



City and County of Swansea

## Minutes of the **Statutory Licensing Sub Committee**

Remotely via Microsoft Teams

Tuesday, 1 September 2020 at 10.00 am

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

**Councillor(s)**

P Downing

**Councillor(s)**

B J Rowlands

**Officer(s)**

Lynda Anthony

Lyndsay Thomas

Bethan Walker

Samantha Woon

Licensing, Food and Safety Manager

Senior Lawyer

Licensing Officer

Democratic Services Officer

**Also present:**

Mr J Hancock

Mr W Parry

Mr M Jones-Griffiths

Police Licensing Officer, South Wales Police

Applicant's Solicitor

Applicant

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### 7 **Disclosures of Personal and Prejudicial Interests.**

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

### 8 **Licensing Act 2003 - Section 17 - Application for a Premises Licence - Bambu Beach Bar, Wind Street, Swansea, SA1 1EJ - Bambu Ops Ltd.**

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 Licensing Officer reported on the application for a new premises licence in respect of Bambu Beach Bar, Wind Street, Swansea.

She referred to the application for a premises licence at Appendix A, the location plan of the premises at Appendix B, promotion of the licensing objectives, conditions consistent with the operating schedule at Appendix C, the representations made by

Other Persons at Appendix D, policy considerations and guidance issued by the Home Secretary.

She referred to the determination of the application, given that the application was in respect of premises licence located within the Special Policy area of Wind Street.

The Licensing Officer responded to a Councillor question regarding responses from relevant representatives.

A representation had been received from South Wales Police on 1 August, 2020. A copy of their representation was attached at Appendix D. The representation was on the basis that there is a Special Policy in place for the location of the premises related to the prevention of crime and disorder and public nuisance.

Mr Jon Hancock, Police Licensing Officer, further amplified the written representations objecting to the application and highlighted his concerns in relation to undermining of the Statutory Licensing Objectives in relation to the Prevention of Crime and Disorder, Public Safety and the Prevention of Public Nuisance. Members' noted the crime occurrences in respect of the premises and the positive collaborative work undertaken in respect of Flag renewal and 'Swansea Help Point'.

The Committee adjourned for ten minutes in order to consider additional information submitted by the Applicant's Solicitor.

Mr W Parry, Solicitor representing the Applicant, advised that the application for a new premises licence was to replace the existing licence in respect of these premises.

The times for and types of regulated activities to take place at the premises under the new licence were identical to the times and permitted activities that were permitted by the existing licence. The application was a replacement of an existing licence on the same terms as to times and types of activities but with the comfort, quality, level of service and safety of the premises being significantly improved by the revised layouts, new fire escape facilities, fixed and loose seatings and toilet provision within the premises.

Members' noted the changes to the layout of the premises and clarification of Condition 3, 4, 13 of the Operating Schedule,

The Solicitor representing the applicant referred to Police concerns regarding increased capacity as a result of fire safety capacity figures, the current situation regarding closure of other premises within Wind Street and the impact on the social distancing requirements of the COVID 19 pandemic.

Members' asked questions of the Applicant's Solicitor in relation to: Fixed and moveable seating; fire safety maximum numbers and the Applicant's intentions for the premises; the status of the refurbishment work at the premises; and details of the outside seating area, (although it was recognised that this would be regulated under the terms of the Pavement Café Licence).

The Senior Lawyer asked questions of the Applicant's Solicitor regarding management of capacity and clarification of the fixed and moveable seating on the ground, first and second floor of the premises,

The Chair raised concerns regarding the management of numbers on each floor. The Solicitor representing the Applicant referred to the manner in which the premises had operated prior to the closure in March 2020 (as a result of the COVID 19 pandemic) where staff used a 'clicker' counter system. He advised that the Applicant was considering alternative options for future management of customers, but these options were still being deliberated.

The Chair raised concerns relating to the occurrences of violence at the premises, as evidenced with the South Wales Police submission. Furthermore, the Chair referred to designated smoking areas outside the premises.

The Police Licensing Officer summarised representations on behalf of South Wales Police. He reiterated his previous comments in relation to occurrences of reported the knock on effect these crimes presented to Police resources and the implications associated with the premises increasing patronage to that deemed acceptable by the Fire Authority. He referred to the level of investment undertaken by the Applicant in improving the premises and the Applicant's natural desire to recoup this investment.

The Solicitor representing the Applicant stated that the application sought to make the premises safer and more comfortable. He queried the assertions made by the Police Licensing Officer regarding potential increase in clientele and reiterated the implications of social distancing requirements under COVIC 19.

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 Senior 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** 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.

The Sub-Committee was satisfied that in light of the agreed and modified conditions, the grant of a licence would, in the individual circumstances of this application, not add to the existing negative cumulative impact in the area allowing them to depart from the policy and grant the application.

#### Reason for Decision

This was an application for the grant of a new licence in Wind Street, Swansea, the location of which is the subject of a cumulative impact policy (the Special Policy). It was accepted by all parties that the Special Policy applies in this instance.

High Volume Vertical Drinking Establishments (HVVDEs) are the type of premises which have attributed to the negative cumulative impact in Wind Street giving rise to the Special Policy.

The premises did not fall within any of the exceptions in the Special Policy at para 6.22.

Whilst COVID-19 restrictions currently requires reduced numbers are able to attend the premises any licence granted would exist in perpetuity and therefore had to be fit for purpose post COVID-19 if the current restrictions are lifted/alterd.

In arriving at their decision the Members had particular regard to the Applicant's detailed written and oral evidence and the South Wales Police (SWP) representation.

The premises is a HVVDE and drink lead. The application as made did not change that nature. The Members were mindful of their Special Policy in particular paragraph 6.24 as to how this application should therefore be dealt with.

The Members' noted the Applicant's careful and detailed representations about the floors and improvements made to improve the safety, comfort and quality of service for persons attending the premises.

There was no evidence from the Applicant that it would trade differently from its existing model of a HVVDE and minimise to an acceptable level any cause for concern by attracting different clientele than it currently does so as to not undermine the Licencing Objectives and not add to the negative cumulative impact.

There was no evidence of a widening of choice and type of venue being provided by the application.

Members' found that in relation to the seating identified as fixed, this would be unlikely to be used if the loose tables and chairs were moved and there were persons standing and drinking in front of it. Also the loose seating could be removed at any time facilitating the additional capacity identified in the representation by South Wales Police.

The Members accepted the increased capacity arose as a result of the fire safety capacity figure as advised by the Fire Authority for the purposes of public safety objective and that the purpose of the application was not to increase the capacity. The Members also accepted it was not known if or when the increased capacity would be achieved. However, there was the potential for it and in light of the effect of the Special Policy, Members found an increased capacity could have a negative impact in respect of the Licensing Objective for the Prevention of Crime and Disorder as raised by South Wales Police.

The Members' also accepted South Wales Police representation that in light of the considerable cost of the refurbishment the new premises would be publicised to bring it to the attention of potential new clientele as well as existing clientele.

Therefore, Members' accepted South Wales Police position that the existing capacity be maintained to avoid negative impact and decided to limit the capacity to the existing capacity of 620 as set out in Condition 15 of Appendix C (attached) to promote the Licensing Objective of Crime and Disorder. Certain other conditions submitted by South Wales Police were accepted, albeit slightly modified, by the Applicant as follows:

The Applicant agreed to other conditions offered by South Wales Police and these will be added at 27, 28 and 29 to modified Appendix C.

As to Condition 27, the Members' had concerns regarding the presence of the external drinking area (in the middle of the area the subject of a Special Policy). Members' considered the use of glass in the external area posed an unacceptable risk and would undermine the Licensing Objectives of the Prevention of Crime and Disorder and Public Nuisance and so amended the condition.

Condition 22 was slightly amended to accommodate the enforcement of this condition.

As to Condition 29, the Members' decided to retain glass rather than waste glass as the Members' felt public nuisance could be caused by movement of any glass, for example, crates of bottles after 23.00 hours.

Condition 4 was agreed by the Applicant as amended and would be added to the Licence save the Members retained 21.00 hours as suggested by South Wales Police as there were concerns regarding 'all day alcohol consumption'.

As to condition 3 "building" was amended to "licensed premises" and as condition 3 renders condition 14 obsolete it was removed. The Members' noted that this condition is suspended until 30/9/2020 by virtue of the modification to the Licensing Act 2003 by section 11 of the Business and Planning Act 2020.

Condition 13 was explained by the Applicant and Members' decided to amend it to ensure clarity of the hours and for the avoidance of doubt.

The Applicant confirmed the proposed works had already been undertaken so rendering the existing premises licence un-useable and without worth in addressing the negative cumulative impact.

As to other premises within Wind Street, the Applicant referred to those that had closed. Members' considered the application on its own merits although noted the Officer's information that Walkabout still has a licence and there was a pending application for the former Revolution premises which would be dealt with in accordance with the Special Policy.

The Members' also accepted South Wales Police submissions that the incidents referred to in its representation were properly associated with Bambu premises.

The Members heard and considered the evidence of the Police as set out in South Wales Police representation regarding the flash points in the area of the premises at its terminal hour when persons would be exiting these premises.

This was not challenged by the Applicant. The number of incidents were decreasing as a result of the Special Policy and efforts being made to address the issues arising from the number of licensed premises.

As to the lack of other representations from Responsible Authorities raised by the Applicant the Members' found that this may have been because the increase in capacity was not clear in the operating schedule and in any event a lack of representations was not necessarily indicative of consent for the application.

Promotion of the Licensing Objective for the prevention of Crime and Disorder was primarily a matter for South Wales Police in accordance with the Statutory Guidance.

## **APPENDIX C**

### **Conditions consistent with the Operating Schedule.**

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. Suitable non glass receptacles only, are to be used at the premises on days considered to be major event days in the area subject to the qualification below. Such days are to be notified to the designated premises supervisor in writing at least 14 days prior to the event or with the agreement of Pub and Club Watch. The requirement on major event days as to suitable non glass receptacles will be disappplied in relation to bottles of unmixed spirits or champagne only, and only when served to the table by waiter/waitress service only. In such circumstances there is to be at least one SIA registered door supervisor on duty within close proximity to the table at which the bottle is served. The disapplication of the requirement in relation to non glass receptacles shall further apply in relation to parties at pre booked tables. Once the bottle which had contained the unmixed spirit or champagne is empty it is to be returned to the bar servery by waiter/waitress for disposal. Once a party of patrons leaves their pre booked table then the bottle, whether empty or full, is to be immediately returned to the bar servery by waiter/waitress. The management are to keep a record of prebooked tables for the purpose of this condition and are to make sure such records are available for inspection by a police or licensing officer upon request. Patrons seated at pre booked tables that have been served with a bottle of unmixed spirit or champagne are to be monitored by members of staff so as to ensure that no individual is considered to be unfit to consume alcohol. The premises is to operate a refunds policy so that if a part consumed bottle of unmixed spirit is returned to the premises by patrons then a suitable refund is to be made to such patrons in relation to such part of the alcohol which has not been consumed.
3. Other than for off sales in sealed containers no glassware or glass bottles to be taken outside the licensed area by patrons of the premises.
4. A minimum of 2 SIA licensed door supervisors shall be on duty at the premises from 21.00 hours on Wednesdays, Fridays and Saturdays and on Sundays preceding a bank holiday .At all other times door supervisors shall be used when a requirement is identified by the licence holders written risk assessment. Consideration will be given to the nature of the event, public holidays and days considered to be major event days in the City Centre.

(Please note that the number of door supervisors should be dependant on the type of business you run ,the crowd profile and certain events that you run as a premises).

<b>Members of the Public Present</b>	<b>Number of Door Supervisors</b>
<b>1-100</b>	<b>2</b>
<b>100-250</b>	<b>3</b>
<b>250-500</b>	<b>4</b>

<b>500-750</b>	<b>5</b>
<b>750-1,000</b>	<b>6</b>
<b>1,000-1,250</b>	<b>9</b>
<b>1250-1500</b>	<b>10</b>
<b>1,500-2,000</b>	<b>12</b>

**In excess of 2000 - at least 12 and such other stewards as may be required either by the Chief Fire Office or the Council.**

5. 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.
6. Signs to be prominently displayed at the entrance to the premises, within the toilet facilities and at key strategic points 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.
7. 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.
8. A drug safe to be present in the premises
9. Managers/supervisors of premises to attend and fully participate in the City Centre Pub and Club Watch scheme.
10. 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.
11. Premises to actively participate in the city centre exclusion order scheme.
12. 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.
13. A 30 minute drinking up time from 03.00 hours to 3.30 hours to allow customers to use the toilet facilities and disperse from the premises.
14. Premises shall have an adequate system of counting persons in and out on each floor of the premises to ensure that the customer levels on each floor do



not exceed the agreed limit of 320 at ground floor ,200 at first floor and 100 at second floor making a total capacity of 620.

- 15.No person shall give at the premises any exhibition, demonstration or performance of hypnotism, mesmerism or any similar act or process which produces or is intended to produce in any other person any form of induced sleep or trance in which susceptibility of the mind of that person to suggestion or direction is increased or intended to be increased.

NOTE: (1) This rule does not apply to exhibitions given under the provisions of Section 2(1A) and 5 of the Hypnotism Act 1952.

- 16.Adequate and appropriate supply of first aid equipment and materials is available on the premises
- 17.Prior to the beneficial use of the premises a sound insulation scheme designated by a competent acoustic consultant to contain noise within the cartilage of the premises shall be submitted for approval by the Pollution Control Division of the Environment Department, City & County of Swansea. Once approved, in writing, the sound insulation scheme shall be installed and properly maintained.
- 18.Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and leave the area quietly.
- 19.Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
- 20.The licence holder shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by door staff so as to ensure that there is no public nuisance or obstruction to the public highway.
- 21.External area covered by the pavement café licence to be regularly supervised by staff from premises when in use to ensure use of non glass containers.
- 22.A Challenge 21 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.
- 23.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.
- 24.Premises to keep up to date records available for inspection of staff training in respect of age related sales.

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Cont'd

25. Notices shall be clearly displayed in the premises to emphasis to customers the prohibition on providing sales of alcohol to persons under the age of eighteen years.
26. No outside drinking other than by customers seated within the area covered by the pavement café licence and no drinks shall be served in glass containers at any time in this area.
27. The external area at the front of the ground floor of the premises covered by the café pavement licence shall be clearly identified and enclosed by use of a barrier method.
28. No glass including bottles shall be removed or placed in outside areas between 23.00 and 08.00 hours.

The meeting ended at 1.09 pm

**Chair**