



LICENSING AND GAMBLING ACTS SUB COMMITTEE

10.00 AM - FRIDAY, 22 SEPTEMBER 2023

MULTI LOCATION HYBRID MICOSOFT TEAMS/COUNCIL CHAMBER

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1. Chairpersons Announcements
2. Declarations of Interest
3. Urgent Items
Any urgent items at the discretion of the Chairperson pursuant to Section 100BA(6)(b) of the Local Government Act 1972 (as amended).

Report of the Head of Legal Services

4. Application for the Grant of a Premises Licence - The Surge Cafe Bar - 74 Commercial Road Taibach, Port Talbot (*Pages 3 - 16*)

K.Jones
Chief Executive

Civic Centre
Port Talbot

Monday, 18 September 2023

Committee Membership:

Vice Chairperson: Councillor J. Henton

Members: Councillors S. Thomas and D. Whitelock

Substitute Member: Councillor W. Carpenter

NEATH PORT TALBOT COUNCIL

Licensing and Gambling Acts Sub Committee

22nd September 2023

Report of the Head of Legal Services – Craig Griffiths

Matter for Decision

Wards Affected: Port Talbot

Application for the Grant of a Premises Licence

Purpose of the Report

1. To consider representations received in respect of the following application made under the Licensing Act 2003.

Premises Name	Surge Café Bar
Premises Address	74 Commercial Road, Port Talbot, SA13 1LR
Applicant Name	Stephen Carl Lewis
Applicant Address	29 Jersey Street, Velindre, Port Talbot, SA13 1YR
DPS Name	Stephen Carl Lewis

Executive Summary

2. This is an application for the grant of a premises licence under the Licensing Act 2003 by Stephen Carl Lewis. The premises licence will authorise the sale of alcohol, both on and off the premises.
3. Representations were received in respect of the application from South Wales Police, requesting that additional conditions be attached to the licence.
4. Representations were also received from Neath Port Talbot Council's Environmental Health Section and a local resident.
5. The applicant has agreed to the additional conditions raised by South Wales Police. However, representations received from Environmental Health and the resident are unresolved, therefore, final determination of the application needs to be made by the Licensing and Gambling Acts Sub Committee.

Background

6. The Licensing Act 2003 requires that any person wishing to provide licensable activities obtains a premises licence from the Licensing Authority.
7. An application for the grant of a premises licence must be advertised in the prescribed manner and allows "responsible authorities" or "other persons" to submit representations in respect of the application.
8. Where all parties have reached an agreement and amendments have been made to the original application, the Licensing Authority can dispense with the need for a hearing. However, where a negotiated position cannot be achieved, the Sub-Committee are required to determine the application at a formal hearing.

Licence Application

9. The applicant has included the following information in the application outlining the requested hours of operation and details on how the applicant proposes to promote the four licensing objectives.

Opening Hours

10. Monday – Sunday 08.00 – 23.00

Supply of Alcohol (On and Off Sales)

11. Monday - Sunday 11.00- 22.30

Licensing Objectives

12. The following information has been provided by the applicant.

General

13. The prevention of Crime and Disorder, Public Safety, Prevention of Public Nuisance, Protection of Children from harm.

Prevention of Crime and Disorder

14. Work with local Police, Monitor consumption of alcohol, Security if required

Public Safety

15. CCTV throughout (inside and out), 4 Emergency exits, easy access and egress, Main entrance and exit with side of premises away from main road

The prevention of public nuisance

16. Early closing, Monitor alcohol consumption

The protection of children from harm

17. Challenge 25, Proof of ID pass, All children under 18 to be supervised

Relevant Representations

18. Nick Bailey - South Wales Police
19. The above representation is reproduced at Appendix 1

20. Calum Lewis - Environmental Health
21. The above representation is reproduced at Appendix 2
22. Valarie & David Woolcock, The Old Surgery House, St Albans Terrace, Taibach, Port Talbot, SA13 1LW - Local Resident
23. The above representation is reproduced in Appendix 3

Officer Report

24. The application is to authorise the sale of alcohol, both on and off the premises.
25. Representations were received in respect of the application from South Wales Police, requesting that additional conditions be attached to the licence which have been agreed and are attached as Appendix 1.
26. The representations from Environmental Health and the local resident are required to be considered at a formal hearing; final determination of the application needs to be made by the Licensing and Gambling Acts Sub-Committee.

Legal Impacts

27. There is a right of appeal against the decision to the Magistrates' Court.

Risk Management

28. Not Applicable.

Consultation

29. Consultation has been undertaken in accordance with the Licensing Act 2003.

Recommendation

30. The members determine the application after considering all relevant representations.

Reasons for Proposed Decision

31. To ensure the licensing objectives as set out in the Licensing Act 2003 are promoted.

Implementation of Decision

32. The decision is for immediate implementation

Appendices

33. Appendix 1 - South Wales Police Representations
34. Appendix 2 - Environmental Health Representations
35. Appendix 3 - Valerie & David Woolcock Representation

List of Background Papers

36. Application for the grant of a premises licence
37. Neath Port Talbot Licensing Policy
38. <https://www.npt.gov.uk/media/17641/appendix-1-draft-licensing-act-policy-2021-english.docx?v=20220627093306>
39. Secretary of State's Guidance
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

Officer Contact

40. Neil Chapple
Legal Regulatory Manager
Tel (01639) 763050
Email n.chapple@npt.gov.uk

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Pencadlys Heddlu

Heol y Bont-faen
Penybont
CF31 3SU

Mewn argyfwng ffoniwch **999**
fel arall, ffoniwch **101**

Gwefan: www.heddlu-de-cymru.police.uk

Police Headquarters


Cowbridge Road
Bridgend
CF31 3SU


In an emergency always dial **999**
for non-emergencies dial **101**

Website: www.south-wales.police.uk

Nick Bailey
Police Licensing Officer,
Neath Police Station.

 : nick.bailey2@south-wales.police.uk

 : 01639 640207

 : 07971 623816

Mr N. Chapple,
Legal Regulatory Services Manager,
Neath Port Talbot Council.
Civic Centre,
Port Talbot.

17th August 2023.

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

In relation to the application for a premises licence under the Licensing Act 2003 at
the below-referred licensed premises:

Name: The Surge Café Bar

Address: 74 Commercial Road, Taibach, Port Talbot, SA13 1LR

The Application is for a premises licence for the following Licensable activity;

Supply of Alcohol (On sales only): 11.00hrs to 22.30hrs Daily

Hours open to the public: 11.00hrs to 23.00hrs Daily

This application is submitted by Mr. Stephen LEWIS for the grant of a premises
licence to enable the applicant to sell alcohol for consumption both on & off the
premises, as part of a café bar. The premises is a located in Commercial Road,
Taibach in Port Talbot. The premises was formerly operated as a pub which had
quite a checkered history. The current operation is a café which wants limited hours
for the sale of alcohol.



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.

The application is seeking licensable activities consistent with running a café/restaurant and the terminal hour requested will not, I believe, impact negatively on the wider night time economy, and appear to have been considered in line with sect 5.4 of the NPT Licensing Policy 2021 in that the hours are “appropriate to their particular local environment”.

Having looked at the operating schedule submitted I notice that there are numerous conditions mentioned as bullet points, but I would request the following amendments and additions outlined below prior to the grant of this licence should this application be successful;

The Prevention of Crime & Disorder:

The operating schedule does refer to the provision of CCTV, so I would ask that the condition reads as follows;

1. A Digital CCTV system shall be installed, or existing system maintained, at the premises which will be operational at all times when the premises is open to the public & be capable of providing pictures of evidential quality in all lighting conditions particularly facial identification. The CCTV recordings must be correctly timed and date stamped & retained for a period of 31 days and made available for viewing by the Police or an authorised Officer of the Licensing Authority on request.

The system must provide coverage of the following areas:

- The exterior frontage of the premises
- The entrances and exits to the premises;
- The interior public areas of the premises;

I would also request that the following condition be added;

2. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open to the public. This staff member shall be able to show and provide Police or authorised officer recent data or footage with the absolute minimum of delay following a lawful request.



There is no mention of an incident book so I would request the following condition be added;

3. An incident recording book shall be maintained at the premises 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. The book must be kept available for inspection by the Police and authorised officers of the Local Authority.

I do not believe that, at this stage there is a need to impose the use of SIA door staff on a regular basis but I do feel that, should the business develop it is something the operator should consider when planning, or hosting events at the premises. I would therefore request the following condition in relation to the use of door staff door staff.

4. The premises licence holder will risk assess the need for door supervisors and provide door supervision between such times and in such numbers as is required by the risk assessment. They shall also display their S.I.A licence in a reflective armband whilst on duty.
5. If used, a daily register of security personnel will be maintained. The register shall show the name, address and licence number of each door supervisor, and the dates and times that they operate. The register must be kept available for inspection by the Police and authorised officers of the Local Authority.

The Protection of Children from Harm:

There is mention of a Challenge 25 age verification policy and staff training to challenge anyone who looks under 25. I would ask that the following wording be used in relation to the age verification policy;

6. A Challenge 25 policy will apply and Proof of age will be required from any person who appears to be under the age of 25 years who attempts to purchase or consume alcohol. The means of verification should be a form of identification which bears their photograph, date of birth and a holographic mark and should be restricted to:-
 - P.A.S.S Accredited Proof of Age Schemes e.g,Citizen Card,
 - Proof GB
 - Photocard driving licence or passport.

And that the following be added in relation to staff training;



7. Premises to keep up to date records of staff training in respect of age-related sales, in written or electronic format, available for inspection on request by an authorised officer of the Police or Local Authority.

There is no mention of any method of recording any refused sales, whether to customers who cannot prove their age or for any other reason, such as their being drunk so I would request that the following also be added;

8. A log shall be kept detailing all refused sales of alcohol. The log should include the date and time of the refused sale and the name of the member of staff who refused the sale. 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 are open.

I believe that the conditions suggested are proportionate, are in line with this type of premises and will help promote the Licensing Objectives.

The application also proposes that Stephen Carl LEWIS become the DPS of the premises, while there is no mention of his personal licence number, if he holds a personal licence nothing relevant is known to their detriment so there are no objections to this appointment.

The above information is submitted for your information and consideration.

Yours sincerely,

Nick Bailey

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



Environmental Health Statement

The Surge, Port Talbot

The Environmental Health department of Neath Port Talbot County Borough Council object to this application, reference 'LIP22338', on the grounds of the prevention of public nuisance.

This department does not take the decision to object to an application lightly. However, due to the turbulent history that followed every licence granted at this premises in recent years, we feel such a measure is proportionate to ensure the wellbeing of nearby residents.

The Institute of Acoustics Good Practice Guide on the Control of Noise from Pubs and Clubs (2003) provides guidance for the assessment and control of noise affecting noise-sensitive properties. This guidance considers noise from a number of sources, including amplified music.

I have summarized the document's relevant points in relation to this application below:

- Amplified and non-amplified music are a common source of noise disturbance arising from pub, clubs, etc.
- For premises where entertainment takes place on a regular basis, music and associated sources should not be audible inside noise-sensitive property at any time.

Complaints in relation to the premises extend back as far as 2015; the Premises Licence Holder at the time was a Mr Christopher Trainor, and since that time the Premises Licence holder has changed repeatedly. However, Mr Christopher Trainor continues to have responsibilities for the building, as he is the sole active director of the company, The Surge Pub Ltd, which is named as the landlord in the lease agreement.

Several noise abatement notices have been served on various operators and Premises Licence Holders, including Mr Trainor, in 2016, 2020 and more recently in June 2021, full details are laid out within the previous review documents. This effectively means that, between 2016 & 2021, while the Surge was operating under a premises licence, officers of this department continuously received complaints, investigated each complaint, witnessed statutory noise nuisance, and subsequently took enforcement action in relation to each Premises Licence Holder. Furthermore, there have been no complaints submitted following the 2021 licence review, during a period in which the premises operated without a licence, with the exception of complaints relating to drainage issues.

We believe that this is sufficient to demonstrate that the premises is not suitable to facilitate amplified music without there being a high probability of statutory noise nuisance. Furthermore, there has been a repeated disregard for the required sound attenuation and managerial controls necessary to facilitate amplified music at the premises.

In most instances, this department would recommend licence conditions sufficient to mitigate any inherent risk of nuisance arising from licensable activities. Following the 2021 licence review for the premises in question, several conditions were added to the previous licence: All of which were deemed necessary by the committee for mitigating adverse risks posed to local residents.

However, the Live Music Act (2012) provides an exemption to conditions relating to regulated entertainment for licensed premises. This exemption effectively means that Environmental Health cannot enforce conditions necessary to provide protection to local residents, as no condition relating to regulated entertainment can be enforced through the premises licence prior to 23:00pm. As far as I am aware, this exemption can only be removed via the licensing review process.

We are now in a scenario whereby, through surrendering and applying for a new licence, the premises can nullify the progress of the previous licence review, and any conditions in relation to regulated entertainment can no longer be enforced prior to 23:00pm.

I have attached a copy of the last licence in force at the premises. Please note the conditions listed in Annex 3.

In the interest of transparency, Environmental Health has contacted the applicant, Stephen Lewis, regarding their plans for the business. As of the 24th of August 2023, the applicant has not provided a noise management plan for the premises. Environmental Health has also not received a noise impact assessment as deemed necessary through the 2021 licence review, outlined in Annex 3 of the previous licence.

As of the 24th of August 2023, Stephen Lewis has not replied to our last email, dated 15th of August 2023, which I have included. The applicant's response, or lack thereof, has not been sufficient to mitigate this department's concerns regarding the risk of public nuisance from the premises.

In summary, The Surge has a turbulent history demonstrating that every previous licence holder since 2015 has repeatedly caused statutory noise nuisance. This department has deemed the premises unsuitable for amplified music and live entertainment, and no evidence to the contrary has been presented. Mr Christopher Trainor, director of the Surge Pub Limited, has maintained ultimate control of the premises throughout this period through enforcement of the lease agreement. Following the 2021 licence review, significant restrictions were added to the previous premises licence: These included the repeal of the Live Music Act exemption, the completion of a noise impact assessment by an Institute of Acoustics accredited professional, and further consultation with the Local Authority. The provisions within the licence application form submitted, and the email exchange with the applicant, are not sufficient to offset the concerns surrounding noise nuisance. Therefore, this department must conclude that The Surge is still unsuitable to operate under a premises licence, and would present a nuisance to nearby noise-sensitive properties.

From: Valerie Collins
Sent: 23 August 2023 08:25
To: Legal Regulatory Services
Subject: Re: The Surg Commercial Road Taibach PT - Alcohol License Application - Augus 23

Importance: High

Caution: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe. If in doubt, contact the IT Service Desk

Good Morning Peter

With reference to the request for a license by the current tenant of The Surg. Please can I request copies of the written assessments and approvals of the Noise Impacts prior to the permission given, as stated in The Neath Port Talbot County Borough Council Licensing and Gambling Acts Sub Committee Report – Notice of Decision Report. I would like to draw your attention to Condition ‘ C’ and Condition ‘D’ on Page 15.

Since Mr. Trainor took ownership of the property in 2015 the issues with loud bands, and unsocial behaviour have begun, it is my belief because the property is given to tenants to run, there is no responsibility to the terms of the license by the property owner or the tenants, I was told by Mr. Trainor when the trouble first began that it was nothing to do with him and also when I have approached numerous tenants they have not been interested either.

There have been numerous tenants since 2015 each time, the same problems begin, with loud music by bands and DJs which is very uncomfortable living next door, unsociable behaviour resulting from the entertainment, The selling and taking of drugs, dangerous customer fights in the surrounding areas of the pub and also on our property, I have received vicious verbal abuse, causing me concern for my safety, our property and surrounding properties used as toilets, with customers drunk or under the influence of drugs there has been absolute no respect for health and safety of the residents or general public. I have been forced on many occasions to vacate my house and stay with my son and family because I have been too frightened to stay overnight at home.

We were forced into investing in security cameras, which although did not stop the anti-social behaviour we were able to send evidence to the Environmental Department of the dangerous circumstances. We have had numerous property damage which has been reported to South Wales Police, who again has been very understanding and helpful, however again there is not a lot that they can do after the damage has happened.

With the commencement of each new tenant, the same problems start all over again, this was recognised in the Neath Port Talbot Meeting resulting in the conditions reported in the minutes of the report, to avoid the circumstances evolving again with future tenants.

In conclusion, I can see no issues with the license being granted if all aspects of the report are addressed with proof of the approvals provided to us prior to the commencement of the license.

Thank you and Best Regards

Valerie & David Woolcock

The Old Surgery House

St Albans Terrace

Taibach

Port Talbot SA13 1LW