



City and County of Swansea

Minutes of the **Statutory Licensing Sub Committee** **2018**

Council Chamber - Guildhall, Swansea

Tuesday, 15 January 2019 at 10.00 am

Present: Councillor P M Matthews (Chair) Presided

Councillor
C Anderson

Councillor
C L Philpott

Officer(s)

Lynda Anthony
Gareth Borsden
Becca John
Yvonne Lewis
Lyndsay Thomas

Licensing, Food and Safety Manager
Democratic Services Officer
Licensing Officer
Team Leader, Licensing
Principal Lawyer

Relevant Authorities

Jon Hancock
Andy Edwards

Police Licensing Officer, South Wales Police
Targeted & Specialist Services Manager - Swansea
Young People Services

Apologies for Absence

None.

3 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

4 Gambling Act 2005 - Application for an Unlicensed Family Entertainment Centre (uFEC) Permit - 48 The Kingsway, Swansea.

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

The Principal Lawyer provided an overview of the procedure to be adopted by the Sub Committee when considering the application.

The Team Leader, Licensing reported on the application for a permit for an uFEC at 48 The Kingsway, Swansea.

She referred to application form and supplementary information supplied by the applicant at appendix a, the explanation of category d gaming machines at appendix b, the location plan at appendix c and the proposed premises layout at appendix d.

Representations had been received from South Wales' Police and two other interested parties – Andy Edwards, Targeted & Specialist Services Manager, Swansea Young People Services and Damien Rees, Principal Officer for Safeguarding & Performance Quality. A copy of these representations were attached at appendix e.

The guidance issued by the Gambling Commission relating to uFECs was shown at appendix f and in accordance with the relevant legislation a copy of the officers intention and reasons to refuse the application was outlined at appendix g.

Jon Hancock, South Wales Police and Andy Edwards, who manages the Info-Nation premises which would be situated next door to the proposed uFEC, further amplified their written representations objecting to the application and both highlighted their concerns in relation to the undermining of the policy considerations in relation to the protection of both children and other vulnerable persons from being harmed or exploited by gambling.

In the absence of the applicant Mr McGhan, the Licensing Officer read out the written representations he had submitted, copies of images relating to the different types of potential machines that would be on offer at the premises were also displayed to Committee.

Members referred to numerous questions and issues that they wished to seek clarity from the applicant on, as he was absent, those questions were unable to be answered.

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 Sub-Committee **Resolved** to **Refuse** the application for the reasons outlined below:

The committee had regard to the notice served pursuant to Schedule 10 of the Gambling Act 2005 at pages 32 and 33 of the report. The committee were mindful of their remit to either grant or refuse the application and they had no power to attach conditions to any permit granted.

The Applicant's/his partners failure to attend committee meant certain issues of concern to the committee could not be debated and clarification given.

The committee having heard PC Hancock from South Wales Police and Mr Edwards and after reading the written representation from the Applicant and viewing the photographs and directing themselves to paragraph 10.5 of the report decided it would not be appropriate to have a uFEC in such close proximity to Info-Nation having regard to the vulnerability of its service users. There was also a Church (Mount Pleasant) opposite the premises which also provided services to the vulnerable a fact which the Applicant had not addressed.

The following was taken into account in reaching that decision.

The committee were satisfied by Mr Edwards that the children and young person's attending Info-Nation would be vulnerable and the proposed close proximity of the premises to Info-Nation would present a risk of the service users using the premises and undermining the licensing objective at paragraph 5.1(c) of the report. An example was given of service users usually being disengaged from their families and using their money for the machines with the hope of making more money rather than for food due to their addictive natures being the reason they need support from Info-Nation. This left them with no money for maintaining any sort of lifestyle.

Mr Edwards also referred to the Budd Report commissioned in 2001/2002 in relation to the proposed change to the gambling regime which highlighted the types of vulnerable adults being protected by the licensing objective which were the same types as would be attending Info-Nation for support. Persons who are on low incomes but time rich are the most at risk of addictive behaviours. The aim of the premises is to attract children and young persons with the opportunity to gain reward by using their limited monetary resources.

The committee found the proximity of Info-Nation and the church meant this was the wrong place to have a uFEC having regard to 15.1 of the Authority's policy.

The absence of the Applicant and/or his business colleague at committee meant they could not address the concerns of the members about the effectiveness or suitability of the proposed measures to and/or training in gambling awareness referred to, to protect children and vulnerable persons. The Applicant had not provided copies of proposed policies and procedures to be issued in line with paragraph 32.2 of the Authority's policy at paragraph 7.1 of the report.

Also the details of the proposed CCTV were not made available to the committee.

A leaflet made available to the committee at pages 8 to 9 of the report was found by the committee to be written in language more appropriate to adults than children and young persons. There was no information as to how the applicant intended to offer self-exclusion that would be relevant to children/young persons or how it would be implemented.

There was also no information as to how children under the age of 16 would be refused entry to the premises during school hours or how refusals of admittance would be recorded.

The committee also felt a policy for dealing with complaints made about the premises and how they would be dealt was an unfortunate omission by the Applicant.

The Committee noted the Applicant had referred to other premises in the area of the same type as the application being made. However, the committee applied little weight to that suggestion being satisfied by PC Hancock and Mr Edwards that those premises were not as close to Info-Nation as the premises the subject of the application and/or were not like for like consisting of licenced premises under the Licensing Act 2003 and Gambling Act 2005 and/or primarily for adults rather than children and young persons. The committee accepted Mr Edwards and PC Hancock's evidence that the other premises were sufficiently far away from Info-Nation so as not to present the same level of risk as the premises.

The committee were therefore satisfied appropriate safeguards were in place to promote the licencing objectives under both these regimes through premises licences rather than a permit to which conditions could not be added as for a uFEC.

The committee also accepted Mr Edwards information that the Bays Project previously located in High Street had to move due to issues with the characteristics of that environment demonstrating location was very important when dealing with the vulnerable.

The committee were concerned that according to the Applicant's representation the category D machines would be the first machines anyone visiting the premises would come into contact with and would be more prominent/accessible than the other amusement machines which were located further away in the basement.

Little weight was given to the Applicant's representation about the grant of planning due to the very different criteria and considerations which apply to planning applications. Similarly, little weight, in the absence of any information in support, was given to the Applicant's suggestion that a grant of the permit would have a positive effect of the sustainability of the local shopping centre.

As to the merits of the changed hours put forward by the Applicant the legal advice was that the change to the Friday hours amounted to an increase in hours from 20.00 to 22.00 which could not be done without a new application as longer hours were being sought.

The committee accepted Mr Edwards comment that the proposed later opening of half an hour to 12.30 for Monday to Friday would have little or no effect due to service users coming and going while Info-Nation was open.

The close proximity of the premises to Info-Nation presents an insurmountable problem.

A number of other matters were raised by the Applicant and the committee found as follows.

The committee having heard from the officers and being unable to obtain more information from the Applicant, found the Applicant and/or the application had not been unfairly influenced as suggested by the Applicant or at all. Proper and due

process had been followed and part of the delay referred to include a deferral requested by the applicant.

The process set out in the 2005 Act had been followed and the Authority's own policy, an extract of paragraph 39.4.5 is in the report, says certain officers within the Authority will be consulted.

The Authority was required to serve the notice of its intention to refuse under schedule 10 paragraph 10 of the Act.

The police are a statutory consultee required by paragraph 9 of schedule 10.

The meeting ended at 11.44 am

Chair