



City and County of Swansea

Minutes of the **Statutory Licensing Sub Committee**

Committee Room 3A - Guildhall, Swansea

Monday, 16 April 2018 at 10.00 am

Present: Councillor P M Matthews (Chair) Presided

Councillor
V M Evans

Councillors
B J Rowlands

Officers

Lynda Anthony

Divisional Officer, Licensing, Food and Safety

Kate Jones

Democratic Services Officer

Rachel Loosemore

Licensing Officer

Lyndsay Thomas

Senior Lawyer

Applicant (Swansea Audio Limited)

Stephen Lewis

Applicant

Leo Charalambides

Counsel for the Applicant, Francis Taylor Building Chambers

Andrew Sivertsen

Solicitor for the Applicant, John Morse Solicitors

Andrew Bamber

Independent Consultant, AB Conformitas Limited

Christopher Young

Premises Supervisor, Coyote Ugly, Cardiff

Relevant Authorities

Jon Hancock

Police Licensing Officer, South Wales Police

Jonathan Shaddick

South Wales Police

Bethan Walker

Licensing Officer, Licensing Authority

Yvonne Lewis

Team Leader, Licensing Authority

Other Person

(MOFIV Swansea (GP) Limited and MOFIV Swansea Nominee Limited)

Matthew Phipps

Solicitor for Other Person, TLT Solicitors

Adrian Studd

Independent Licensing Consultant

Thomas Hood

Chartered Surveyor, Mansford LLP

Apologies for Absence

None

10 Disclosures of Personal and Prejudicial Interest.

In accordance with the Code of Conduct adopted by the City and County of Swansea, the following interests were declared:

Councillor B J Rowlands – personal – Minute no. 11 – Applicant attended the same

Primary School and is a facebook friend, there had been no further contact since primary school.

11 Licensing Act 2003 - Section 17 Application For a Premises Licence - Coyote Ugly, Salubrious Place, Wind Street, Swansea.

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 premises licence in respect of Coyote Ugly, Salubrious Place, Wind Street, Swansea. She referred to the Licensing Objectives, Relevant Representations, Policy Considerations and the guidance from the Home Office. Specific reference was made to the 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 and an Addendum to the Operating Schedule at Appendix C2. Two Representations had been made from Relevant Authorities namely, South Wales Police and the Licencing Authority. Their representations were attached at Appendix D and Appendix E. One representation had been received from Other Persons. A copy of their representations was attached at Appendix F.

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 Cumulative Impact Policy (CIP). Reference was also made to the effect of special policies as stated in Home Office Guidance.

Jon Hancock, on behalf of 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, public safety and public nuisance. He referred to relevant legislation and policy namely the CIP, Paragraph 1.4 of the Guidance issued by the Secretary of State under s182 Licencing Act 2003 and s17 Crime and Disorder Act 1998. He presented crime statistics, which showed that despite police commitment all levels of crime had increased significantly last year in the locality. He also expressed concern on the potential impact on police resources should the licence be granted as well as the possibility of setting a precedent. The representations included additional / amended conditions for consideration in the event that the Licence was granted.

In response to Member questions, Jon Hancock confirmed: -

- There had been a change in the way in which crime statistics were reported, which could be a factor in reported increase in crime;
- The former occupier of the premises was felt to be a different proposition to that proposed in this Application;

- There would be an impact on staffing and resources should the licence be granted.

Bethan Walker, on behalf of the Licencing Authority, further amplified the written representations objecting to the application and highlighted the concerns in relation to the CIP and undermining of the Statutory Licensing Objectives in relation to the prevention of crime and disorder and public nuisance.

In response to Member questions, it was confirmed that there were approximately 8 premises on Wind Street, which served alcohol until 3.00am

Matthew Phipps, Solicitor for the Other Person, further amplified the written representations in support of the application. He specifically referred to the reports from Mr Adrian Studd, Independent Licencing Consultant, Letter from EJ Hales, Witness Statement of Mr Thomas Hood, Presentation on City Gates and Reference Letter from Coventry City Council. Mr Phipps highlighted the existing premises licence for 24 hours and the benefits to the City of the proposed licence as well as having occupied premises which would be renovated. The application was very thorough and had an extensive Operating Schedule as well as obligation imposed from the franchise.

Adrian Studd highlighted the key findings of his report and specifically made reference to the inconsistencies with his findings and statistics to those of the police. It was noted that the CIP did not mean that all applications would be refused nor would this application set a precedent as there were already establishments in the area with licences until 3.00am. The Case Law of Hope and Glory and Brew Dog were cited.

In response to Member questions, Matthew Phipps assisted by Adrian Studd confirmed the following: -

- There had been no issues in respect of the premises being unoccupied as it had been managed by the Landlord
- Mr Studd had visited Coyote Ugly, Cardiff at 8.00pm, and again at 1.30am. He also visited Wind Street in Swansea following his first visit to Cardiff until approximately midnight for the purposes of preparing his report

Leo Charalambides, Counsel for the Applicant, provided the Sub-Committee with copies of the policies listed at Appendix C2 of the report. Counsel provided an outline of the requirement under the Licensing Act to balance all considerations, not only to consider the police statistics but also the regeneration potential and the existing licence for the premises. He outlined the proposed offerings at the premises, which included food, entertainment, dancing, rodeo stage and large LED screen. The franchise owned by Disney had particular standards that they set for their franchises and the franchise could be revoked if they weren't followed. The Application demonstrated robust operating procedures and these were not criticised by the Relevant Authorities. Counsel reported that it was in the best interests of the Applicant to adhere to the Licence and operate a reputable business and referenced the impact / sanctions of not doing so. There were no complaints regarding the Applicant or the Cardiff Branch of Coyote Ugly. Counsel noted the inconsistencies and lack of source in the statistics provided in the Police Representations. The CIP

did not state that all applications would be refused but individually considered on merit. Counsel noted that the additional conditions proposed by South Wales Police in their representations were agreeable.

In response to Member questions, Matthew Phipps assisted by Andrew Bamber and Christopher Young confirmed the following: -

- The Cardiff Branch of Coyote Ugly had a capacity of approximately 650 people and employed approximately 50 people, 11 of which were Security Staff and 14 Catering Staff. It was envisaged that the Swansea Coyote Ugly would be similar, but the capacity was subject to Risk Assessment;
- There was 200 seats proposed at the venue, 100 fixed seats and 100 moveable seats;
- The area for standing would be on the main floor;
- The Clicker operates from Midday on Saturday, 5.00pm Friday and 9pm Midweek at the Cardiff Branch;
- Large age range and diversity of Patrons at Cardiff Branch;
- Andrew Bamber attended Cardiff and Swansea on 7th April (not November) for the purposes of preparing his report. He attended Coyote Ugly in Cardiff between 7.00pm and Midnight and Wind Street (and surrounding area), Swansea from 1.00am to approximately 2.45am;
- At the Cardiff Branch the same food is served during opening hours, but after 10.00pm the cutlery is taken away;
- Peak trading hours at the Cardiff Branch tends to be between 9.00-10.00pm;
- Children are permitted until 9.00pm and there is no dancing whilst under 18's are present;
- At the Cardiff Branch the smoking area is managed at the front door with a designated smoking area at the front;
- No males are allowed to participate in dancing on the bar;
- The proposed area moveable chairs was outlined in highlighter on a plan for the Committee;
- It was offered that entry be refused to new patrons after 2.00am to alleviate concerns;
- On making a booking advice would be provided as to appropriate footwear for dancing on the bar as well as intoxication;
- The door staff would have body cams, undertake random searches and breathalyser tests.

The following was confirmed following open questions: -

- There was a designated yard for deliveries
- Anything that is recyclable would be recycled
- If there was a clash with a sporting event and the peak time offerings then the peak time offerings would be prioritised
- Dancing would not be permitted on the tables and chairs

Closing Statements were provided from Jon Hancock, Bethan Walker, Matthew Phipps and Leo Charalambides.

With the agreement of all parties it was agreed that the Applicant and Other Person would not wait for the decision of the Committee but would be informed of the same in writing within 5 working days.

It was **Resolved** that 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.

(Decision)

The Lawyer advising the Sub-Committee gave a comprehensive overview of the legal advice tendered.

The Sub-Committee **Resolved** to **Grant** the application as modified below because they were satisfied by the Applicant, Swansea Audio Limited, that the grant of a premises licence will not have a negative impact on the Community Impact Policy (CIP) in Wind Street.

Reasons for Decision

It was not in dispute that the premises is located in the heart of Wind Street in Swansea which is subject to a Community Impact Policy (CIP).

Regard was had to Statutory Guidance in particular 14.30 to 14.39 and the CIP in particular paragraphs 6.19 to 6.25.

The Committee had regard to the various policies presented by Applicant with the permission of the parties.

There was no challenge by Relevant Authorities as to the policies or how they may fall short of the effects attributed to them, demonstrating a well run venue. There was no evidence from Relevant Authorities that venues within this franchise fall short of promises made by Applicant in other cities who have such a venue.

The Sub-Committee found that the example Dispersal Policy supplied would assist in limiting the effect on cumulative impact outside the venue. There was no contrary evidence from the police, who were the same police force, that it wasn't effective at the Cardiff venue.

It was accepted that the venue was not just an alcohol lead premises. There was an accepted dress code and type of clientele, wanting food and a unique entertainment experience. There were no substantiated claims and no challenges by the relevant authorities to the claims of a unique type of entertainment experience.

Modifications with Reasons

The Committee accepted what was in operating schedule would be delivered albeit they did decide certain modifications to the application would ensure this as follows: -

- 1) The Conditions at pages 30 and 31 of the report, which are consistent with the operating schedule, be added to the licence.

- 2) All licensable activities to terminate at 2.00am with the premises closing at 2.30am.

Reason

This is considered appropriate in light of the concerns of the police over the requested terminal hour of 3.00am for licensable activities and would mitigate leaving different premises at 3.00am. It is intended to negate any cumulative impact and effect on policing. In addition the Sub-Committee did have concerns over the feasibility of a terminal hour for late night refreshments at the same time as the closing of the premises. The Applicants own evidence was that activities trail off at around 12.30 to 1.00am and the possibility of migration from other premises from this time if the capacity at the venue allowed. The statistics of Adrian Studd on behalf of the Other Person suggested that the reported crime in the CIZ area is static demonstrating that the existing mix of premises and hours are finely balanced and the Sub-Committee found the needs of the proposed premises can be met by the amended terminal hour. Members wanted to ensure the issues arising as a result of the Night Time Economy between midnight and 3.00am did not extend after 3.00am and wanted to maintain the current balance.

- 3) The last admittance would be no later than 1.00am being 1 hour before the terminal hour.

Reason

This satisfied the Sub-Committee that those who may add to the negative cumulative impact would not be allowed into the premises. Drunkenness in the premises would be very carefully monitored and persons falling short of the admissions policy, that would be in place, would be removed as necessary before they could add to any impact. The Admissions policy is intended to limit migration by refusing admittance and re-admittance within an hour of the licensing activities ceasing.

- 4) This licence can only be used by a legitimate Coyote Ugly Saloon franchise.

Reason

As offered by the Applicant

- 5) The Aspers premises licence be surrendered within 14 days from receipt of the notification of this decision.

Reason

The Sub-Committee accepted the offer of the surrender of the Aspers 24 hour premises licence. This was a relevant factor which could be taken into consideration

.The Aspers licence was 24 hours and could operate at any time with little or no conditions with the same or similar capacity as the proposed venue.

- 6) Hot food to be available to customers until 2.00am when the venue is operating.

Reason

Condition considered appropriate in line with the representations by the Applicant about the importance of food and in line with its food policy.

- 7) Not less than 150 covers or fixed chairs be available in the venue when operating.

Reason

The Sub-Committee considered it appropriate to add this condition to complement the above condition and avoid any concern over the nature of the premises changing during the evening and the experience offered not being delivered as promised. It is appropriate to avoid it being a High Volume Vertical Drinking Establishment and allow the venue to accommodate any walk-in custom as well as bookings and ensure the promised dining experience will be undertaken when the venue is operating.

- 8) The conditions proposed by the Police in their representations at page 41 and 42 of the report, be added to the licence.

Reason:

The committee accepted the Applicants agreement to add these conditions

- 9) All offered policies listed in the operating schedule at pages 32 and 33 of the report, amended as necessary for the Swansea venue, be in writing and provided to the police and licencing authority before the venue is operational.
- 10) A smoking policy be agreed with the police and licencing authority before the venue is operational

Reason :

This is to ensure it is acceptable having regard to the particular characteristics of the location of the venue in Wind Street .

- 11) No policies supplied under condition 9 above is to be amended without prior consultation with the police and licencing authority

Reason

To ensure the venue operates as stated to the Sub-Committee

The meeting ended at 4.11 pm

Chair