



**Report of the Divisional Licensing Officer
Statutory Licensing Sub Committee
13 February 2019**

**Licensing Act 2003
Section 17 Application For a Premises Licence**

- 1. Premises:** Singleton Park, Oystermouth Road, Sketty, Swansea, SA2 8QJ
- 2. Applicant :** City and County of Swansea, Civic Centre, Oystermouth road, Swansea, SA1 3SN.
- 3. Application For A New Premises Licence**
 - 3.1** An application for a new premises licence was received by this authority on the 20th December 2018. The applicant has applied for a premises licence to allow the following licensable activities to take place.
 - Plays:** Monday to Sunday 08.00 – 23.00hrs
 - Films:** Monday to Sunday 08.00 – 23.00hrs
 - Indoor Sporting Events:** Monday to Sunday 08.00 – 23.00hrs
 - Boxing, Wrestling:** Monday to Sunday 08.00 – 23.00hrs
 - Live Music:** Monday to Sunday 08.00 – 23.00hrs
 - Recorded Music:** Monday to Sunday 08.00 – 23.00hrs
 - Performance of Dance:** Monday to Sunday 08.00 – 23.00hrs
 - Anything similar to Live Music, Recorded Music or Performance of Dance:** Monday to Sunday 08.00 – 23.00hrs
 - Supply of Alcohol:** Monday to Sunday 08.00 – 23.00hrs
 - Premises open to the Public:** Monday to Sunday 00.00 – 00.00

The application has been made with the expected number of people to attend the premises at one or more time to be 39,999

4. Background

The premises is a historical 250 acre grass land park situated to the West of Swansea City centre. The park has four vehicular access points from four main entrances, and a number of pedestrian access from boundary gates. The Park is defined by a boundary wall/and or fence. The park is adjacent to Swansea University, Singleton Hospital, Sketty Hall and Brynmill park.

The Park has been used as an event space for a variety of events for many years.

A location map can be found at **Appendix A**.

5. Promotion Of The Licensing Objectives

5.1 The Licensing Act 2003 contains four licensing objectives, namely:-

- (i) Prevention of Crime and Disorder
- (ii) Public Safety
- (iii) Prevention of Public Nuisance
- (iv) Protection of Children from Harm

Each of these objectives is of equal importance and the application must demonstrate how they are to be promoted.

Conditions consistent with the operating schedule that will be attached to the licence if granted are at **Appendix B**.

6. RELEVANT REPRESENTATIONS

6.1 Responsible Authorities

- a) South Wales Police
No representations.
- b) Trading Standards
No representations.
- c) Mid and West Wales Fire Authority
No representations.
- d) Health and Safety
No representations.
- e) Planning Authority
No representations.

f) Pollution Division

Representations were made by the Pollution Division on the 15th January 2019. The representation requested that the applicant attach the additional conditions shown at **Appendix C** to this report, to the premises licence application.

g) Child Protection

No representations.

h) Primary Care Trust/Local Health Board

No representations.

i) Licensing Authority

No Representations

j) Immigration

No representations.

j) Other Persons

Representations have been received from :

- 1 resident supporting the application
- 14 residents objecting to the application.

These representations are attached at **Appendix D**.

7. Policy Considerations

7.1 In considering this application Members should have regard to the Council's current statement of Licensing Policy adopted in July 2018. Specifically in relation to this application, Members' attention is drawn to the following paragraphs:

Control – Section 4

Paragraph 4.4 states: *The Licensing Authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public, living, working or engaged in normal activities in the area concerned. It will be expected that any representation made by "Other Persons" will indicate how the application will directly affect them in relation to one or more of the licensing objectives.*

Integrating Strategies – Section 9

Paragraph 9.4 states: *The Licensing Authority will have regard to the need to encourage and promote live music, dancing and theatre for the benefit of communities generally.*

Paragraph 9.5 states: *The Council when acting as a Licensing Authority will liaise with the Police and Highway Authority to ensure as far as possible transport arrangements that promote the Council's licensing objectives.*

Paragraph 9.6 states: *The Council, when acting as a Licensing Authority will have regard to the needs of the local tourist economy and employment situation for the area as appropriate.*

Duplication – Section 11

Paragraph 11.3 *In particular, Planning and Licensing regimes will be properly separated to avoid duplication and inefficiency. Licensing applications will not be a re-run of a planning application and the licensing decisions will not cut across decisions taken by a planning committee or permissions granted on appeal.*

There is no legal basis for the Licensing Authority to refuse an application because it does not have planning permission. The Licensing Authority will advise all new applicants to liaise with planning services to ensure they apply or any necessary permissions.

Paragraph 14.1 of the policy outlines the role of the Safety Advisory Group when planning to hold a safe event, namely:

14.1 If you intend holding an event involving large numbers you will need to contact the Safety Advisory Group (SAG) to ensure that the event can take place safely, with the knowledge of all the relevant agencies in the Authority area. For many types of events involving large numbers, there is a great deal of organising to do and the SAG asks for six months notice of events likely to attract more than 500 people. Three months notice is required for events with attendance of less than 500 people....”

7.2 A full copy of the Authority's Policy has previously been circulated to Members.

8. Guidance Issued By The Home Secretary

8.1 Members should also have regard to the relevant parts of the current guidance issued by the Home Secretary in April 2018, in particular;

- (i) Introduction – Chapter 1
- (ii) Licensing Objectives – Chapter 2
- (iii) Applications For Premises Licenses – Chapter 8
- (iv) Conditions attached to Premises Licenses – Chapter 10
- (v) Promotion of Equality – Chapter 14 paragraphs 14.66 -14.67

Representations received include concerns regarding Public Safety specifically when accessing and dispersing from the premises whilst having consumed alcohol.

Paragraphs 2.7 – 2.14 of the Guidance refers to Public Safety, in particular –

Paragraph 2.7 states: *Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above. There will of course be occasions when a public safety condition could incidentally benefit a person's health more generally, but it should not be the purpose of the condition as this would be outside the licensing authority's powers (be ultra vires) under the 2003 Act. Conditions should not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.*

Paragraph 2.8 states: *A number of matters should be considered in relation to public safety. These may include:*

- *Fire safety;*
- *Ensuring appropriate access for emergency services such as ambulances;*
- *Good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts (see paragraph 2.4 above);*
- *Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;*
- *Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation);*
- *Ensuring appropriate and frequent waste disposal, particularly of glass bottles;*
- *Ensuring appropriate limits on the maximum capacity of the premises (see paragraphs 2.12-2.13, and Chapter 10; and*
- *Considering the use of CCTV in and around the premises (as noted in paragraph 2.3 above, this may also assist with promoting the crime and disorder objective).*

Paragraph 2.10 states: *Licence holders should make provision to ensure that premises users safely leave their premises. Measures that may assist include:*

- *Providing information on the premises of local taxi companies who can provide safe transportation home; and*
- *Ensuring adequate lighting outside the premises, particularly on paths leading to and from the premises and in car parks.*

Residents representations contain concerns regarding Crime and Disorder paragraphs 2.1 to 2.6. and Public Nuisance paragraphs 2.15 to 2.21 and – In particular:

Paragraph 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.

Paragraph 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.

Paragraph 2.17 states: Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (see chapter 16). Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.

Paragraph 2.18 states: As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.

Paragraph 2.19 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.

Paragraph 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.*

The residents representations also raise concerns regarding the Protection of Children from harm and relevant guidance may be found at paragraphs 2.22 to 2.32.

Planning and building control – Chapter 14

Paragraph 14.64 *The statement of licensing policy should indicate that planning permission, building control approval and licensing regimes will be properly separated to avoid duplication and inefficiency. The planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice versa. However, as set out in chapter 9, licensing committees and officers should consider discussions with their planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs.*

8.2 A copy of the Home Secretary's Guidance has previously been circulated to Members.

9. Determination Of The Application

9.1 The decision must be based on the individual merits of the application and the representations received, with a view to promoting the licensing objectives outlined in paragraph 5 above.

9.2 In addition in arriving at the decision Members should have regard to the relevant provisions of the Council's Statement of Licensing Policy and the Secretary of State's Guidance as previously provided. Reasons must be provided for any departures from the Policy or Guidance.

9.3 In reaching the decision the Committee must, having regard to the representations, take such steps mentioned below (if any) as it considers appropriate for the promotion of the licensing objectives:-

a. Grant the licence subject to:

i) conditions that reflect the operating schedule, modified to such extent as the authority considers appropriate for promotion of the licensing objectives. Certain regulated entertainment under the Licensing Act 2003 (as amended) has been deregulated. Where entertainment is deregulated, but licensable

activities continue to take place on any premises, any licence conditions imposed on a grant of a licence in respect of any deregulated entertainment will be suspended.

ii) any mandatory conditions relevant to the licence

b. Exclude any of the licensable activities to which the application relates.

c. Refuse to specify a person in the licence as the premises supervisor.

d. Reject the application

The Licensing Sub Committee's instructions are requested.

Background Papers: Licence Application
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