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Mrs Lynda Anthony.
The Divisional Licensing Officer,
City and County of Swansea,
Civic Centre,
Swansea.

9th May 2019

**Police Observations to application for a premises
licence under the Licensing Act 2003.**

I am in receipt of the above application made under the requirements of the Licensing Act 2003 for the below mentioned premises

Premises: 76 St Helens Road
 Swansea
 Sa1 4BG

The application has been made by Mr Shui Fa Zhang

South Wales Police wish to make the following relevant representations in relation to the aforementioned application. The representations are made on the grounds that the granting of such a premise licence in its proposed form will undermine the promotion of the key licensing objectives namely the Prevention of Crime and Disorder, Public Safety and the Prevention of Public Nuisance, and Protection of Children from Harm.

This premises is currently trading as a Chinese supermarket situated on St Helens Road near to the junction of Bryn Y Mor Road and Beach Street, Swansea.

Mae Heddlu De Cymru yn croesawu derbyn gohebiaeth yn Gymraeg a Saesneg. South Wales Police welcomes receiving correspondence in Welsh and English.
Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg a gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg. Correspondence received in Welsh will be answered in Welsh and corresponding
gohebu yn Gymraeg yn arwain at oedl. in Welsh will not lead to a delay in responding.

Prif Gwnstabl **Matt Jukes QPM, MA(Oxon)MSc.** Chief Constable



The applicant has provided the following proposed operating hours,

	<u>Supply of Alcohol</u>	<u>Opening Hours</u>
Monday	1000-2100	1000-2100
Tuesday	1000-2100	1000-2100
Wednesday	1000-2100	1000-2100
Thursday	1000-2100	1000-2100
Friday	1000-2100	1000-2100
Saturday	1000-2100	1000-2100
Sunday	1000-2100	1000-2100

Having examined the application, it is extremely disappointing and concerning that the applicant has offered no conditions within the Operating Schedule, stating that "no additional conditions are considered appropriate as this is an off licence application where the terminal hour is 21.00hrs. I draw your attention to Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003. Paragraph 1.4 of the Guidance stated the promotion of the statutory objectives is a paramount consideration at all times.

Section 1.15 of the guidance recommends that licence applicants contact responsible authorities when preparing their operating schedules. South Wales Police actively encourages early engagement and consultation in order to assist applicants, to work in a partnership approach, however disappointingly, no such contact or advice has been sought on this occasion.

On Friday 8th June 2018, I assisted Swansea Council Trading Standards in carrying out a premises visit at 76 St Helens Road. The premises at the time of the visit was under the control and management of the applicant Mr Shui Fa Zhang. The visit seized approximately 7520 illicit cigarettes which failed to comply with labelling requirements and failed the non-self-extinguishing safety test, thus causing a potential fire risk. There was also a quantity of alcohol that was seized in the form of liquors and lagers, which were incorrectly labelled and not covered by an alcohol premises licence. Swansea Council Trading Standards are currently investigating and progressing this matter.

The operation and management of the premises in relation to the above activities clearly undermines the licensing objective of crime and disorder and public safety. The actions clearly put members of the public at risk whilst also potentially operating unlawfully. When considering the offences and actions, it



raises concerns over the applicant's ability to operate under a alcohol premises licence, especially when the applicant has failed to acknowledge any requirement for premises licence conditions. It raises the question that even if licence conditions are placed on the licence, will they be adhered to and complied with. The applicant has failed to provide any conditions relating to crime and disorder such as CCTV within the premises, and no incident book which would show details of the date and time of all assaults, injuries, accidents or refusals, as well as details of the members of staff involved, the nature of the incident and the action/outcome which also clearly undermines the public safety objective. Section 2.7 states Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act.

This application fails to promote the protection from harm objective. Section 2.26 of the 182 guidance identifies that responsible authorities should expect applicants, when preparing an operating schedule or club operating schedule to set out the steps to be taken to protect children from harm when on the premises. The application fails to address any form of Challenge Age policy, and has failed to identify how staff will trained in age verification and intoxication, therefore putting children at risk of being exposed to alcohol consumption from the premises. There is no refusal log proposed within the application, which would include the date and time of the refused sale and the names of the member of staff who refused the sale, thus recording any potential underage issues

Section 8.41 of the 182 guidance states

"In completing an operating schedule, applicants are expected to have regard to the statement of licensing policy for their area. They must also be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives. Licensing authorities and responsible authorities are expected to publish information about what is meant by the promotion of the licensing objectives and to ensure that applicants can readily access advice about these matters. However, applicants are also expected to undertake their own enquiries about the area in which the premises are situated to inform the content of the application.

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Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd
gohebu yn Gymraeg yn arwain at oedl.

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in Welsh will not lead to a delay in responding.



Section 8.42 of the guidance states that applicants are in particular expected to obtain sufficient information to enable them to demonstrate when setting out the steps they propose to take to promote the licensing objectives, that they understand

- The layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children may congregate
- Any risk posed to the local area by the applicants proposed licensable activities; and
- Any local initiatives (for example, local crime reduction initiatives or voluntary schemes including taxi-marshalling schemes, street pastors and other schemes) which may help to mitigate potential risks.

Having examined the application, it is clear that the applicant has failed to address any of these concerns within its description of the premises or within the operating schedule.

Section 8.44 of the guidance states

“it is expected that enquiries about the locality will assist applicants when determining the steps that are appropriate for the promotion of the licensing objectives. For example, premises with close proximity to residential premises should consider what effect this will have on their smoking, noise management and dispersal policies to ensure the promotion of the public nuisance objective. Applicants must consider all factors which may be relevant to the promotion of the licensing objectives, and where there are no known concerns, acknowledge this in their application

South Wales Police, being a Responsible Authority, hereby submits the above representations which are reasonable and proportionate, focusing on the nature of the premises, whilst ensuring the promotion of the Licensing Objectives.



I urge the Licensing Committee to support South Wales Police in our representations and refuse the application.

The above information is submitted for your information and consideration.

Yours sincerely,

Jon Hancock

Police Licensing Officer
(On behalf of the Chief Officer of Police)

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Mrs Lynda Anthony.
The Divisional Licensing
Officer,
City and County of Swansea,
Civic Centre,
Swansea

Please ask for: Rhys Harries
Direct Line: 01792 635524
E-Mail: rhys.harries@swansea.gov.uk
Our Ref:
Your Ref:
Date:

Dear Sir / Madam,

I am in receipt of an application for a new premises license relating to the below mentioned premises:

Premises: 76 St Helens Road
Swansea
SA1 4BG

The application has been made by Mr Shui Fa Zhang. Swansea Trading standards wish to make the following relevant representations in relation to the aforementioned application. The representations are made on the grounds that the granting of such a license in its proposed form will undermine the promotion of the key licensing objective namely Protection of Children from Harm.

Age restrictions are placed on goods generally as a result of specific threats or concerns, some of the reasons for this are that:

- The product may cause physical harm to the purchaser if misused – e.g. tobacco products/alcohol
- The purchaser may harm others from misuse of the product – knives/alcohol
- The product may increase a young person's vulnerability to harm caused by others – e.g. alcohol

The basis for these representations are based on recent evidence obtained by Swansea Council Trading Standards Officer who carried out an intelligence led visit to the aforementioned premises. During the visit a quantity of illicit cigarettes were seized along with a quantity of alcohol.

Checks made on the day confirmed that the premises did not have an alcohol license.

A sample of the cigarettes were tested and failed to meet the required safety standard which means they do not self extinguish and can therefore pose a fire risk.



A sample of the alcohol was also send for analysis and failed to comply with the labelling requirements.

As a result of this there is an going investigation which is nearing completion and has been recommended for prosecution.

Although this investigation is not In relation to underage sales it is of concern that if the applicants are already not complying with the required legislation at present then they cannot guarantee that they will comply with the relevant age restricted legislation.

Illicit tobacco is a huge problem in Swansea and it is of concern that young persons are more likely to buy illicit tobacco due to the lack of controls in place by the sellers.

Having read the application the applicant has not offered any conditions to demonstrate that they would be upholding the licensing objectives in anyway.

Therefore it is our position that the license is refused due to the pending prosecution case against the individual.

Yours faithfully

RHYS HARRIES
TEAM LEADER
TRADING STANDARDS DIVISON

Charles Gabe
Licensing Officer
Licensing Division
Civic Centre
Oystermouth Road
Swansea
SA1 3SN

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Llinell Uniongyrchol/Direct Line: 01792-635600
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Ein Cyf/Our Ref:
Eich Cyf/Your Ref:

Dyddiad/Date: 10th May 2019

Dear Mr Gabe,

**Application for a premises licence to be granted under the Licensing Act 2003 for
76 St Helen's Road, Swansea, SA1 4BG**

I am a Licensing Officer based in the Licensing Department of Swansea Council and as such a Responsible Authority in relation to the above application for the grant of a premises licence.

The operating schedule describes the proposed premises as a Chinese supermarket which requires a licence to permit the sale of food goods containing alcohol and the sale of some Chinese beers. The application seeks to permit the supply of alcohol off the premises from 1000 hours to 2100 hours seven days a week. The proposed opening hours of the premises are also 1000 hours to 2100 hours seven days a week.

I wish to make a representation against the above application which appears to have been submitted without consultation with the Licensing Authority or any other Responsible Authorities and without regard to the guidance to prospective applicants provided on the Council's website. The guidance contains sample conditions which are enforceable and uphold the licensing objectives. Whilst all applications may have individual needs, many of the sample conditions on the website are relevant to the majority of applications.

The applicant has not included any steps they intend to take to promote the four licensing objectives of the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm. The applicant has however stated that *"no additional conditions are considered appropriate as this is an off licence application where the terminal hour is 21.00 hours"*.

The Licensing Authority, acting as a Responsible Authority, would request that the following extracts are considered in determining this application:

Steps to promote the licensing objectives

8.41 In completing an operating schedule, applicants are expected to have regard to the statement of licensing policy for their area. They must also be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives. Licensing authorities and responsible authorities are expected to publish information about what is meant by the promotion of the licensing objectives and to ensure that applicants can readily access advice about these matters. However, applicants are also expected to undertake their own enquiries about the area in which the premises are situated to inform the content of the application.

8.42 Applicants are, in particular, expected to obtain sufficient information to enable them to demonstrate, when setting out the steps they propose to take to promote the licensing objectives, that they understand:

- the layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children may congregate;
- any risk posed to the local area by the applicants' proposed licensable activities; and
- any local initiatives (for example, local crime reduction initiatives or voluntary schemes including local taxi-marshalling schemes, street pastors and other schemes) which may help to mitigate potential risks.

8.44 It is expected that enquiries about the locality will assist applicants when determining the steps that are appropriate for the promotion of the licensing objectives. For example, premises with close proximity to residential premises should consider what effect this will have on their smoking, noise management and dispersal policies to ensure the promotion of the public nuisance objective. Applicants must consider all factors which may be relevant to the promotion of the licensing objectives, and where there are no known concerns, acknowledge this in their application.

8.46 While applicants are not required to seek the views of responsible authorities before formally submitting their application, they may find them to be a useful source of expert advice on local issues that should be taken into consideration when making an application. Licensing authorities may wish to encourage co-operation between applicants, responsible authorities and, where relevant, local residents and businesses before applications are submitted in order to minimise the scope for disputes to arise.

8.47 Applicants are expected to provide licensing authorities with sufficient information in this section to determine the extent to which their proposed steps are appropriate to promote the licensing objectives in the local area. Applications must not be based on providing a set of standard conditions to promote the licensing objectives and applicants are expected to make it clear why the steps they are proposing are appropriate for the premises.

8.48 All parties are expected to work together in partnership to ensure that the licensing objectives are promoted collectively. Where there are no disputes, the steps that applicants propose to take to promote the licensing objectives, as set out in the

operating schedule, will very often translate directly into conditions that will be attached to premises licences with the minimum of fuss.

8.49 For some premises, it is possible that no measures will be appropriate to promote one or more of the licensing objectives, for example, because they are adequately covered by other existing legislation. It is however important that all operating schedules should be precise and clear about the measures that are proposed to promote each of the licensing objectives.

Hearings

9.32 Responsible authorities should try to conclude any discussions with the applicant in good time before the hearing. The 2005 Hearings Regulations permit licensing authorities to extend a time limit provided for by those Regulations for a specified period where it considers this to be necessary in the public interest. For example, if the application is amended at the last moment, the licensing committee should consider giving other persons time to address the revised application before the hearing commences. Where the authority has extended a time limit it must forthwith give a notice to the parties involved stating the period of the extension and the reasons for it.

Conditions attached to premises licences and club premises certificates

10.4 The conditions that are appropriate for the promotion of the licensing objectives should emerge initially from the risk assessment carried out by a prospective licence or certificate holder, which they should carry out before making their application for a premises licence or club premises certificate. This would be translated into the steps recorded in the operating schedule or club operating schedule, which must also set out the proposed hours during which licensable activities will be conducted and any other hours during which the premises will be open to the public.

10.8 The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives. In order to promote the crime prevention licensing objective conditions may be included that are aimed at preventing illegal working in licensed premises. This provision also applies to minor variations.

10.9 It is possible that in some cases no additional conditions will be appropriate to promote the licensing objectives.

10.10 The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided. For example, conditions should not be used to implement a general policy in a given area such as the use of CCTV, polycarbonate drinking vessels or identity scanners where they would not be appropriate to the specific premises. Conditions that are considered appropriate for the prevention of illegal working in premises licensed to sell alcohol or late night refreshment might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check is retained at the licensed premises. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. These could be a deterrent to holding events that are

valuable to the community or for the funding of good and important causes. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.

10.46 The premises licence holder or club premises certificate holder must ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol. This must as a minimum require individuals who appear to the responsible person (see paragraph 10.39) to be under the age of 18 years of age to produce on request, before being served alcohol, identification bearing their photograph, date of birth, and either a holographic mark or ultraviolet feature. The Home Office encourages licensed premises to accept cards bearing the Proof of Age Standards Scheme (PASS) hologram as their preferred proof of age, while acknowledging that many other forms of identification meet the requirements of the mandatory condition.

10.49 It is acceptable, and indeed encouraged, for premises to have an age verification policy which requires individuals who appear to the responsible person to be under an age greater than 18 to produce such identification on request. For example, if premises have a policy that requires any individual that appears to be under the age of 21 to produce identification that meets the criteria listed above, this is perfectly acceptable under the mandatory code.

Statement of Licensing Policy considerations

Conditions

12.1 The Licensing Authority will only impose conditions on a premises licence or club premises certificate which are consistent with the operating schedule and are appropriate to promote the four licensing objectives. Standard conditions will not be used. The Licensing Authority has developed a pool of conditions, which are provided in the guidance for applicants. This guidance has been produced to assist applicants in completing their operating schedule. The pool of conditions will be used to translate any non-specific steps for the promotion of the licensing objectives, contained within the operating schedule. Applicants are encouraged to consider the use of this pool of conditions to address key issues when completing their operating schedule. (See paragraph 18). All conditions should be -

- Clear
- Enforceable
- Evidenced
- Proportionate
- Relevant
- Be expressed in plain language capable of being understood by those expected to comply with them

12.2 The Licensing Authority will only consider imposing additional conditions on a licence where relevant representations are received from responsible authorities or other persons and such conditions are considered appropriate for the promotion of the licensing objectives.

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.

The Licensing Objectives

18.2 An applicant for a premises licence or club premises certificate or for a variation of such a licence or certificate will be expected to conduct a thorough risk assessment with regard to the licensing objectives. The risk assessment will indicate the necessary steps to be set out in the operating schedule to promote the licensing objectives. The operating schedule will be translated into conditions and an applicant is encouraged to use the pool of conditions available in the guidance. The applicant is also expected to have regard to all existing legislation which impacts on the licensing objectives e.g. fire safety, health and safety, in order to avoid the possibility of duplication. (See paragraph 11).

18.4 The Licensing Authority acknowledges that the steps an applicant may take to promote the licensing objectives will vary depending on the type of premises and the licensable activities taking place. Applicants are encouraged to consider the guidance notes referred to in paragraph 12.1 when completing their applications.

General Issues

19.1 The Council will work in conjunction with all licensees, prospective licensees and statutory agencies to promote the licensing objectives as required by the Act.

In the absence of any conditions volunteered by the applicant the Licensing Authority, acting as a Responsible Authority, are unable to ascertain how any of the four licensing objectives will be promoted. Specifically, as this premises intends to sell alcohol for consumption off the premises, it is disappointing to read that the applicant considers that no additional conditions are considered appropriate. In particular, the absence of conditions relating to the prevention of illegal working in licensed premises, the age verification of sales of alcohol and the training and recording of the same.

Please accept this as a representation by the Licensing Authority as a Responsible Authority's objection to the grant of the application.

Yours faithfully,



Becca John
Licensing Officer