



City and County of Swansea

Minutes of the **Statutory Licensing Sub Committee**

Remotely via Microsoft Teams

Wednesday, 28 April 2021 at 10.00 am

Present: Councillor P M Matthews (Chair) Presided

Councillor(s)

S J Gallagher

Councillor(s)

P Lloyd

Officer(s)

Aled Gruffydd
Bethan Walker
Lynda Anthony
Samantha Woon

Lawyer
Licensing Officer
Licensing, Food & Safety Manager
Democratic Services Officer

**Responsible
Authorities:**

Yvonne Lewis
Craig Davies
Rachel Loosemore

Team leader, Licensing
Lawyer
Licensing Officer

**Applicant
Representative**

Bruno Nunes
William Parry

Applicant
Applicant's Solicitor

1 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.

2 Licensing Act 2003 - Section 17 Application for a Premises Licence - Bambu Beach Bar, 51-52 Wind Street, Swansea.

The Chair welcomed all attendees to the meeting and requested that all present introduce themselves.

The Licensing Officer reported on the application for a new premises licence in respect of Bambu Beach bar, 51-52 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, and the representations made by Responsible Authorities at D and Appendix E.

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.

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, and the link to the Guidance. Reference was also made to the effect of special policies with an extract from Home Office Guidance (and the link to the guidance).

A representation had been received from South Wales Police on the basis that there is a Special Policy in place for the location of the premises. The representation made reference to the proposed increase in customer capacity at the venue and the probable increase in cumulative impact on the area of Wind Street. A copy of South Wales Police's representation was attached at Appendix D.

A representation had been received from the Licensing Authority, acting as Responsible Authority, on the basis that there is a Special Policy in place for the location of the premises. A copy of the representation was attached at Appendix E.

Jon Hancock, South Wales Police, further amplified the 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 Crime and Disorder and Public Nuisance. Mr Hancock referred to a submission in support of the Police representations from Mr Steve Jones.

Rachel Loosemore, Licensing Officer, 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.

In response to a Member question, Mr Hancock confirmed that of the 13 incidents noted at the premises, 4 were dealt with via fixed penalty or restorative justice.

Mr W Parry, Solicitor representing the Applicant, reported that the Applicant had demonstrated the steps to be taken to mitigate any negative impact. He referred to the Fire Safety regulations which required the Operator to have a regime which would ensure compliance with the order.

He stated that the Licence granted on 1 September, 2020, imposed a maximum occupancy of 620 persons and reiterated that was the only premises in Wind Street to be subject to such a condition.

He reported that the Applicant, Mr Nunes, had provided details of the fixed seating on 3 floors of the premises and the offer of food on all floors which was highly significant when considering the application. The proposals offered a different

demographic dynamic, a significant improvement in safety, comfort and stark move away from High Volume Vertical Drinking Establishments (HVVDE).

He referred to the Council's £3m investment in Wind Street with the aim of providing a welcoming, safe and family friendly environment. Mr Nunes had been lobbying for several years and this application was part of that process.

The Applicant recognised the need for a Cumulative Impact Policy (CIP) and as demonstrated had mitigated any negative impact. It was noted that crime statistics were extremely low.

Mr B Nunes, Applicant, provided background details in respect of the application. It was noted he had 26 years' experience within the trade.

He referred to the impact of the COVID pandemic over the last 13 months which had resulted in the Police dealing with violence, anti-social behaviour and drinking on beaches and other public areas. He stated that Bambu operated to the same standard as other premises on Wind Street and would not add a negative impact. He stated that crime and disorder were prevalent in daytime hospitality but there had been a consistent and steady decline of crime.

He reiterated the key aims of the refurbishment which would attract a different type of patron. The newly refurbished premises offered 36% seating as opposed to 20% prior to refurbishment. Despite the premises attracting 3600 patrons a week only 9 incidents had been reported. He stated that the safety of staff and customers was paramount,

He referred to the purpose of the advertising strategy in order to promote the level of investment into the refurbishment.

In response to Member questions, the Applicant stated that:

- 1) Staff levels would be adjusted to correspond with customer levels/volume of trade. There was a strong management structure and security would comprise 10 personnel at a peak, 2 security for every 200 patrons.
- 2) Waiter/Waitress service would be offered as well as technology to place orders which would alleviate any customer frustration resulting from lengthy queues at the bar. The first floor has been split into 2 bars to alleviate any pressure points.
- 3) Despite the hospitality industry being closed crime and disorder still occurs which indicated that crime and disorder is not merely as a result of regulated night-time economy.
- 4) No seats can be moved on the ground floor as the furniture is bespoke. Oil drums are situated on the second floor and could be unscrewed from the floor. There is a rope section which accommodates seating. Whilst the seating could be moved there is no space to store the furniture. The far end of the second floor accommodates fixed seating.
- 5) Given the size of the venue, there is no pressure to unfix furniture to provide more space.

- 6) The Licenced premises have army of staff who are there keeping control measures in place. If they are not there then the issues arise. Licenced premises attract resources but more resources needed without them.
- 7) New toilet facilities had been introduced (at significant cost) to counteract historic issues of urinating outside the premises in the alleyways.
- 8) Outdoor smoking areas would be available on the first and second floors although no decision had been made regarding smoking whilst queuing at the front of the premises.
- 9) The building is a grade 2 listed building. 1 internal and 2 external staircases had been incorporated along with a mezzanine. The upstairs of building would only utilised if customer numbers dictate the necessity.
- 10) Security staff will monitor and manage the flow of patrons to the upper floors. No floor could ever go over capacity due to fire safety regulations. A beam breaker system will also be operational.

Mr W Parry, Solicitor acting for the applicant, in summing up, stated that the Committee's duty was to consider the application on its merits. He urged the Committee to consider the closure of the premises (due to the COVID pandemic) since the Policy was introduced and latterly reviewed. The number of visitors to Wind Street had dramatically reduced since the introduction of the Policy and crime figures for these premises were extremely low. The premises had benefitted from improved quality, seating and food provision throughout the three floors during trading hours. He stated that the hospitality sector as a whole need to be supported along with this application.

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** to **Grant** the application subject to conditions consistent with the operating schedule 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 areas. 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 disapplied in relation to bottles of unmixed spirits or champagne only and 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, 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 pre-booked 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 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, 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 holder's 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).

See table.

Members of the Public Present	Number of Door Supervisors
1-100	2
100-250	3
250-500	4
500-750	5
750-1,000	6
1,000-1,250	9
1250-1500	10
1,500-2,000	12

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, stating 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 onto 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 0300 hours to 0330 hours, to allow customers to use the toilet facilities and disperse from the premises to be operated at the premises.
- 14) 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.
- 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 to be available on the premises
- 17) No drinking to take place within the area covered by the pavement café licence, other than by customers seated at the tables provided and no drinks shall be served in glass containers at any time in this area.
- 18) Prior to the use of the premises for licensable activities, a sound insulation scheme designated by a competent acoustic consultant to contain noise within the curtilage 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.
- 19) Notices shall be prominently displayed at all exits, requesting patrons to respect the needs of local residents and leave the area quietly.
- 20) Notices shall be prominently displayed in any area used for smoking, requesting patrons to respect the needs of local residents and use the area quietly.
- 21) The licence holder shall ensure that any queue to enter the premises, which forms outside the premises, is orderly and supervised by door staff to ensure that there is no public nuisance or obstruction to the public highway.
- 22) The 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 .

- 23) No glass, including bottles, shall be removed or placed in outside areas between 2300 and 0800 hours. (This does not include use of and removal of glassware, where permitted, from patrons in the licensed areas)
- 24) 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.
- 25) 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.
- 26) Premises to keep up to date records of staff training in respect of age related sales and make them available for inspection by a police officer or an authorised officer of the Council.
- 27) Notices shall be clearly displayed in the premises, to emphasise to customers the prohibition on sales of alcohol to or on behalf of persons under the age of eighteen years.

Reason for Decision

The Committee took into consideration the Special Policy in respect of cumulative impact and were aware that there was a presumption to refuse the licence unless the applicant could demonstrate that the grant of the licence would not have a negative effect on the existing cumulative impact.

Having considered the application on its merits the Committee felt that the applicant had successfully demonstrated that the new layout would not negatively impact the Cumulative Impact area taking the following issues into account:

The proposed increase in capacity for the premises equate to the proposed increase in seating capacity.

The Members noted the maximum capacity for the premises, including the capacity of each floor and that the applicant would be required to document these details in the fire risk assessment for the premises and the applicant's assurance that this would be in place.

The applicant demonstrated an extremely low level of incidents that resulted in police action and outlined the numbers and designation of SIA door supervisors proposed upon each floor, when all floors were operational to aid both the public safety objective and prevention of crime and disorder objective.

The Committee recognised that the new layout assists in moving away from the high volume vertical drinking establishment and would encourage the operator to promote their table service.

The Committee disregarded the passages from Mr Nunes' statement where criticisms are made of the Police and the licensing officers as inappropriate, unfounded and a distraction from the issues which were relevant to the application itself. The Committee noted the comments made by the applicant regarding the positive impact of the provision of food served in respect of alcohol consumption but disregarded the statement that the provision of substantial food when retailing alcohol has recently been adopted as a government condition nationally, as this does not apply in Wales.

The Committee also disregarded the passages in Mr Nunes' statement relating to the scope of his investment in the Swansea night time economy and his campaigning for the pedestrianisation of Wind Street as this was not considered relevant to the application before them.

The Committee also noted but discounted the paragraph relating to the number of closed premises provided by the applicant as this did not show a full picture of the licensed premises in the areas referred to.

The meeting ended at 12.52 pm

Chair