

Public Document Pack



Monitoring Officer
Christopher Potter

County Hall, Newport, Isle of Wight PO30 1UD
Telephone (01983) 821000

Agenda

Name of meeting	LICENSING SUB COMMITTEE
Date	FRIDAY 18 AUGUST 2023
Time	10.00 AM
Venue	COUNCIL CHAMBER, COUNTY HALL, NEWPORT, ISLE OF WIGHT
Members of the committee	Cllrs G Peace (Chairman), J Bacon and S Ellis
	Democratic Services Officer: Marie Bartlett democratic.services@iow.gov.uk

1. **Minutes** F_PR

To confirm as a true record the Minutes of the meeting held on 9 August 2023.

2. **Apologies and changes to Membership (if any)** F_PR

To note any changes in membership of the Committee made in accordance with Part 4B paragraph 5 of the Council's Constitution.

3. **Declarations of Interest** F_PR

To invite Members to declare any interest they might have in the matters on the agenda.

4. **Urgent Business** F_PR

To consider any matters which, in the Chairman's opinion, are urgent.



Details of this and other Council committee meetings can be viewed on the Isle of Wight Council's Committee [website](#). This information may be available in alternative formats on request. Please note the meeting will be audio recorded and the recording will be placed on the website (except any part of the meeting from which the press and public are excluded). Young people are welcome to attend Council meetings however parents/carers should be aware that the public gallery is not a supervised area.

5. **Report of the Director of Neighbourhoods F_PR**

- (a) Application for premises licence at Lazy Wave Cafe, 2A Esplanade, Shanklin, IW F_PR

CHRISTOPHER POTTER
Monitoring Officer
Thursday, 10 August 2023

Interests

If there is a matter on this agenda which may relate to an interest you or your partner or spouse has or one you have disclosed in your register of interests, you must declare your interest before the matter is discussed or when your interest becomes apparent. If the matter relates to an interest in your register of pecuniary interests then you must take no part in its consideration and you must leave the room for that item. Should you wish to participate as a member of the public to express your views where public speaking is allowed under the Council's normal procedures, then you will need to seek a dispensation to do so. Dispensations are considered by the Monitoring Officer following the submission of a written request. Dispensations may take up to 2 weeks to be granted.

Members are reminded that it is a requirement of the Code of Conduct that they should also keep their written Register of Interests up to date. Any changes to the interests recorded on that form should be made as soon as reasonably practicable, and within 28 days of the change. A change would be necessary if, for example, your employment changes, you move house or acquire any new property or land.

If you require more guidance on the Code of Conduct or are unsure whether you need to record an interest on the written register you should take advice from the Monitoring Officer – Christopher Potter on (01983) 821000, email christopher.potter@iow.gov.uk, or Deputy Monitoring Officer - Justin Thorne on (01983) 821000, email justin.thorne@iow.gov.uk.

Notice of recording

Please note that all meetings that are open to the public and press may be filmed or recorded and/or commented on online by the council or any member of the public or press. However, this activity must not disrupt the meeting, and if it does you will be asked to stop and possibly to leave the meeting. This meeting may also be filmed for live and subsequent broadcast (except any part of the meeting from which the press and public are excluded).

If you wish to record, film or photograph the council meeting or if you believe that being filmed or recorded would pose a risk to the safety of you or others then please speak with the democratic services officer prior to that start of the meeting. Their contact details are on the agenda papers.

If the press and public are excluded for part of a meeting because confidential or exempt information is likely to be disclosed, there is no right to record that part of the meeting. All recording and filming equipment must be removed from the meeting room when the public and press are excluded.

If you require further information please see the council guide to reporting on council meetings which can be found at <http://www.iwight.com/documentlibrary/view/recording-of-proceedings-guidance-note>

All information that is recorded by the council is held in accordance with the Data Protection Act 2018. For further information please contact Democratic Services at democratic.services@iow.gov.uk



Minutes

Name of meeting	LICENSING SUB COMMITTEE
Date and Time	WEDNESDAY 9 AUGUST 2023 COMMENCING AT 10.00 AM
Venue	CONFERENCE ROOM 5, COUNTY HALL, NEWPORT, ISLE OF WIGHT
Present	Cllrs I Ward (Vice-Chairman), D Andre and C Mosdell
Also Present	Shane Batchelor, Ben Gard, Regan Matthews and Kevin Winchcombe
Apologies	Cllrs G Peace

7. **Apologies and Changes to Membership (if any)**

Cllr Peace submitted his apologies prior to the meeting, therefore Cllr Mosdell attended in his place. In the absence of the Chairman, Cllr Ward as Vice Chairman, took the Chair.

8. **Minutes**

RESOLVED:

THAT the minutes of the meeting held on 19 May 2023 be approved.

9. **Declarations of Interest**

There were no declarations at this stage.

10. **Urgent Business**

There were no items of Urgent Business.

11. **Report of the Director of Neighbourhoods**

12. **Application for a Premises Licence for Island Life Craft Ale House - 1A Clarence Road, East Cowes, Isle of Wight, PO32 6EP**

The Licensing Officer presented the report and summarised the application. The applicant advised that he understood the concerns raised by the objector and would do what was required to mitigate noise from the premises, no live music was

planned and the area for smokers outside was set to try to eliminate people being able to wander around on the pavement outside the premises.

The Environmental Health officer advised that the concerns regarding noise had been considered and relevant conditions had been recommended.

The objector attended to outline objections to the application, regarding noise concerns to the adjacent property.

The Committee retired to private session to consider their decision, and upon reconvening it was:

RESOLVED:

THAT upon receiving the report of the licensing section, oral and written evidence from the applicant, responsible authorities and other persons, and having regard to the Guidance issued under s182 of the Licensing Act 2003 and the Isle of Wight Council's Statement of Licensing Policy, the sub-committee hereby:

Grant the licence in accordance with the application, subject to those conditions proposed by the applicant within the operating schedule and also subject to the mandatory conditions specified in the Licensing Act 2003 but modified to such an extent as members have considered appropriate for the promotion of the 4 licensing objectives, by requiring the following conditions, namely those conditions agreed between the applicant and Environmental Health on page 47 and also those agreed with the Police on page 49 of the report.

reason:

the conditions are attached as per reasons given within report in order to promote the Licensing objectives and in particular the prevention of public nuisance and the prevention of crime and disorder and are in accordance with the Isle of Wight Councils Statement of Licensing Policy and the s182 guidance.

In reaching the above decision the sub-committee have had regard to the Human Rights Act 1998, and in particular Article 1 of the First Protocol, Article 8 and Article 6. The sub-committee consider this decision is proportionate and appropriate for the promotion of the 4 licensing objectives under the Licensing Act 2003.

There is a right of appeal to the Magistrates Court if anyone is dissatisfied with this decision and any appeal must be made within 21 days of the date of notification.

CHAIRMAN

This page is intentionally left blank



Purpose: For Decision

Committee report

Committee	LICENSING SUB COMMITTEE
Date	FRIDAY 18 AUGUST 2023
Title	TO DETERMINE AN APPLICATION FOR A PREMISES LICENCE UNDER SECTION 17 OF THE LICENSING ACT 2003 FOR LAZY WAVE CAFÉ, 2A ESPLANADE, SHANKLIN, ISLE OF WIGHT, PO37 6BN
Report Author	COLIN ROWLAND DIRECTOR OF NEIGHBOURHOODS

BACKGROUND

1. A premises licence issued under section 18 of the Licensing Act 2003 authorises the use of premises for the sale or supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment.
2. An application for a premises licence was submitted to the licensing authority on 22 June 2023, by Mrs Rae Rawlins. For Lazy Wave Café, 2A Esplanade, Shanklin, Isle of Wight, PO37 6BN. A copy of the application and plans associated with the application can be found at Appendix 1.
3. The proposed licensable activity which is included within the application is that of sale of alcohol only. The proposed timings for this activity are as follows:

Monday to Sunday – 10:00 to 21:00 hours
4. Any person may make representations in respect of the application during the consultation period and if these are not resolved the licensing authority must hold a hearing to determine the application.

CONSULTATION

5. The Licensing Act 2003 prescribes a twenty-eight day consultation period, commencing the day after the application has been correctly served. The applicant is required to submit a copy of the application to Responsible Authorities as defined in the Licensing Act, and to place a notice of the application at the premises and in a local newspaper.
6. The consultation period ended on 25 July 2023.
7. The outcome of the consultation in respect of this application is as follows:

Responsible Authorities

Children's Services	No Representation made
Fire and Rescue Service	Response received – no representation
Trading Standards Service	Response received – no representation but measures to uphold objectives submitted. These measures have been addressed by conditions agreed with Police Authority (See Appendix 2)
Planning Services	No Representation made
NHS	No Representation made
Licensing Authority	No Representation made
Immigration Enforcement	No Representation made
Environmental Health	Response received – no representation
Police	Agreed conditions with Applicant

8. For full details of conditions agreed between the applicant and Police, which propose to further safeguard the licencing objective for the Prevention of Crime and Disorder, please refer to Appendix 2 of the report.
9. Trading Standards as part of the consultation process have requested that should the licence be granted, the applicant ensures that staff training includes and covers guidance in relation to underage sales as well as a refusal register be in place, should staff need to refuse customers in respect of the sale of alcohol. This request can be found at Appendix 3 of the report.
10. These measures have been addressed by way of conditions that have been agreed between the applicant and the Police Authority and will form part of the licence, should it be granted.

Other Persons

11. Thirteen (13) representations have been received from other persons. Following communications during the consultation period between other persons and the Licensing Authority, one (1) representation has subsequently been withdrawn, leaving twelve (12) remaining. Please refer to Appendix 5 of the report for full details. Those representations opposing the application relate to one or more of the following four licensing objectives:
 - Prevention of public nuisance

- Prevention of crime and disorder
 - Protection of children from harm
 - Public safety
12. Concerns have been raised in that by permitting the licensable activity for the sale of alcohol to take place, noise from customers that frequent the premises will cause nuisance to nearby residents. Elements of anti-social behaviour and criminal damage are also factors that have been raised, should alcohol sales be permitted on the premises.
13. Further factors that have been raised and of which other persons believe should be taken into consideration when determining this application include:
- A lack of toilet facilities within the immediate vicinity
 - The potential for an increase in littering
 - That the business is located near to residential properties
 - There are a sufficient amount of licenced premises within the immediate area.
 - There will be an increased level in traffic, impacting on residential parking provision
 - The nearby slipway will at times be blocked, impacting of emergency services accessing the beach area when required and impacting on public safety in general.
14. Following concerns raised within the representations received, specifically through noise nuisance, Environmental Health were asked to elaborate on their initial response to the application which stated, “no adverse comment”. A more detailed response, inclusive of the factors that the department has taken into consideration when coming to the decision of not raising objections or concerns with regards to the proposed licensable activities that form part of the application, can be found at Appendix 4 of the report. Further to this response, further details have been supported by Environmental Health to further elaborate on the reasons for their initial response of no adverse comments. Please refer to Appendix 7 of the report for details of this response.
15. As part of the consultation exercise, an outline of the concerns raised were also shared with the applicant. In response to this the applicant has submitted a response, detailing their intentions in relation to the activities proposed within the application and how the business would look to manage the day to day operations of the business, should the licence be granted, the applicant’s response can be found at Appendix 6 of the report.
16. Following receipt of the detailed response from Environmental Health and the response from the applicant, these were forwarded to all other persons who had raised concerns during the consultation period. As stated earlier on in the report, this resulted in one representation from an other person being withdrawn, leaving twelve (12) remaining.

FINANCIAL/BUDGET IMPLICATIONS

17. Broadly, Council expenditure on licensing matters, and specifically those administered and enforced through Planning and Regulatory Services, balances income generated from fees.

LEGAL IMPLICATIONS

18. The 28-day consultation period ended on 31 January 2023. Schedule 1 of the Licensing Act (Hearings) Regulations 2005 states that the application must be determined within 20 working days of the end of the consultation period.

National Guidance

19. The following sections from the national guidance issued under section 182 of the Licensing Act 2003 are considered relevant to this application:
20. 1.16 Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. The use of wording such as “must”, “shall” and “will” is encouraged. Licence conditions:
 - must be appropriate for the promotion of the licensing objectives;
 - must be precise and enforceable;
 - must be unambiguous and clear in what they intend to achieve;
 - should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation;
 - must be tailored to the individual type, location and characteristics of the premises and events concerned;
 - should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;
 - should not replicate offences set out in the 2003 Act or other legislation;
 - should be proportionate, justifiable and be capable of being met;
 - cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
 - should be written in a prescriptive format.
- 1.17 Each application must be considered on its own merits and in accordance with the licensing authority’s statement of licensing policy; for example, if the application falls within the scope of a cumulative impact policy. Conditions attached to licences and certificates must be tailored to the individual type, location and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should be avoided and indeed may be unlawful where they cannot be shown to be appropriate for the promotion of the licensing objectives in an individual case.

- 2.15 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.
- 2.16 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.
- 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.
- 9.43 The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.
- 9.44 Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when

imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.

- 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.
- 10.13 The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions about the hours during which premises can conduct licensable activities as part of the implementation of its licensing policy statement. Licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application

Implications under the Crime and Disorder Act 1998

21. Members are advised that without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

Human Rights

22. Members are advised that this application must be considered against the background of the implications of the Human Rights Act 1998.
23. There are three convention rights, which need to be considered in this context:

Article 6 - Right to a Fair Trial

In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

It has been held that the fact that there is a right of appeal to the Magistrates' Court from any decision of the Licensing Authority is sufficient to make the Council's licensing system compliant with the convention rights.

Article 8 - Right to Respect for Private and Family Life

Everyone has the right to respect for his private and family life, his home and his correspondence. In the case of article 8 there shall be no interference by a public authority with the exercise of this right except as such in accordance with the law and is necessary on a democratic society in the interests of national security, public safety or the economic wellbeing of the country, for the prevention of disorder and crime, for the protection of health or morals or for the protection of the rights and freedoms of others.

Article 1 - First Protocol Protection of Property

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. In the case of Article 1 of the first protocol it states that "no one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and the general principles of international law. The preceding provisions (of which articles 6 and 8 are but two) shall not however in any way impair the right of the state to enforce such laws as it deems necessary to control the use of the property in accordance with general interest or to secure the payment of taxes or other contributions or penalties".

24. The Licensing Authority acknowledges the right of businesses in its area to operate, but equally acknowledges the fact that this must be balanced against the rights of residents not to be disturbed by unreasonable noise and nuisance caused by licensed premises. The Sub-Committee needs to be clear as to the rights granted and the need to ensure that the reasons given for any interference are proportionate and in accordance with the Council's legitimate aim.
25. It is considered that the following paragraphs from the Licensing Authority's Statement of Licensing Policy 2019 – 2024 have a bearing upon the application. Members' attention in respect of this particular application is drawn to:

Paragraph 1	Introduction	All
Paragraph 2	Licensing Objectives	2.3 – 2.6
Paragraph 3	Licensable Activities	3.1
Paragraph 4	Integration of Strategies and Other Legislation	All

Paragraph 5	Approach to Licensing Applications	All
Paragraph 6	Major Events and the Isle of Wight County Council Act	N/A
Paragraph 7	Cumulative Impact	N/A
Paragraph 8	Representations, Reviews, and Appeals	8.1 – 8.6 8.11 – 8.15
Paragraph 9	Enforcement	N/A
Paragraph 10	Operating Schedules	10.1 – 10.4, 10.7, 10.9, 10.12, 10.26

EQUALITY AND DIVERSITY

26. The council as a public body is subject to general and specific duties under equality and diversity legislation and as such has a duty to go beyond prohibition and publish and promote service improvements by engaging with the local community to assess the impact of any decision on the local community. As a requirement under the Equality Act 2010 and further improvements to diversity legislation all local authorities are required to impact assess their services, policies/strategies and decisions with regard to diversity legislation – race, disability, gender, age, sexual orientation and religion/belief. (NB: this list is not exhaustive; it does cover current legislation but future development could also include poverty and social inclusion as an example).
27. There is no requirement for an equality impact assessment to be carried out.

OPTIONS

- Option 1: Grant the licence as per the application.
- Option 2: Grant the licence as per the application with any modifications to the proposed hours and/or additional conditions that the Sub-Committee deem reasonable and proportional to promote the licensing objectives.
- Option 3: Refuse the whole or part of the application.

RISK MANAGEMENT

28. With regard to Option 1: To grant the licence as per the application may not adequately address the concerns raised by the objectors if the Sub-Committee deem these to be a likely outcome. The decision not to address the concerns raised may subsequently be appealed by those parties who have made representations.
29. With regard to Option 2: The concerns raised could be reduced by attaching conditions to the licence to promote the licensing objectives. Conditions must be appropriate and proportionate. Any decision to attach additional conditions

may be appealed by all parties if they believe the conditions do not adequately promote the licensing objectives.

30. With regard to Option 3: If the Sub-Committee decides to refuse all or part of the application, the decision may be appealed by all parties.

EVALUATION

31. Section 9.38 of the national guidance states:
In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:
- *the steps that are appropriate to promote the licensing objectives;*
 - *the representations (including supporting information) presented by all the parties;*
 - *this Guidance;*
 - *its own statement of licensing policy.*
32. Conditions have been agreed between the applicant and the Police Authority in order to uphold and promote the Licensing Objectives for the Prevention of Crime and Disorder. For example, the requirement for an age verification policy of “Challenge 25” and the requirement for documented staff training in relation to the refusal of underage persons as well as intoxicated persons will support the aim of minimising any anti-social behaviour or noise nuisance through persons that may frequent the premises in order to consume alcoholic beverages.
33. Further to the above measures, CCTV will also be operational, and images will be retained for a minimum of 28 days in order for authorised officers to review footage should this be required in order to investigate any instance or allegations relating to anti-social behaviour or disorder whilst customers are on the premises. Should the licence be granted then these conditions as well as others detailed within Appendix 2 of the report will be attached to the licence.
34. Nearby residents have raised concerns within representations relating to the impact that noise disturbance from customers will have when sitting within the outside area associated with the business premises. Environmental Health, the lead authority for the Licensing Objective for the Prevention of public Nuisance have not raised any concerns in relation to this matter. The Sub Committee must have regard, in that people noise is not deemed a licensable activity and therefore cannot be controlled or conditioned via way of a premises licence, nor can a premises licence be refused or granted based upon this matter.
35. The proximity of a licenced premises to areas such as residential dwellings cannot look to prohibit the proposed activities on the basis that residential properties are nearby or that there are already enough licensed premises within the immediate vicinity. Need is not a factor that can be considered or determined within the powers of the Licensing Act 2003 Legislation. As part of the consultation exercise, Environmental Health the lead authority for the objective for the Prevention of Public Nuisance, have reviewed the application

and have no adverse comments to make in relation to the proposed activities and timings. Should the licence be granted, and noise complaints be received, then Environmental Health will be able to exercise powers under the Environmental Protection Act 1990 should they feel it is appropriate to do so with regards to any noise or anti-social behaviour concerns that may be reported to them and proven to be associated with the business premises in question.

36. Concerns have also been raised in that by permitting the sale of alcohol and extending the current business hours from 18:00 to 21:00, a potential outcome of the granting of the licence will be an increase in the amount of litter generated by the premises, therefore undermining the Licensing Objective for the Prevention of Public Nuisance. The Sub Committee must have regard in that there is already a business premises in the form of a café operating within the location to which the application relates to. With this in mind the Sub Committee must give appropriate weighting to the application in that do they believe that the likely outcome of the granting of the licence with proposed activities and timings will undermine the above objective to an extent as to reuse part or all of the licensing application.
37. Further concerns that have been raised include the lack of toilet provision within the immediate vicinity of the premise. The provision of toilets facilities cannot be taken into account when determining the licensing application as the control of such is not regulated by powers contained within the Licensing Act 2003 legislation. The requirement for such provision is controlled and regulated by powers that Environmental Health have at their disposal and therefore should this be of concern then this department will look to address and seek compliance with any justified matters in relation to this aspect.
38. Concerns have also been raised in that the slipway, adjacent to the business premises will become obstructed by customers of the business premises, should the licence be granted, in that persons would potentially impede emergency vehicles from accessing the beach area, should they need to. Further points have also been raised in that, other mechanical equipment, including but not limited to jet skis accessing the beach area may impact members of the public from a public safety perspective. The business premises has allocated seating that customers will be required to sit on that does not impede access to or from the slipway. It must also be stated that persons in their own right must have responsibility for their own safety and therefore the business premises, should the licence be granted cannot be responsible for the safety of persons once they have left the immediate vicinity of the business premises. The Licensing Sub Committee but give appropriate weighting as to the likelihood of this scenario and to what degree it would undermine one or more of the four Licensing Objectives before making a determination with regards to this raised concern.
39. One further concern raised as part of the consultation process included the potential for the increase in traffic and the inability for nearby residents to access their vehicles due to customers of the business parking in areas to which would impede those residents who have vehicles within the vicinity of the premises to where proposed licensable activities would take place. Should this be a likely outcome of the granting of the licence, the matter would be for

Parking Services department of the Local Authority to address and enforce and therefore the Licensing Sub Committee can not look to take this into account when determining the current application.

40. The sub-committee must have regard to all of the representations made and the evidence it hears as well as the national guidance issued under Section 182 of the Licensing Act 2003 and the Council's own Statement of Licensing Policy.
41. The Committee should determine the application in accordance with section 18 of the Licensing Act 2003 and The Licensing Act (Hearings) Regulations 2005 and with a view to promoting the licensing objectives, which are:
 - The Prevention of Crime and Disorder
 - The Prevention of Public Nuisance
 - Public Safety
 - The Protection of Children from Harm

RECOMMENDATION

42. Option 2: Grant the licence as per the application and with agreed conditions between the applicant and Police Authority.

APPENDICES ATTACHED

Appendix 1 Application for a premises licence under section 17 of the Licensing Act 2003

Appendix 2 Agreed Police conditions

Appendix 3 Trading Standards response

Appendix 4 Environmental Health response

Appendix 5 Representations from other persons

Appendix 6 Applicant response to concerns raised

Appendix 7 Additional response for Environmental Health

BACKGROUND PAPERS

- Isle of Wight Council Licensing Authority Statement of Licensing Policy 2019 – 2024.
<https://www.iow.gov.uk/azservices/documents/1226-Approved-Licensing-policy-2019-24.pdf>

Contact Point: Shane Batchelor, Licensing Officer, ☎ 01983 823159
e-mail shane.batchelor@iow.gov.uk

Appendix 1



Isle of Wight Council

Application for a premises licence

Confirmation of acceptance of terms and conditions		<input checked="" type="checkbox"/> I confirm that I have read and accept the terms and conditions detailed above
Select a Licence fee		GBP £100.00 - Band A licence fee
Selected Licence fee		
Name		Band A licence fee
Text		For premises with no rateable value to £4,300
Price (in pounds)		£100.00

Part 1 - Premises details

I/We, being the premises licence holder, apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in Part 1 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003 (Insert name(s) of applicant)

Mrs rae Lillian weldon rawlins

Building or house name or number	The lazy wave cafe
Street address	Unit 2a esplanade
Town or city	Shanklin
County	Isle of Wight
Postcode	Po376bn
If no postal address provide the ordnance survey map reference or description	
Phone number at premises (if any)	
Email	
Non-domestic rateable value of premises	1696.60

Part 2 - Applicant details

State whether you are applying for a premises licence as:	a) an individual or individuals
If you are applying as a person described in (a) or (b) confirm (by ticking one box):	<input checked="" type="checkbox"/> I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities

Individual applicants

Title	Mrs
First name	Rae

Last name	Rawlins
Date of birth (dd/mm/yyyy)	████████
I am 18 years old or over	<input type="checkbox"/> Yes
Nationality	White British
Is your current residential address different from the premises address?	<input type="checkbox"/> Yes
Building or house name or number	████████
Street address	████████
Town or city	██████
County	██████
Postcode	██████
Email	████████████████████
Phone	████████
Is there a second individual applicant?	<input type="checkbox"/> No

Part 3 - Operating schedule

When do you want the premises licence to start?	01/08/2023
If you wish the licence to be valid only for a limited period, when do you want it to end?	
Give a general description of the premises (read guidance note 1)	Beach front cafe with outside seating surrounded by a wall boundary. situated next to the slipway.
If 5,000 or more people are expected to attend the premises at any one time, state the number expected to attend.	
Provision of regulated entertainment (read guidance note 2)	<input type="checkbox"/> a - Plays <input type="checkbox"/> b - Films <input type="checkbox"/> c - Indoor sporting events <input type="checkbox"/> d - Boxing or wrestling entertainment <input type="checkbox"/> e - Live music <input type="checkbox"/> f - Recorded music <input type="checkbox"/> g - Performances of dance <input type="checkbox"/> h - anything of a similar description to that falling within (e), (f) or (g)
Provision of late night refreshment	<input type="checkbox"/> No
Supply of alcohol	<input type="checkbox"/> Yes

Part 3 - Operating schedule (continued)

J - Supply of alcohol

Standard days and timings (read guidance note 7)		
Day	Start time	End time
Monday	10.00	21.00
Tuesday	10.00	21.00
Wednesday	10.00	21.00
Thursday	10.00	21.00
Friday	10.00	21.00
Saturday	10.00	21.00
Sunday	10.00	21.00
Will the supply of alcohol be for consumption (read guidance note 8)?		On the premises
State any seasonal variations for the supply of alcohol (read guidance note 5)		
List non standard timings where you intend to use the premises for the supply of alcohol at different times from those listed in the column above (read guidance note 6)		
Name		Rae Lillian weldon rawlins
Date of birth (dd/mm/yyyy)		██████████
Building or house name or number		██████████
Street address		██████████
Town or city		██████
County		██████
Postcode		██████
Personal licence number (if known)		██████████
Issuing licensing authority (if known)		Tandridge district council

K

Highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (read guidance note 9) (put none if that is the case)	None
---	------

L - Hours premises open to the public

Standard days and timings (read guidance note 7)		
Day	Start time	End time
Monday	10.00	21.00
Tuesday	10.00	21.00
Wednesday	10.00	21.00

Thursday	10.00	21.00
Friday	10.00	21.00
Saturday	10.00	21.00
Sunday	10.00	21.00

State any seasonal variations (read guidance note 5)	
List non standard timings where you intend the premises to be open to the public at different times from those listed in the column above (read guidance note 6)	

M - Describe any additional steps you intend to take to promote the four licensing objectives as a result of the proposed variation:

a) General - all four licensing objectives (b,c,d,e) (read guidance note 10)	Alcohol sales are to be an addition to current menu in place and not as a main form of revenue. Reasonable daylight opening hours.
b) The prevention of crime and disorder	24 hour cctv in operation and signs stating this. Only open during daylight hours. Zero tolerance policy to anti social behaviour.
c) Public safety	Adequate lighting and exits where needed. Fire risk assessment and procedure in place, with fire resistant booth seating.
d) The prevention of public nuisance	Zero tolerance policy in place for anti social behaviour. No smoking signs on premises. Waste removal service in place.
e) The protection of children from harm	Will be operating a challenge 25 policy for age verification. Glass to be avoided when possible. Children are to be accompanied by an adult on premises at all times. No adult entertainment in place.

Attach documents

Attached files	<ul style="list-style-type: none"> • Rae-rawlins-passport.png • Rae-personal-licence.JPG • Handwritten-consent-form.pdf • Lazy-Wave-Plan.pdf
Checklist (tick to indicate agreement)	<div style="border: 1px solid black; padding: 5px; margin-bottom: 5px;"><input checked="" type="checkbox"/> I have attached the plan of the premises.</div> <div style="border: 1px solid black; padding: 5px; margin-bottom: 5px;"><input checked="" type="checkbox"/> I have attached the consent form completed by the individual I wish to be designated premises supervisor, if applicable.</div> <div style="border: 1px solid black; padding: 5px; margin-bottom: 5px;"><input checked="" type="checkbox"/> I understand that I must now advertise my application (contact the Licensing Department to discuss this if you are not aware of the legal requirements in respect of this)</div> <div style="border: 1px solid black; padding: 5px; margin-bottom: 5px;"><input checked="" type="checkbox"/> I understand that if I do not comply with the above requirements my application will be rejected</div> <div style="border: 1px solid black; padding: 5px;"><input checked="" type="checkbox"/> [Applicable to all individual applicants, including those in a partnership which is not a limited liability partnership, but not companies or limited liability partnerships] I have included documents demonstrating my entitlement to work in the United Kingdom (read note 15).</div>

Part 4 - Signatures (read guidance note 11)

--

I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK (read guidance note 15)

<input type="checkbox"/> I agree

The Designated Premises Supervisor (DPS) named in this application form is entitled to work in the UK (and is not subject to conditions preventing him or her from doing work relating to a licensable activity) and I have seen a copy of his or her proof of entitlement to work, if appropriate (read guidance note 15)

<input type="checkbox"/> I agree

I confirm I am the holder of the Premises Licence or their solicitor/agent	<input type="checkbox"/> Yes
Enter Name as an electronic signature	Rae rawlins
Capacity (confirm your capacity to provide an electronic signature if required, e.g. solicitor or Director if a limited company)	Owner of business
Is the licence jointly held?	<input type="checkbox"/> No

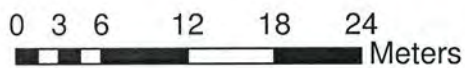
Contact name and address for correspondence associated with this application (if different to the applicant details provided in Part 2)

Name	
Building or house name or number	
Street address	
Town or city	
County	
Postcode	
If you would prefer us to correspond with you by e-mail, your e-mail address	[REDACTED]
Phone	[REDACTED]

Submitting your form

Reference number	iw23/6/40122
Date of submission	22 Jun 2023
Payment reference number	23C8CM97GXPH
Link to payment receipt	 Payment Receipt

Lazy Waves Cafe Lease Plan - Shanklin Esplanade [Scale 1:500]



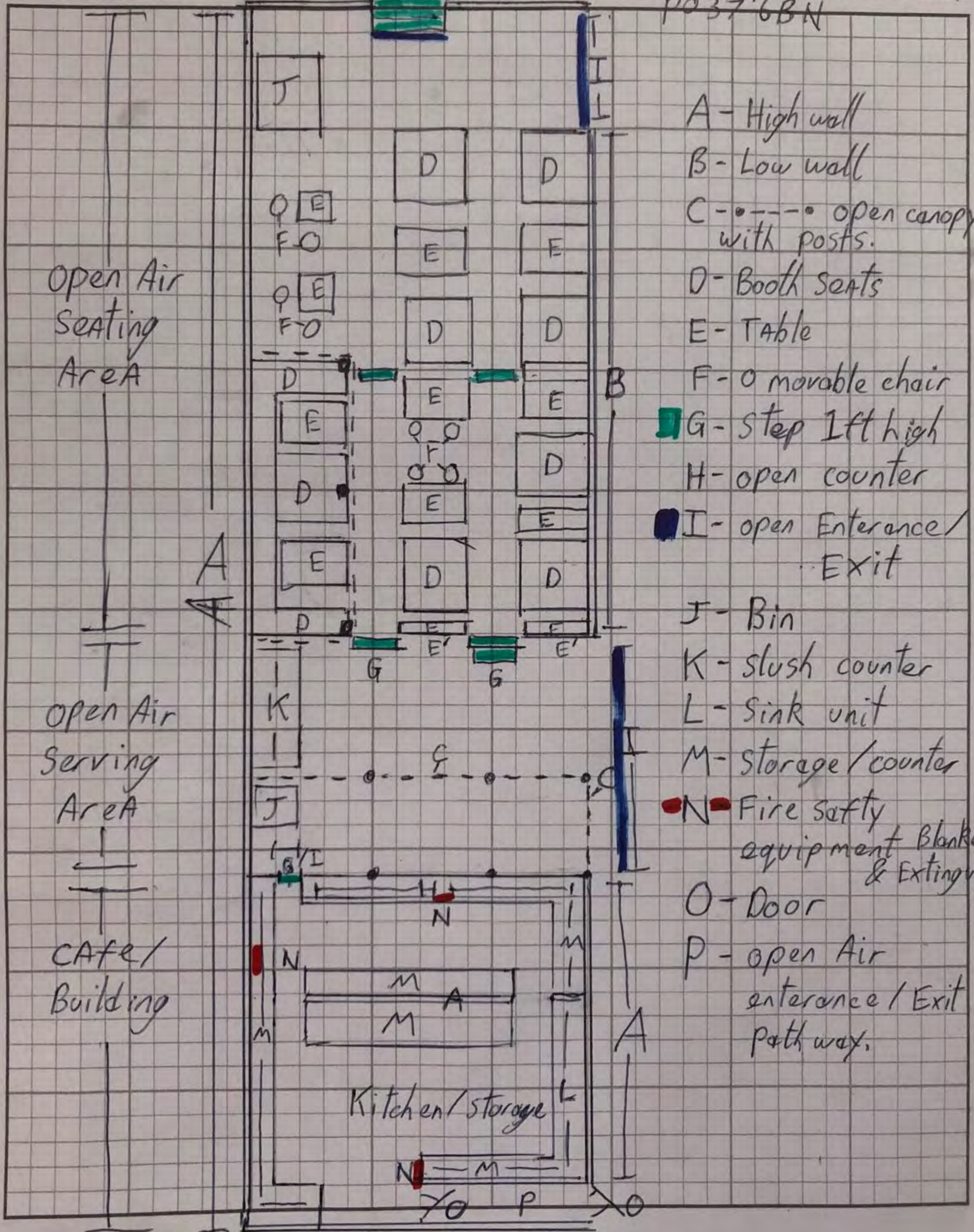
This map is based on Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. 100019229 2008.

Mrs Rae Rawlins 23/6/23

Floor Plan Scale 1:90 (1cm = 3feet)

EEWeb

TITLE	The Lazy Wave cafe,	
NAME	unit 2A Esplanade, Shanklin,	DATE
	PO376BN	



- A - High wall
- B - Low wall
- C - - - - - open canopy with posts.
- D - Booth seats
- E - Table
- F - O movable chair
- G - Step 1ft high
- H - open counter
- I - open Entrance/Exit
- J - Bin
- K - slush counter
- L - Sink unit
- M - Storage/counter
- N - Fire safety equipment Blanket & Extinguishers
- O - Door
- P - open Air entrance/Exit pathway.

Open Air Seating Area

Open Air Serving Area

Cafe/ Building

Kitchen/storage

A

This page is intentionally left blank

Agreed conditions between applicant and Police Licensing for Premises Licence application for The Lazy Wave Cafe

1. All staff involved in the sale or supply of alcohol will receive licensing training that includes appropriate precautions to prevent the sale of alcohol to persons under the age of 18, the signs and symptoms of drunkenness, the refusal of service due to intoxication and age verification policy. Records will be kept of such training which must be signed and dated by the member of staff who has received that training. All staff will receive refresher training every six months as a minimum and records shall be signed by the staff member, dated and retained. These records shall be made available to Police and Council upon request and shall be kept for at least one year.
2. A refusals / ID checks / incident book or computer record shall be maintained by staff. These records shall be retained for a minimum of 1 year and be made available to the Police and Council upon request.
3. A 'Challenge 25' proof of age policy shall be in place. Challenge 25 means that that every individual, who visually appears to be under 25 years of age and is seeking to purchase or be supplied with alcohol, shall produce identification proving they are 18 years of age or older. Acceptable identification for the purposes of age verification will include a driving licence, passport or other ID containing a photograph and date of birth. If the person seeking alcohol is unable to produce acceptable means of identification, no sale or supply of alcohol will be made to or for that person unless exemptions apply within the Licensing Act 2003.
4. A written record shall be retained at the location to list the staff that have been authorised to sell or supply alcohol following their training. This shall be made available to the Police and Council upon request.
5. Recordable CCTV will be installed at the premises. The CCTV system must be operating at all times whilst the premises are open for licensable activity. All equipment shall have a constant and accurate time and date generation. Digital systems shall provide good quality playback images that give free flowing playback footage. Recorded footage will be retained for a minimum of 28 days and will be made available to the Police and Council immediately upon request when investigating allegations of offences or criminal activity. A trained member of staff will be able to operate the system and download images will be on duty during operating hours. Any images recovered must be in a viewable format disc and playable on a windows based computer system without the need for technical enhancement. It is preferable that the footage is able to be downloaded and uploaded to any links provided.
6. All drinks shall be served in plastic/paper or polycarbonate containers.

This page is intentionally left blank

Consultee Comments for Licensing Application

23/00974/LAPNEW

Application Summary

Application Number: 23/00974/LAPNEW

Address: Not Available

Proposal: New Premises Licence

Case Officer: Harry Flux

Consultee Details

Name: Mrs Sally Ash

Address: County Hall, High Street, Newport, Isle Of Wight PO30 1UD

Email: Not Available

On Behalf Of: Trading Standards

Comments

ensure Staff trained in underage sales and that a refusals log is available for inspection on request

This page is intentionally left blank

Batchelor, Shane

From: Power, Daniel
Sent: 27 July 2023 15:41
To: Batchelor, Shane
Subject: Environmental Health - 23/00974/LAPNEW

Importance: High

Afternoon Shane,

23/00974/LAPNEW

New Premises Licence Application - The Lazy Wave, 2A Esplanade, Shanklin, PO37 6BN

Further to Duncan MacDonald's response on behalf of the Environmental Health Department, dated 28th June 2023, with reference to the above application, I have been asked to comment with reference to Dr Dawson's enquiry. I've been asked to respond given Mr MacDonald is currently on leave, whilst I appreciate a timely response is necessary given the consultation period has now ended.

I understand the aforementioned enquiry included discussion with reference to the considerations the department may have had whilst assessing the application. Whilst I appreciate Mr MacDonald is best placed to advise here, its worth noting the criteria generally assessed with reference to a premises licence application is pretty consistent whilst reviewing an application's capacity to uphold key licensing objectives, most notably in this instance the prevention of public nuisance. Nevertheless, at the same time the Revised Guidance issued under s182 of The Licensing Act 2003, advises that each application must be considered on its own merits. With this in mind regard is typically had for matters including but not limited to;

- A premises noise complaint history where applicable
- The proposed hours of licensable activity
- The extent of licensable activities
- The proximity to commercial/residential receptors
- The venues sound insulation performance and/or the use of any external areas
- Confidence in management

Whilst regard for the above is commonplace, there is no requirement to document the specifics of an assessment in the event of a responsible authority having no adverse comments and/or seeking to submit a representation. This may be expected were a representation submitted either in favour or against an application. On reviewing the criteria regardless, I've the following comments which are provided merely to assist with the enquiry as opposed to adding upon Mr MacDonald's comments;

- A premises noise complaint history where applicable – *The premises has a history of trading prior to the application, on review of the department's case management system, I am unaware of any formal nuisance complaints having been received. This is inclusive of complaints citing disturbance regarding noise, odour, artificial light and/or accumulations. I note the application may provide the premises with the capacity to undertake licensable activity until 21:00hrs, nevertheless, I am unaware of any existing restrictions limiting the premises hours of trade with reference to non-licensable activities.*
- The proposed hours of licensable activity – *The intended hours of licensable activity occur within the hours of deregulation as provided by way of The Live Music Act 2012, accordingly as specified via Part 16.5 of the Revised Guidance issued under s182 of The Licensing Act 2003, See here; <https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003/revised-guidance-issued-under-section-182-of-the-licensing-act-2003-december-2022-accessible#regulated-entertainment-1> the provision of live and recorded music between the hours of 08:00 and 23:00hrs are not considered licensable. With this in mind any proposed conditions with reference to noise control would be considered unenforceable during the hours the premises intends to provide licensable activity.*

However, it is worth noting that in the event of the premises failing to have regard for the public nuisance objective, responsible authorities and interested parties have the capacity to seek a review of the premises at later date which may culminate in the disapplication of the existing deregulation, which if necessary would have the effect of ensuring live/recorded music is licensable regardless of its hour.

- The extent of licensable activities – ***Further to the above, the licensable activity proposed is limited to the sale of alcohol, accordingly, the Police as the primary responsible authority for the Prevention of Crime and Disorder Objective have agreed conditions with the applicant.***
- The proximity to commercial/residential receptors – ***Whilst there are noise receptors within close proximity of the proposed licensed premises, the hours of proposed activity are considered reasonable and thus, mitigate the potential disturbance associated with patron noise as the evening progresses. Accordingly, the application appears to satisfy Part 10.10 of the local authority's Statement of Licensing Policy (2019-2024) given the applicant does not intend on trading during what are considered more sensitive hours, typically between 23:00 and 08:00hrs.***
- The venues sound insulation performance and/or the use of any external areas – ***The application includes the use of the outside parts, therefore, it is reasonable to expect a degree of patron noise during the early evening, however, the hours of trade must be considered again here. The department frequently consider the term 'Convention' and what is referred to as the 'general use of an area' in this instance, therefore, a degree of patron noise within a mixed commercial/residential area is considered in keeping with the character of the locality, particularly during the hours applied. In addition, the application does not make reference to any specific music offering that may constitute a material change from its current offering.***
- Confidence in management – ***I've referred to the limited noise complaint history above, accordingly, based on the premises trading to date, I'd have no pressing concerns here.***

Therefore, there are no pressing concerns in respect of the premises potentially undermining the Prevention of Public Nuisance Objective. However, as pointed out via Part 2.18 of the Revised Guidance issued under s182 of The Licensing Act 2003, it is worth noting that there are more suitable provisions in other legislation, namely by way of the Statutory Nuisance regime via the Environmental Protection Act 1990, which adequately protect those living in the area of the premises in the event of a complaint of disturbance. With this in mind, were noise disturbance alleged, neighbouring residents have the capacity to request that the department investigate here.

I hope this is of some assistance, nevertheless, I'd be prepared to discuss my response with Dr Dawson via telephone if required.

Kind regards

Dan

Daniel Power | Regulatory Officer | Regulatory & Community Safety Services
 Isle of Wight Council | County Hall | High Street | Newport | Isle of Wight | PO30 1UD
 Email: Daniel.Power@iow.gov.uk Web: www.iow.gov.uk
 Telephone: 01983 823000 Internal: Ext 6047

Please note that I am away from the office on Tuesdays attending training.

From: John Clarke [REDACTED]
Sent: Friday, July 21, 2023
Phone no. contact [REDACTED]
Subject: Application for Premises Licence Lazy Wave Cafe, 2a Esplanade, Shanklin, PO 376BN

Dear Sir,

With regards to the proposed alcohol licence for the Lazy Wave Cafe detailed above, as a permanent resident of Waverley Court overlooking the site (see photos from my flat), I am writing to express my profound objection to the application. Like the earlier plans to the proposed toilet block being built on the Esplanade front, all of the 15 owners of Waverley Court flats, are opposed to changes that would have detrimental effects on the immediate environment, noise and visual pollution, as well as potential anti social behaviour, increased litter and traffic. At present the cafe operates between 10:00 AM and 6:00P.M. which is acceptable, to extend opening by a further 4 hours a day, would be intolerable and unacceptable.

There are already numerous establishments selling alcohol within the immediate vicinity of the cafe: Fisherman's Cottage and The Chine Inn 100 yards away, with The Steamer Inn, The Waterfront Inn, Pink Beach and Shanklin Beach Hotels 300 yards away. Another drinking hole is an unnecessary infringement.

With the likelihood of increased traffic around the turning circle and additional parking, residents of Waverley Court could experience difficulties in accessing their cars to the property's garage.

I am opposed to the additional noise and disturbances brought about by extended business hours with alcohol sold on the cafe premises. The environmental quality would be severely impaired by such a proposal. Like the other 14 rate paying residents of Waverley Court, I chose this location for peace and quiet. I do not wish to have my idyllic retirement home to be interrupted by unnecessary change and disturbances. I object to the proposal most strongly.

Yours sincerely, John Clarke ([REDACTED])
[REDACTED]

Alcohol licence Lazy wave cafe Shanklin esplanade

Dear Harry

I hope this email finds you well. I am writing to express my strong opposition to the alcohol license application submitted by Lazy Wave cafe situated on the slipway to Shanklin beach.

The cafe is at the quiet end of Shanklin Esplanade opposite residential apartments/houses. This is an area of outstanding beauty for Shanklin, attracting many families with young children to the area. The slipway also allows disabled access to the beach so that everyone can enjoy the peaceful surroundings. It is a place of calm and tranquility.

Whilst I understand the importance of supporting local businesses, I believe granting an alcohol license to the cafe will exacerbate several significant environmental,

noise, and behavioral issues that will negatively impact the local residents and the tranquil ambiance of the area.

- Prevention of Crime and Disorder

An alcohol licence and extending licensing hours has the potential to cause public disorder in what is a residential area of the esplanade. Noise pollution will be an issue where even talking carries, due to the area being so tranquil.

No toilet facilities are available at the cafe thereby meaning clientele will have no choice but to urinate in public areas.

- Prevention of Public Nuisance

There are no indoor facilities at the cafe. All clientele will be outside the establishment drinking alcohol which in turn can lead to noisy behaviour. Even low level sounds carry in this residential part of the esplanade.

Again, there are no toilet facilities at the establishment meaning that individuals may well urinate in public areas.

The beach is a place of relaxation and serenity for residents and visitors alike. By granting an alcohol license and extending its operating hours, this can lead to evening gatherings and disruptions due to loud conversations, music, and rowdy behaviour. This would undoubtedly disturb the peace and quiet enjoyed by local residents and families in the vicinity, adversely affecting their quality of life and sleep patterns.

- Protection of Children from Harm

The cafe is on the slip way to the beach. Children are playing in the immediate vicinity, adults drinking alcohol standing next to children playing is undesirable. Broken glass/litter can cause great harm to children. Families will not want their children playing next to a bar where people are under the influence of alcohol. Introducing alcohol consumption to the beachfront cafe could foster undesirable behaviours among some patrons. Excessive drinking may lead to disorderly conduct, public intoxication, and even instances of violence. Such occurrences could create an unsafe atmosphere for families and individuals who wish to enjoy a peaceful day by the sea. It is crucial to prioritise the safety and well-being of residents, children and adult visitors to maintain a harmonious community environment.

- Public Safety

The slip way on which the cafe is located, is used by vehicles to launch small boats and jet skis. The provision of a licence and the potential for large gatherings will cause an obstruction for the access to the beach. We quite often have emergency vehicles using the slip way to attend large cliff falls or individuals in danger in the water, where in both cases life is at risk.

Easy access to alcohol on the beach will increase the risk of loss of life with people using motorised vehicles under the influence of alcohol. In addition the tide brings the sea all the way up the slip way - intoxication and being on the edge of the sea is incredibly dangerous. Having alcohol available on the beach will highly increase the

risk level of serious accidents for beach goers and those undertaking water activities, including motorised vehicles, jet skis etc.

Environmental Concerns:

The beach is an ecosystem that requires preservation and protection. Introducing alcoholic beverages to the beachfront cafe will lead to an increase in littering, particularly plastic waste from bottles and containers. This would contribute to the already pressing problem of marine pollution, jeopardising the well-being of marine life and the fragile coastal environment.

Impact on Local Residents:

The local residents living in close proximity to the cafe have chosen this area for its tranquility and scenic beauty. Granting an alcohol license without addressing the concerns of the community could significantly impact property values and deter potential buyers or renters who seek a peaceful neighbourhood. Preserving the residential character of the area should be a priority in any decision-making regarding commercial establishments on the beach.

In conclusion, I urge the responsible authorities to carefully consider the potential adverse effects of granting an alcohol license to Lazy Wave Cafe. It is essential to prioritise environmental protection, noise control, and the well-being of local residents to maintain the charm and peacefulness of our beloved beachfront community.

I request that you reconsider the application and explore alternative ways to enhance the cafe's offerings without the inclusion of alcohol. As a concerned resident, we are open to discussing any further issues or suggestions that may contribute to the well-being of our community.

Yours faithfully

John and Jeannette Albery



Re: Objection to Alcohol License Application for "Lazy Wave Cafe" Ice Cream Shop to serve Alcohol

Dear Sir/Madam,

I am writing to formally object to the alcohol license application submitted by "Lazy Wave Cafe" for the reasons outlined below. As a concerned resident in close proximity to the premises, I urge the Licensing Authority to consider the negative impact this license may have on our residential community.

1. Unsuitable Location:

The proposed location of "Lazy Wave Cafe" for alcohol sales is ill-suited for such activities, given its **close proximity to a predominantly residential area**. Unlike other parts of the esplanade that are appropriate for licensed establishments, a site visit will confirm this specific spot is **surrounded by family homes in all landward**

directions. Within a mere 20 meters across the street, there are a dozen family homes, and a similar number within ~100 yards on both sides..

2. Incompatibility with the Premises:

The premises itself are primarily intended to function as an **ice cream shop, serving mostly on a takeaway basis**, as has been the case for decades. While a few benches are available near the pavement, it is crucial to recognize that this establishment lacks the essential characteristics of a traditional drinking establishment: **There is no roof, few and low walls, and no doors**, which further emphasises that the primary purpose of this location was never intended for public alcohol consumption.

3. Proximity to Residential Dwellings:

The proposed change in licensing would permit open-air alcohol consumption without any realistic means to prevent alcohol being taken away along with the current ice creams and snacks served. It would draw in adults to drink and be drunk next to family homes and a child-friendly beach. This arrangement could result in increased noise levels, disturbances, and potential littering issues along with an increase in anti social behaviour; none of which are consistent with the maintenance of a peaceful residential environment we can reasonably expect in and around our homes.

4. Impact on Residents:

As one of many residents living in close proximity to "Lazy Wave Cafe," I am particularly concerned about the potential adverse effects on our quality of life: The noise, disturbances, and influx of drinkers could jeopardize the safety and well-being of families, including young children like my one-year-old son, whose bedroom window is within a mere 30 paces of this location: This is well within earshot, and I note that the applicant's proposed alcohol serving and consumption **times (and associated noise) is proposed to extend into and beyond what would reasonably be the bed times of young children and toddlers given under Public Health England guidelines.**

5. Lack of Community Benefit:

Considering the residential nature of the area, it is evident that granting this license would **serve no discernible community benefit**. The presence of numerous organised pubs and restaurants within a short walking distance already adequately caters to tourists and locals alike, so no genuine demand exists for additional alcohol vendors in this specific spot.

In light of the aforementioned reasons, in good faith I request the Licensing Authority to reject the alcohol licence application for "Lazy Wave Cafe." Such a decision would **safeguard the residential character of our community** while preserving the primary intent of the premises (an ice cream shop that in it's current form enhances the local, **family-friendly** beach and community).

I trust that the Licensing Authority will take into account the concerns of residents and act in the best interest of our community.

Thank you for considering my objection. I would appreciate being kept informed of any further developments regarding this matter.

Yours sincerely,

Martin Drake-Knight

From: Eileen Taylor [REDACTED]
Sent: 24 July 2023 11:32
To: Flux, Harry <Harry.Flux@iow.gov.uk>
Cc: Charles Dawson [REDACTED]; Peter Taylor
[REDACTED]
Subject: Application for a Premises Licence for The Lazy Wave Cafe

Dear Sir

Re Application for a Premises Licence by Mrs Rae Rawlins for The Lazy Wave Cafe
2A Esplanade Shanklin PO37 6BN

We have recently read the above application as posted outside the Lazy Wave Cafe but have been unable to find an application online.

As longstanding owners of [REDACTED] situated directly opposite these premises, we wish to register our strong objection to the application for the following reasons:

Prevention of Public Nuisance

This section of the Esplanade is a residential family area. None of these flats is sublet as holiday accommodation.

Noise levels

Currently, activity at The Lazy Wave is restricted to the hours of 10am until 6pm and noise levels are part of the general beach activity and as such, acceptable despite the recent introduction of music by the new owners.

This proposal combines the introduction of alcohol with effectively an extension of trading hours into the evening which will dramatically alter the impact of this establishment on our homes. This is an open air cafe and noise levels impact on our building. As stated above, these currently tend to cease around 6pm.

We experience considerable bouts of noise in the evening during holiday periods from groups of people coming down the Chine to establishments along the sea front. However since the places they visit are further along the Esplanade away from residential premises they do not linger and the impact is generally transient.

This application will obviously attract groups coming from this direction to drink in numbers in the immediate vicinity of our homes. As this is an open air cafe which cannot be closed off by the proprietor at closing time, there is no guarantee that customers will move off at 9pm.

Litter

Currently we have been very impressed by the way in which council operatives keep the litter under control. We fear that this proposal will add considerably to the level of litter both on the road and on the beach and will contribute to seagull nuisance. In the hours of darkness it will be impossible to control litter levels.

Toilet facilities

There are no toilet facilities in the cafe itself. The public toilets behind the premises are now closed. It is difficult to see how nuisance can be prevented. The beach is an obvious target as are driveways behind adjacent buildings. At Waverley Court during lockdown when the public toilets were closed, we experienced nuisance from people urinating in the drive and bin store behind our building.

Prevention of Crime and Disorder

Due to the open air nature of the premises which leaves the seating area unprotected, there have been instances of criminal damage to the property in the past resulting in police attendance and further disturbance. Adding alcohol into the mix can only increase the possibility of such activity not only in the cafe but also the line of family beach huts adjacent to the cafe and residential property in the vicinity.

Summary

We refer to the Licensing Act 2003, Section 17 - Mandatory conditions of premises licences. One of these conditions is that "the premises must be suitable for the licensable activities applied for". We submit that the proximity to a residential area and the potential impact on the community should be sufficient to reject the application.

Yours sincerely

Peter and Eileen Taylor

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

From: Sarah Churchill-Slough [REDACTED] >

Sent: 23 July 2023 22:41

To: Licensing <licensing@iow.gov.uk>

Subject: Objection: 23/00974/LAPNEW

Re: Objection to Alcohol License Application for "Lazy Wave Cafe"

The Lazy Wave Cafe is an ice cream shop and takeaway and residents here are very concerned by the idea that this may soon be authorised to sell alcohol throughout the day, and every evening, at the expense of the local community and residents living directly opposite what is currently an Ice Cream Kiosk serving families.

Lazy Wave is an ice cream and snack shop with some benches outside on the slipway. The building is not suitable as a place for the public to come and drink or get drunk, and even if it was, given that the Licensing Act S4 is directly designed to ensure "public safety, the prevention of the public nuisance and the prevention of children from harm" it is impossible to reconcile those aims with this application which:

- Puts alcohol in an open air venue directly adjacent to family homes
- in a residential community
- where children are present, live and sleep

On this basis I, and many other neighbours, firmly object to this application.

We hope you will take Islanders' voices seriously along with the laws designed to protect them and reject this application.

Sarah Churchill-Slough

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

23/7/23

-----Original Message-----

From: Sheila Bramley [REDACTED]

Sent: 24 July 2023 17:20

To: Flux, Harry <Harry.Flux@iow.gov.uk>

Subject: Application for a Premises Licence for the Lazy Wave Cafe 2A Esplanade Shanklin

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. Further information can be found <https://wightnet.iow.gov.uk/wightnetcontent/cybersecurity/>

Dear Sir,

We are the owners of [REDACTED] and we would like to register our strong objection to the application.

Prevention of public nuisance

This end of the Esplanade is a quiet family area removed from the busier pubs further along. Our flats immediately overlook the cafe, which currently closes at 6pm. If this licence is permitted it suggests opening hours into the evening which, coupled with the sale of alcohol is bound to increase noise and general nuisance levels, particularly given that the cafe is in the open and very close to our building.

The cafe has no toilet facilities and the public toilets behind the premises have been closed. During the lockdown we experienced nuisance from people using the Waverley Court outside space as a urinal, and this is likely to recur with increased opening hours for the sale of alcohol in this outside space.

Prevention of crime and disorder

Again, given the outdoor nature of the premises and the fact that we are aware of instances of disturbance leading to police attendance in the past, we fear that the addition of a licence to sell alcohol into the evening is likely to make such episodes more likely.

Overall, we do not believe that these premises are suitable for the activities applied for given the fact that this is an open air cafe in a residential area without toilet facilities, and we believe that the application should be turned down.

Yours sincerely

Peter and Sheila Bramley

[REDACTED]

From: RICHARD BROADHEAD [REDACTED] >

Sent: 24 July 2023 23:33

To: Flux, Harry <Harry.Flux@iow.gov.uk>

Cc: Licensing <licensing@iow.gov.uk>

Subject: Re: Lazy Wave Cafe

Good evening Mr Flux,

Thank you for the information you have provided regarding The Lazy Wave Cafe.

I would like to submit representation against the premises application

- Prevention of Crime and Disorder

I would imagine the police will have an input on this as there are larger licenced properties on the Esplanade which have a higher staff number to cope with any problems whereas Lazy Wave usually has one or two.

- Prevention of Public Nuisance

The nearest public toilets are approx. 340metres from the Cafe (which has none of its own). There is outside seating for aprox 28 so not ideal for health as the council toilets don't appear to be reopening..

- Protection of Children from Harm

This is an open space which is frequented by young children who may be affected by excessive alcohol being consumed on the premises within very close proximity to them.

- Public Safety

The slip way is often used for the launching and recovery of water ski boats and also the Coastguard so an not ideal mix.

Likewise the nearby bus stop.

Kind regards,

Richard Broadhead

From: [REDACTED] >
Sent: 25 July 2023 19:04
To: Licensing <licensing@iow.gov.uk>
Cc: 'Clare Dixon' [REDACTED]
Subject: Alcohol Licence application for the Lazy Wave - 23/00974/LAPNEW - Objection

I would like to object to the above application for the following reason.

The Lazy Wave cafe is an open-air venue with a kiosk at one end. If it is granted a licence to sell alcohol it will be an open-air bar. There will be no sound insulation offered by the walls, for example, of a normal public house. As such, it will hard to see how it does not have a significant detrimental impact in terms of noise on nearby residential properties.

Murray Dixon
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

From: Sally Burton [REDACTED]
Sent: 24 July 2023 17:25
To: Flux, Harry <Harry.Flux@iow.gov.uk>
Subject: The Lazy Wave Cafe - Application for a Premises Licence by Mrs Rae Rawlins for The Lazy Wave Cafe 2A Esplanade Shanklin PO37 6BN

Dear Sir

Further to the above application. As owners of [REDACTED] [REDACTED] which is directly overlooking these premises, we are writing to register our strong objection to the application for the following reasons:

We don't believe that the Lazy Wave Cafe is a suitable premises for an alcohol license. The Cafe is situated directly opposite/below 15 residential homes, and the potential impact on the community should be significant enough to reject this application.

Prevention of Public Nuisance

Noise levels

This application which intends to extend trading hours from 6pm to 10pm and introduce an alcohol licence, will clearly increase both the noise and number of

people from 6pm onwards. The Lazy Wave is currently an open air cafe, therefore the noise/people won't be contained indoors, and the noise levels will only be significantly increased. People are likely to continue to stay in the area after closing hours, increasing the potential noise volume further.

If you visited our flat (which is directly in front of the Cafe (2nd balcony) and witnessed first hand the impact that this could potentially have, you will realise the proximity to the Lazy Wave Cafe and also how the sound travels up from the Cafe already. If this application is approved it can only significantly increase this noise into the evening. Our flat is currently a family (home), not a holiday let.

Toilet facilities

There are no toilet facilities in the Lazy Wave Cafe. This will have an impact on the local drives/bin stores/walls etc.

Litter

We are concerned about the increase in litter that will occur with extend opening hours.

Prevention of Crime and Disorder

As the Lazy Wave is an open air Cafe, we are concerned that with people drinking alcohol throughout the evening, it could have an impact on further disturbance and criminal damage to the residential area that the Cafe is situated in.

We welcome your thoughts and also your serious consideration on the above points.

With kind regards

Mr Chris Burton & Mrs Sally Burton
[REDACTED]

From: Charles Dawson [REDACTED] >
Sent: 25 July 2023 22:43
To: Batchelor, Shane <Shane.Batchelor@IOW.gov.uk>
Cc: Eileen Taylor [REDACTED]; Peter Taylor [REDACTED] >
Subject: RE: Application for a Premises Licence for The Lazy Wave Cafe

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. Further information can be found <https://wightnet.iow.gov.uk/wightnetcontent/cybersecurity/>

Dear Mr Batchelor

Let me introduce myself, my name is Dr Charles Dawson, I reside at [REDACTED] [REDACTED] I have been copied into many of my neighbours letters to you and your junior colleague along with your collective responses regards the

above application.

I understand that you have closed the consultation period, according to your reply to Ms Taylor, the closing date was the 21st July. Whereby the posted application in public on the lamppost clearly stated today the 25th July as the closing date.

With that aside, my main concerns, are that of the combination of extended opening by means of having a licence to sell alcohol in an open air setting until beyond the present opening hours added to the fact that alcohol will be sold. The combination of these 2 effects increase the likelihood of nuisance in the form of noise and antisocial behaviour.

I understand from your response that you state that it not part of the licence office to consider these factors, but defer this part of the process to Environmental Health. I appreciate that your colleagues must have carried out the assessment as I am aware it is a stipulated consideration in a licence application as per the following excerpt from your own licensing act guidance:-

The Prevention of Public Nuisance:

We suggest that you consider the following measures:

- If you are applying for regulated entertainment or any activity which may cause a noise break out from the premises, the applicant must take steps to prevent nuisance to local residents. An acousticians report to assess the possible noise break out and the use of mechanical limiting devices is advised.
- Noise from patrons leaving the premises and while outside smoking must be considered and identify how this will be managed.
- No outside drinking after certain times to prevent noise disturbance may be considered.
- Ensuring customers leave you premises quietly so not to disturb your neighbours. Signage to enforce the above.

You may need specialist help, for example to design a sound proofing scheme or to specify new or replacement equipment and plant. The council does not provide this service and recommends that you employ a consultant who is an expert in noise control. A list of local consultants can be obtained from your council. Environmental Health Officers will be pleased to cooperate with the consultant and to comment on the recommendations received.

The local authorities in Hampshire and Isle of Wight have agreed guidelines for noise reduction and a copy is available on request from Environmental Health Department, Jubilee Stores, The Quay, Newport, Isle of Wight, PO30 2EH. (01983) 823000

I am aware that everyone has to make a living and that the applicant may well have the purest intentions to control the situation within their establishment, and this is not a personal vendetta. But premises can be sold and licences transferred and thus

someone less scrupulous may, in time be running the licenced premises.

I would therefore be grateful, in the spirit of openness, if you could provide me and my neighbours with the results of the relevant assessments that have been carried out by Environmental Health on your behalf regards to the control of causing a nuisance and noise (particularly pertinent to an open air bar) so that we may be satisfied that due diligence has been undertaken in assessing suitability for the licence. Also what steps, if any, may be taken to lodge an appeal to a positive decision to grant a licence, if that is the outcome. Please also clarify once and for all the correct timescales given the discrepancy of those posted publicly and those to which you appear to be working to, as I am sure this will be relevant to any appeal/ objection timeline.

I look forward to hearing from you by return.

Regards

Charles Dawson



Dear Sir or Madam,

Re: The Lazy Wave Café – application for licence

Regarding the proposed change to opening hours and application for alcohol licence, I would like to lodge a strong objection on behalf of myself and my husband, S. C. Jury.

We bought the flat mainly because it is at the peaceful end of Shanklin, particularly in the evening, and we feel that granting of this application will inevitably result in noise and additional traffic trying to, and finding they can't, park close to the Café. And there will be a lot more noise from customers until well after the closing time.

We very much appreciate the care taken with cleaning the streets, and to the flower beds in Shanklin, and feel that there will inevitably be damage to both if this café has an alcohol licence.

Also, the access to the beach for emergency purposes is next to the Lazy Wave Café and it is very important that this is kept free, particularly into the evening.

I am not sure how many of the residents will be able to get an objection in in time now, but all our balconies look to the sea, and everyone will be affected.

Many thanks for your attention to his.

Yours sincerely,



B. A. Homer (Mrs.)

25 JUL 2023

25 JUL 2023

REF: Licensing Act 2003

24th July 2023

Dear Sir or Madam,

I am writing to object to the application for a Premises licence at The Lazy Wave, 2A Esplanade, Shanklin PO37 6BN by Mrs Rae Rawlins for the following reasons:

1) This is a residential area adjoining a family friendly beach and popular walking area for families and dog walkers.

2) There is only outside seating leading to the possibility of anti-social noise and activities in the area.

3) There are no public toilets in the nearby area due to the adjacent ones being recently closed, and as I understand no toilets at the above premises.

I therefore lodge firm opposition to the application and await your decision,

Yours faithfully,

Batchelor, Shane

From: rae rawlins [REDACTED]
Sent: 27 July 2023 15:14
To: Batchelor, Shane
Subject: Re: Lazy Wave Cafe Premises Licence Application

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. Further information can be found [here](#).

Hello shane,

Sorry for the late reply been rather busy lately.

Thank you for a thorough explication, however disappointing it might be to hear some people feel this way.

Regarding the concerns raised I understand their points and am always mindful of potential disturbance to local residents. However there are already a number of license premises within a very close distance of our location . So to minimise risk of disorderly conduct and disturbance we have

- an earlier closing time than other license establishments in order to only cater for casual day time drinking.

-we will be taking on a challenge 25 policy in order to deter younger drinkers. With a zero tolerance policy to abuse or anti social behaviour, which is already in place.

- I have personally agreed and will enforce all conditions already set in place by the police and council to minimise disturbance.

And finally the most important thing to consider.

-this is a beach side cafe with outdoor seating only within a premises boundary. This meaning unless weather is at near perfect conditions footfall is fairly low most of the season. We are not, nor shall be a bar/pub or club solely selling alcohol as a form of income. We are and will continue to be a desert/treat cafe, that would like to sell alcohol to people looking to enjoy a pleasant drink on a nice day with a view.

- also to put some residents minds at ease, 90% of the time we will not be open to the full extent of our requested trading hours. As this is seasonal, and heavily relies on weather, this is to just cover those random sunny days, end of the season and event nights like carnival or exceptionally good summer evenings. And by having the hours available this would avoid any confrontation with customers as to why we are open but not allowed to sell alcohol.

If by any chance what I have said above is unclear or confusing, I am more than happy for my details to be shared with anyone wishing to get in contact and ask questions face to face to hopefully clarify any issues, if need be.

[REDACTED]

Kind regards

Rae rawlins

On 25 Jul 2023, at 3:46 pm, Batchelor, Shane <Shane.Batchelor@iow.gov.uk> wrote:

Good afternoon Mrs Rawlins,

Further to your application for the premises licence for Lazy Wave Café, I have received 8 representations opposing the application.

With this in mind, I have responded to all interested parties, explaining why some or all part of their representations cannot be considered due to them not relating to one or more of the four licensing objectives.

The next stage will be for me to arrange for a formal hearing to take place in order for all interested parties to attend (if they chose to do so) to discuss relevant matters contained within their representations.

The Licensing Sub Committee will then listen to all parties views before coming to a determination.

Until the matter has been determined, you will not be authorised to carry out the licensable activities as detailed within your application.

In order to give you an idea of the relevant points contained within the representations received I have included below details for you to review and respond to if you wish to do so.

Concerns Raised

1. Intoxicated persons will result in noise disturbance to nearby residents
2. Excessive drinking may lead to disorderly conduct

As stated I have contact all parties today, either via email or letter (where email addresses were not provided) and hope to hear from them as to whether they wish to withdraw their relevant points raised or whether they wish them to stand.

I have shared the agreed police conditions with them and should you wish to supply a response, I will also share this with them.

If you have any questions in the meantime please let me know, otherwise I will be in contact as soon as a hearing date or other proceedings have been arranged,

Kind regards

Shane Batchelor | Licensing Officer | Regulatory Services | Isle of Wight Council |

County Hall | High Street | Newport | Isle of Wight | PO30 1UD

Tel: (01983) 823159

Important Information - Disclosure, Confidentiality and Monitoring of this email

This email communication may be monitored by the Isle of Wight Council for regulatory, quality control, or crime detection purposes. If you are not the Intended Recipient please contact the sender as soon as possible. It is intended only for the personal attention of the named person, firm or company to whom it is addressed. It may contain information that is privileged and confidential in law.

Accordingly any unauthorised dissemination, distribution, copying or other use of this message or any of its content by any other person may constitute a breach of civil or criminal law and is strictly prohibited. No mistake in transmission is intended to waive or compromise any such privilege. Any views expressed in this message are those of the individual sender and may not necessarily reflect the views of the Isle of Wight Council.

The information contained in this e-mail may be subject to disclosure to third parties under either data protection legislation or the Freedom of Information Act 2000 to the extent the law allows and in accordance with the Isle of Wight Council's policies on information management. (If you wish the disclosure of the information in any reply to be restricted please make this clear in your response).

Memo

To Licensing, Mr Shane Batchelor, Licensing Officer
From Daniel Power, Regulatory Officer (Environmental Health)
Date 8th August 2023

Your Ref - 23/00974/LAPNEW

Proposal - New Premises Licence Application
Location - The Lazy Wave, 2A Esplanade, Shanklin, PO37 6BN

The Environmental Health Department considered the application for a premises licence in respect of The Lazy Wave on 28th June 2023. In response, the responsible authority primarily concerned with the promotion of key licensing objectives including the prevention of public nuisance and public safety, did not have any adverse comments in respect of the application.

The Revised Guidance issued under s182 of The Licensing Act 2003, advises that each application must be considered on its own merits. With this in mind regard for the following considerations were had:

- The premises noise complaint history
- The proposed hours and scope of licensable activity
- The proximity to commercial/residential receptors
- The venues sound insulation performance and/or the use of any external areas
- Confidence in management

In this instance, it is noted that the use of outdoor parts as outlined within the associated plan of the premises accompanying the application, have occurred for some time whilst the applicant has run the premises since 2021, furthermore, on review of the department's case management system, I am unaware of any formal nuisance complaints having been received.

I note the application may provide the premises with the capacity to undertake licensable activity until 21:00hrs, nevertheless, I am unaware of any existing restrictions limiting the premises hours of trade with reference to non-licensable activities. Furthermore, whilst the premises typically trades until 18:00hrs, the applicant has advised that during the summer holiday's the premises has traded until approximately 20:00hrs, where custom remains steady, and until 21:00hrs during previous Shanklin Regatta events.

On reviewing the representations received, I note a consensus in respect of concerns regarding the premises outdoor setting and the limited offering of sound insulation, whilst I consider these concerns to be justified, noting the proposed premises proximity to residential dwellings. The hours of proposed activity are considered reasonable and thus, limit the potential disturbance associated with sharp variations in patron noise as the evening progresses, whilst ambient noise levels inevitably reduce.

Accordingly, the application appears to satisfy Part 10.10 of the local authority's Statement of Licensing Policy (2019-2024) given the applicant does not intend on trading during what are considered more sensitive hours, typically between 23:00 and 08:00hrs.

Further to the consideration of patron noise, I have assessed the premises intended music offer given the close proximity of the premises to residential dwellings, consequently, I understand the premises music offer is unlikely to vary from its current offering, with music provided at a background level and thus, ancillary to the consumption of food and drink.

It's worth noting that the intended hours of licensable activity occur within the hours of de-regulation as provided by way of The Live Music Act 2012. Accordingly, as specified via Part 16.5 of the Revised Guidance issued

under s182 of The Licensing Act 2003, the provision of live and recorded music between the hours of 08:00 and 23:00hrs are not considered licensable. With this in mind, any proposed conditions with reference to noise control would be considered unenforceable during the hours the premises intends to provide licensable activity.

In addition to the previous discussion in respect of the premises intending to trade during what are considered non-sensitive hours, the department have considered the term 'Convention' and what is typically referred to as the general use of an area. On this occasion, I consider it reasonable to expect a degree of noise associated with commercial activity within an area of mixed commercial and residential use, particularly during the hours applied. In addition, the application is in keeping with the character of the area, considering the existing premises licences within close proximity on the esplanade.

At this point, it is necessary to consider confidence in management, accordingly, having discussed matters in respect of the premises limited complaint history over this period, I've no grounds to suggest confidence is low.

Therefore, there are no pressing concerns in respect of the premises potentially undermining the Prevention of Public Nuisance Objective and/or the Public Safety objective. However, as pointed out via Part 2.18 of the Revised Guidance issued under s182 of The Licensing Act 2003, it is worth noting that there are more suitable provisions in other legislation, namely by way of the Statutory Nuisance regime via the Environmental Protection Act 1990, which adequately protect those living in the area of the premises in the event of a complaint of disturbance. With this in mind, were noise disturbance alleged, neighbouring residents have the capacity to request that the department investigate here.

Similar to matters relating to the subsequent investigation of noise complaints, whilst ensuring the application undertaken by way of The Licensing Act 2003, does not have the effect of duplicating other statutory requirements. I note the comments received by way of representations against the application, also refer to the unavailability of customer toilets at the premises.

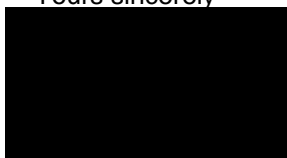
In respect of customer toilets, I understand the Local Government (Miscellaneous Provisions) Act 1976 has not been applied by the Isle of Wight Council. With regards to sanitary facilities for staff, all workplaces require staff toilet(s) to comply with the Workplace (Health Safety and Welfare) Regulations 1992. With this in mind, I ask that the proprietor contacts the Business Regulation and Public Protection Team (Environmental Health) at their earliest convenience to advise of its existing plans for staff access to sanitary facilities. Contact may be had via email EH@iow.gov.uk or via telephone on 01983 82300.

However, from a licensing perspective, the premises will be required to ensure that customers are making appropriate use of neighbouring toilets to avoid any suggestion of behaviour that may be considered to undermine the prevention of crime and disorder objective.

In summary, having considered the premises noise complaint history to date, the proposed hours of licensable activity, the existing general use of the area as well as the current confidence in management and the enforcement tools available in the event of disturbance, the department does not have any adverse comments in respect of this application.

Furthermore, the department has not considered it appropriate to recommend any specific conditions on this occasion owing to Part 1.16 of The Revised Guidance issued under s182 of The Licensing Act 2003, which states that licence conditions must be precise and enforceable and should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation.

Yours sincerely



Daniel Power
Regulatory Officer