



City and County of Swansea

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

Council Chamber - Guildhall, Swansea

Wednesday, 17 April 2019 at 10.00 am

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

<b>Councillor(s)</b>	<b>Councillor(s)</b>
S J Gallagher	P Lloyd

<b>Officer(s)</b>	
Gareth Borsden	Democratic Services Officer
Yvonne Lewis	Team Leader, Licensing
Rachel Loosemore	Licensing Officer
Lyndsay Thomas	Principal Lawyer

**Also Present**  
Angharad Bethan Boo      Applicant

**Apologies for Absence**  
Councillor(s): None

### **9 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.

### **10 Licensing Act 2003, Section 34 Application to Vary a Premises Licence - Boo's Kitchen, 2 Woodville Road, Mumbles, Swansea.**

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

The Principal Lawyer provided an overview of the procedure to be adopted by the Sub Committee when considering the application.

The Licensing Officer reported on the application for a variation of a premises licence in respect of Boo's Kitchen, 2 Woodville Street, Mumbles. She referred to the licensing objectives, policy considerations and the guidance from the Home Office. Specific reference was made to the conditions currently attached to the premises licence at Appendix A, the location plan of the premises at Appendix B, and the representations made by other persons at Appendix C.

She stated that a condition attached to the original licence granted in 2012 "Sunday-The premises is to remain closed to the public" is not enforceable and should be removed from the licence going forward.

The Licensing Officer reported that the premises had recently been granted revised planning permission/operating hours of 08.00-22.30(Sun-Thurs) and 08.00-23.30(Fri & Sat).

In the absence of the other persons, the Principal Lawyer read out the contents of the two letters received.

Angharad Bethan Boo (applicant) outlined the reasons and rationale behind her application and referred to the current and proposed future operation of the small independent vegetarian café which she had been operating since May 2018.

She indicated she had undertaken some trial evening events in December following suggestions from customers. These had proved successful, so she intended to expand her business to include regular evening opening. She indicated she hoped to employ additional full time staff as a result.

In response to Member questions, the applicant confirmed the following issues: Outside areas currently used for eating/drinking, the lack of signage displayed relating to smoking, the complaints received regarding the extractor fan and parking issues at the premises, the flat above the premises is rented accommodation, patrons are only served food/drinks via table service, her contact number was available to local residents for any complaints/issues, staff training in relation to Challenge 21.

Following further questions, she indicated she would be happy for the use of the outside area to terminate at 6pm, and to display signs on exit asking patrons to be respectful of neighbours with regard to noise/disturbance etc.

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 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 Statements of Licensing Policy, statutory guidance and the requirements of the Licensing Act 2003.

The Sub-Committee **Resolved to Vary** the application subject to the amended conditions outlined below:

1. The reference to the premises remaining closed to the public on a Sunday be removed from the licence on legal advice that it is not appropriate for the purposes of the Licensing Act 2003 to have it on the premises licence.
2. The variation granted as per application with the sale of alcohol from 10.00 to 23.00 hours Monday to Sunday and Condition No 2 on the licence being modified to read "...The external area not to be used after 18.00hours ...".

#### Reasons for Decision

The Sub Committee noted the update regarding the planning application and that opening hours had been granted from 08.00 to 22.30 Sunday to Thursday and 08.00 to 23.30 on Friday and Saturday. In line with legal advice the Sub Committee considered the application before them in accordance with their duty under S5 of the Licensing Act 2003 and the promotion of the licensing objectives.

The Sub Committee considered the promotion of the licensing objectives in the context of the application and considered the effect of the proposed variation to increase the hours of the sale of alcohol as raised in the 2 relevant representations received .

As neither other persons attended, the Sub Committee found it difficult to determine if the grant would have the suggested effect of undermining the licensing objective of the prevention of public nuisance as the written representations were vague and the Sub Committee could not ask questions of the other persons to amplify or expand the issues they raised. Certain complaints regarding car parking and references to noises away from the vicinity of the premises had to be disregarded as not being relevant to the determination in line with the 2003 Act and Statutory Guidance .

The Sub Committee enquired of the applicant as to any complaints made . They heard references to complaints focussing on the planning issues and that around 34 objections had been received, namely about car parking and a noisy extractor fan which had been resolved by her, opening too early and rubbish issues which was not down to the premises and she had taken photographs as evidence.

The Sub Committee noted the applicant said her clientele were not the same as those frequenting Newton Road and there was no taxi rank nearby. Further the premises was not directly next to the neighbour as there is a flat. She confirmed she doesn't have bottle banks and all recycling is done inside the premises. She indicated there was no taxi rank nearby. The flat was an AirBNB and use of the external area late at night would not be acceptable so it was not used after 17.00hours.

In the absence of any representations by responsible authorities and with only general and very limited information presented to it regarding public nuisance from the other persons, the Sub Committee found there was no evidence of noise emanating from within the premises during it hours of operation.

The Sub Committee did consider there was potential for public nuisance from the use of the external area of the premises but were satisfied the modification of condition No 2 would prevent any noise from the external area at noise sensitive times.

The Sub Committee were satisfied that having regard to the nature of the premises, its limited capacity and conditions requiring the supply of alcohol only to patrons seated at tables by waiter/waitress service the increased hours for the sale of alcohol would not undermine the licensing objective for the prevention of public nuisance if the hours sought were granted. The Sub Committee were also satisfied the premises licence holder and designated premises supervisor was now fully conversant with the conditions attached to her premises licence and the need to comply with them. The applicant confirmed her contact number was available to anyone who had any issues with the running of the premises.

The meeting ended at 11.27 am

**Chair**