

CITY AND COUNTY OF SWANSEA

MINUTES OF THE STATUTORY LICENSING SUB COMMITTEE

HELD AT COMMITTEE ROOM 3A, GUILDHALL, SWANSEA ON FRIDAY,
26 JUNE 2015 AT 10.00 AM

PRESENT: Councillor P M Matthews (Chair) Presided

Councillor(s)	Councillor(s)	Councillor(s)
D W Cole	P M Matthews	C L Philpott

Officers:

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

Other Persons:

Cllr F M Gordon - Ward Member

Monkey, 12-14 Castle Street, Swansea, SA1 1JF

Mr W Parry - Applicant's Solicitor
Mr L J Baker - Applicant

13 **APOLOGIES FOR ABSENCE.**

No apologies for absence were received.

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 17 APPLICATION FOR A PREMISES LICENCE - MONKEY, 12-14 CASTLE STREET, SWANSEA, SA1 1JF.**

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

The Senior Lawyer provided a comprehensive overview of the procedure to be adopted by the Sub Committee when considering the application.

The Senior Licensing Officer reported on the application for a Premises Licence in respect of Monkey, 12-14 Castle Street, Swansea, SA1 1JF. He referred to the Licensing Objectives, policy considerations and the guidance from the Home Office.

Specific reference was made to application for a premises licence at Appendix A, the location plan of the premises at Appendix B, conditions consistent with the operating schedule at Appendix C, the representations made by Other Persons at Appendix D and the Cumulative Impact and Special Policy at Appendix E.

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. Reference was also made to the effect of special policies with an extract from Home Office Guidance at Appendix F.

A representation had been received from South Wales Police on 22 May 2015. The representation was subsequently withdrawn on 27 May, 2015. The Applicant had amended the Operating Schedule to reflect the advice given by South Wales Police and those conditions are listed in Appendix C.

One representation had been received from Other Persons. A copy of their representations was attached at Appendix D. The representation related to the prevention of crime and disorder and public nuisance.

Councillor F M Gordon, Ward Member, speaking on behalf of her Ward colleague, Councillor S E Crouch, further amplified the 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 crime and disorder and public nuisance.

She stated that the extension of opening hours until 6.30 am (including drinking up time) was unreasonable and contradicted the licensing objective of the prevention of public nuisance. She referred to the Council's initiative of encouraging individuals to reside in the City Centre and the possible negative impact the opening hours would have on local residents.

She stated that the application would result in extra work for the Police with the increased likelihood of crime and violence. She referred to statistics indicating 100 crimes per month are committed in the Castle Ward which was in excess of any area in Swansea. She stated that granting licensing hours until 6.30 am would encourage other operators to seek extensions to their current hours. She referred to Swansea's Purple Flag initiative for a healthy night life and whilst appreciative of the significant contribution Monkey has to the night time economy, the extended hours were excessive.

In response to a Member questions, Councillor F M Gordon confirmed that:

- She was aware that Monkey previously operated until 6 am, however, this Licence had been granted prior to the Council's adoption of the Cumulative Impact Policy;
- Whilst she did not have personal evidence of people leaving the premises, the Police had stated that problems occur when patrons leave late night bars;

- The reference to 100 crimes a month in Castle Ward could not be attributed to patrons of Monkey; and
- The set up of Monkey was standard in so far as having seating areas with tables. However, the lateness of the hour requested can cause problems. Additionally, noise filters from the rear smoking area.

Mr W Parry, Solicitor representing the Applicant, detailed the rationale for the application which had been the result of an omission following an agreement with creditors. Monkey had been licenced since 2005 with the current times and had enjoyed a good reputation. The premises was not a High Volume Vertical Drinking Establishment (HVVDE) and was promoted as an eclectic venue attracting a 'bohemian clientele'. The premises was not a violent venue and had never been the subject of a review. There was no catalogue of evidence of complaints from the Police, neighbours, other traders. Reference was made to the Thwaites case and the Committees responsibilities in determining the application based on evidence supplied by the responsible authorities. The responsible authorities were happy with application and that therefore must weigh most heavily with the Committee. He stated that no music had been played outside.

In response to Member questions, the Applicant confirmed:

- a. No music was played in the outside the building. Any noise would emanate from patrons talking. The rear balcony backs onto commercial properties which included a 24 hour gym, none of whom will be disturbed. In relation to individuals residing in Castle Lofts there is a building between the residence and Monkey Bar. No noise emits from the front door;
- b. The building is 3 stories high, but is traded on 2 floors. Only 1 of the balconies will be in use; It was planned for the 2nd floor to be used in the future ?
- c. One of the benefits of a 6 am licence is to create a staggered approach to patrons dispersing and entering Wind Street. Police statistics support this approach with evidence of problems arising between 2 am and 4am;
- d. Whilst there would be some migration of patrons from other bars closing at 3-4am, a very selective door policy is operational. He had a high level of investment in Swansea City Centre with the benefit of managing three other bars in Wind Street. These three other bars were 'feeder bars' attracting patrons who enjoyed the same things. It was in the interests of the Applicant to ensure that the premises do not contribute to any anti social behaviour;
- e. The furniture is moveable, with more tables during the day and early evening. The first floor balcony area is covered and the furniture is fixed with patio tables and chairs;
- f. The premises enjoys a function room on the second floor, however, the majority will be traded downstairs. It was the intention to rent the second floor area to a theatre company. Specifically, the African Society had expressed an interest in performing to a 'niche' crowd;
- g. Oxygen was licensed until 6am and given its situation at the far side of the City was not a competitor. Monkey would be the only bar in Wind Street trading until 6 am;
- h. The premises were capable of accommodating 150 patrons seated, 70 patrons on smoking terrace. Furniture would be moved to create a dance floor but not cleared away from the area;

- i. The smoking terrace on first floor is accessible from the ground floor. The second floor balcony will be closed. The first floor balcony overlooks a 24 gym and commercial property;
- j. The first floor balcony will be supervised by a SIA doorman at all times. Whilst the guidelines state two SIA for first 100, there will be 3 to every 100 in the premises which creates nicer atmosphere. There will be two SIA doormen on the front door, one supervising inside the venue and one on first floor balcony;
- k. There have been no licensing issues at any of premises despite trading for 5 years; since 2005 that is 10 years ?
- l. He is experienced in late hours premises in London, Bristol and Cardiff and whilst there are problems associated with late hours, Police statistics indicate that incidents occur between 2 and 4 am.

In response to a question from the Chair, the Senior Licensing Officer confirmed that Oxygen Bar has a licence until 6 am, Escape also has a licence until 6 am but is not currently trading.

The Senior Lawyer stated the process regarding the consideration of applications within a Cumulative Impact area with the onus on Applicant to demonstrate that there would be no negative impact when their customers leave the premises. She stated that the Police statistics indicate incidents between the hours of 2 am to 4 am, following which time incidents decrease.

In response to a question from the Senior Lawyer, Mr W Parry, Applicant's Representative, stated that the premises was unique and had been trading until 6 am since 2005. During the 10 years of operation, there was no evidence of any licencing problems associated with undermining the Licensing Objectives with these premises.

In response to a Councillor question, despite the Applicant being a new proprietor to the venue, there would be no change in dynamics regarding the operation of the premises. Positive additions would be made to the management of the premises. There were no plans for the premises to trade as a nightclub.

In conclusion, the Solicitors' Applicant stated that he had nothing further to add.

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, the 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** 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. CCTV will be provided in the form of a recordable system, capable of providing pictures of evidential quality in all lighting conditions particularly facial recognition. Cameras shall encompass all ingress and egress to the premises, fire exits all areas where the public have access and any external drinking area's. Equipment must be maintained in good working order, the system must continually record whilst the premises is open for licensable activities and during all times when customers remain at the premises. Recordings must be correctly timed and date stamped, recordings must be kept in date order, numbered sequentially and kept for a period of 31 days and handed to a Police Officer/Local Authority Officer on demand. The Premises Licence Holder must ensure that at all times a Designated Premises Supervisor (DPS) or appointed member of staff is capable and competent at downloading CCTV footage in a recordable format either disc or VHS to a Police Officer/Local Authority Officer on demand. The Recording equipment and tapes/discs shall be kept in a secure environment under the control of the DPS or other responsible named individual. An operational daily log report must be maintained, endorsed by signature, indicating the system has been checked and is compliant. In the event of any failings the actions taken are to be recorded. In the event of technical failure of the CCTV equipment, the Premises Licence holder/DPS must report the failure to the Police/Local Authority.
2. Premises to actively participate in the city centre Nitenet radio communication scheme. Participation to specifically include a member of staff responsible for signing on the system, monitoring, responding to transmissions, making transmissions when incidents arise to alert other premises using the system and signing off. This participation to take place at all times the premises is open to customers and trading.
3. Door staff to be employed when regulated entertainment is provided at a ratio of 2 supervisors for the first 100 customers and then 1 supervisor per extra 100 thereafter.
4. A register of door supervisors (Safer Swansea Partnership Register or like detailed bound numerical register) to be maintained at all times at the premises. Such register to include the name, registration number, contact details of the member of door staff along with the date, time on duty and time off duty. Full details of the agency supplying the staff to be endorsed and the register to be available for inspection on request by an Authorised officer.
5. Signs to be prominently displayed at the entrance to the premises, within the toilet facilities and within public access areas. Signs to state that drug use is

unacceptable and that the venue operates a drug search policy as a condition of entry reserving the right to search customers under this provision.

6. Premises to actively participate in regular initiatives to target drug misuse at the venue to include full co-operation with South Wales Police led drug itemiser and drug search operations.
7. A drug safe to be present in the premises.
8. Staff to be trained in drugs awareness issues and to undertake periodic inspections of the public areas including toilets.
9. Other than for off sales in sealed containers no glassware or glass bottles to be taken outside the building by patrons of the premises.
10. An incident book (Safer Swansea Partnership Incident Book or like detailed bound numerical register) to be maintained at all times to record any incidents of note.
11. No entertainment, performance, service, or exhibition involving nudity or sexual stimulation which would fall within the definition of relevant entertainment in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982, as amended, shall be provided.
12. Slower tempo and quieter music to be played for a period commencing 30 minutes prior to the conclusion of entertainment and dancing.
13. Managers/supervisors of premises to attend and fully participate in the City Centre Pub and Club Watch scheme.
14. Premises shall supply staff to marshal and supervise any queues that form on the premises .Where a queue to enter the premises forms outside the premises the door staff must ensure any queue is orderly and does not cause a public nuisance or an obstruction to the public highway.
15. The fencing on the 1st and 2nd floor balconies shall remain in place and be repaired and maintained as necessary to prevent glassware falling or being deliberately dropped from the external wall.
16. Premises shall have an adequate system of counting persons in and out to ensure that the customer levels in all areas do not exceed the limits endorsed in the venue risk assessment.
17. Adequate and appropriate supply of first aid equipment and materials is available on the premises.
18. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and leave the area quietly.

19. A door supervisor to be assigned to the external areas (1st and 2nd floor balconies whenever they are being used by customers to monitor the behaviour of customers. This was amended per my reasons below.
20. A Challenge 25 proof of age scheme, shall be operated at the premises where the only acceptable forms of identification shall bear their photograph, date of birth and a holographic mark.
21. Signage to be prominently displayed at the premises indicating proof of age scheme is in being.
22. A log shall be kept detailing all refused sales of alcohol. The log should include the date and time of the refused sale and the name of the member of staff who refused the sale. The log shall be available for inspection at the premises by the police or an authorised officer of the Council at all times whilst the premises are open.
23. Premises to keep up to date records available for inspection by the Police/Authorised Officer of staff training in respect of age related sales.
24. Premises to actively participate in the city centre exclusion order scheme.
25. Suitable non glass receptacles only, agreed in consultation with the Police, to be used at the premises on dates considered to be major event days in the area. Such days to be notified by the Police to the Designated Premises Supervisor, in writing, at least 14 days prior to the event, or with the agreement of the Pub & Club Watch.
26. There shall be no drinking on the highway outside the premises other than within an area covered by a pavement café licence.
27. A dedicated telephone number of the DPS to be provided to all local residents.
28. The windows to the external areas (1st and 2nd floor balconies) to be closed when the business is trading. Doors to the external areas to be closed at all times except for ingress and egress.

Reason for Decision

Reasons

It weighed heavily with the Committee that the Police, the Pollution Control Division of this Authority and Licensing Authority had not made representations against the grant of the proposed licence or the hours and licensable activities sought.

The Committee felt they were unable to adjust the hours from 6 a.m. to earlier as requested by the Other Person, Councillor Sybil Crouch, who had made a relevant representation as this may adversely affect the policing arrangements for the Cumulative Impact Area(CIA).

The Committee were mindful of the evidence relied on with regard to the making of the Cumulative Impact Policy (CIP) and the fact that the critical period for the night time economy is until 4 a.m. Whilst it was recognised there can be issues after 4 p.m. this time is clearly, according to the Police evidence, the time when most crime and disorder can occur. Accordingly pulling back the hours asked of 6 a.m. to 4 a.m. may be contrary to the Police's current policing of the area and they may have made other representations if this terminal hour had been sought.

The Committee was satisfied that the late hours sought in this licence would facilitate a more gradual dispersal of customers from the CIA and this appeared to be to the Police's satisfaction who were the main source of advice on the promotion of the licensing objective for the prevention of crime and disorder.

The Committee accepted that the first and second floor balconies (the external areas) were to the rear of the premises which overlooked commercial premises. Whilst it was accepted as set out in the representation from Cllr Sybil Crouch that there were residential areas in the locality of the premises no objections had been made and/or any evidence of previous complaints submitted to suggest the use of the external areas had caused public nuisance to local residential premises in the past when it had traded.

The Committee accepted Mr Baker's representations that this is not intended to be a high volume vertical drinking establishment and this premises had enjoyed a good reputation during its trading and which had an eclectic mix of activities going there.

The committee noted the previous licence had lapsed and therefore this licence was not an additional licence in the Cumulative Impact Area or for increased hours it mirrored the previous licence and the status quo was unaffected.

Further the Committee recognised that the location of the premises was in Castle Street which was out of the main Wind Street area.

As to migration from Wind Street to Monkey the Committee accepted the representations of Mr Parry and Mr Baker that there were other premises to meet the needs of the majority of the people going to Wind Street and this premises has a specific clientele from specific feeder pubs and would not attract the majority of those leaving Wind Street. Again the fact that this premises had been trading for some time at the proposed terminal hour in the past without there being any evidence of migration before the committee suggested this would not be an issue.

Members were concerned that the reference to removing tables and chairs in the bars on the ground floor may turn these premises into a high volume vertical drinking establishment but accepted Mr Baker's representations that he intended to leave chairs in these areas. Consideration was given to placing a condition on the retention of the tables and chairs, however, the advice was without knowing the actual percentage of occupancy and the seating that could be imposed under the Fire Regulations the Committee could not set a limit. The members indicated that they therefore expected him to act in the spirit of his representations and that he would retain the seating as he had suggested and maintain the proposed use of the

premises for a specialist entertainment venue which was very different to the other entertainment venues in Wind Street and the CIA.

Mr Baker made representations that the external areas would be supervised at all times they were being used. Members considered that by modifying proposed condition 19 for there to be a door supervisor on the first and second balcony at all times this would ensure the behaviour of the patrons on those external areas and a grant would not undermine the licensing objective for the prevention of public nuisance. The Committee also felt this would address the issues raised by Councillor Crouch in her relevant representation. This condition after representations by Mr Parry was slightly adjusted to say there would be a door supervisor assigned to the external areas when in use who would be responsible for monitoring the behaviour of the patrons using the areas. The Committee felt this with the CCTV provision to cover the external areas meant that the behaviour of the patrons would be monitored at all times allowing necessary action to be taken.

The Members added a condition that a dedicated telephone number for the duty manager be provided to the LA to be made available to the Ward members and anyone who wished to complain about issues arising from the operation of the premises.

A condition was to be added about the windows to the external areas to be kept closed when the business is trading and doors onto the external areas to be closed except for ingress and egress.

The Committee had regard to its own Licensing Policy and in particular sections 6.5 and 6.8. As this matter was determined on its own merits they were satisfied there would not be a floodgate of applications for similar hours and accepted Mr Parry's point that this premises has always had the proposed terminal hour since 2005 and that had not provoked such applications previously .

In considering the Thwaites case cited by Mr Parry the committee accepted it had no evidence before it to show the previous operation of the premises had undermined any of the licensing objectives therefore anything now about that would be speculative albeit that case could be distinguished as it had not related to a premises in a CIA.

The Committee was satisfied that dealing with the matter on its own merits meant that any other less meritorious applications could be refused under the terms of their policy if a grant would add to the negative cumulative impact and undermine the licensing objectives. The Committee reflected that this may not have been the situation if the Police and other responsible authorities had made relevant representations.

Overall the Committee considered having regard to the representations made by Mr Parry and Mr Baker and their observations and proposals as to the running of the premises they had rebutted the presumption against refusal and the members were satisfied there would not be a negative impact as a result of the grant of the licence and it could depart from its special policy in light of the individual circumstances of this case as provided for in the statutory guidance (March 2015).

Minutes of the Statutory Licensing Sub Committee (26.06.2015)
Cont'd

The meeting ended at 11.34 am

CHAIR