

CITY AND COUNTY OF SWANSEA

MINUTES OF THE STATUTORY LICENSING SUB COMMITTEE

HELD AT COMMITTEE ROOM 1 - CIVIC CENTRE ON WEDNESDAY, 28

MAY 2014
AT 10.00 AM

PRESENT: Councillor P M Matthews (Chair) presided

Councillor(s)

K E Marsh

Councillor(s)

H M Morris

Officers:

K Clague - Lawyer
L Anthony - Divisional Licensing Officer
R Loosemore - Licensing Officer
J Tinker - Democratic Services Co-ordinator

Garbo's Café Bar, Unit 1, Altamar, Kings Road, Swansea:

Mrs L A Jones - Applicant

Relevant Persons:

Ms L James - Objector

4 **APOLOGIES FOR ABSENCE.**

No apologies for absence were received.

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

In accordance with the Code of Conduct adopted by the City and County of Swansea, the following interests were declared:-

Councillor K E Marsh – personal – Minute No. 6 – Section 34 Application to vary a Premises Licence – objector known to me.

Councillor P M Mathews – personal – Minute No 6 – Section 34 Application to vary a Premises Licence – objector known to me.

Councillor H M Morris – personal – Minute No. 6 – Section 34 Application to vary a Premises Licence – objector known to me.

6 **LICENSING ACT 2003 - SECTION 34 APPLICATION TO VARY A PREMISES LICENCE - GARBO'S CAFÉ BAR, UNIT 1, ALTAMAR, KINGS ROAD, 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 to vary a premises licence in respect of Garbo's Café Bar, Unit 1, Altamar, Kings Road, Swansea. She referred to the licensing objectives, policy considerations and the guidance from the Home Office.

She further advised that a representation had been received from Altamar Management Company (Residents Association). Ms Lynda James spoke and expressed her objection to this extension to the opening hours and highlighted concerns of the Altamar residents regarding late night disturbances.

Members asked questions of Ms Lynda James regarding the status of the Altamar Management Company and details of actual complaints from residents.

Mrs L A Jones, the designated premises supervisor, spoke in support of the application to vary the premises licence. She outlined the background details in relation to this premises and stated that no objection had been received from South Wales Police.

Members asked questions of Mrs L Jones in relation to use of CCTV, the exact location and size of the outside area and confirmation of the actual hours applied for.

The Lawyer advising the committee asked questions to Mrs Jones who responded accordingly.

In summary, Mrs L Jones 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** that the application to vary the premises licence to allow for an additional hour for the Sale of Alcohol on Thursday, Friday and Saturday evenings and a further additional hour for the Sale of Alcohol on New Years' Eve be granted subject to the operating schedule and the following conditions:-

1. A direct telephone number for the Designated Premises Supervisor or a nominated manager on the premises is to be provided to the Altamar Management Company.
2. Doors and windows of the premises are to be kept closed at all times save for access and egress.

Reason for Decision

1. The Committee heard from the Applicant Lesley Jones. One relevant representation was received from Lynda James, the Chair of the Altamar Management Company. The representation related to the licensing objective of the prevention of public nuisance. The Committee were advised that the Management Company is in effect a Resident's Association. It was stated that complaints had been received by the Management Company in the past from residents of Altamar in respect of the premises. Specifically, the complaints related to noise disturbance outside the premises, with people coming and going, sitting outside, particularly during summer and when disbanding and going home. There was a general concern expressed that the granting of an extra hour would worsen the noise disturbance to residents of the apartments.
2. Having considered the representation made and amplified on during the Committee hearing, the Members felt little weight could be attached to the same. No probative evidence was adduced in support of the representation that the granting of the application would undermine the licensing objective of the prevention of public nuisance. Specifically:
 - (a) No evidence was adduced from any resident of Altamar to the effect that they were suffering from nuisance or disturbance as a result of the premises. It was noted that the Management Company kept no record of any of the complaints they say have been received, and as such there was no detail of the same. Whilst it was noted that reason for this was that the residents were advised to make their complaints to the Environmental Health department of the Authority, no representation has been received from the Environmental Health department as a Responsible Authority. Neither have any complaints been received by the Licensing Department in respect of the premises.
 - (b) By her own admission, Ms James was not able to say that any noise experienced outside the premises emanates from these premises. Members noted the proximity of other licensed premises in the area, and in particular Americano which is also based in the Altamar complex.

- (c) Members placed weight on the absence of any resident of Altamar being here today in support of the representation, or having put forward any written representation themselves. It was noted that the representation by the Management Company was not made specifically at the request of any particular resident/s.
3. The Members took account of the evidence and submissions of the Applicant and placed weight on the same. They accept that the Applicant is a responsible licence holder who respects the needs of the residents. It was noted that a number of TENs have successfully been applied for in the past in relation to the premises and that no objections were made to these and no complaints arose out of them.
 4. Notwithstanding the above, the Members did accept the possibility of some noise emanating from the premises, particularly in people coming and going during the course of an evening in order to use the outdoor area described.
 5. On the basis of the above, and having taken account of the Statutory Guidance and the Council's Policy, the Members felt on balance that the licence variation could be granted as requested, subject to the two additional conditions set out above.

Lastly, the Applicant was reminded of the need to make a minor variation application in respect of the curtilage of the premises in light of the matters raised during the application. Until such time as this application has been dealt with no glassware shall be taken off the premises, including to the external area. To do so would amount to a breach of the conditions of the existing licence. The Applicant was reminded that further advice and guidance could be sought from Licensing Officers.

The meeting ended at 11.10 a.m.

CHAIR