

CITY AND COUNTY OF SWANSEA

NOTICE OF MEETING

You are invited to attend a Meeting of the

DEVELOPMENT CABINET ADVISORY COMMITTEE

At: Committee Room 5, Guildhall, Swansea

On: Wednesday, 17 February 2016

Time: 3.00 pm

Chair: Councillor Philip Downing

Membership:

Councillors: C Anderson, J C Bayliss, D W Cole, P Lloyd, P M Matthews, P B Smith, C Thomas and T M White

AGENDA

Page No.

- 1 **Apologies for Absence.**
- 2 **Disclosures of Personal and Prejudicial Interests.**
<http://www.swansea.gov.uk/DisclosuresofInterests>
- 3 **Minutes.** 1 - 3
To approve and sign as a correct record the minutes of the previous meeting.
- 4 **Cumulative Impact Policy.** 4 - 9
- 5 **Public Space Protection Orders.**
- 6 **Open Spaces Strategy.**
- 7 **Updates from Chair.**
- 8 **Workplan.**

Next Meeting: Wednesday, 16 March 2016 at 3.00 pm



Patrick Arran
Head of Legal and Democratic Services
Thursday, 11 February 2016

Contact: Democratic Services: 01792 636923

CITY AND COUNTY OF SWANSEA

MINUTES OF THE DEVELOPMENT CABINET ADVISORY COMMITTEE

HELD AT COMMITTEE ROOM 3A, GUILDHALL, SWANSEA ON
WEDNESDAY, 20 JANUARY 2016 AT 3.00 PM

PRESENT: Councillor P Downing (Chair) Presided

Councillor(s)

C Anderson

P Lloyd

Councillor(s)

J C Bayliss

P M Matthews

Councillor(s)

D W Cole

T M White

Officer(s)

Lynda Anthony – Divisional Officer Licensing, Food & Safety

Allison Lowe – Democratic Services Officer

David Picken – Divisional Officer Trading Standards

33 **APOLOGIES FOR ABSENCE.**

Apologies for absence were received from Councillors P B Smith and C Thomas.

34 **DISCLOSURES OF PERSONAL AND PREJUDICIAL INTERESTS.**

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

35 **MINUTES.**

RESOLVED that the minutes of the Development Cabinet Advisory Committee held on 16 December 2015 be approved and signed as a correct record.

36 **UPDATE ON CUMULATIVE IMPACT POLICY (PRESENTATION).**

The Divisional Officer Licensing, Food and Safety provided an update on the review of the Cumulative Impact Policy (CIP) contained within the Council's Licensing Policy for the Committee by way of a powerpoint presentation.

Certain exemptions from CIP were proposed and if agreed would be inserted at paragraph 6.22 of the current Cumulative Impact Policy. The effects of the proposed changes would be included in paragraph 6.23.

RESOLVED that:

1. The presentation is noted;
2. The Divisional Officer Licensing, Food and Safety amend the CIP and circulate to members for comment.

37 **UPDATE REPORT FROM DAVE PICKEN, DIVISIONAL OFFICER-TRADING STANDARDS (VERBAL).**

The Divisional Officer Trading Standards provided an update related to the supply of Novel Psychoactive Substances (NPS) in Swansea.

He outlined the background, action taken and result of a particular case that had involved NPS in a particular area of Swansea.

He also outlined information in relation to the Psychoactive Substances Bill that had been introduced in the House of Lords on May 2015. Enactment would likely be sometime in Spring 2016. This would affect the use of existing consumer protection legislation (such as GPSR, CLP and CPR's) to deal with NPS issues, which will become redundant assuming the new Bill is enacted. However, as the Bill will not include an offence for NPS possession, existing ASB measures may still be employed.

A report would be prepared by the Strategic Manager Community Safety in relation to the alternative ways of working as PSPO's would no longer be a Trading Standards model of delivery.

The Chair thanked the Divisional Officer Trading Standards for all the work that he had undertaken in relation to the case and for updating the Committee periodically.

RESOLVED that:

1. The update is noted;
2. The Committee receive a report at the next meeting from the Strategic Manager Community Safety regarding the future use of PSPO's.

38 **UPDATES FROM CHAIR (VERBAL).**

The Chair provided a verbal update on the Open Space Strategy Sub Group that had met on 13 January 2016. The Planning Policy Team had undertaken an up to date assessment of open space provision across the County, which would be utilised to develop the Open Space Strategy.

The Sub Group would meet again in February / March 2016.

RESOLVED that the update is noted.

39 **WORKPLAN.**

RESOLVED that the Committee scheduled for 17 February 2016 receive reports / updates on the following issues:

- Cumulative Impact Policy (final update);
- Public Space Protection Orders.

Items for future meetings:

- Feedback on Regional District Shopping Centres – second visit to Morriston
- Open Space Strategy (update from Sub Group)

The meeting ended at 3.54 pm

CHAIR

Agenda Item 4

6. CUMULATIVE IMPACT AND SPECIAL POLICY

- 6.1 Cumulative impact means, for the purposes of this policy, the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. **Cumulative Impact Policies (CIP) may relate to premises licensed to carry on any licensable activity, including the sale of alcohol for consumption on or off the premises and the provision of late night refreshment. This includes late night fast food outlets which are not licensed to sell alcohol.**
- 6.2 There can be confusion about the difference between “need” and the “cumulative impact” of premises on the licensing objectives. The Council when acting as a Licensing Authority will not take into consideration “need”. This is a matter for the Council in its role as a Planning Authority and for the market.
- 6.3 When acting as a Licensing Authority the Council will consider representations from a “responsible authority” or “Other Persons” regarding cumulative impact. **A list of Responsible Authorities can be found at paragraph 20 of this policy.**
- ~~6.3.1 A list of Responsible Authorities can be found at paragraph 20~~
- 6.4 A relevant representation from a “responsible authority” or “Other Person” regarding cumulative impact must provide clear evidence that there will be exceptional problems of disorder and nuisance over and above the impact of the individual premises itself.
- 6.5 The Licensing Authority will in such cases, take into account the issue of cumulative impact but this will be addressed in the context of the individual merits of any application. Where it is considered that a licence or certificate is unlikely to add to the cumulative impact on the licensing objectives the application will be granted.
- 6.6 The Licensing Authority after considering the available evidence will consult the individuals and organisations listed in 5.1 and 5.2 above. If it determines that attaching conditions to a licence is unlikely to address the problems identified, it will consider adopting a special policy of refusing new licences. This would apply whenever relevant representations are received about the cumulative impact on the licensing objectives from responsible authorities and **other persons** interested parties, which the Licensing Authority consider after hearing those representations should lead to refusal.
- 6.7 The steps detailed below will be followed in considering whether to adopt and ~~subsequent adoption of~~ a special policy within the licensing policy:
- **Identify** ~~Identification of~~ concern about crime and disorder, **public safety, protection of children from harm** or public nuisance from a “responsible authority” or “Other Person”.

- Consideration of whether it can be demonstrated that crime and disorder and nuisance are arising ~~occurring~~ **or whether there are activities which pose a threat to public safety or protection of children from harm**
 - **If such problems are occurring, identify whether they are being** caused by the customers of licensed premises and if so identifying the area from which problems are arising and the boundaries of that area; or that the risk factors are such that the area is reaching a point when a cumulative impact is imminent.
 - Consultation with those specified in paragraph 5 above.
 - Subject to the consultation, **include inclusion and publish details of the** a special policy **in the statement of licensing policy**. about future premises licence or club premises certificate applications from that area.
 - Publication of the special policy as part of the statement of licensing policy.
- 6.8 **Where a special policy is in place** applications for new premises licences, club premises certificates or material variations will normally be refused if relevant representations to that effect are received, unless it can be demonstrated that the operation of the premises involved will not add to the cumulative impact already being experienced. Applicants will need to address the special policy issues in the operating schedule submitted with their application to rebut the presumption of refusal of the application. If no relevant representations are received the application will be granted in accordance with the operating schedule submitted.
- 6.9 Any special policy adopted will be reviewed following a maximum period of five years to determine its effectiveness and whether or not its continued use is required.
- 6.10 The absence of a special policy will not prevent a responsible authority or other person making representations on a new application for the grant of a licence **or certificate** on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.
- 6.11 The effect of all licensed premises in an area will be taken into account when considering a special policy.
- 6.12 A special policy will not be used to revoke a licence for a premises if representations are received regarding problems with an existing licence. Cumulative impact on the promotion of the licensing objectives will only be considered as a relevant representation when an application for the grant or variation of a licence or certificate is being considered.
- 6.13 Where it is evident that there is a problem in an area after a licence or certificate has been granted and it is clear that an individual premises is undermining the promotion of **one or more of the licensing objectives** the ~~prevention of crime and disorder objective~~ in that area, the licence will only be reviewed if representations are made about that objective by a responsible authority or other person.

- 6.14 A special policy will not be used to justify rejecting an application for variation of an existing licence or certificate except where the variation is directly relevant to the policy and is necessary for the promotion of the licensing objectives e.g. increase in capacity of a venue.
- 6.15 A special policy relating to cumulative impact will not include provisions for a terminal hour in an area.
- 6.16 A special policy will not impose quotas on the number or capacity of premises or in relation to any matter which would restrict the consideration of any application on its individual merits.
- 6.17 The Licensing Authority will have regard to the individual characteristics of each premises and the differing impact they will have on the promotion of the licensing objectives.
- 6.18 The Licensing Authority recognises that there are other mechanisms available for controlling cumulative impact once customers have left licensed premises. These include:
- Planning controls;
 - Positive measures to create a safe and clean city centre environment in partnership with local businesses, transport operators and other local authority departments;
 - Provision of CCTV, adequate taxi rank space, provision of late night public conveniences, street cleaning;
 - Powers of local authorities to designate and control areas where alcohol cannot be consumed;
 - Police enforcement in relation to disorder and anti-social behaviour;
 - Prosecution for alcohol related offences ;
 - Police powers of closure of a premises;
 - The provision to review a licence or certificate.
- 6.19 On 30th July 2013 the Council resolved to adopt a Cumulative Impact Special Saturation Policy for the following areas:
- i) Wind Street and the surrounding area as defined
 - ii) The Kingsway and the surrounding area as defined
 - iii) High Street and College Street as defined
- 6.20 The Special Policies for i) Wind Street and the surrounding area, ii) The Kingsway and the surrounding area and iii) High Street and College Street were introduced because the Authority was satisfied that it was appropriate and necessary to do so given the number of premises licensed to supply alcohol for consumption on and off the premises in these streets and the incidence of crime, disorder and public nuisance attributable to customers of such premises.

- 6.21 This action followed a report to the Cabinet of this Council on 1st November 2012. The report included crime and disorder statistics from South Wales Police, together with public nuisance statistics from the Environment Department of this Authority. The special policy was introduced following a comprehensive consultation process which was carried out between February and May 2013.
- 6.22 ***Following a review of the Special Policy in DATE TO BE ADDED it is now recognised that pubs, nightclubs, restaurants, hotels, theatres and other types of premises sell alcohol, serve food and provide entertainment but with different styles and characteristics and due to the nature of the premises will not add to existing cumulative impact. Having regard to those differences and the impact they are likely to have on the local area the following types of premises, providing certain licensable activities between the hours of 10.00am and 1.00am are exempt from the requirements of the special policy:***
- ***Non – alcohol led premises;***
 - ***Theatres, where the main purpose of the premises is the performance of plays;***
 - ***Cinemas, where the main purpose of the premises is the exhibition of films;***
 - ***Premises where the main purpose is the provision of substantial table meals;***
 - ***Premises where the sale/supply of alcohol is by waiter or waitress service only.***
- 6.23 The effect of the special policy is that ***applications for premises that are located within the special policy areas but fall within the exemptions detailed in paragraphs 6.22. of the policy, will generally be granted, subject to consideration of any relevant representations made.*** In respect of ***all other*** premises located in this ***the special policy*** areas, there is a presumption against granting that any application for a premises licence, club premises certificate or a variation that is likely to add to the existing cumulative impact ***will be refused***. This presumption is only relevant to applications which trigger a relevant representation from a responsible authority or other person referring ***which refers*** to one or more of the licensing objectives which ***that*** gave rise to the ***introduction of the*** special policy being introduced. If there are no such representations the Authority MUST grant the application in terms that are consistent with the operating schedule submitted.
- 6.24 If such ***Where relevant*** representations are made, a Licensing Sub Committee of the Authority will hear those representations and ***determine the application.*** ~~conclude whether or not the presumption against granting should apply or if the application should be subject to certain limitations. For~~

applications that fall within the requirements of the special policy, refusal will normally be the case UNLESS the applicant can demonstrate in their operating schedule that the application will not add to the **existing** cumulative impact on one or more of the licensing objectives and that the Authority would therefore be justified in departing from the special policy in the light of the individual circumstances of the case.

6.24 The ~~premises that are affected by these~~ special policy **areas** are those within the boundary defined on the plans attached at appendix A, B and C and **include premises that** have accessible entrances onto the streets within the boundary, including the streets listed in the following schedules –

i) Wind Street and the surrounding area

- Wind Street
- The Strand to the junction with Welcome Lane
- Worcester Place
- Castle Street
- Castle Gardens
- Castle Square
- Green Dragon Lane
- Little Wind Street
- Salubrious Place
- Salubrious Passage
- Caer Street
- Princess Way
- St Mary's Street
- St Mary's Square
- St David's Place
- York Street
- Victoria Road

ii) The Kingsway and the surrounding area

- The Kingsway
- Dillwyn Street from the junctions with The Kingsway and Oxford Street
- Oxford Street from the junctions with Dillwyn Street and Princess Way
- Picton Lane
- Union Street from the junctions of The Kingsway and Oxford Street
- Park Street
- Portland Street
- Bellvue Way
- Dynevor Place
- Horton Street
- Pell Street
- Cradock Street
- Northampton Lane
- Christina Street

- Newton Street

iii) **High Street and College Street**

- High Street
- College Street