



**Report of the Divisional Licensing Officer
To the Statutory Licensing Sub Committee
20th November 2018**

**Licensing Act 2003
Section 17 Application For a Premises Licence**

- 1. Premises: On Board Surf & Coffee, 464 Gower Road, Killay, Swansea, SA2 7DZ**
- 2. Applicant : John Stuart Williams & Nicola Louise Spencer**
- 3. Application For A New Premises Licence**
- 3.1 An application for a new premises licence was received by this authority on the 25th September 2018. The applicant has applied for a premises licence to allow the following licensable activity to take place.

Supply of Alcohol

Monday to Wednesday 1000-2300 Thursday to Sunday 1000-0000

Late Night Refreshment & Recorded Music

Thursday to Sunday 2300-0000

4. Background

The premises is an established Surf and Coffee Shop and is 1 of 5 commercial properties situated in a row within a residential area.

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

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.

Conditions consistent with the operating schedule that will be attached to the licence if granted are at Appendix B.

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 John Morse Solicitors on behalf of 4 residents.
A local Councillor.
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 2013 and amended 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) 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.

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

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 Licenses – Chapter 8
- (iv) Conditions attached to Premises Licenses – Chapter 10
- (v) Promotion of Equality – Chapter 14 paragraphs 14.66 -14.67

Specifically in relation to this application;

- (i) 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.
- (ii) 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.

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. Grant the licence subject to:
 - i) conditions that reflect the operating schedule, modified to such extent as the authority considers appropriate for promotion of the licensing objectives. Certain regulated entertainment under the Licensing Act 2003 (as amended) has been deregulated. Where entertainment is deregulated, but licensable activities continue to take place on any premises, any licence conditions imposed on a grant of a licence in respect of any deregulated entertainment will be suspended.
 - ii) any mandatory conditions relevant to the licence
- b. Exclude any of the licensable activities to which the application relates.
- c. Refuse to specify a person in the licence as the premises supervisor.
- d. Reject the application

The Licensing Sub Committee's instructions are requested.

Background Papers:	Licence Application
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