sorry to waffle on but a lot of people don't want Mumbles to be spoiled. Visitors come here for what it is now. We will end up like St Ives full of airbnb, second homes and wine bars.

Many thanks,

A large yellow rectangular redaction box covers the signature area, obscuring the name and any handwritten notes.

From: JOHN PURTON <jpsurfboards.x@gmail.com>
Sent: 15 March 2019 10:32
To: EVH Licensing
Subject: RE Applicant: Angharad Boo, Boo's Kitchen, 2 Woodville Road, Mumbles SA3 4AD - sent to RL

To Whom it May Concern

I am responding to the above applicant and address 2 Woodville Road Mumbles Swansea SA3 4AD.

We are the adjoining property/house 4 Woodville Rd. We have lived at this property for over 20 years which is in a residential area. With reference to extending the alcohol license of Boo's Kitchen we profusely object!

Extending the licensing hours will extend the noise levels in a residential area. Adding to the existing licensing hours would stretch out the noise from individuals and groups of people leaving later, taxi's turning up, car doors slamming and customers walking up the street talking loudly. And all the other associated noise disturbances that comes from people drinking alcohol etc.

One of the objectives of an alcohol license in Swansea is to **protect** the public of nuisance, surely by increasing the hours you would be increasing the nuisance and not protecting it?

We have already taken measures to try and reduce the noise already experienced by insulating the walls and increasing the height of our wall and fence in the garden. We already are experiencing unwanted noise and interrupted sleep. And extension on the licensing hours would be detrimental to our sleep.

Parking of customer vehicles in residents parking and in the general area is becoming a nightmare for all the residents in the street and surrounding streets. Increasing the licensing hours would mean more disturbance later on in the night.

If the license is increased it will most certainly negatively affect the neighbouring residents.

If you need any further information please don't hesitate to contact me.

Yours Sincerely

Mr & Mrs J Purton