



APPENDIX D

PC Jon Hancock,
Police Licensing Officer,
Swansea Central Police Station.
Jonathan.Hancock@south-wales.pnn.police.uk

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

3rd May 2019

Police Observations to vary a premises licence under the Licensing Act 2003.

I am in receipt of an application to vary a premises licence relating to the below mentioned premises

Premises: Jack Murphy's
49 Uplands Crescent
Uplands
Swansea
SA2 0NP

The application has been made by Jack Murphy's Uplands Limited

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 licence variation 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 a non-trading restaurant situated within the commercial area of the Uplands, Swansea.

YMORFON



The current premises licence has the following operating hours

	<u>Supply of Alcohol</u>	<u>Opening Hours</u>
Monday	1000-2300	1000-2330
Tuesday	1000-2300	1000-2330
Wednesday	1000-2300	1000-2330
Thursday	1000-2300	1000-2330
Friday	1000-2300	1000-2330
Saturday	1000-2300	1000-2330
Sunday	1200-2230	1000-2300

The applicant has provided the following variation to the operating hours with the notable addition of late night refreshment, films, dance and live and recorded music.

	<u>Supply of Alcohol</u>	<u>Late Night Refreshment</u>	<u>Films/Dance/ Rec/Live Music</u>	<u>Opening Hours</u>
Monday	1000-0000	2300-0000	1000-0000	1000-0030
Tuesday	1000-0000	2300-0000	1000-0000	1000-0030
Wednesday	1000-0000	2300-0000	1000-0000	1000-0030
Thursday	1000-0000	2300-0000	1000-0000	1000-0030
Friday	1000-0200	2300-0200	1000-0200	1000-0230
Saturday	1000-0200	2300-0200	1000-0200	1000-0230
Sunday	1000-0200	2300-0200	1000-0200	1000-0230

Having read through the conditions proposed within the Operating Schedule submitted with the application, and when considering the late night hours that have been applied for, there are serious cause for concern in relation to how this premises will operate on a daily basis. The variation seeks to vary the current license only condition which relates solely to trading hours. There are currently no other conditions held on the premises licence.

The variation proposes only one condition which relates to the use of CCTV. There are no other conditions to satisfy the crime and disorder objective and no conditions at all to demonstrate how the premises will promote the licensing objectives of public safety, prevention of public nuisance and protection of children from harm. I draw your attention to

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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.

This application's approach to the crime and disorder objective is wholly inadequate. Whilst there is a proposed CCTV condition, there are no conditions relating to any door staff provision. Section 2.2 of the 1982 guidance refers to the use of door staff to be "appropriate to ensure that people who are drunk, drug dealers or people carrying firearms (or more relevant to Swansea knives or weapons) do not enter the premises". Door staff are also required to ensure the safe capacity of the venue. This application seeks operating hours of 0230hrs on Fridays, Saturdays and Sundays, along with an additional hour for every Friday, Saturday, Sunday and Monday for every May, Spring/Whitsun, and August bank holidays. An additional hour is also requested for every Thursday, Friday, Saturday and Sunday and Monday for every Easter Bank Holiday weekend as well as an additional hour for every Christmas Eve and Boxing Day. These operating hours will provide potential access to all persons leaving other licensed premises as they close, many of which will be intoxicated and there will be no door staff to carry out the necessary controls.

Jack Murphy's currently has a premises on Wind Street, Swansea, and since January 2017, it has experienced 57 incidents that can be directly attributable to the venue (sourced from SWP Niche incident record management system). 29% of the incidents relate to incidents of anti-social behaviour which relate to intoxication issues and ejections by door staff. 23% of the incidents relate to assault with injuries, with 19% of the incidents relating to violence without injury. Whilst that it is accepted that such incidents are expected in such a busy night time economy hot spot, it illustrates that the operation of the venue does experience issues of crime and disorder, public safety and public nuisance despite their numerous premises licence conditions. It does beg the question how a venue managed by the same operator, utilising the same operating late night operating hours, will address similar issues without inadequate measures and conditions to promote the licensing objectives

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following issues since January 2017.

There are no proposed conditions relating to the prevention and detection of drugs misuse and no measures in relation to the use of glassware (internally or externally) and the prevention of glassware and alcohol being taken outside the building by customers. Any of the above issues would not need to be recorded as there has been no condition offered in relation to an incident book which would consider showing details of the date and time of all assaults, injuries, accidents or ejections, 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.

The application makes no reference to an external area. Subsequent information and premises plans have been submitted relating to an external terrace, located on the first floor at the rear of the premises. There are no conditions which satisfy the licensing objective of protection of public nuisance by minimising noise or waste issues. Uplands is a residential area, with a number of residential properties located at the rear of the proposed site, in close proximity to the rear terrace. There has been no attempt to minimise disruption to local residents by limiting noise levels during sensitive periods which is clearly identified as a consideration under 2.19 of the 182 guidance. There are no restrictions offered in relation to the use of the external area and offering reassurance that loudspeakers would be utilised within this external area. The variation is to amend operating hours from 2300hrs to 0230hrs and to change the operation of the premises from a restaurant to a late night drinking/music venue, which will clearly increase levels of noise and anti-social behaviour at, and, surrounding the premises.

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 identify any measures that will control, manage or prevent children from entering the premises, or being exposed to moral, psychological and physical harm, not only through alcohol consumption but also exposure to strong language or sexual expletives as outlined in section 2.22 of the guidance. The application fails to address any form of Challenge Age policy and has failed to identify how staff will trained in age



verification, intoxication issues and drugs misuse, therefore putting children at risk of being exposed to alcohol consumption within the premises.

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.

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

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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 and its proposed operating hours 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)



City & County of Swansea / Dinas a Sir Abertawe

Directorate Of Place / Cyfarwyddiaeth Lleoedd
Planning and City Regeneration / Cynllunio ac Adfywio'r Ddinas
 Civic Centre, Oystermouth Road, Swansea, SA1 3SN
 Y Ganolfan Ddinesig, Heol Ystumllwynarth, Abertawe, SA1 3SN
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 ✉ planning@swansea.gov.uk / <http://www.swansea.gov.uk>

Rachel Loosemore
Licensing Officer

Please ask for:

Emma North

Direct Line:

By e-mail only to:
Rachel.loosemore@swansea.gov.uk

E-mail: enforcement@swansea.gov.uk

Date: 13/05/2019

Dear Rachel

Site Location: Wasabi, 49 Uplands Crescent, Uplands
Proposal: License application

I refer to the above application, to your initial consultation to Enforcement on 15th April, and to the updated plan received 29th April indicating an outside smoking area; and have the following comments to make:

1. There is no opening hours restriction on the original planning permission (86/0727/03 – change of use from retail to licensed bar and restaurant with living accommodation above) other than restricting the use to hours specified by the licensing authority.
2. However, that permission was restrictive in terms of the use of the premises whereby the approved "... bar shall at no time be operated in isolation, but only when the restaurant is open". Any deviation from this will require an application to vary/remove that condition, and would be subject to the normal planning consultation process.
3. In addition, the creation of a smoking area at the rear at first floor level does not require, in itself, the grant of planning permission. However, any works to the ground floor flat roof to facilitate that use would require planning permission, as would the installation of the proposed 2m high fencing surrounding the area.

If the license is granted, there is still a need to comply with planning requirements and failure to do so may result in Enforcement and/or legal proceedings being instigated. It is, of course, open to the applicant to submit an application for planning permission to vary the conditions attached to the original permission, in an attempt to regularise the use; and such an application would be considered on its planning merits, taking into account relevant planning policies and other material considerations.

I trust the above is self-explanatory but if you have any other queries in respect of the foregoing, please do not hesitate to contact me.

Yours sincerely

Emma North
Senior Enforcement/Planning Officer (Bay)

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 I dderbyn yr wybodaeth hon mewn fformatt arall, cysylltwch a'r person uchod.*

From: Aazem, Jenny
Sent: 07 May 2019 11:57
To: Loosemore, Rachel
Cc: Price, Tom
Subject: Wasabi (Jack Murphy's Uplands), 49 Uplands Crescent

Hi Rachel

I am in receipt of an application for variation of a premises licence relating to the premises below:

Premises: Wasabi (Jack Murphy's Uplands) 49 Uplands Crescent, Uplands, Swansea SA2 ONP

Having considered the application on behalf of Pollution Control Division I would like to **OBJECT** to the application for the following reasons:

- The applicant has requested live music, recorded music and performance of dance until 2am outside the building which has the potential to cause public nuisance;
- The applicant doesn't demonstrate in the operating schedule how they will prevent the occurrence of public nuisance from regulated entertainment in the external areas.

Kind regards



Jen Aazem

Jen Aazem
Swyddog Rheoli Llygredd
Pollution Control Officer
☎01792 635600

Rachel Loosemore,
The Licensing Section,
The Civic Centre,
Swansea,
SA1 3SN/

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DIRECTORATE OF PLACE

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Gofynnwch am/ask for:

Bethan Walker

Llinell Uniongyrchol/Direct Line: 01792-635600

E-bost/E-mail: Bethan.walker@swansea.gov.uk

Ein Cyf/Our Ref:

Eich Cyf/Your Ref:

MENDIX
G

Dyddiad/Date: 13th May 2019*

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Dear Miss Loosemore,

The application to vary a premises licence for Jack Murphy's Uplands Ltd at 49 Uplands Crescent, Uplands, Swansea seeks to vary the application as follows;-

- To vary permission for the sale of alcohol Monday - Thursday 10:00 to 00:00; Friday – Sunday 10:00 to 02:00;
- To extend the opening hours Monday to Thursday 10:00 to 00:30; Friday to Sunday 10:00 to 02:30;
- To vary the conditions in Annex 2 to the premises licence to be in line with the above hours;
- To vary the layout of the premises in accordance with the plans submitted;
- Introduce the provision of regulated entertainment and late night refreshment:-
 - Films, indoor sporting, live music, recorded music, performance of dance and anything of a similar description for the hours requested for the sale of alcohol;
 - Late night refreshment Monday – Thursday 23:00 to 00:00; Friday to Sunday 23:00 to 02:00.
- Extend the opening hours and the hours for the sale of alcohol, regulated entertainment and late night refreshment for an extra hour on bank holidays.

The Licensing authority acting as a Responsible Authority consider the conditions in Annex 2 are no longer relevant and do not promote any of the licensing objectives as they relate to previous legislation and are therefore out of date.

1. ON LICENCES

Alcohol shall not be sold or supplied except during permitted hours.

In this condition, permitted hours means:

- a. On weekdays, other than Christmas Day, Good Friday or New Year's Eve, 10 a.m. to 11 p.m.*
- b. On Sundays, other than Christmas Day or New Year's Eve, 12 noon to 10.30 p.m.*
- c. On Good Friday, 12 noon to 10.30 p.m.*
- d. On Christmas Day, 12 noon to 3 p.m. and 7 p.m. to 10.30 p.m.*
- e. On New Year's Eve, except on a Sunday, 11 a.m. to 11 p.m.*
- f. On New Year's Eve on a Sunday, 12 noon to 10.30 p.m.*
- g. On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, midnight on 31st December).*

In respect of the variation to the layout of the premises. Further plans have been submitted by the applicant during the consultation period. The updated plans propose an increase in an external area identified as the terrace, and the applicant identifies the need for a 2m high fence to "maintain the privacy of adjoining tenants all around" however the application makes no reference to the use of an external area. The applicant has not included any conditions to satisfy the licensing objective of prevention of public nuisance and although the premises is located in a mostly commercial area, there are a number of residential properties located to the rear of the proposed terrace and no further consideration by way of condition has been given to the said properties.

The previous business trading from the premises was a noodle & sushi restaurant. The current premises licence allows the following:-

The times the licence authorises the carrying out of licensable activities

Supply of Alcohol

Monday to Saturday 1000 to 2300 hours

Sunday 1200 to 2230 hours

10:00hrs New Year's Eve to 23:00hrs New Year's Day; 12:00hrs to

15:00hrs & 19:00hrs to 22:30 Christmas Day and Good Friday

The opening hours of the premises

Monday to Saturday 1000 to 2330 hours

Sunday 1200 to 2300 hours

10:00hrs New Year's Eve to 23:00hrs New Year's Day; 12:00hrs to

15:00hrs & 19:00hrs to 23:00 Christmas Day and Good Friday

The variation proposes a very different type of operation to that of a noodle and sushi restaurant, with extended opening hours to serve alcohol at the premises and also the provision of live and recorded music. The applicant has however requested to include only one further condition in the operating schedule.

Having regard to the Home Office Statutory 182 guidance relating to operating schedules, in particular the following:

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.

The applicant has not provided sufficient information to enable the Authority to determine whether the proposals are appropriate to promote the licensing objectives. The only proposal included by the applicant is for CCTV to be installed, this condition replicates the model condition as it appears in the pool of conditions provided to applicants as guidance as referred to in the Council's Statement of Licensing Policy detailed below –

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*

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.

It is clear that the applicant has not had regard to the relevant section of the policy detailed above. The expectation of the licensing authority is that the applicant produces a detailed operating schedule that clearly identifies the steps that are proposed to promote the licensing objectives in the local area and in accordance with the Home Office guidance make it clear why the steps are appropriate for the premises.

Section 9.34 of the 182 guidance states that applicants should be encouraged to contact responsible authorities and others, such as local residents, who may be affected by the application before formulating their applications so that the mediation process may begin before the statutory time limits come into effect after submission of an application. The hearing process must meet the requirements of regulations made under the 2003 Act. Where matters arise which are not covered by the regulations, licensing authorities may make arrangements as they see fit as long as they are lawful.

From the level of detail contained in the application it appears that the applicant did not contact the responsible authorities before making the application.

We would expect the applicant for this premises licence to submit a detailed operating schedule which addresses how they intend to promote all of the licensing objectives, including matters such as the provision of door staff, age verification policies, restrictions on use of external areas after certain times etc.

Paragraph 8.42 of the S182 guidance states *“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.”*

The application relates to the variation of a licence that is currently in place for a premises that was previously operating as a restaurant. The only conditions attached to the existing licence are the mandatory conditions. The operation now proposed by the applicant is very different from that of a restaurant and proposes a bar serving alcohol, providing live and recorded music and late night refreshment. This is clearly a substantial change to the operation of the premises authorised by the existing licence and it is extremely disappointing to note that the applicant considers the only additional step appropriate to promote the licensing objectives is the installation of a CCTV system. In the absence of a comprehensive operating schedule, put forward by the applicant, which would translate into conditions to be attached to the licence, the licensing authority, acting as a Responsible Authority is unable to determine how the licensing objectives will be promoted by the proposed variation. In view of this I would request that the variation is refused.

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

Yours faithfully,



Bethan Walker
Licensing Officer