



City and County of Swansea

## Minutes of the **Statutory Licensing Sub Committee**

Remotely via Microsoft Teams

Monday, 11 April 2022 at 10.00 am

**Present:** Councillor P M Matthews (Chair) Presided

**Councillor(s)**

P Lloyd

**Councillor(s)**

C L Philpott

**Officer(s)**

Craig Davies

Yvonne Lewis

Rachel Loosemore

Samantha Woon

Associate Lawyer

Team Leader, Licensing

Licensing Officer

Democratic Services Officer

**Applicant:**

Mr R Hole

**Other Persons:**

Ms A Lloyd

Mr I Evans

---

**16 Disclosures of Personal and Prejudicial Interests.**

In accordance with the Code of Conduct adopted by the City and County of Swansea, no interests were declared.

**17 Licensing Act 2003 - Section 17 Application for a Premises Licence - The Green Room, Copr Bay, Oystermouth Road, Swansea.**

The Chair welcomed all attendees to the meeting and requested that the Associate Lawyer outline the procedure to be adopted by the Sub Committee in considering the application.

The Associate Lawyer provided a comprehensive overview of the procedure to be adopted by the Sub Committee when considering the application.

The Operational Lead - Licensing reported on the application for a new premises licence in respect of the Green Room, Copr Bay, Oystermouth Road, Swansea, SA1 3BX. She referred to the Licensing Objectives, policy considerations and the guidance from the Home Office.

Specific reference was made to application for a premises licence at Appendix A, an aerial plan of the premises at Appendix B, a list of licenced premises in the area at Appendix B1, conditions consistent with the operating schedule at Appendix C and the representations made by Other Persons at Appendix D.

A representation had been received from one Other Persons (who was representing two other persons). A copy of the representation was attached at Appendix D. The representation related to the prevention of crime and disorder and public nuisance.

Ms Lloyd further amplified the written representations objecting to the application and highlighted her concerns in relation to the undermining of the Statutory Licensing Objectives in relation to the prevention of crime and disorder and public nuisance. She referred to the huge impact the proposed licence would have on the lives of the people living in Victoria Quay. Ms Lloyd asked for a 'stay' of deliberations in respect of the licence as she felt there had not been sufficient time for residents to prepare for the Hearing. She referred to premises being in the middle of a residential area, the difficulties associated with the park area and concerns regarding the use of glass within the premises and potential danger to children using the park.

The Associate Lawyer stated that interested parties had received notice of the Hearing and that the application had been made within the statutory timescales. He stated that Licensing Officers had been accommodating in allowing Other Persons to 'piggy back' on the representations submitted by Ms Lloyd. He confirmed that the application had been made properly, Officers have acted in the correct manner and Other Persons had not been prejudiced in any way. Individuals had not submitted their representations in time. All comments submitted within the timescales would be taken into consideration.

Mr Evans, speaking on behalf of Ms Barry and Ms Davies, further amplified the written representations objecting to the application and highlighted his concerns in relation to the undermining of the Statutory Licensing Objectives in relation to the prevention of crime and disorder and public nuisance. He stated that he fully supported the representations made by Ms Lloyd and that the notice advising of the application had not been publicised broadly as many residents do not buy the local newspaper and one sign on a lamp-post was not sufficient to inform residents. He referred to other parks within Swansea, many of which did not have a premises such as the one proposed within the vicinity. He referred to the noise nuisance emanating from the Park (amplified pipes for children to play etc). He referred to the distance from the nearest residential dwelling and the proposed premises and the current noise pollution. He stated that he had witnessed glassware being taken from the premises on trays by patrons to outside seating areas. He requested that the hours applied for were drastically reduced

The Associate Lawyer stated that noise nuisance from the Park was not relevant in respect of the application being considered. He urged Mr Evans to refer to issues raised in the initial letter of objection and not to deviate from these matters.

In response to a question from Mr Evans, the Associate Lawyer stated that it would not have been appropriate for the local Councillor for the Castle Ward to attend the

Hearing and the Statutory Licensing Sub Committee Membership comprised of three Members of the Committee who were chosen on a rotational basis.

In response to Member questions, Ms Lloyd and Mr Evans stated that:

- 1) Mr Evans had lived in the Marina for 5 years.
- 2) The premises would impact on local residents due to the close proximity of the nearest dwelling. Residents suffer from noise nuisance arising from music/skateboarders/cyclists and individuals consuming alcohol within the park area.
- 3) Many owners of the properties in the Marina live away and therefore would not have seen the statutory notice regarding the application.

The Associate Lawyer stated that public nuisance issues emanating from the Park were not the responsibility of the Applicant and such matters could be addressed under the Public Space Protection Order (PSPO) which was available on the Council website.

Mr Hole, Applicant, stated that a lot of the resident's concerns were his concerns. He confirmed that he had met residents before the meeting to obtain feedback.

In so far as public nuisance in the Park, he felt that the premises would act as a deterrent. The premises was a premium priced venue which would not encourage a younger market. He referred to his other premises, the Secret Garden, which had a similar pricing regime in order to prevent a beer orientated venue. He stated that he wished to work with local residents. The premises has been trialled using Temporary Event Notices and there had been no issues with anti-social behaviour during the duration of operation of the premises. The venue was a food led and the plan was to launch the venue after Easter.

He referred to comments regarding the use of glass vessels and stated that plastic drinking vessels could potentially lead to littering. Patrons would not be permitted to remove glass from the boundary of the premises.

He reiterated his intention to work with residents to eradicate any potential anti-social behaviour and had offered both his mobile number and that of his manager. He stated that he had no wish for the Park to turn into Castle Gardens with individuals buying alcohol from supermarkets and consuming in open spaces.

In response to Member and Other Persons questions, Mr Hole stated that:

- 1) Bottle disposal was housed in a purpose built fenced cage within the boundary of the premises.
- 2) 'Bottling out' timings were already contained within the application.
- 3) In relation to the use of polycarbonate drinking vessels, it was the intention to be carbon negative and he was actively working towards this in both of his premises. He stated that polycarbonate drinking vessels could potentially be swept away during windy conditions. It was intended that glass would be collected regularly and on large event days, staffing levels would be increased to alleviate any potential problems.

- 4) The music played at the venue would be along an acoustic style and it was intended that the venue would attract artists/poets who may aspire to play at the Arena in the future.
- 5) A designated smoking area had been identified at the Oystermouth Road side of the premises.
- 6) The curtilage of the premises would be clearly defined with barriers and there was one main point of entry into the premises with three entry points within the curtilage of the property.

The Operational Lead – Licensing referred to 'on and off sales' and advised that off sale purchases would be in a plastic vessels.

The Associate Lawyer, in response to a questions from Other Persons, stated that it was not a requirement for Members of the Committee to visit venues prior to considering the application. Members had documentation which included photographs, location plans and written representations at their disposal and were able to make a determination on the information before them.

In conclusion, Mr Hole reiterated his wish to work with local residents. Any potential anti-social behaviour issues could be remedied with the involvement of the Police, City Centre Rangers etc. With regard to the use of glass, there would be a physical barrier surrounding the property so it would not be easy for patrons to remove glassware to the Park area.

It was **Resolved** that the press and public be excluded from the hearing in accordance with paragraph 14 of the Licensing Act (Hearings) Regulations 2005, to enable the Sub-Committee to take legal advice.

**(Closed Session)**

Members discussed the issues relating to the application.

**(Open Session)**

The Chair indicated that the Sub-Committee had considered the application and representation made and the needs and interests of all parties in terms of the Council's Statements of Licensing Policy, statutory guidance and the requirements of the Licensing Act 2003.

The Sub-Committee **Resolved** to **Grant** the application subject to conditions consistent with the operating schedule and as modified as considered appropriate for the promotion of the licensing objectives as below.

**Conditions.**

**Supply of Alcohol**

**Monday to Sunday 0800 – 2300**

**Late Night Refreshment**

**Monday to Sunday 2300 – 2330**

**Opening Hours**

**Monday to Sunday 0800 – 2330**

1. CCTV will be provided in the form of a recordable system, capable of providing pictures of evidential quality in all lighting conditions particularly facial recognition. Cameras shall encompass all ingress and egress to the premises, fire exits, all areas where the public have access and any external drinking areas. Equipment must be maintained in good working order, the system must continually record whilst the premises is open for licensable activities and during all times when customers remain at the premises. Recordings must be correctly timed and date stamped, recordings must be kept in date order, numbered sequentially and kept for a period of 31 days and handed to a Police Officer/Local Authority Officer on demand. The Premises Licence Holder must ensure that at all times a Designated Premises Supervisor (DPS) or appointed member of staff is capable and competent at downloading CCTV footage in a recordable format either disc or VHS to a Police Officer/Local Authority Officer on demand. The Recording equipment and tapes/discs shall be kept in a secure environment under the control of the DPS or other responsible named individual. An operational daily log report must be maintained, endorsed by signature, indicating the system has been checked and is compliant. In the event of any failings the actions taken are to be recorded. In the event of technical failure of the CCTV equipment, the Premises Licence holder/DPS must report the failure to the Police/Local Authority.

2. SIA registered door staff shall be employed on occasions when a requirement is identified by the licence holders written risk assessment. Consideration will be given to events at the Arena, public holidays and days considered to be major event days in the city centre. If a written risk assessment identifies that door staff are required the following number will be adhered to:

Members of the Public Present	Number of door Supervisors
1 - 100	2
100 - 250	3
250 - 500	4
500 - 750	5
750 - 1,000	6
1,000 - 1,250	9
1,250 - 1,500	10
1,500 - 2,000	12

In excess of 2,000 - at least 12 and such other stewards as may be required either by the Chief Fire Officer or the Council.

- 3.** A detailed bound numerical register of door supervisors to be maintained at all times at the premises. Such register to include the name, registration number, contact details of the member of door staff along with the date, time on duty and time off duty. Full details of the agency supplying the staff to be endorsed and the register to be available for inspection on request by an Authorised officer.
- 4.** An incident recording book, bound in numerical order, shall be maintained at the premises showing details of the date and time of all assaults, injuries, accidents or ejections, as well as details of the members of staff involved, the nature of the incident and the action/outcome. The book must be kept available for inspection by the Police and authorised officers of the Licensing Authority.
- 5.** The premises shall have an adequate system of counting persons in and out when utilising door staff to ensure that the customer levels in all areas do not exceed the limit endorsed in the venue risk assessment.
- 6.** Substantial food and non-intoxicating beverages, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
- 7.** Loudspeakers shall not be located in the entrance lobby or outside the premises building.
- 8.** External areas to be regularly supervised by staff from the premises when in use and all glassware removed expeditiously.
- 9.** Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and leave the area quietly.
- 10.** Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
- 11.** A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available at the request of any residents in the vicinity.
- 12.** No rubbish, including bottles, shall be moved, removed or placed in outside areas between 2300 hours and 0800 hours.
- 13.** The pavement from the building line to the kerb edge immediately outside the premises, including gutter/channel at its junction with the kerb edge, shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements
- 14.** A Challenge 25 proof of age scheme, shall be operated at the premises where the only acceptable forms of identification shall bear their photograph, date of birth and a holographic mark.

**15.** A log shall be kept detailing all refused sales of alcohol. The log should include the date and time of the refused sale and the name of the member of staff who refused the sale. The log shall be available for inspection at the premises by the police or an authorised officer of the Council at all times whilst the premises are open.

**16.** Premises to keep up to date records available for inspection of staff training in respect of age related sales.

**The application is modified and the following conditions are added:-**

**a. Modify condition 8 on the operating schedule which states:**

- 8.** External areas to be regularly supervised by staff from the premises when in use and all glassware removed expeditiously.

**To state**

- 8.** External areas to be regularly supervised by staff from the premises when in use and all glassware removed expeditiously.

The external drinking areas to be clearly identified (as on plan) and enclosed by use of a barrier method. No glassware shall be used in this area until such barriers in place.

**b. Modify condition 12 on the operating schedule which states: (offered by applicant during hearing)**

- 12.** No rubbish, including bottles, shall be moved, removed or placed in outside areas between 2300 hours and 0800 hours.

**To state**

- 12.** No Rubbish, including bottles, shall be moved, removed or placed in the outside waste area between 2130 hours and 0800 hours.

**Reasons**

The Statutory Licensing Committee considered its decision and reflected the balance required by its duty under s5 of the Licensing Act 2003 to promote the Licensing Objectives, and with the guidance at paragraph 1.5 and the principles set out in the case of R (on the application of Hope & Glory Public House Ltd) v City of Westminster Magistrates Court and Others (2011) EWCA Civ 312).

When reaching its decision the Statutory Licensing Committee was mindful of the following:

The Statutory Licensing Committee noted there were no oppositional representations made by the SWP.

The Statutory Licensing Committee noted there were no oppositional representations made by Trading standards.

The Statutory Licensing Committee noted there were no oppositional representations made by Mid and West Wales Fire Authority.

The Statutory Licensing Committee noted there were no oppositional representations made by Health and Safety.

The Statutory Licensing Committee noted there were no oppositional representations made by the Planning Authority.

The Statutory Licensing Committee noted there were no oppositional representations made by the Pollution Division.

The Statutory Licensing Committee noted there were no oppositional representations made by Child Protection.

The Statutory Licensing Committee noted there were no oppositional representations made by the Health and Safety Primary Care Trust / Local Health Board.

The Statutory Licensing Committee noted there were no oppositional representations made by the Licensing Authority.

The Statutory Licensing Committee noted there were no oppositional representations made by Immigration.

The Statutory Licensing Committee noted there were was one representation from Other Persons and that representation was made on behalf of three persons. Two persons attended the committee and one spoke for themselves and one spoke on behalf of the two others.

Although no additional documentation was provided in support of the representations, the Other Persons did expand their written representations orally. Those persons also added additional information that had not been included in the original written representations.

In consideration of four the licensing objectives (*the prevention of crime and disorder, public safety, the prevention of public nuisance, the protection of children from harm*) various issues were raised in the representations from Other Persons at pages 39 to 40 of the report and orally during the Statutory Licensing Committee found as follows :-



### **Unlawful Hearing**

The Statutory Licensing Committee is responsible for considering and proposing the authority's licensing policy in line with Section 182 of the Licensing Act 2003. Licensing authorities have a duty to have regard to this act and its guidance.

The Licensing Act 2003 introduced a clear set of objectives & a democratic accountability to specifically allow local decisions to be made by local authorities, while creating opportunities for everyone affected by the licence to make comments on it.

As such the application notices and all notice periods have been complied with in line with the statutory requirements since receiving application on the 14<sup>th</sup> February 2022.

The council website, evening post notice & notices placed on fencing and lampposts all set out that full details of the application could be requested by emailing [evh.licensing@swansea.gov.uk](mailto:evh.licensing@swansea.gov.uk).

Additionally, those notices stated that any representations must be made in writing, clearly stating the grounds upon which the representation is made, relevant to the licensing objectives, to the above by the 14 March 2022.

The Other persons were not prejudiced by the above as they submitted written representations, they attended the hearing and they orally developed their representations further than what had been submitted in writing.

The other persons were and are advised that the members had read the written representations, and that all relevant comments during the committee and the written representations would be taken into consideration during their deliberations.

All timings and notifications of the hearing were complied with and adequately placed and/or adverted as required by the Licensing act 2003.

Therefore a comment that other persons should have been given further time that is required under statute and that as such any decision of the committee would be a nullity for those reasons simply is legally flawed for the above reasons.

### **The Prevention of Crime and Disorder**

The Statutory Licensing Committee were mindful of the Statutory Guidance at paragraph 2.21 that when dealing with Anti-Social Behaviour (ASB) the Applicant could only be responsible for those persons over which it could exercise control. Once past the immediate vicinity of the premises persons are responsible for their own behaviour.

During the committee Other Persons raised queries why SWP had not made representations themselves. It is a fact that SWP did not make any representations or raise any concerns in this respect.

In the lack of their representations it has to be accepted that SWP believe this application promotes the four objectives.

As SWP had not made representations, they were not party to the hearing and therefore were not required to attend.

The Other Persons raised potential antisocial elements of the coastal park and that the applicant premises would be a catalyst for ASB. The Other Persons felt that it would be the applicant's role to police the park, the Members would again refer the other persons to para 2.21 of the guidance.

In light of the continued representations regarding the use of the coastal park and the precedence of skateboarders, cyclists and persons consuming alternatively purchased alcohol. It was apparent that the Other Persons were not aware of the City Centre PSPO covering the area.

The other persons raised that it would be the responsibility of the premises to police the coastal park. This view is incorrect as the coastal park would be covered by the PSPO which is policed by both City Rangers of the Council and officers of SWP. The council website specifically gives guidance on the remit of the PSPO.

The applicant agreed that ASB is also a concern for the premises and the management seek to work with the authorities and the public to reduce ASB in the area.

The applicant confirmed that they intend to become part of the city centre "night net system" to further assist and protect the public and reduce the chances of ASB developing.

To further the point the applicant mitigated against ASB by confirming the premises business model is food led and is to attract a high level of clientele who would consume alcohol with their meals rather than use the premise purely as a drinking establishment.

Therefore the Statutory Licensing Committee were satisfied the applicant's comments & proposed conditions would mitigate and manage the position so as to promote the Licensing Objectives.

### **The Prevention of Public Nuisance**

The Statutory Licensing Committee noted that there were no oppositional representations made by the Pollution Division of Environmental Health.

It was apparent that the Other Persons' representations referred to the noise caused by the coastal park, specifically mentioning a water pump and "noise tubes/funnels" members noted the comments however further noted that the representations were outside of the control of the applicant; referring again to paragraph 2.21 of the Guidance.

Further representations were made to the noise of music played by the premises itself. The applicant confirmed that no speakers have been placed outside, the doors

of the building are fitted with automatic closures to reduce the leak of internal noise outside and the applicant also gave examples of the types of music to be played.

It was noted that the applicant had offered local residents his telephone number and the telephone number of the manager who would be available to deal with complaints relevant to this premises.

The Statutory Licensing Committee consider this application on its own merits and they did note that from the applicant that the premises has been operational since the 15<sup>th</sup> March 2022. During that time there have been no issues or complaints raised regarding noise while trading, in response the Other Persons again referred to noise emulating from the costal park and issue created by other premises in previous years.

The Statutory Licensing Committee also noted the extracts in the report taken from the Guidance at paragraph 16 and that any music would be subject of the deregulation order and therefore would cease at 2300hrs in line with that guidance. No further application was made by the applicant for live or recorded music. In fact, the applicant referred to the size of the premises the intention was to restrict any music to that of a small acoustic set as an example.

The Statutory Licensing Committee noted that the waste storage was not connected to the main building and that this could have a potential to create noise nuisance and the applicant had referred to waste in condition 12, allowing waste transfer up until 2300 hours. Members were of the view that this time should be reduced to 2130 hours to reduce further nuisance.

The Statutory Licensing Committee was satisfied that if the condition put forward was modified it would ensure noise would be limited into the evening.

The Statutory Licensing Committee heard from the Other Persons that if the amplified music would be played until 2300 hours and further refreshment until 2330 hours and would have an impact upon local persons.

The Statutory Licensing Committee noted the residents representations regarding the applied for operating hours and Members gave full consideration to the representations presented.

Although no additional evidence was provided from families with young persons, the curator and no representations were made by the Health and Safety Primary Care Trust / Local Health Board.

The Statutory Licensing Committee noted the comment given by the applicants confirming the reasons why they have requested those hours of trading.

No issues have been raised by the relevant bodies or the police that suggested the applied for hours was excessive or detrimental to the local area.

The Statutory Licensing Committee noted the operation hours of local premises were consistent if not greater than those applied for in this application.

The Statutory Licensing Committee was satisfied that the hours were consistent with the surrounding area and would promote the licensing objectives.

### **Protection of Children**

The Members fully took into consideration all representations from residents both provided in writing and expanded orally during the committee and that comments above and below are equally relevant to this section and should be read with that view in mind.

Other persons made representations that the coastal park will contain children and that those children and/or the public could easily mix with the current configuration.

It was noted that barriers are to be installed at the perimeter of the premises, which will restrict access to one point, separate public and customers.

Members felt that a condition would need to be modified to condition the restriction of mixing between the public and customers. As below the Members chose to Modify condition 8 on the operating schedule to include; the external drinking areas to be clearly identified (as on plan) and enclosed by use of a barrier method. No glassware shall be used in this area until such barriers in place.

The Statutory Licensing Committee were satisfied that the safety of children within the aim of the Licensing Objectives would be promoted by the application of the other conditions in Appendix A and were appropriate to deal with the issues raised by Other Persons.

### **Public Safety**

A number of Other Persons raised representations to the use of glass in external areas of the premises.

The applicant confirmed that the business model had been tailored to the clientele they intend to draw and therefore the use of glass in all areas was instrumental to the successful running of the premises.

The applicant confirmed that they would employ additional staff to collect the glass expeditiously.

The applicant advised that they will install barriers segregating the outdoors areas of the premises from the coastal park and the public.

The applicant advised that The Green Room's ethos is sustainability and they would oppose the use of plastic glasses, as they wanted to be a no plastic venue. He gave an example that the milk would be brought via bags and stored in urns under the counter with a view of the business being plastic free by the end of the year.

Additionally the applicant has another hospitality business which also trades in close proximity to the general public and that premises has used glass for a number of years without issue.

The Statutory Licensing Committee noted that they have a duty to balance against the public and business needs as per our own Statement of Licensing Policy, specifically at page 5:

*The Licensing Act 2003 introduces a range of opportunities and among these is the ability to have a wider input into the development of leisure activities. The entertainment industry within the area is a major contributor to the local economy, by attracting tourists and visitors, helping to keep areas and communities vibrant and by providing major employment opportunities.*

*In addition to a well-developed entertainment centre, Swansea also has a substantial residential population whose amenity the Council has a duty to protect. Residents of certain areas could be affected by an increase in the concentration of licensed premises, particularly if longer opening hours are introduced.*

*Operators of other types of business also have a legitimate expectation that the environment in which they operate in is attractive and sustainable to their business.*

*The Council will therefore use its powers under the Licensing Act 2003 to promote best practice and to ensure properly managed licensed premises where licence holders have regard to the impact of their premises on local residents and businesses.*

*The Council will work closely with the statutory authorities, the licensed trade, local businesses and residents, to facilitate a partnership approach in creating a licensing policy which balances the interests of the licensed trade and its customers against the interests of the business and residential communities of the area.*

The Statutory Licensing Committee noted that the reasons for use of glass in the external areas of the premises and therefore took the view that a modification of condition 8 on the operating schedule could mitigate the concerns.

*The external drinking areas are to be clearly identified (as on plan) and enclosed by use of a barrier method. No glassware shall be used in this area until such barriers in place.*

The Statutory Licensing Committee also noted that surrounding premises were not conditioned on the usage of plastic glasses externally and that it was each premises choice.

The Statutory Licensing Committee was satisfied that the modified condition would ensure the safe external use of glass and promote the licensing objectives.

## **Conclusion**

The Members noted that there had been dialogue with all parties prior to the hearing and a meeting had taken place at the venue.

Alcohol has been served under Temporary Event Notices under the Licensing Act 2003 currently and no adverse incidents have been reported by the public, police or residents.

The application at the premises has raised a small number of representations, the majority of representations raised in this committee related to the surrounding coastal park other than those specifically addressed above.

On final consideration of all information before The Statutory Licensing Committee, the Members were satisfied that with the modified condition requiring barriers before the use of glass externally, combined with a modification of the offered condition that waste will not be permitted to be moved to external bins to after 21.30 and the Applicant's assurance of compliance with the conditions and the substantial mitigating actions would deal appropriately with the representations put forward.

Overall the Statutory Licensing Committee were satisfied that the comprehensive list of conditions to be attached to the licence and that the Applicant would be a responsible premises licence holder who would ensure compliance with the conditions and deal appropriately with any issues if they arose as a result of the additional capacity for the premises.

Further, the active PSPO and the 2003 Act provided remedies for the residents if the conditions were breached and undermined the Licensing Objectives.

## **Right of Appeal:**

Following receipt of this notice you have a right of appeal to the Magistrates Court.

An appeal must be made in writing to the Chief Executive of the Justices for the Magistrates Court within 21 days from the date of receipt of this notification.

The meeting ended at 11.56 am

**Chair**