

# CITY AND COUNTY OF SWANSEA

## MINUTES OF THE STATUTORY LICENSING SUB COMMITTEE

HELD AT COMMITTEE ROOM 3A, GUILDHALL, SWANSEA ON FRIDAY,  
2 MAY 2014 AT 10.00 AM

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

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

R D Lewis

P Lloyd

**Officers:**

L Thomas                      -    Lawyer  
L Anthony                     -    Divisional Licensing Officer  
R Loosemore                 -    Licensing Officer  
S Woon                         -    Democratic Services Officer

**Brewstone, 33 Uplands Crescent, Swansea, SA2 0NP:**

Mr W Parry                    -    Applicant's Representative  
Mr B Nunes                   -    Managing Director, Brewstone  
Ms I Parry                    -    Trainee Solicitor  
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**Other Persons::**

Cllr N J Davies               -    Local Councillor  
Cllr J C Bayliss             -    Local Councillor  
Ms I Mann                    -    Local Resident  
Ms J Morgan                 -    Local Resident  
Ms P Smale                  -    Local Resident

1    **APOLOGIES FOR ABSENCE.**

No apologies for absence were received.

2    **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.

3    **LICENSING ACT 2003 - SECTION 17 APPLICATION FOR A PREMISES LICENCE**  
**- 33 UPLANDS CRESCENT, UPLANDS, SWANSEA.**

The Chair welcomed all attendees to the meeting.

The Lawyer advising the Sub Committee outlined the procedure to be followed by the Statutory Licensing Sub Committee.

The Licensing Officer reported that an application for a new premises licence had been received on 18 April, 2014 in respect of 33 Uplands Crescent, Uplands, Swansea.

She advised that representations had been received from 141 residents 2 Councillors along with a petition containing 78 signatures. The representations related to the prevention of crime and disorder, public safety and prevention of public nuisance.

She advised that Councillors J C Bayliss and N J Davies were in attendance. Ms I Mann would be speaking on behalf of Ms A Davies (representation at page 38 of the agenda pack) and Mr H Jenkins (representation at page 41 of the agenda pack).

Members' noted that B Warwick of 54 Marlborough Road had withdrawn their representation (page 94 of the agenda pack) and B Senyor of 19 Fairwood Road was returned as 'not know at this address' (representation at Page 151 of the agenda pack). No response had been received from the lead petitioner Ms R Thomas of 88 Eaton Crescent. Telephone calls were received from M Ashraf of 153 Gower Road (representation at page 76 of the agenda pack) & G Saunders of 4 Broadacre (representation at page 164 of the agenda pack) informing that they had not signed or made a representation therefore they could not be considered as relevant.

She referred to the Licensing Objectives, the Council's Statement of Licensing Policy and the Guidance from the Home Office, together with the options available for the determination of the application.

Councillor N J Davies, Local Councillor, amplified his written representations and highlighted concerns in relation to the potential undermining of the Licensing Objectives regarding the prevention of crime and disorder, public safety and prevention of public nuisance. He stated that, as local Councillor in area, he became aware of the considerable concern surrounding the application from local residents. He detailed the elements that made the Uplands community, including the night time economy, which did add to the vibrancy and appeal of the area.

He stated the importance of maintaining the balance between the elements of the community and outlined the dangers of losing the balance within the area. He urged the Sub Committee to exercise extreme caution in considering the application. He was mindful that the Applicant was not applying for a high volume, vertical drinking establishment, but nevertheless had concerns with a smoking area. He also referred to noise nuisance and anti social behaviour and stated that many of problems in the community were outside or beyond the landlord's immediate control. He appreciated that there were no representations from South Wales Police but highlighted the difference between crime statistics and lower level complaints received by the residents association.

He stated that he did not want Uplands to turn into Wind Street.

He requested that the Sub Committee do not grant the application or if minded to grant, to modify smoking areas and outside drinking.

A question was asked regarding complaints made by the residents association and whether they were represented at the Sub Committee.

Councillor N J Davies confirmed that he was referring to groups of residents as opposed to a residents' association.

Councillor J C Bayliss, Local Councillor, amplified his written representations and highlighted concerns in relation to the potential undermining of the Licensing Objectives regarding the prevention of crime and disorder, public safety and prevention of public nuisance.

He stated that he wished to preserve the quality of life enjoyed by residents. He referred to vomit, urine and anti social behaviour and the Council's already stretched resources in relation to HMO's and clearing up after establishments. He referred to the cumulative impact of another licensed establishment which would have a dramatic effect within area.

He referred to other establishments, in the Wind Street area, owned by the Applicant had been the subject of a number of incidents within the last 6 months.

The Lawyer advising the Sub Committee stated that reference to other establishments managed by the Applicant could not be considered as it was classed as new information.

Councillor J C Bayliss withdrew his comment regarding the Applicant's other premises.

Councillor J C Bayliss referred to the potential provision of CCTV in Uplands.

He stated that the smoking area would give rise to noise disturbance and cited similar complaints in relation to noise in respect of the premises known as Verve 37 which also operated until midnight.

He reported that over 200 residents were objecting to the Application. He referred to the area as a mixed commercial district and urged the Sub Committee to reject the application.

Ms I Mann, local resident, amplified her written representations and highlighted concerns in relation to the potential undermining of the Licensing Objectives regarding the prevention of prevention of crime and disorder, public safety and prevention of public nuisance.

Ms I Mann advised that there was no residents' association in existence. However, she added that she was responsible for organising the PACT meetings where the majority of complaints had been received in respect of anti social behaviour.

Ms I Mann spoke on behalf of Ms A Davies (representation at page 38 of the agenda pack) and Mr H Jenkins (representation at page 41 of the agenda pack) both of whom had made representations in relation to anti-social behaviour, public safety and prevention of public nuisance.

Mr W Parry, Solicitor representing the Applicant, stated that the application had been made by an independent operator and not a national company replicated elsewhere.

The application comprised a café, restaurant and bar. The application was not an attempt to have a 'stack 'em high, sell 'em low' operation and was not intended to move the existing Wind Street operation to the Uplands. He referred to an article in the South Wales Evening Post entitled 'Objection to new bar plan' to this effect which may have led to many concerns about this application.

He confirmed that the Applicant manages premises called Peppermint and Bambu which are Wind Street premises and trade in a way that people coming to Wind Street want, so they are well led with music for youngsters. He stated that these type of premises was not what was planned for the premises in Uplands.

He reiterated that the Applicant sought approval for a high quality café restaurant and bar with the emphasis on freshly ground coffee, artisan bread and a wood fired stove producing high quality food.

He referred to the layout of the premises and the 3 dimensional diagrams. He described the floor plan, mood images and the open plan kitchen area which would add to the theatre of the premises. He referred to the wall mounted beer taps, specialising in different serving styles. The quality of fixtures and fittings and smoking terrace were also highlighted.

Detailed information was provided in respect of the property; lease terms; the level of investment; trading hours; revenue split; food; alcoholic drinks; staffing and job creation.

Reference was made to the 141 letters of objection and the concerns that motivated the level of anxiety. Mr Parry referred to the article published in the South Wales Evening Post entitled 'Objection to new bar plan' which he felt was an outrageous suggestion from someone who had a knowledge of the application.

Mr W Parry referred to the 141 standard letters of objection, all with identical spelling and grammatical errors. He also referred to the glorified petition containing 78 signatures which had been received at the same time from the same hand. He suggested the Sub Committee attaches the appropriate weight to these documents.

He read out excerpts from the representations that had been received and stated that it was evident that objectors had not considered the application or the licensing objectives.

He referred to the extract from important case of Thwaites which binds the Sub Committee as a matter of law. He respectfully reminded the Sub Committee of

significance of what had not been heard. He highlighted the lack of representations from the Police and the Pollution Control Section.

He highlighted the concerns contained in the representations regarding dodging drunks, vomiting, urinating and stated that he, whilst driving through Uplands had never had cause to dodge drunks or seen anyone engaging in anti social behaviour.

He referred to representations referring to another Wind Street premises, which was not the case.

He stated that the area was serviced by a taxi rank which runs down the bus layby and was no-where near the premises. He advised that there were no problems with taxis.

He highlighted the provision of 2 pedestrian crossings and the wide pavements each side of the road.

He referred to the lack of evidence in arriving at statements such as an increase in drunkenness and crime and disorder and the general lack of understanding in relation to the application.

He commented on representations referring to licences being granted in perpetuity which was not the case.

With regard to representations made in respect of anti social behaviour, he reiterated the lack of Police objection.

In relation to comments regarding disadvantaged competition, he confirmed that the applicant was an independent business, not a chain. Reference to disadvantaged competition along with issues such as parking and need were not matters that the Sub Committee could consider.

Whilst there was no cumulative impact policy for Uplands, the Sub Committee should still take into account the impact of another licence.

He referred to the petition which stated that "local Uplands residents strongly object to a Wind Street chain bar". He confirmed that the applicant did not seek to create a Wind Street bar. He referred to the lack of consistency in the presentation of the petition with no clear flow of pages and the possibility that it was not held in one place. He invited the Sub Committee to attach little weight to the petition as he deemed it to be a false premise which lacked commitment and sentiment from those who had signed.

Mr W Parry addressed the concerns of local Councillors regarding the maintenance of balance within the community and advised that the Sub Committee should focus on these objectively.

In response to Members' questions, the Applicant/Applicant's representative confirmed that:

- There would be no fewer than 3 waiters/waitresses serving 2 floors with 28 covers. Waiters/waitresses would greet and meet patrons and accompany them to a table or to the bar. The space would ensure that there would be an area for different types of patrons, mums with prams etc.
- There would be double door access to the outside area.
- A large amount of money had been invested into the premises and in-depth research had been undertaken to ensure the premises would be successful.
- The seats and tables were not fixed. However, the venue was not a 'cameleon venue' changing into a high volume vertical drinking establishment during the evening. The provision of high quality food offered throughout the day would make it impossible to cater for a high volume vertical drinking establishment in the evening.
- The two storey extension at the rear of the premises would be completely repaired and would be as detailed on the plan.

In response to questions from the Lawyer advising the Committee, Councillor J C Bayliss confirmed that:

- He drafted the standard letters of objection, delivered them to local residents and returned them to the Licensing Department.
- He did not draft the petition but confirmed it had been placed in Noah's Yard, and he had collected it and handed it to the Licensing Department.

The Mr W Parry stated that Noah's Yard was a bar in competition to his Applicant's proposed premises.

In response to a Members' question, the Mr W Parry confirmed that the rear of the premises had no roof but was sheltered. He referred to the detailed plan.

In response to questions from Other Persons, Mr W Parry confirmed that:

- Despite the premises being managed professionally no guarantees could be given regarding patrons' behaviour when leaving the premises. It was the responsibility of each individual to behave and individuals were responsible in law for their acts.
- The condition detailed on page 27 ensured that the management regularly supervise the external smoking area and ensure those customers behave and are orderly and quiet.
- Rear access was detailed on the plan as the fire escape.
- The revenue split would be 40% food, 30% hot drinks and 30% alcohol.
- The Applicant was an independent local business who had invested heavily into the premises and had undertaken research. He had every confidence that the venture would be successful.

In conclusion, Mr W Parry referred to his previous statement in support of the application and asked Members whether they wished to receive clarification on any of the issues.

Members' confirmed they were content with the representations that had been made.

The Chair thanked everyone who had made representations.

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)**

Legal advice was provided for the Members about what they needed to consider in light of the policy and the evidence before them.

**(OPEN SESSION)**

The Chair indicated that the Sub-Committee had considered the representations made in terms of the Council's Statement of Licensing Policy, which includes a special policy on Cumulative Impact, the requirements of the Licensing Act 2003 and the Statutory Guidance and regulations.

The Sub-Committee **RESOLVED** that the application **BE APPROVED** subject to a slight modification to Condition 4 of the Schedule of Conditions and additional two Conditions:

**Modification to Condition 4:**

External drinking to be confined to the first floor drinking terrace area as indicated on the plan. The door to the external area be kept closed except for access and egress.

**Two additional conditions:**

1. There shall be no emptying of glassware to the exterior of the premises between the hours of 23.00 hours and 08.00 hours.
2. The Premises Licence Holder and/or Designated Premises Supervisor make available to the current ward members a contact telephone number for use in the event of noise disturbance or concerns from residents regarding the operation of the premises.

**Reason for Decision**

- The Committee accepted the Applicant's representation that this was not proposed to be a High Volume Vertical Drinking Establishment (HVVDE), but primarily a restaurant that would serve 30% alcoholic drinks.
- Considered reference to cumulative impact due to number of premises however lack of information from the Police and the Other Persons regarding crime and disorder meant the Committee were not satisfied there was cumulative impact in light of the absence of information and/ or evidence or that that this type of premises as described by the Applicant would add a negative impact, if it existed

at this time The Committee duly considered the statutory guidance at part 13 and its own policy paragraph 6.

- The committee considered all the representations by other persons the majority of which were in the form of a standard letter. The committee attached less weight to the standard letter because:-
  - only 20 responses to the Licensing Authority's notice of hearing were received;
  - the comments made by the Licensing Officer that at least 2 other persons denied sending/signing the letter attributed to them , one was returned not known at the address and 1 was withdrawn;
  - The lack of amplification and/or expansion of those responses regarding specific problems people had experienced first-hand;
  - the context of the drafting and distribution of this letter provided by Councillor J C Bayliss.
  - The committee accepted the Applicant's contention that this was in fact a petition.
  - A number of the standard letters were signed by persons who were live outof the locality of the premises and who did not attend to deal with the likely effect of the grant on them;
  - No information was available to the Committee regarding first hand concerns save for a short note read out by Ms I Mann on behalf of a resident (page 41 of report Mr Jenkins) but in his absence the Committee was not able to seek further information or clarification of the problems referred to .
- The Sub Committee listened carefully to Councillor N J Davies and Councillor J C Bayliss who expanded their written representations. The Sub Committee were satisfied in light of assurances made by the Applicant that the Applicant had addressed the concerns raised that related to the promotion of the Licensing Objectives and which the Sub Committee could take into consideration.
- The Sub Committee were satisfied they could grant this licence as presented in the application with the modifications, without undermining any of the Licensing Objectives. The Sub Committee disregarded those issues that related to need, competition, parking and planning.
- The Sub Committee noted the concerns over the use of the outside area, but similarly noticed there was no representation from Environmental Health regarding records of problems referred to, but not evidenced, from existing premises. The Committee were not satisfied the other specific legislation and enforcement available had yet been tried.
- The Sub Committee were satisfied that the applicant's solicitor's reference to the condition regarding regular supervision of external areas (No ) could be relied on, if properly undertaken, to keep the external noise down and prevent public nuisance. Calso ..The door to the external area be kept closed except for access and egress ...”to condition 4 .



- The Sub Committee also decided to add a condition to the effect that the premises licence holder and/or DPS make available to Ward Members at the time a contact telephone number in the event of noise disturbance or concerns from residents regarding the operation of the premises.
- The Sub Committee also wanted a condition that there be no emptying of glassware after 11.00 p.m. at night and before 8.00 a.m. in the morning, which will address the concerns raised by Councillor N J Davies.
- The Sub Committee noted the contents of the letter read out by Ms Mann from Ms Davies (page 38 of report) which was meant to be by way of an expansion/amplification of her representation but attached little weight to it due to the lack of first hand evidence of problems that were actually arising from the existing premises and may arise from the grant of this application.
- The Sub Committee noted Councillor J C Bayliss' reference to the fact that CCTV may be put in the area and felt that could assist in addressing the concerns raised.
- Little weight was attached to the petition as the Sub Committee accepted the applicant's concerns over the petition in the absence of the lead petitioner being present to address those concerns and the fact Councillor J C Bayliss confirmed it has been placed in Noah's, a competing business premises.
- The Sub Committee noted Councillor N J Davies' concerns over the need to balance the number and type of premises, but considered this was more a planning issue or one of need which was not relevant to their decision.

The Sub Committee noted that the absence of relevant representations from responsible authorities at Committee and accepted the applicant's position and reference to the Thwaites case that that could mean those responsible authorities did not have any concerns about the application and the proposed conditions were appropriate.

The meeting ended at 12.46 pm

**CHAIR**