



City and County of Swansea

Minutes of the **Statutory Licensing Sub Committee**

Multi-Location Meeting - Council Chamber, Guildhall / MS

Teams

Friday, 22 July 2022 at 10.00 am

Present: Councillor P M Matthews (Chair) Presided

Councillor(s)
M Bailey

Councillor(s)
P Downing

Officer(s)

Aled Gruffydd
Yvonne Lewis
Rachel Loosemore
Lindsey Stock
Samantha Woon

Associate Lawyer
Team Leader, Licensing
Operational Lead, Licensing
Licensing Officer
Democratic Services Officer

Also present

Rev Cann C Darvill
Ms Liz Thomas
Mr P Reason
Mr A Hodges

Applicant
Applicant's Partner
Other Person
Other Person

20 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.

21 Licensing Act 2003 - Section 17 - Application for a Premises Licence - Newton Village Hall, Caswell Road, Newton, Swansea, SA3 4SB.

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

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

He also reported that there was a preliminary issue regarding compliance with advertising in relation to the Licensing Act 2003 and this needed to be determined to ascertain whether the hearing could go ahead today.

The Licensing Team Leader confirmed that the Local Authority were satisfied that the advertising requirements had been met and that the Hearing could go ahead today. She advised that the Licensing Authority had received an email from the applicant with photographs confirming the notices were in situ and that they complied with the requirements within the Licensing Act (Premises Licences and Club Premises Certificates) Regulations 2005, read out.

Mr P Reason (Other Person) stated that he learned about the Application five days before the consultation period ended. He advised that there were no notice of application signs on any of the lampposts around the Church or Village Hall, on the Church or Village Hall noticeboards or on the main entrance to the Hall. He advised that notices should be placed every 50 metres on the external perimeter of the premises abutting the highway. He referred to photographic evidence he had submitted to Officers.

Mr A Hodges (Other Person) stated that he does not frequent the Coffee Shop and would not have seen the notice on the Coffee Shop Notice Board. He referred to an application for an alcohol licence made 5 years ago and the backlash the application created which subsequently resulted in the application being abandoned.

Mr C Darvill (Applicant) stated that he did advertise according to the letter of the law and the application had gone through the local parish council. He referred to the large notice boards advertising the services offered by the Church and the number of residents who were keen on the idea (including the 17 he was representing today). He stated that he had referred to the application during Church services and that his Son had a conversation with Mr A Hodges following a visit to the Vicarage one evening.

The Licensing Team Leader confirmed that the Notice had been sited in the pop up coffee shop and that Licensing Officers ensured that the Notice was in place. Furthermore, enquiries have been received as a result of the Notice being in place. There was no requirement on the Licensing Authority to check that the Notice was in place every day during the 28 day consultation period.

The Chair referred to an objection received from someone having viewed the Notice.

The Lawyer advising the Committee requested that the Committee adjourn to receive legal advice on the validity of the advertisement.

Adjourned at 10.30 pm

Re-convened at 10.46 pm

The Lawyer advising the Committee gave an overview of the legal advice given.

The Chair stated that the Committee were satisfied that the advertising requirements of the Licensing Act 2003 had been adhered to.

The Licensing Officer reported on the application for a New Premises Licence in respect of Newton Village Hall, Caswell Road, Newton, Swansea, SA3 4SB.

She referred to the Licensing Objectives, policy considerations and the guidance from the Home Office. Specific reference was made to application and Site Plan for a premises licence at Appendix A and A1, the location plan of the premises at Appendix B, conditions consistent with the operating schedule at Appendix C, the representations made by Other Persons at Appendix D1 to D6.

Six representations had been received from Other Persons. A copy of their representations were attached at Appendix D1 to D6. The representations related to the prevention of crime and disorder and public nuisance.

Mr P Reason, Other Person, thanked the Committee for considering his representation regarding the legality of the Notices and stated whilst he respected their decision, he did not agree with the Committee's decision. He 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.

Mr A Hodges, Other Person, further amplified his 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 the map included in the application was mis-leading as the Church Hall backed onto a private property.

In response to a query regarding a planning covenant, the Lawyer advising the Committee stated that any planning legislation would supercede any licence granted today.

Mr C Darvill, Applicant and Vicar of St Peters in Newton introduced himself and detailed his past roles as curate in two parishes, Chaplain and a Lecturer at the University. Following that, he stated he had spent a quarter of a century in Llansamlet, Birchgrove and Glais. It was noted that for the last 5 years he had been Vicar in St Peters. Members' noted he was also in attendance on behalf of the Parochial Church Council of St Peters, of which he was the Chair.

Members' noted that Mr Darvill was representing 17 local residents who were in favour of the Application. He referred to the detail of the Application which would enable the sale of alcohol (primarily beer and wine) for private functions in the Church Hall relating to the activity of the Church and its organisations. Such activities included fund raising events, refreshments after Choir practice and after church services. He stated that there was no intention whatsoever to run a pub allowing or encouraging people to come in off the street and have a drink. The purpose of the application was quite simply to enhance the service for those groups that use the Hall.

Alcohol would not be available all the time, whilst the licence would allow the sale between the hours of 12 and 10.30, it would only be provided at particular functions. By virtue of the status as a church and charity, the Church were limited and constrained by the activities it was permitted to do and running a pub would not be

one of them. The Diocese of Swansea and Brecon holds the deeds for both the land and the building and would not permit this and nor would the Applicant.

He referred to his age and the fact that he resided in the Vicarage next door to the Church Hall. He stated that he did not want a loud and raucous public house that seemingly people are objecting too.

He referred to the lack of representations from the Responsible Authorities and thanked the Licensing Officers for their assistance during the preparation of the Application.

He stated that St Peter's Church was built in 1903 and the Church Hall was officially opened on 29 December 1921 with a large gathering and refreshments. The day following the official opening, the local children enjoyed a party and cinema entertainment in the Church Hall.

This of course is over 100 years ago and there is no one in the meeting who was alive at the time of the Hall's opening. Therefore, no one could complain that they moved into the neighbourhood without knowing of the existence of this large public building which, as has been evidenced, the use of which has changed little over the years and the application for this licence reflects what the Church Hall has always been used for.

He referred to representations regarding protection children from harm and stated that both the Church and organisations using the Church Hall had stringent rules and regulations in place regarding the safety of children. Parties held in the Church Hall were for primary school aged children. Children would not be present when alcohol would be served.

He referred to an assertion that the purpose of the application was solely to 'line people's pockets'. He referred to the costs involved in running such a building, especially during the Covid pandemic which had seen many public buildings closed. Running the Church Hall was only viable as a result of a modest return from the Coffee Shop and exercise classes. Many involved in the running of the building did so for no financial remuneration.

In relation to questions from Other Persons, Mr Darvill stated that:

- Stringent procedures were in place regarding public safety within the Church Hall.
- The Church Hall would not be open to the public for the sale of alcohol. Alcohol would only be sold during Church related occasions.
- He had not been involved in or had any knowledge of historic applications for the sale of alcohol.
- The doors at the rear of the Church Hall could be closed during evenings when the facility was being used by film clubs however more recent concerns have been in relation to ventilation and the pandemic.
- He was content for bottles not to be removed between the hours of 9 pm and 9 am.

In conclusion, Mr Darvill stated that the purpose of the Application was to make a small profit from the Church Hall to ensure it's viability in the future. He actively sought to remain on good terms with the neighbours and hoped that the neighbours wished the same.

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 Lawyer advising the Statutory Licensing Sub-Committee gave a comprehensive overview of the legal advice tendered.

The Chair indicated that the Sub-Committee had considered the application and representations made and the needs and interests of all parties in terms of the Council's Statement of Licensing Policy, Statutory Guidance and the requirements of the Licensing Act 2003

As a preliminary matter the Sub-Committee made a determination that the advertising requirements of the Licensing Act 2003 as defined by the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005 have been complied with and the matter could therefore proceed to a determination hearing for the following reasons:

- The Sub-Committee took the professional guidance of the licensing officers who are satisfied the procedure has been complied with.
- The Sub-Committee noted that the coffee shop window notice can be conveniently read from the exterior of the premises
- It is acknowledged that more visible locations could have been used for the placing of the notices, and it cannot be confirmed whether the parish board is strictly within 50 metres however it does abutt the highway and is easily visible from it. No prejudice was caused by the fact that the notice is placed there.

Following this determination the Sub-Committee **Resolved** to **Grant** the application subject to conditions consistent with the operating schedule save for a modification of wording in point 8 below restricting the times permitted:

- 1) 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.
- 2) The premises to keep up to date records of staff training and refresher training in respect of age-related sales including proxy sales to persons who are drunk and

identifying and preventing drug misuse in written or electronic format available for inspection on request by an authorised officer.

- 3) An incident recoding 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.
- 4) Other than for off sales in sealed containers no drinks are permitted to leave the licensed area as shown on the deposited plans.
- 5) Notices shall predominantly displayed at all exits requesting patrons to respect the needs of local residents and leave the area quietly.
- 6) Notices shall be predominantly displayed in all areas used for smoking requesting patrons to respect the needs of the local residents and use the area quietly.
- 7) External area to be regularly supervised by staff from premises when in use.
- 8) No rubbish, including bottles, shall be moved, removed or placed in outside areas between 2100 hours and 0900 hours.
- 9) 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.

Reasons

The Sub-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).

The Sub-Committee recognised that there is a presumption to grant the licence in the terms sought however the applicant must still satisfy the members of the Sub-Committee on how the application will promote the licensing objectives. The members were of the view that the applicant successfully demonstrated this for the following reasons:

- The Sub-Committee noted that there were no representations from responsible authorities in respect of this application and had regard to the case of Thwaites v Wirral Borough Magistrates Court [2008] EWHC 838, which stated that a committee "...must scrutinise their own anxieties about matters such as noise and other types of public nuisance particularly carefully if the responsible authorities raise no objections on these grounds...";
- The Sub-Committee had regard to the concerns of the objectors but were assured that this is not going to be a public bar but a facility for people and organisations already using the hall and for church purposes.

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Cont'd

- The Sub-Committee determined that no bottles or glasses should be emptied between 9pm and 9am
- The Sub-Committee noted the residents' concerns regarding parking issues, which whilst well intentioned are not part of the licensing objectives.
- The Sub-Committee noted that the designated premises supervisor (DPS) lives on site and would therefore be in a position to respond to undue nuisance before any complaints arise, however if any noise concerns materialise regarding noise then these can be addressed by either environmental health or through the licensing review procedure

The meeting ended at 11.46 am

Chair