

CITY AND COUNTY OF SWANSEA

MINUTES OF THE STATUTORY LICENSING SUB COMMITTEE

**HELD AT COMMITTEE ROOM 5, GUILDHALL, SWANSEA ON FRIDAY,
24 APRIL 2015 AT 10.00 AM**

PRESENT: Councillor P M Matthews (Chair) Presided

Councillor(s)	Councillor(s)
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A C S Colburn	H M Morris
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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 34 - APPLICATION TO VARY A PREMISES LICENCE - COSTCUTTER EXPRESS, COSTCUTTER SERVICE STATION, 362-364 GOWER ROAD, KILLAY, SWANSEA. SA2 7AE.**

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, reported on the application to vary a Premises Licence in respect of Costcutter Express, Costcutter Service Station, 362-364 Gower Road, Killay, Swansea, SA2 7AE. He referred to the Licensing Objectives, policy considerations and the guidance from the Home Office. Specific reference was made to existing premises licence at Appendix A, the application at Appendix B, the location plan of the premises at Appendix C, the conditions consistent with the operating schedule at Appendix D and representations made by Other Persons, which included Ward Members, at Appendix E.

A representation had been received from South Wales Police on 31 March 2015. South Wales Police requested that additional conditions were added to the Operating Schedule. The Applicant had agreed to amend the Operating Schedule and South Wales Police withdrew the representation and made no further representations.

Councillor M H Jones, Ward Councillor and Local Resident, further amplified her written representations objecting to the application and highlighted her concerns in relation to the undermining of the Statutory Licensing Objectives in relation to the prevention of public nuisance.

She advised that not everyone had written to object or make representations, however, there was a great deal of unhappiness about the application.

She detailed the location of the premises in a residential area on a corner plot with a garage workshop to the side. She stated that outline planning permission for two dwellings existed which could result in the premises being surrounded by premises who shared access in the future.

She questioned the hours sought to sell alcohol and deemed it unreasonable. She stated that current managers were no problem and managed the premises well. She referred to difficulties in the past, when alcohol was being sold at the premises in the absence of a licence. She referred to the hours of operation of the local supermarkets who open at 7 am. She stated that she had no problem with the application for late night refreshment.

She stated that conditions on a licence were difficult to enforce and urged the Sub Committee to refuse the application.

In response to a Member question, Councillor M H Jones referred to past problems at the premises where the Police had been called on a number of occasions. Problems were in relation to noise nuisance (cars with windows down and blaring music), litter, individuals falling in hedges and roaming gangs. She stated that the current managers were good.

In response to a question from the Senior Lawyer, Councillor M H Jones stated that she could not answer whether the current managers would be able to control any potential problems if the licence was extended by 1 hour.

Mr Boyle, Local Resident, further amplified his written representations objecting to the application and highlighted their concerns in relation to the undermining of the Statutory Licensing Objectives in relation to the prevention of public nuisance. He stated that there had been incidents during the 15 years he had lived at his property where windows had been smashed by gangs in a drunken state. He referred to noise nuisance at 2.00 to 3.00 am.

Councillor J W Jones, Ward Member and Local Resident, further amplified his written representations objecting to the application and highlighted his concerns in relation to the undermining of the Statutory Licensing Objectives in relation to the prevention of public nuisance. He referred to the premises responsibilities ceasing as soon as individuals left the premises. He referred to individuals being dropped at the premises by taxi to buy alcohol and those individuals who would be attracted to walk along the road to buy alcohol from the premises when the other licenced premises had closed. Whilst local residents supported the garage, they had a right to reasonable standard of living.

In response to a Member question, Councillor J W Jones stated that problems in the past had consisted of individuals smashing bottles, shouting and stopping at the garage to buy extra alcohol which had created a disturbance. He further stated that

he did have evidence of people going into the garage to buy alcohol, drinking outside and being a nuisance.

Councillor M H Jones further added that individuals use the electric junction box outside the garage as a table and throw empty bottles behind.

Mrs Jones, Local Resident, further amplified her written representations objecting to the application and highlighted her concerns in relation to the undermining of the Statutory Licensing Objectives in relation to the prevention of public nuisance. Mrs Jones referred to problems with taxis and stated that the area was well served with public houses and supermarkets. She stated she was community minded and wished to support neighbours.

Mr Mitchener, representing the Applicant, stated that the licence had been operational for over a decade. He referred to representations made by Mr Boyle regarding noise nuisance at 2.00 to 3.00 am in the morning when the garage is closed at midnight and the current licence is until 23.00. He referred to problems in the past tense as Murco had changed the management 6 years ago (it was noted that the Company is no longer Murco and had been trading as St Albans Operating Company since October 2014).

He stated that the current manager had no plans to leave.

The premises can trade 24 hours, but had chosen to trade from 6 am until midnight in the last 6 months.

No problems or complaints had been reported to the Manager. The premises are able to sell alcohol with limited hours on Christmas Day and Good Friday and there had been no representations regarding this. He referred to the conditions required by the Police which had been accepted by the Applicant. He also referred to the lack of representations from Environmental Health.

He stated that he would answer the issues raised by the representations received.

Councillor M H Jones had no issue with late night refreshments and could not provide evidence of problems. Councillor M H Jones' reference to planning consent was merely supposition that there would be problems.

Representations made by Mr and Mrs Russell contained no detail/evidence of problems and merely confirmed that the garage was quiet at night. The representations were unfounded to suggest that the garage would attract problems.

With regard to reference to need, the premises was not in a cumulative impact zone and therefore need was not an issue.

He stated that the Police were the professionals in providing advice and information and had a key role and good relationships with the premises.

He referred to the sincere concerns of the residents. However, he stated that these concerns must relate to current licensing activity and must not be based on fear or

concern about the future. He reiterated that the Police and Environmental Health had no problems with the application.

With regard to litter and anti social behaviour, these matters are the responsibility of the individual concerned.

In relation to customer profiles, he stated the ability to sell alcohol at 6.00 could be for the benefit of shift workers or fishermen.

He stated that the Applicant was fully aware of his responsibilities and strived to ensure provision of waste bins and notices asking customers to leave the premises quietly. All staff had received individual training at three monthly intervals to coincide with the retail calendar and had taken a written test to evidence their understanding and responsibilities. The training went beyond Police recommended best practice with four different elements and was a fully comprehensive training format.

He referred to the provision of CCTV as a result of the request made by the Police.

In response to a Member question, Mr Mitchener stated that the reference to staff being trained to deal with situations referred to staff refusals which was the biggest area of confrontation and was comprehensively covered in the training regime.

In response to a Member questions, Mr Mitchener stated that the Licensing Act allowed for a premises to apply for the hours they are open and there was not rational reason why an individual could not buy a bottle of wine at 6 am.

Councillor M H Jones referred to Christmas Day and Good Friday opening and the fact that there was no mention of this in the email or statutory notice. She reiterated her concerns regarding the location of the premises in a residential area.

The Licensing Officer stated that there was a legal requirement to advertise an outline of the application in the local press and in the vicinity. The notice stated that the application could be viewed at the Civic Centre. Copies were sent to the Responsible Authorities.

The Senior Lawyer reiterated the legal requirements with regard to the notice of application and the need to provide specifics was not a requirement of the Notice.

In summary, Mr Mitchener stated that the application was incredibly emotive, however, the Sub Committee could only deal with issues that were relevant and attributable as opposed to what might happen in the future. He stated that there was no evidence against the granting of the application and in the past six years there had been no problems with alcohol. He made reference to the Thwaites Case and stated that the Applicant would deal with problems, should they arise, in the future.

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 representations 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 be **GRANTED**.

Reasons for Decision

The Sub Committee granted the application as it considered that:

- a. the evidence of previous disturbances were historic;
- b. the closing time of the premises were broadly in line with the other licensed premises in the vicinity;
- c. the current manager was demonstrating an efficient standard in respect of promoting the Licensing Objectives; and
- d. Residents do have the review mechanism should problems be experienced in the future.

The meeting ended at 11.32 am

CHAIR