

CITY AND COUNTY OF SWANSEA

NOTICE OF MEETING

You are invited to attend a Meeting of the

STATUTORY LICENSING COMMITTEE

At: Committee Room 1, Civic Centre, Swansea

On: Friday, 6 February 2015

Time: 9.50 am

AGENDA

Page No.

- 1 **Apologies for Absence.**
- 2 **Disclosures of Personal and Prejudicial Interest.** 1 - 2
- 3 **Minutes:** 3 - 33
To approve and sign as a correct record the Minutes of the meeting of the Statutory Licensing Sub Committee held on:
 - 5 September, 2014 (Café Nisse)
 - 5 September, 2014 (La Viva)
 - 17 September, 2014
 - 2 October, 2014; and
 - 19 December, 2014.



Patrick Arran
Head of Legal, Democratic Services & Procurement
Thursday, 29 January, 2015

Contact: Democratic Services - Tel: (01792) 637292

STATUTORY LICENSING COMMITTEE (12)

Councillors

Labour Councillors: 8

Ann M Cook	Paul Lloyd
David W Cole	Penny M Matthews
Phil Downing	Hazel M Morris
V Mandy Evans	Byron G Owen

Liberal Democrat Councillors: 2

Cheryl L Philpott	T Huw Rees
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Independent Councillor: 1

Keith E Marsh	
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Conservative Councillor: 1

Anthony C S Colburn	
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Others:

Lynda Anthony	Licensing Officer 4 Copies
Lyndsay Thomas	Legal
Police	
Public Relations Office	
Fire Service	
Democratic Services	
Archives	

Total Copies needed – 24

Disclosures of Interest

To receive Disclosures of Interest from Councillors and Officers

Councillors

Councillors Interests are made in accordance with the provisions of the Code of Conduct adopted by the City and County of Swansea. You must disclose orally to the meeting the existence and nature of that interest.

NOTE: You are requested to identify the Agenda Item / Minute No. / Planning Application No. and Subject Matter to which that interest relates and to enter all declared interests on the sheet provided for that purpose at the meeting.

1. If you have a **Personal Interest** as set out in **Paragraph 10** of the Code, you **MAY STAY, SPEAK AND VOTE** unless it is also a Prejudicial Interest.
2. If you have a Personal Interest which is also a **Prejudicial Interest** as set out in **Paragraph 12** of the Code, then subject to point 3 below, you **MUST WITHDRAW** from the meeting (unless you have obtained a dispensation from the Authority's Standards Committee)
3. Where you have a Prejudicial Interest you may attend the meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, **provided** that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise. In such a case, you **must withdraw from the meeting immediately after the period for making representations, answering questions, or giving evidence relating to the business has ended**, and in any event before further consideration of the business begins, whether or not the public are allowed to remain in attendance for such consideration (**Paragraph 14** of the Code).
4. Where you have agreement from the Monitoring Officer that the information relating to your Personal Interest is **sensitive information**, as set out in **Paragraph 16** of the Code of Conduct, your obligation to disclose such information is replaced with an obligation to disclose the existence of a personal interest and to confirm that the Monitoring Officer has agreed that the nature of such personal interest is sensitive information.
5. If you are relying on a **grant of a dispensation** by the Standards Committee, you must, before the matter is under consideration:
 - i) Disclose orally both the interest concerned and the existence of the dispensation; and
 - ii) Before or immediately after the close of the meeting give written notification to the Authority containing:

- a) Details of the prejudicial interest;
- b) Details of the business to which the prejudicial interest relates;
- c) Details of, and the date on which, the dispensation was granted; and
- d) Your signature

Officers

Financial Interests

1. If an Officer has a financial interest in any matter which arises for decision at any meeting to which the Officer is reporting or at which the Officer is in attendance involving any member of the Council and /or any third party the Officer shall declare an interest in that matter and take no part in the consideration or determination of the matter and shall withdraw from the meeting while that matter is considered. Any such declaration made in a meeting of a constitutional body shall be recorded in the minutes of that meeting. No Officer shall make a report to a meeting for a decision to be made on any matter in which s/he has a financial interest.
2. A "financial interest" is defined as any interest affecting the financial position of the Officer, either to his/her benefit or to his/her detriment. It also includes an interest on the same basis for any member of the Officers family or a close friend and any company firm or business from which an Officer or a member of his/her family receives any remuneration. There is no financial interest for an Officer where a decision on a report affects all of the Officers of the Council or all of the officers in a Department or Service.

CITY AND COUNTY OF SWANSEA

MINUTES OF THE STATUTORY LICENSING SUB COMMITTEE

HELD AT COMMITTEE ROOM 2 , CIVIC CENTRE, SWANSEA ON
FRIDAY, 5 SEPTEMBER 2014 AT 10.00 AM

PRESENT: Councillor P M Matthews (Chair)

Councillor(s)	Councillor(s)	Councillor(s)
A C S Colburn	P Downing	

Officers:

K Clague – Lawyer
R Westlake – Senior Licensing Officer
R Loosemore – Licensing Officer
C Gabe – Licensing Officer
J Parkhouse – Democratic Services Officer

6 **LICENSING ACT 2003 - SECTION 17 APPLICATION FOR A PREMISES LICENCE
- CAFE NISSE, 11 WIND STREET, SWANSEA.**

The Chair welcomed all attendees to the meeting and outlined the procedure to be adopted by the Sub Committee in considering the application.

The Licensing Officer, Rachel Loosemore reported on the application for a premises licence in respect of Café Nisse, 11, Wind Street, Swansea. She referred to the licensing objectives, policy considerations and the guidance from the Home Office. Specific reference was made to the application at Appendix A, the location plan of the premises at Appendix B and the conditions consistent with the operating schedule that will be attached to the licence at Appendix C.

It was noted that the premises is situated in the City Centre within an area defined by the Council's Statement of Licensing Policy as a Cumulative Impact Area and reference was made to paragraph 6 of the Special Policy on Cumulative Impact, adopted by the Council on 30 July 2013, at Appendix E.

She further advised that a written representation had been received from the Unison Office which expressed their objection to the application and highlighted concerns regarding disturbance, noise and safety issues relating to their staff. This related particularly to the sale and consumption of alcohol in the shared Courtyard.

Ms Tinotenda Dzaro, applicant and her representative, Mr Rhys Davies spoke in support of the application for a premises licence. She outlined the background details in relation to the premises and stated that alcohol would only be served with food orders by waiter / waitress service.

Members asked questions of Ms Dzaro and Mr Davies in relation to the sale of alcohol, use and management of the Courtyard, use of CCTV and bottle / waste disposal.

The Lawyer advising the Sub Committee asked questions to Ms Dzaro who responded accordingly.

In summary, Ms Dzaro referred to her earlier representation and stated that she had no further comments.

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 licence subject to the conditions that reflect the operating schedule, modified to include the following additional conditions considered appropriate to promote the licensing objectives:

1. Self-closing devices must be affixed to the external doors leading from the premises to the Courtyard and shall be operated during licensable hours;
2. Bottles and other glassware are to be removed from the premises between the hours of 9am and 5pm only.

Reason for Decision

The Members had due regard to the licensing objectives and to the Council's Special Policy in relation to Cumulative Impact. In particular, the members had regard to the written representation received from Sarah Evans of Unison and the representations made by the Applicant today. Members were satisfied that, given the licensable hours requested, the nature of the premises and the safeguards put in place by the Applicant to promote the licensing objectives, the grant of the licence today subject to the conditions referred to will not add to the existing cumulative impact on the

licensing objectives. As such, there is justification for departing from the Special Policy in this instance in light of the individual circumstances of the application.

The meeting ended at 10.35 am

CHAIR

CITY AND COUNTY OF SWANSEA

MINUTES OF THE MEETING OF THE EMERGENCY STATUTORY LICENSING SUB-COMMITTEE

HELD AT THE CIVIC CENTRE, SWANSEA ON FRIDAY 5 SEPTEMBER
2014 AT 10.35 A.M.

PRESENT: Councillor P M Matthews (Chair) presided

Councillor(s): **Councillor(s):**

A C S Colburn P Downing

Officers:

K Clague - Lawyer
R Westlake - Senior Licensing Officer
R Loosemore - Licencing Officer
C Gabe - Licensing Officer
J Parkhouse - Democratic Services Officer

Also present:

Superintendent - South Wales Police
A Kingdom
Sergeant J Evans - South Wales Police

7. **APOLOGIES FOR ABSENCE**

No apologies for absence were received.

8. **DISCLOSURES OF PERSONAL AND PREJUDICIAL INTEREST**

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

9. **LICENSING ACT 2003 - SECTION 53A - FAST-TRACK PROCESS
TO REVIEW A PREMISES LICENCE WHERE THE PREMISES IS
ASSOCIATED WITH SERIOUS CRIME, SERIOUS DISORDER OR
BOTH - LA VIVA, 21 HIGH STREET, SWANSEA**

Richard Westlake, Licensing Officer introduced the report and reported that Section 53A of the Licensing Act 2003 allows the Police to trigger a fast-track process to review a premises licence where they consider that the premises are associated with serious crime, serious disorder or both. The premises must be licensed for the sale of alcohol.

Minutes of the Meeting of the Emergency Statutory Licensing Sub-Committee
(05.09.2014) Cont'd

Section 53B allows the Licensing Authority to consider the application as to whether it is necessary to take interim steps pending the determination of the review. The interim steps pending review can include the modification of the conditions of the premises licence; the exclusion of the sale of alcohol by retail from the scope of the licence; the removal of the designated premises supervisor from the licence; the suspension of the licence.

The interim steps must be considered within 48 hours of the application being received. The premises licence holder does not have to be present at this stage. Section 53C provides that the Authority must in any event undertake the review within 28 days from receipt of the application.

Where on its consideration whether to take the interim steps, the Licensing Authority does take one or more such steps, its decision takes effect immediately or as soon after as that Authority directs, but it must give immediate notice of its decision and its reasons for making it to the holder of the premises licence and the Chief Officer of Police.

It was added that on 4 September 2014, an application for an expedited/summary licence review under the Licensing Act 2003, as amended by the Violent Crimes Reduction Act 2006 was issued from Superintendent Andrew Kingdom of the Western Division, Swansea, South Wales Police. The application related to the premises licence for La Viva, 21 High Street, Swansea. The required certificate under Section 53A(1)(b) of the Act states that immediate action is required in relation to the management and control of the property. The premises had been associated with serious crime in that a cannabis factory was discovered on the premises. The application is made for an expedited review on the basis of the evidence recovered and collated by Police, which confirms that La Viva is a premises associated with serious crime. Whilst the premises is reportedly closed, the premises licence is still in force and the premises could reopen at any time. The Police have serious concerns that the individual in control of the premises had allowed and possibly been involved in the property being used for the cultivation and production of cannabis.

The Superintendent considered this to be evidence of serious crime in accordance with the requirements of the Licensing Act 2003 which requires the urgent consideration of the Police application. Given the weight of evidence, it is in his view imperative in accordance with the Licensing Objectives that the premises not be allowed to reopen pending the outcome of the review.

Minutes of the Meeting of the Emergency Statutory Licensing Sub-Committee
(05.09.2014) Cont'd

Further information on the discovery of the premises being used for cultivation and production of cannabis is detailed at Section 4 of the application. The Police requested as an interim step, the suspension of the premises licence with immediate effect until the review of the premises licence could take place. The Police also confirmed that at the review hearing, they will seek revocation of the premises licence.

Members asked questions of the South Wales Police representatives who responded accordingly.

RESOLVED that the premises licence be suspended with immediate effect and until such time as a review of the premises licence is heard before the Licensing Sub-Committee.

Reason

Having considered the application from South Wales Police and the supporting representations made orally by officers, Members were satisfied that there is evidence that the premises is associated with serious crime as defined in Section 81 of the Regulation of Investigatory Powers Act 2000. The Members were satisfied that it is necessary to take interim steps of suspending the premises licence for La Viva, 21 High Street, Swansea, SA1 1LF, Licence No. SJ036204 with immediate effect due to the cultivating of a Class B drug at the premises with an estimated street value of £300,000. Members considered the above interim step necessary and proportionate to secure the promotion of the Licensing Objectives and, in particular, to prevent serious crime from occurring.

The meeting ended 10.50 a.m.

CHAIR

CITY AND COUNTY OF SWANSEA

MINUTES OF THE STATUTORY LICENSING SUB-COMMITTEE

HELD AT THE COUNCIL CHAMBER, CIVIC CENTRE, SWANSEA ON
WEDNESDAY 17 SEPTEMBER 2014 AT 10.00 A.M.

PRESENT: Councillor P M Matthews (Chair) presided

Councillor(s): **Councillor(s):**

A C S Colburn P Lloyd

Officers:

L Thomas - Senior Lawyer
R Westlake - Senior Licensing Officer
C Gabe - Licensing Officer
J Parkhouse - Democratic Services Officer

Representing Licensing Authority:

R Loosemore - Licensing Officer

Representing Responsible Authorities:

Superintendent A Kingdom - South Wales Police
Chief Inspector J Davies - South Wales Police
PC J Williams - South Wales Police
K Gordon - Solicitor - South Wales Police

55 Wind Street:

A Griffiths - Applicant
M Comissini - Supporting Applicant
L Davies - Supporting Applicant

10. **APOLOGIES FOR ABSENCE**

There were none.

11. **DISCLOSURES OF PERSONAL AND PREJUDICIAL INTEREST**

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

12. **LICENSING ACT 2003 - SECTION 17 - APPLICATION FOR A PREMISES LICENCE - 55 WIND STREET, SWANSEA SA1 1EG**

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

The Licensing Officer, Charles Gabe reported on the application for a new Premises Licence in respect of 55 Wind Street, Swansea. He referred to the Licensing Objectives, policy considerations and the guidance from the Home Office. Specific reference was made to the application form at Appendix A, the location plan of the premises at Appendix B and the conditions consistent with the operating schedule that will be attached to the Licence at Appendix H.

It was noted that the premises is situated in the city centre within an area defined by the Council's Statement of Licensing Policy as a cumulative impact area and reference was made to paragraph 6 of the Special Policy on Cumulative Impact, adopted by the Council on 30 July 2013, at Appendix F. Also, reference was made to the effect of special policies with an extract from Home Office Guidance at Appendix G.

A representation was received from the Licensing Authority on 11 August 2014. The representation refers to the prevention of crime and disorder and the prevention of public nuisance. A copy of the representation was provided at Appendix D.

He further advised that a representation was received from South Wales Police on 22 August 2014. The representation refers to the prevention of crime and disorder and a copy of the representation was provided at Appendix C. Additional papers were also provided prior to the hearing and which had been circulated to all parties. A representation was also received from Councillor Fiona Gordon, Castle Ward Member on 1 August 2014. The representation refers to the prevention of public nuisance and a copy of the representation was provided at Appendix E.

In response to a question from the Chair, the Licensing Officer provided details of the hours of operation of other licensed premises operating within the area.

R Loosemore, on behalf of the Licensing Authority, amplified her written representations and highlighted the concerns in relation to the potential undermining of the Licensing Objectives regarding the prevention of crime and disorder.

Representatives of South Wales Police further amplified their written representations objecting to the application and highlighted their concerns in relation to the undermining of the Statutory Licensing Objectives and referred to the Cumulative Impact Special Saturation Policy relating to Wind Street and the surrounding area. The impact upon the prevention of crime and disorder was highlighted, particularly the vast burden placed upon the Police by the night time economy in this area. Emphasis was placed upon the location of the premises and the area outside constituting a 'bottleneck' and is consistently one of the areas highest in requiring the intervention of officers. It was explained that this already has an impact upon the available resources which were being provided at the expense of residential communities. It was stressed that an increased burden upon these resources will result in a corresponding increase on the incidences of crime and disorder in that location.

Reference was made to figures relating to crime and disorder and Police zoning data in Wind Street and the surrounding area and it was stated that the area was responsible for 44% of all violent crimes in the Western Division. It was added that the experience with other like businesses that provide hot food until the very early hours, after the closure of premises licenced to sell alcohol, only served to encourage individuals to remain in the area, thereby extending the night-time economy and its demands. It was outlined that historically, late night refreshment houses suffer a large volume of crime and disorder, both inside and outside their premises.

It was highlighted that where the Special Saturation Policy applied, the applicant had failed to demonstrate in her operating schedule that the application will not add to the cumulative impact on one or more of the licensing objectives, particularly that relating to the prevention of crime and disorder.

Members and the Senior Lawyer asked questions in relation to similar premises in the immediate vicinity to the application address, particularly in relation to the prevention of crime and disorder and statistics relating to recorded crime.

A Griffiths, Applicant supported her application and highlighted that a similar premises was open in Salubrious Passage, very near to the application premises. She stated that CCTV will be installed at the premises and there will be security present at all times. She added that the application premises would not add to the footfall on Wind Street or to the cumulative impact on the licensing objectives.

Minutes of the Statutory Licensing Sub-Committee (17.09.2014) Cont'd

M Comissini and L Davies spoke in support of the applicant referring to the need to obtain a licence until at least 03:00 hours, the work the applicant had undertaken at the premises including obtaining planning consent, the level of security that will be present at the premises and the nature of the application.

The Senior Lawyer further outlined the Special Policy on Cumulative Impact and the requirement that applicants must demonstrate that their application will not add to this cumulative impact. The Applicant was given a further opportunity to address the Members . Members asked questions in relation to the Special Policy on Cumulative Impact in relation to the application.

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 refuse the application.

Reasons

There is a Cumulative Impact Policy (CIP) in force in Wind Street where premises are situated.

The Sub-Committee were satisfied that the grant of the licence for the late night refreshment (LNR) is directly relevant to the reasons for its CIP.

The Sub-Committee disregarded and gave no weight to representations regarding planning or the need for premises as those were not relevant for the promotion of the licensing objectives .

Minutes of the Statutory Licensing Sub-Committee (17.09.2014) Cont'd

The Sub-Committee had regard to the policy, statutory guidance and written and oral representations.

The Sub-Committee was mindful of statutory guidance, paragraph 9.12, and the Police being the main source of advice and information on the impact and potential impact of licensing activities, particularly on the crime and disorder aspect.

The Sub-Committee noted that the applicant agreed to reduce the hours for LNR from 11.00pm to 3.00 a.m. to reduce the negative cumulative impact. The Sub-Committee accepted Police evidence that problems arise from 11.00 p.m. and the negative impact of a grant will not be affected by the offered reduction in hours and noted the fact the Police remained opposed to the application.

The Sub-Committee found the Applicant had not dealt with the cumulative impact in the application as required by the policy and the statutory guidance, and noted, by her own admission, that she was naïve and unaware of the Authority's policy or its affect at the time of making the application.

The Sub-Committee found the applicant had been advised by both South Wales Police and the Licensing Authority Officers of the existence and effect of such a policy and the applicant was expected to deal with the issue.

The Sub-Committee found the applicant, even though she had been given an opportunity prior to and at the hearing, had not challenged the evidence of the Police and had only disagreed with it. She had also failed to demonstrate the premises would be different and be operated so as to ensure it did not have a negative impact.

The Sub-Committee noted and accepted the Police's representations that the specific location of the premises was also of relevance to the negative impact it would have.

The Sub-Committee fully understood applications could be made notwithstanding the CIP and those applications had to be dealt with on their merits and could not be refused without good reason.

The Sub-Committee having taken all the matters it should have regard to into account, did not consider it appropriate to depart from the Authority's policy on this occasion.

The meeting ended at 12.12 p.m.

CHAIR

CITY AND COUNTY OF SWANSEA

MINUTES OF THE STATUTORY LICENSING SUB COMMITTEE

HELD AT COMMITTEE ROOM 2 - CIVIC CENTRE ON THURSDAY, 2
OCTOBER 2014 AT 10.00 AM

PRESENT: Councillor P M Matthews (Chair) Presided

Councillor(s) **Councillor(s)**

A C S Colburn P Downing

Officers:

L Thomas - Senior Lawyer
R Westlake - Senior Licensing Officer
R Loosemore - Licensing Officer
S Woon - Democratic Services Officer

Representing Responsible Authorities:

P.C. J Evans - South Wales Police - Applicant

La Viva, 21 High Street, Swansea:

A Rasool - Premises Licence Holder (PLH)
A Brain - Supporting PLH
H Rees Davies - Solicitor

13 **APOLOGIES FOR ABSENCE.**

There were none.

14 **DISCLOSURES OF PERSONAL AND PREJUDICIAL INTEREST.**

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

15 **LICENSING ACT 2003 - SECTION 53C - REVIEW OF A PREMISES LICENCE
FOLLOWING REVIEW NOTICE UNDER SECTION 53A.**

The Senior Lawyer advising the Committee welcomed all attendees to the meeting and outlined the procedure to be adopted by the Sub Committee in considering the review. She referred to the Section 53A of the Licensing Act 2003 which required a determination to be made within 28 days following the application which meant it had to be determined by 2 October 2014 and the Hearing Regulations 2005.

The parties were reminded that if they wish to present any additional documentation at the hearing they would need the consent of the other party. The parties must keep representations relevant and as no representations had been made by the premises licence holder the Applicant may need to be given time to consider anything raised at the hearing .

The Licensing Officer reported on the review of a Premises Licence (currently suspended) under Section 53A in respect of La Viva, 21 High Street, Swansea. He referred to the copy of the summary application attached at Appendix A, policy considerations and the guidance from the Home Office.

He stated that no representations had been received.

He also stated that the licensing authority must consider i) what steps it considers appropriate for the promotion of the licensing objectives and ii) consider what steps should be taken to secure the promotion of the licensing objectives including whether the interim steps should be made permanent.

In response to a question by the Chair, the Licensing Officer confirmed that no communication had been received from Mr A Rasool.

P.C. J Evans, South Wales Police, informed Members of the reasons South Wales Police would seek for revocation of the premises licence. She referred to Section 53A of the Licensing Act 2003 in respect of an Expedited Review of La Viva, 21 High Street, Swansea on the grounds that the premises were associated with a serious crime in that a cannabis factory was discovered on the premises on 3 September, 2014.

She detailed the progress to date in respect of the police investigation. It was noted that the City and County of Swansea owned the freehold to the property which is currently leased to Mr A Rasool on a long term lease.

Mr A Rasool had attended Swansea Central Police Station on 23 September, 2014 and produced documents which indicated that the property was sub-let to another person who is yet to be interviewed. Mr A Rasool remained as a witness pending the result of forensic evidence.

She referred to guidance which stated that it was not for the Sub-Committee to establish guilt or innocence. However, there had been a serious undermining of the Licensing Objectives.

In summary, Members' noted that the premises may be sub-let unlawfully subject to the terms of the City and County of Swansea lease being clarified. The forensic evidence had not yet been received to absolve Mr A Rasool of any wrong doing. The venue was not trading and the tenant had free reign at the premises. Mr A Rasool was responsible for monitoring activity at the premises and failed to promote the Licensing Objectives. Should the South Wales Police preference for revocation of the licence not be accepted by the Statutory Licensing Sub Committee, a three month suspension was requested to allow the Police investigation into the matter.

In response to a member question, P.C. J Evans confirmed that no communication had been received from Mr A Rasool prior to 23 September, 2014.

The Solicitor representing Mr A Rasool confirmed that his client did not accept that the sub-leasing of the premises was breach of the lease. Mr A Rasool had no knowledge of criminal activity taking place and had assisted Police and would continue to do so. Mr A Rasool was attempting to track the tenant.

He referred to the possibility of a three month suspension which would allow refurbishment to improve the premises to return the building to the purpose for which it was intended.

The Solicitor representing Mr A Rasool felt that it would be premature to revoke the licence and referred to the three month suspension allowing the Police time to collate the evidence. He stated that Mr A Rasool would submit plans in terms of what he intended to do with the building. The matter could then come back to committee for a final decision.

In response to a question from the Chair, Mr A Rasool stated that his address was not at the premises and he had received no contact or been served any paperwork. He stated that paperwork had been hand delivered to 21 High Street with no stamp. Upon finding the papers he had shown his friend who made contact immediately.

The Lawyer advising the Sub-Committee stated that the Licence had been transferred to Mr A Rasool in November, 2013 and the address provided was 21 High Street, Swansea. If Mr Rasool was stating that he was not at that address on a regular basis then it was incumbent on Mr A Rasool, as premises licence holder, to provide an address where he could be contacted.

Mr A Rasool stated that he had provided the Licensing Authority with an address in November, 2013.

In response, the Lawyer advising the Committee, confirmed that the address on the Licence to transfer was La Viva, 21 High Street, Swansea and Mr A Rasool was responsible for advising of any change.

In response to a Member question, the Solicitor representing Mr A Rasool confirmed that the sub-letting of the premises was evidenced in writing and had been provided to South Wales Police.

In response to a question from the Chair, the Solicitor representing Mr A Rasool confirmed that the City and County of Swansea had not been advised that the premises had been sub-let.

In response to a questions from the Lawyer advising the Sub-Committee, Mr A Rasool stated that there were no conditions associated with the lease of the premises.

In response to a question from the Chair, Mr Rasool advised that:

- a. he had bought the property as a 'buy to let' following a request from a friend who was seeking a restaurant in Swansea;
- b. Having been unaware of the activity being undertaken at the premises he had now assessed the damage and work was being progressed at the property;
- c. The intention was that the property would be refurbished and re-let;
- d. Having been informed of the Police investigation he had responded and was advised (by his friend Mr A Brain) to wait for the Police to contact him.

The Solicitor representing Mr A Rasool stated that he had recently been instructed by Mr A Rasool, prior to his involvement Mr A Brain had been assisting Mr A Rasool.

Mr A Brain, friend of Mr A Rasool, advised that Mr A Rasool had contacted him regarding the Police discovery of a cannabis factory at the premises. He had advised Mr A Rasool to contact the Police and assist with investigations. He spoke of his difficulties in making contact with the Police and the Licensing Authority and confirmed that he had left a message on 19 September, 2014 requesting that the Licensing Officer return his call as he was representing Mr A Rasool who lived in Huddesfield.

In response to a question from the Chair, Mr A Rasool stated that he was not aware who was resident at the premises.

Mr A Brain stated that the person or persons residing at the property had installed shutter blinds at the front and rear of the building. The property would have been entered from Orchard Street and contained a couch, tv and there was evidence that the person or persons had been drinking alcohol.

In response to a question from the Chair, Mr A Rasool confirmed that he was aware of the installation of shutters at the property but unaware of the requirement for planning consent in order to install the shutters.

In response to a Member question, Mr A Rasool stated that he did not inspect the property as he had been unwell since 2010. He referred to visits to the property by estate agents.

In response to a question from the Chair, Mr A Rasool stated that the property had not operated since the eviction of the previous tenant in August 2013.

In response to questions from P.C. J Evans, South Wales Police, Mr A Brain confirmed that he was aware that P.C. J Evans had advised him that she could not discuss the matter with anyone other than Mr A Rasool.

In response to questions from P.C. J Evans, South Wales Police, Mr A Rasool confirmed that:

- i. Character checks in respect of the tenant sub-leasing the premises had been undertaken on his behalf by his Solicitor;

- ii. The tenant had moved into the premises in November 2013 and paid three months' rent in advance.
- iii. Rent was collected in person every month and paid in cash.
- iv. He would travel to Swansea to collect the rent but would not collect the rent from the tenant at the premises;
- v. He was not suspicious of the fact that rent was never collected at the premises;
- vi. He was in Swansea on 1 September, 2014 but did not enter the property.
- vii. He had received phone calls from the Police on 3 September, 2014 regarding the Police activity at the property and had gone into a panic.
- viii. He had no further communication with the Police regarding the matter until 23 September, 2014, twenty days after he first became aware of Police activity;
- ix. The tenant had intended to use the premises as a lap dancing club.

The Licensing Officer sought to address issues raised during Mr A Brian's statement.

He confirmed he had attempted to contact Mr A Brain on the mobile telephone number provided on 22nd September 2014. However, the mobile number had rung continuously and not connected to an answerphone facility, therefore he was unable to leave a message.

As the process had been instigated further notices had to be served. Papers had been served in respect of the meeting on 5 September, 2014. Further papers had been served on 22 and 26 September, 2014. The letter box at the premises was not functional as a result of expanded foam. The only means to successfully deliver the documents were through a gap between the two front entrance doors.

All correspondence was served at La Viva, 21 High Street, Swansea. There was no alternative address and Section 33 of the Licensing Act 2003 states that the Premises Licence Holder should notify the Local Authority of any change to the address.

In response to a Member question, the Licensing Officer confirmed that no communication had been received prior to the telephone message that was left on 19 September, 2014. No correspondence had been received from Mr A Rasool's solicitor in respect of the matter.

The Lawyer advising the Sub-Committee clarified the timescales associated with the three month suspension and advised that there had to be a final determination today being the 28th day and there is no facility to refer the matter back to the Sub-Committee. There was a statutory right of appeal and details would be provided in the notice of determination. Any Appeal would be considered by the Magistrates Court.

It was incumbent on Mr A Rasool, as Premises Licence Holder, to promote the Licensing Objectives in partnership with the Police and Local Authority.

Mr A Rasool had not spoken about his intentions to promote the Licensing Objectives and there were issues regarding the timescales in relation to him becoming aware of Police activity on 3 September, 2014 and his contact with Police

on 23 September, 2014. There had been no written representations from Mr A Rasool.

In order to be of assistance, the Lawyer advising the Committee stated that the Sub-Committee would need to be satisfied on a number of issues.

With regard to the Lease, it is very unlikely the City & County of Swansea would have given permission for Mr Rasool to occupy the premises without a written lease or agreement. However, that issue was not relevant to the decision to be made today .

The Sub Committee would need to be satisfied that Mr A Rasool was aware of his duties and responsibilities and detailed his proposals to ensure that the Licensing Objectives are promoted and partnership working is maintained with the Police and Licensing Authority in accordance with the statutory guidance. It was a matter for Mr Rasool to take this final opportunity to say how he intended to manage the premises going forward with a view to promoting the licensing objectives.

In response to questions from the Solicitor, Mr A Rasool confirmed that:

- i. He would promote the Licensing Objectives through the use of a letting agency who would monitor the premises. Mr A Rasool stated that he would also visit the premises personally;
- ii. He had suffered ill-health as a result of alcohol abuse from the period 2000 to 2010 when he decided to move to Yorkshire to be with his Mother. He detailed his ailments and stated that he had made a decision that he would focus on his health and forget about everything else in order to move forward.

In response to a question from the Chair, Mr A Rasool confirmed that he would travel to Swansea by train and walk through High Street.

In conclusion, the Solicitor advising Applicant stated that Mr A Rasool realised his short comings which were as a result of ill health. If the Lease continued he intended to address the issues with the Police and Local Authority in order to fulfil his obligations and refurbish the premises.

It was **RESOLVED** that the press and public be excluded from the meeting 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 brief overview of the legal advice tendered which included reference to the Statutory Guidance, policy and recent case law.

The Chair indicated that the Sub Committee had considered the representations made and the needs and interests of all parties in terms of the Council's Statement of Licensing Policy and the requirements of the Licensing Act 2003 and appropriate guidance and regulations.

Following the application for a summary review of the premises licence, the Sub-Committee **RESOLVED** that the Licence be **REVOKED** and that the interim steps of suspending the premises licence will continue until the determination of any appeal to the review decision.

Reason for Decision

1. The Committee had regard to the Statutory Guidance in Section 182 (SG) as well as the Specialist Guidance (Guidance) for summary/expedited reviews and its policy.
2. The Committee was mindful of the SG 9.12 regarding the Police representations and information. The Committee attached more weight to the Police evidence that the premises was associated with serious crime and the value of the illegal product found at the premises being at or about £300,000.00 as this was not challenged by the Premises Licence Holder (PLH).
3. The Committee noted the Police representations that Mr A Rasool, the Premises Licence Holder (PLH), knew of an issue at the premises involving the police on or about 3rd September 2014, but no contact was made with the Local Authority until 19th September 2014 and no contact was made with the Police until on or about 22/23rd September 2014. In addition the contact was made by Mr A Brian representing himself only as a friend of the PLH and not the PLH himself or someone duly authorised to act on his behalf. The Committee accepted those facts as again they were not challenged by the PLH premises licence holder.
4. No explanation was provided by the PLH as to why even though he had been aware of a problem since 3 September 2014 and knew the actual issue since at least 19 September 2014, being the first contact with the Local Authority, no formal representations were made until today's hearing. The PLH's solicitor Mr Davies indicated he had only recently been instructed.
5. In light of the above the Committee considered the contact made was insufficient to try to address the serious issues arising at the premises with a view to promoting the Licensing Objective of the prevention of crime and disorder.
6. The Committee felt that the PLH's reasons for allowing the current situation to arise due to ill health were not reasonable in all the circumstances bearing in mind the obligations of a premises licence holder under the Licensing Act 2003.
7. The Committee noted the assertion by the PLH that he was not aware of the summary review procedure and had not received any of the communications

from the Local Authority until on or about the week commencing 15th September 2014 and that was why no contact had been made until 19th September 20/14. The committee accepted that the address provided by him on the transfer of the Premises Licence back in November 2013 (being La Viva) was the only address available to the Licensing Authority. The committee's view was that if the PLH was not at this address regularly and had only minimal involvement with the premises as he himself suggested, it was incumbent on him to provide a suitable alternative address to the Local Authority to make contact with him.

8. The Committee considered the PLH's proposals to address the promotion of the licensing objectives in the future were insufficient. The Committee did not agree, having regard to the nature of the operation that could take place at the premises under the licence and the PLH's intention to again sublet the premises, would provide the necessary level of management for such a premises and ensure the promotion of the Licensing Objectives.
9. The Committee was not satisfied from what had been said by the PLH and/or his representatives that he properly understood his duties and responsibilities as a premises licence holder and the need to promote the Licensing Objectives going forward.
10. Whilst not factoring it into their decision the Committee noted he had not considered whether he needed consent from the landlord for the works of installing a shutter to the premises and had not considered the position regarding planning permission.

The meeting ended at 11.40 am

CHAIR

CITY AND COUNTY OF SWANSEA

MINUTES OF THE STATUTORY LICENSING SUB COMMITTEE

**HELD AT COMMITTEE ROOM 2, CIVIC CENTRE, SWANSEA ON
FRIDAY, 19 DECEMBER 2014 AT 10.00 AM**

PRESENT: Councillor P M Matthews (Chair) Presided

Councillor(s)	Councillor(s)
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A C S Colburn	D W Cole
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Officers:

K Clague	-	Senior Lawyer
R Westlake	-	Senior Licensing Officer
C Gabe	-	Licensing Officer
S Woon	-	Democratic Services Officer

Representing Responsible Authorities:

R Loosemore	-	Licensing Officer
L Anthony	-	Divisional Licensing, Food and Safety Officer
P C J Evans	-	South Wales Police
Mr John	-	Barrister, South Wales Police
Inspector D Thomas	-	South Wales Police
Sergeant R Davies	-	South Wales Police
Inspector J Davies	-	South Wales Police

Las Iguanas, Castle Quarter, 1-4 Castle Square, Swansea. SA3 4BJ:

Mr Sharmel	-	Las Iguanas
Mr Henry	-	Las Iguanas
Mr Phipps	-	Solicitor

16 **APOLOGIES FOR ABSENCE.**

No apologies for absence were received.

17 **DISCLOSURES OF PERSONAL AND PREJUDICIAL INTEREST.**

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

18 **LICENSING ACT 2003 - SECTION 17 - APPLICATION FOR A PREMISES LICENCE - LAS IGUANAS, CASTLE QUARTER, 1-4 CASTLE SQUARE SWANSEA, SA3 4BJ.**

Following a request made by the Applicant and South Wales Police, the Chair adjourned the meeting until 10.15 a.m.

Following a further request made by the Applicant and South Wales Police, the Chair adjourned the meeting until 10.30 a.m.

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

The Licensing Officer, Charles Gabe, reported on the application for a new Premises Licence in respect of Las Iguanas, Castle Quarter, 1-4 Castle Square, Swansea. He referred to the licensing objectives, Policy considerations and the guidance from the Home Office. Specific reference was made to the application form at Appendix A, the location plan of the premises at Appendix B and the conditions consistent with the operating schedule that will be attached to the Licence at Appendix H. The additional condition related to a licence held by Las Iguanas in Wind Street (SJ056845) which was determined on 6 August, 2013. Although holding a current licence in part of the premises formerly known as Aspers, this licence has never been used.

It was noted that the premises is situated in the city centre within an area defined by the Council's Statement of Licensing Policy as a cumulative impact area and reference was made to paragraph 6 of the Special Policy on Cumulative Impact, adopted by the Council on 30 July 2013, at Appendix G. Reference was also made to the effect of special policies with an extract from Home Office Guidance at Appendix H.

A representation was received from South Wales Police on 24 November, 2014. The representation referred to the prevention of crime and disorder, public safety and the prevention of public nuisance. A copy of the representation was provided at Appendix E. Additional papers were also provided prior to the hearing and which had been circulated to all parties.

He further advised that a representation was received from the Licensing Authority on 25 November, 2014. The representation referred to the prevention of crime and disorder and the prevention of public nuisance. A copy of the representation was provided at Appendix F.

In response to a question by the Chair, the Licensing Officer confirmed that 65 premises are licenced to serve alcohol on and off the premises in Wind Street area.

R Loosemore, on behalf of the Licensing Authority, amplified her written representations and highlighted the concerns in relation to the potential undermining of the Licensing Objectives regarding the prevention of crime and disorder.

Mr John, Barrister, South Wales Police, conveyed apologies from Chief Superintendent P Davies who was unable to be in attendance.

He referred to Wind Street being in the Cumulative Impact Area (CIA) with 65 premises licensed to sell alcohol. Wind Street covers 600 yards, with 80% of premises being high volume, vertical drinking establishments.

He referred to the significant Police representations contained in letters from Chief Superintendent P Davies and the Statements from Inspector D Thomas and Police Sergeant R Davies in respect of promoting the licensing objectives.

He detailed the location of the premises which were cited in primarily residential development of 30 properties within the night time economy. He referred to the application and the hours sought.

He highlighted that the proposed premises is situated next door to Walkabout which is notorious for anti-social behaviour and is a 'hot spot' area in relation to violent crime.

He referred to the analysis of figures provided by South Wales Police to demonstrate where difficulties lie and highlighted South Wales Police attempts to improve crime. He stated that there has been an increase in anti social behaviour and violent crime as a result of alcohol intake. 44% of violent crime in West Glamorgan is committed in Wind Street on Wednesday between 01.00 and 04.00 hours and Friday 01.00 to 05.00 hours and Saturday 22.00 and 04.00 hours. He stated that granting a further licence will impact on these figures.

He highlighted the area being saturated with licensed premises which was a big burden on Police resources as officers are drawn on three particular evenings from other areas within West Glamorgan. Policing costs were previously £577k for this area alone this has now increased to £588k in the last year.

The proposed premises is located on a corner which is a bottleneck for vehicles dropping off and picking up individuals.

He stated that South Wales Police urged the Sub Committee to approach this decision with care, as residential and commercial properties were not a good mix. Reference was made to the Section 17 of the Crime and Disorder Act.

South Wales Police were not suggesting that the operator's business was run badly and would be supportive if the application was primarily a restaurant with legitimate restaurant hours, no external drinking, security and counting of clientele.

South Wales Police therefore suggested the following hours:

Sunday to Thursday – 11.30 – 00.00
Saturday to Sunday – 00.00 – 00.30

South Wales Police stated that they would make a concession if the above conditions were attached,

The Chair sought confirmation of South Wales Police suggested conditions:

1. Waitress service, no standing at the bar.
2. Other than off sales in sealed containers, no glassware or bottles to be taken outside the building by patrons.
3. No outside drinking only, by customers ~~standing~~ in external ~~standing~~ area covered by pavement licence.
4. Supply of alcohol by waiter/waitress service only in the external area.
5. System for counting persons in and out to ensure that the customer levels do not exceed limits identified in the risk assessment.
6. Premises to keep up to date records in relation to staff training for age related sales.

Mr Phipps, Legal Representative for Las Iguanas, stated that the representations were purely about the Policy and not about the operation of the company of Las Iguanas.

Las Iguanas applied for and obtained a premises licence further down the road which has not proceeded and they will not be developing. On 6 August, 2013, South Wales Police representations were agreed and withdrawn in relation to this application after the Council's Cumulative Impact Policy was agreed. Las Iguanas have proposed a condition that the license granted on 6 August, 2013 will be surrendered. He stated that granting the licence will not change the cumulative impact on the total 65 licenced premises already in the area.

He stated that he was not asking for a departure from the Policy indeed the application aimed to support the Policy. He requested that the Council depart from the presumption to refuse. He stated that the Policy was important and appropriate. The applicant had undertaken due diligence, covert and overt, and were not missing the point that the Police comments had been made with integrity and are important.

He reported that he had looked carefully at Policy and proposed that it was appropriate that the application be agreed. He stated his view that South Wales Police had approached the Policy incorrectly. He referred to page 36 of the agenda papers which detailed the Chief Superintendent's view. He further referred to the second bundle of evidence submitted by South Wales Police which stated that any granting would be detrimental increasing the large numbers visiting the area which would impact on anti-social behaviour. He stated that the approach was absolutist, whilst the Policy was not absolutist.

He highlighted that the presumption against agreeing the license essentially needed to be a determination of whether premises would adversely impact and undermine the licensing objectives.

The Policy did not say you will presume to refuse applications, it says you will look at application and make decision as to whether these premises will offend the Policy or not.

He referred to page 183 of South Wales Police supporting documentation from which provided statistical evidence.

He referred to page 142 of the Council Summons, Appendix 10.b, which R Loosemore, Licensing Officer, had quoted in her representations. He detailed the types of issues evidenced during the peak times of Sundays 01.00 until 04.00 hours; Thursdays 02.00 until 04.00 hours. However, the application proposed licensable activities until 01.00 am.

He stated that the Policy should never be absolute. He referred to a case in Leeds where the pub licence was granted by Magistrates. He stated that the Policy was not intended as an 'iron curtain' and looking at applications on individual merit was critical.

He detailed the application which was for a Latin American restaurant and bar not just a restaurant. He referred to South Wales Police proposed condition that premises should act predominately as a restaurant. He stated that the premises will have a bar, laid out with tables and an outside area with waiter/waitress service and alcohol could not be offered as an auxiliary to table dining. The operation of the bar does not cause problems. There are 38 premises throughout England, Wales and Scotland operating without any difficulties at all. The majority of these premises operate in cumulative impact areas. He cited an example of a new licence for a former ladies clothes shop in cumulative impact area. He detailed the dialogue and discussion with Police following which the whole of the basement area was granted. He stated that Las Iguanas aims to drive policing forward to change the demographics of type of premises in Wind Street. He referred to areas such as Exeter, Bromley, Clifton where this had been the case.

He highlighted the brochures, which contained examples of what other establishments provide and the mood board which detailed types of food and cocktails. He stated that the majority of business was food related and quoted 70% of the turnover was food, the remainder was alcohol sales with food.

He detailed the Las Iguanas commitment to integrity in relation to the drinks served. Las Iguanas own a sugar cane plantation in Brazil and the white spirit derived is used as the basis for the cocktails. The Off Sales element of the application allow individuals to have the opportunity to buy a bottle of the award winning white spirit.

He provided a brief background of Las Iguanas which was established in 1991 in Bristol. It was a small premises which has now expanded significantly to 38 premises. The photos, menus, drinks list, type and style of décor are all consistent with the 38 premises located throughout the UK and there was nothing about Swansea that has not been witnessed elsewhere.

He highlighted the significant spending on development (upfront and over a longer period) and the dialogue and discussions with the residents above and to the side.

The conditions to the outside dining area are the same as the area within e.g. supervised. He stated that glass was important as patrons were offered imported Latin American Beer. However, he reiterated that the outside area was not a beer

garden, patrons would be dining, drinking and smoking. He highlighted the importance of managing customers and ensuring they are well behaved. He detailed the volume of staff, extent of customer supervision, extensive CCTV and the manner in which patrons are greeted and served. He highlighted the role of the business supervisor and the operations managers who are responsible for visiting their allocated premises on a regular basis both daytime and evenings. Las Iguanas is committed to staff training and regularly use mystery shoppers to ensure standards. Las Iguanas was recently credited by the Sunday Times as best business in Britain to work for. Customers conduct and customers experience is taken seriously and this is why the business succeeds.

In response to a question posed by Mr Phipps, Mr Shamel, Chief Operations Manager, detailed the regulatory history of Las Iguanas. He highlighted 4 issues in 12 years and detailed the action taken.

He referred to the licence conditions. It was noted that plastic glasses are used on major event days and door staff employed when regulated entertainment takes place. These conditions were consistent in respect of the application in 2013 and were agreed post dialogue and discussion.

He confirmed he was confident that the operating schedule goes toward satisfying the Council that the applicant is legitimate. He referred to the 42 proposed conditions. He referred to recently granted licences in respect of Café Nissi, Karma Café and Full Moon all of whom had merely 10, 11, 12 and 16 conditions. He stated that the proposed operating schedule has more conditions than the three recently approved licences together. He referred to 4 standard conditions which were included in all 4 licence grants. They were in relation to the availability of first aid available; over proof alcohol; bottling out and notices provided about age Policy.

Mr Sharmel, further provided a brief background into his involvement with Las Iguanas. He stated he had been working for Las Iguanas for 11 years but had operated bars throughout his 25 years in the businesses.

He stated that Las Iguanas sought to invest and improve the area. He was well aware of the reports for Wind Street and had undertaken research into the area. He stated that Las Iguanas offered a higher quality premises which in turn, attracts other higher quality premises to establish themselves in the area. He referred to the intended investment of £1.5m and 25 years lease (£3m of rent) and the creation of 50 jobs which was no small investment into the City.

He detailed the age profile of customers which was between 24 – 35 years, average age is 34 who visit throughout the day. The request for a later licence was in order to accommodate theatre goers who would be arriving at 11.00 pm. People have a drink, a meal another drink and go straight home. He referred to the location of the previous licence at the lower end of Wind Street.

He referred to the commitment to staff training and the company being publicised in the Sunday Times top 100 businesses to work for. Las Iguanas has achieved the UK IIP gold accreditation for staff training. Licensing is part of the training

programme which is held every 6 months. This includes GCSE refresher for under 18. Las Iguanas also operate challenge 21.

He highlighted the role of the Operations Managers who manage the sites they have responsibility for. Operations Managers manoeuvre around their specified area once every 10 days, day and night. This is one of reasons they don't have issues with bad behaviour.

He referred to a breach of licensing 9 years ago in a premises in Leicester. The staff member had received training and refresher training and served an under age person. He detailed the support provided to the staff member and the changes that had been made to ensure staff complied with their legal obligations.

Mr Phipps referred to a case in Leeds where Leeds Council had refused to grant a licence in respect of an application submitted by Brewdog. The Judge, in determining the case, stated that looking at the applicant is critical to determining whether the application of Policy is too rigid. The Policy cannot keep an iron curtain preventing an intelligent, well-run company to operate. The enterprise was selling expensive drinks and a simple increase of footfall was not deemed as a valid reason to refuse entry into Leeds.

He highlighted the term that had been used in South Wales Police representations "This will no doubt increase large numbers and no doubt increase negative impact."

He stated that he could not agree to no glass as the external and internal areas would be managed and supervised in the same manner. Those drinking outside have to be seated. They are supervised by waiter/waitress service at all times. There is no counting system as the premises is not a night club. Regulated entertainment would be twice a year with only background music at all other times.

He sought to remove the anxiety that the applicant wished to open a 'big boozier'. He offered a condition where 90% of premises has to be laid for tables and chairs which may address that concern. The lease is for 25 years and there is no evidence about any adverse press in relation to Las Iguanas.

The Chair referred to the licence granted on 6 August, 2013 which had been granted prior to the adoption of the cumulative impact Policy.

In response to a Member question, the Solicitor representing the Applicant advised that the venue was 'high end' a notch above the restaurants currently on Wind Street.

The Chair referred to the Applicant's Solicitors reference to the 4 other licences which had recently been granted and stated that out of the 4, only one had been determined by the Sub Committee.

Mr Sharmel detailed his aversion to the use of plastic glasses as Ladies prefer to drink out of glass and there had not been any incidences in relation to the use of glass. However, Las Iguanas does conform on major event days.

In response to a question from the Lawyer advising the Committee, the Applicant's solicitor confirmed the timings at J and I within Appendix A of the application 01.00 hours on Friday and Saturday with 30 minutes drinking up time.

The Applicant's Solicitor spoke regarding the lack of door staff. Mr Sharmel referred to the meet and greet and staffing procedures which alleviated the requirement for door staff, except on regulated entertainment days.

Mr John, Barrister, South Wales Police, referred to the proposed premises at Salubrious place and the conditions attached to the 4 licenced premises referred to by the Applicant's solicitor. He referred to the statement of Inspector Thomas and highlighted that the area is of prime concern in respect of alcohol related violent crime. He referred to the Brewdog judgement and the distinctions between, made in relation to the restaurants currently on Wind Street. He reiterated his concern should the requirement for plastic glasses not be enforced which would set a worrying precedent and change the landscape of Wind Street into a wholly unsatisfactory place.

He questioned whether the premises was primarily a restaurant that would attract Theatre goers and would improve the area. He referred to South Wales Police objection to the hours applied and stated that Full Moon premises was an existing licensed premises.

The meeting adjourned at 12.10 p.m.

The meeting reconvened at 12.15 p.m.

Mr John, Barrister for South Wales Police stated that they were not unwilling and welcomed the purple flag. However, a lot has been given by South Wales Police and the prospect of unlimited drinking of distilled sugar in alcohol in glassware in the third most violent street in the UK was very worrying. He referred to the Full Moon licence which was made as a result of a balanced, pragmatic approach.

Jayne Evans, South Wales Police, provided additional information in relation to the grant of the Full Moon licence.

The Solicitor representing the Applicant stated that in relation to the rationale of the Full Moon licence, South Wales Police appear to be suggesting that the licensing objectives, cumulative impact Policy and cumulative impact were no consideration with the Policy being used as an 'iron curtain' looking after premises already in the zone.

He referred to the application being similar to the Brewdog case in so far as Las Iguanas own a sugar plantation in Brazil. He stated that there may have been a suggestion by South Wales Police that Cardiff Bay more glamorous than Wind Street. In response he stated that the granting of the licence would add to making Wind Street as glamorous.

He stated that the request for a counting condition was based on no evidence and asked whether there was an accusation of numbers being exceeded in any one of the 38 premises.

In summary, he stated that the application provided good opportunities. He referred to similarities between Brewdog (a pub and brewer) and Las Iguanas which sells drinks originating from sugar cane.

He stated that the premises will positively impact on the location and promotion of the licencing objectives by attracting a better clientele. He highlighted the one residual issue that may have some potential merit, which allows the Council to have an eye on the future by introducing a condition which obliges to 90% table and chairs. The introduction of this additional condition removes any anxieties in respect of a hypothetical pub. In conclusion he stated that he was not asking for a departure from the policy merely asking for a departure from the presumption to refuse. Exceptional circumstances are the offer to surrender of other licence and to have dialogue.

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. This application is before the Members for consideration because relevant representations have been received in respect of the application for a premises licence in relation to premises located in an area to which the Council's special policy on cumulative impact applies. It is accepted by all parties that the special policy applies in this instance.
2. In reaching their decision the Members have had due regard to the licensing objectives, its special policy with regard to cumulative impact, the statutory guidance and to the decision in the case of Brewdog, which was referred to by both the Applicant and the Police. The Members also had regard to the relevant

representations made by the police, expanded upon by Mr John on behalf of the police, and made by Rachel Loosemore on behalf of the Licensing Authority as Responsible Authority, together with the representations made by Mr Phipps on behalf of the Applicant and by Mr Sharmel.

3. The Members were satisfied that in light of the matters put forward, the Applicant has rebutted the presumption against granting a premises licence. The Members are satisfied that the grant of a licence would not, in the individual circumstances of this application, add to the existing negative cumulative impact on the licensing objectives in the area. In arriving at their decision, they had particular regard to the Applicant's evidence and submissions as to:

(a) The nature of the premises, namely that it is predominately a restaurant with a bar provision, and the fact that whilst the premises does include a bar area, this area is also laid to tables;

(b) The location of the premises, being located on Castle Square and as such further up from the Wind Street area of the cumulative impact zone;

(c) The nature of the operator. In particular, the Members were impressed by the evidence of Mr Sharmel regarding the number of premises Las Iguanas has throughout the Country, the evidence regarding the training provision to staff, including training on licensing matters, the proven track record as a responsible operator, and the evidence of little history of licensing-related issues.

(d) Whilst the Members heard and considered the evidence from the Police that the flash points in the area on Fridays and Saturdays are between the hours of 1am and 4am, it was noted that on these days persons would be exiting the premises at the latest by 1.30am. They did not feel in the circumstances referred to above, namely the nature of the clientele and the nature of the premises, that there was any real evidence that the premises would add negatively to the cumulative impact in the area. Reference was made to the Brewdog decision and the judgement of District Judge Anderson. Whilst noting that the decision is not binding and that each case must be decided on its own facts and circumstances, they did not find that there was evidence to suggest that even if there was an increase in footfall this would of itself increase negatively on the cumulative impact.

4. The Members did feel that there was some force in the concerns that, if a premises licence was granted, there is the possibility in the future of other premises, more of the nature of the high volume vertical drinking establishments that the special policy in particular sought to address, may take over the licence. In light of the basis on which this application is granted, namely that they are satisfied in the circumstances of this application that the presumption against grant has been rebutted, they did feel that this was a relevant concern and as such appropriate to add a condition in the terms proposed by Mr Phipps with some modification as follows:

"The seating arrangements at the premises shall amount to 90% of the permitted number of persons determined for fire safety arrangements".

5. The other concern of the Members was the use of glass receptacles in the external seating area. The Members in particular had concerns regarding the location of the premises within the cumulative impact area and the presence of external seating on Castle Street at the junction with Wind Street. Whilst problems may not necessarily be caused by the clientele of the premises there was concern as to those passing by and as such the Members considered that the use of glass in the external area would possibly undermine the licensing objectives of prevention of crime and disorder and public nuisance. As such the following additional condition was considered appropriate:

“There shall be no outside drinking at the premises other than by customers seated within the external drinking area as identified on the deposited plans which if required is covered by a pavement café licence. All such areas to utilise non glass receptacles only.”

The meeting ended at 1.35 p.m.

CHAIR