



City and County of Swansea

**Minutes of the Statutory Licensing Sub Committee
2018/2019**

Council Chamber - Guildhall, Swansea

Thursday, 13 June 2019 at 10.00 am

Present: Councillor P M Matthews (Chair) Presided

Councillor(s)
C Anderson

Councillor(s)
B J Rowlands

Councillor(s)

Officer(s)

Lynda Anthony

Licensing, Food and Safety Manager

Charles Gabe

Licensing Officer

Allison Lowe

Democratic Services Officer

Lyndsay Thomas

Principal Lawyer

Applicant (Overdraft, Clydach, Swansea)

Stuart Jones

Applicant

Also Present

Craig Jones

Counsel for Other Persons, Iscoed Chambers

Apologies for Absence

Councillor(s): Nil

3 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.

4 Licensing Act 2003 - Section 17 Application for a Premises Licence - Overdraft, 41 High Street, Clydach, Swansea. SA6 5LQ

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

The Licensing Officer reported on the application for a premises licence in respect of Overdraft, 41 High Street, Clydach, Swansea, SA6 5LQ. He referred to the application, the background of the former premises, the licensing objectives, relevant representations, policy considerations and the guidance from the Home Office.

Specific reference was made to location plan of the premises at Appendix A, a plan of the proposed premises at Appendix B, conditions consistent with the operating schedule at Appendix C and the representations made by Other Persons at Appendix D

Eight representations had been received from Other Persons. The representations related to public nuisance and the prevention of crime and disorder.

Mr Craig Jones, Counsel on behalf of the representations from "Other Persons", further amplified the written representations objecting to the application and highlighted the concerns of the objectors in relation to the undermining of the Statutory Licensing Objectives in relation to the prevention of crime and disorder and public nuisance.

In response to Member questions, the Applicant confirmed:

- That he had put the opening hours in the advert rather than the times for the Licensable Activities and that could have meant Other Persons thought the premises would be open for longer than actually intended. The Applicant clarified the hours being sought were as set out in para 3 of the report;
- The intention was an up-market drinking establishment. He was a "hands-on" businessman who would keep a close eye on his business with regard to ensuring the licensing objectives were promoted;
- CCTV would be installed with no smoking inside nor outside in the beer garden;
- Signs would be placed inside and by the entrance / exit reminding patrons to keep the noise down in order to respect the neighbours;
- There would be an accident recording book to record any incidents or ejections. In addition, any underage attempts to enter the premises would be monitored;
- He clarified that there were approximately 40 seats inside the premises which would hold a maximum of just under 60 (59) people;
- He confirmed that he owned 2 other businesses so was aware of adhering to relevant guidance, etc;
- He did not want the rear beer garden to become the smoking area, however he would consider providing a smoking shelter should the need arise as he acknowledged that it was not good to see people smoking at the front of the premises;
- He confirmed that he owned the one bedroom flat above the premises which could be accessed via the rear beer garden. It was currently occupied by a single male tenant who had no objection to the application. He had also spoken to two other objectors to fully explain his application;
- In relation to SIA licensed door supervisors (who would be First Aid trained), he did not think that they would be needed, but would base this requirement on risk assessments which would be carried out for each individual event;
- In event of a fire a "sounder" alarm would activate and overpower any live music being played. He was still in the process of liaising with the Fire Officer in relation to other fire safety requirements, such as sirens in the toilet;

- Monitoring of the outside area would be supervised by the staff when collecting glasses regularly. This area would also be monitored via CCTV. Bar staff / glass collectors would also monitor the number of people in the premises (max of 59) to ensure the number did not exceed its maximum;
- In response to the written representation at page 21 regarding the escape of music he explained that there was double glazing throughout the premises and a corridor between where the live and recorded music would take place and the exit to the front. He confirmed there would be no speakers or music outside in the external area. Also the Applicant said door closers would be fitted to ensure doors remained closed;
- The Applicant agreed to varying the time that bottles be removed from outside area to cease at 2100 hours;
- He confirmed that no food (hot or cold) would be provided, only crisps, nuts and nibbles. He had, however purchased a coffee machine to encourage patrons to utilise during the “drinking up” time in order to quieten things down.

The following was confirmed on open questions: -

The Applicant agreed to the opening times being amended to:-
Monday to Wednesday – 10.00 to 23.30
Thursday to Sunday -10.00 to 00.30

The Applicant acknowledged this meant any Licensable Activities would cease 30 minutes before the closing times.

In response to questions regarding SIA licensed door supervisors, the applicant stated that the area was a close-knit community with patrons being known to him, including friends and family. No similar problems had occurred in any of the other two drinking establishments in the area and re-iterated his stance of conducting risk assessments for each individual event held. He also agreed to undertake the SIA licensed door supervisor course himself.

He stated that both the Bar Manager and himself would be the Designated Premises Supervisor (DPS). The Lawyer advising the committee advised there would only ever be 1 DPS for the premises.

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 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.

1. An incident book, bound in numerical order, shall be maintained at the premises showing details of the date and time of all assaults, injuries, accidents, interventions by staff or ejections, as well as details of the members of staff involved, the nature of the incident and the action/outcome. The book must be kept available for inspection by the Police and authorised officers of the Local Authority;
2. No rubbish, including bottles, shall be moved, removed or placed in outside areas between 2300 hours and 0800 hours (see modification below);
3. 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;
4. 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 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 and 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 to a Police Officer/Local Authority Officer on demand. The Recording equipment shall be kept in a secure environment under the control of the DPS or other responsible named individual. An operational daily log must be maintained, endorsed by signature, indicating the system has been checked and is compliant. In the event of any CCTV system failings the actions taken are to be recorded, and the Premises Licence holder/DPS must report the failure to the Police/Local Authority;
5. A log shall be kept detailing all refused sales of alcohol. The log will include the date and time and reason for the refused sale and a means of identifying 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;

6. Premises to keep up to date records of staff training and refresher training in respect of age related sales including proxy sales, 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.

The modified conditions to be added to the licence were as follows:-

- In Appendix C (Condition 3 above) to the report – amend 23.00 hours to 21.00 hours.

The following conditions are also to be added:-

7. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and leave the area quietly;
8. 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;
9. A direct telephone number for the manager to the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents in the vicinity;
10. The external area to be regularly supervised by staff from the premises when in use;
11. The Toilets to be regularly monitored when the premises in use;
12. Notices shall be clearly displayed in the premises to emphasise to the customers the prohibition on providing sales of alcohol to persons under the age of 18;
13. Persons under the age of 16 to be accompanied by an adult;
14. The consumption of soft or alcoholic drinks purchased at the premises is prohibited on the highway outside the premises;
15. Other than for off sales in sealed containers no drinks are permitted to leave the licensed and external area as shown on the deposited plan;
16. No Loudspeakers shall be located in the entrance lobby or in the external area of the premises building;
17. All windows and external doors to be kept closed at any time when live and recorded music takes place, except for the immediate access and egress of persons;
18. External area to be cleared of all customers by 22.00 hours;

19. A minimum of 1 licensed door supervisor to be employed at the premises for 21.00 to the close of business on Fridays Saturdays and Sundays of bank holidays and days to be considered major events;
20. A drugs safe to be present at the premises;
21. Signs to be prominently displayed at the entrance to the premises, within the toilet facilities and at key strategic points within public access areas to state that drug use is unacceptable;
22. Random toilet checks conducted for the purpose of drug prevention;
23. A drug safe scheme will be in place to South Wales Police standards;
24. No live music to be played in the external area after 21.00;
25. There shall be "CCTV in operation" signs prominently displayed in the premises.

Reason for Decision

The Licencing Sub Committee considered all the written and oral representations and noted the concessions made by the Applicant regarding opening times and decided that with the modifications a grant would not undermine the Licensing Objectives.

The Licensing Sub Committee found that this were residential premises in close proximity to the premises which could be affected by a grant in the form the application was made.

The Licensing Sub Committee noted that the Applicant had put the opening hours in the advert rather than the times for the Licensable Activities and that could have meant Other Persons thought the premises would be open for longer than actually intended .The Applicant clarified the hours being sought were as set out in para 3 of the report.

The Licensing Sub Committee found this was to be an alcohol led premises rather than a food led premises with a capacity of up to 60 persons. Therefore there was potential for the Licensing Objectives to be undermined on the basis of the application as made.

It was noted there were no responses by the police and other Responsible Authorities but that was not determinative of there not being a potential for the Licensing Objectives to be undermined.

The Licensing Sub Committee noted the Applicants response to the written representation at page 21 regarding the escape of music that there was double glazing throughout the premises and there was a corridor between where the live and recorded music would take place and the exit to the front. The Applicant

confirmed there would be no speakers or music outside in the external area. Also the Applicant said door closers would be fitted to ensure doors remained closed.

As to the opening times the Licensing Sub Committee noted the Applicant agreed to these being amended to:-

Monday to Wednesday – 10.00 to 23.30
Thursday to Sunday -10.00 to 00.30

The Applicant acknowledged this meant any Licensable Activities would cease 30 minutes before the closing times. Therefore it followed there would be no Late Night Refreshments or regulated entertainment (live and recorded music) on the days of Monday to Wednesday as the time a licence was required for these Licensable Activities was after 23.00.

The sale of alcohol would take place on Monday to Wednesday from 10.00 to 23.00 hours.

On Thursday to Sunday the Licensable Activities (sale of alcohol/Late Night Refreshment / Regulated Entertainment – Live and Recorded music) would be from 10.00 to 00.00 but that there is to be no live or recorded music after 23.00 on a Thursday.

The Licensing Sub Committee were grateful to the Applicant for the reduced hours but felt in light of the Other Persons representations, that live and recorded music would cause a noise nuisance on a Thursday and therefore felt in light of the restrictions agreed for Monday to Wednesday the same times for that Licensable Activity should apply to a Thursday as well.

Following the discussion and responses by the Applicant to the representative for the Other Persons a number of further concession were made by the Applicant and this are embodied in the conditions to be added to the licence.

The Licensing Sub Committee did note there was no agreement between the Applicant and the Other Persons regarding the condition 1 proposed on the Operating Schedule and the need for at least 1 SIA licensed door staff to be on the door on a Friday and Saturday to deal with issues regarding the use of the external area and restricting the drinking / behaviour of patrons on what is likely to be a the busiest times in and in the immediate area of the premises.

Having carefully considered the Other Persons and the Applicant's representations the Licensing Sub Committee felt the Other Persons representative was correct and at least one door staff should be on the door for certain times/nights as there was a potential for Anti-Social Behaviour. The Licensing Sub Committee felt it was not capable of being dealt with by the Applicant, who said he would not always be there and he had young bar staff collecting glasses. The Licensing Sub Committee felt the limit on the times and days reached the balance between the Other Persons and the Applicant and was appropriate for a drink lead operation with up to 60 patrons opening until 00.30 in close proximity to residential premises.

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Cont'd

The Licensing Sub Committee also felt the lack of consideration by the Applicant to his Operating Schedule and how he intended to promote the Licensing Objectives bearing in mind the application he sought meant further conditions would be appropriate to ensure the promotion of the Licensing Objectives. The following conditions were considered appropriate as they addressed the changes made by the Applicant to his application and promoted the Licensing Objectives.

The meeting ended at 11.55 am

Chair