

LICENSING SUB-COMMITTEE: 6 October 2017

Report of the Head of Regulatory Services

Application for Premises Licence - Grant

Application No: 014119

Name of Premises: The Botanist

Ward: Cathays

1. Application

1.1 An application for a Premises Licence - Grant, has been received from New World Trading Company (UK) Limited in respect of Unit D, 5-10 Church Street, Cardiff, CF10 1BG.

1.2 The applicant has applied for a Premises Licence for the above premises and has given the description of the premises as follows:

“Restaurant and bar trading as The Botanist”.

1.3 The following licensable activity is proposed:

1. The provision of live music (indoors):

Monday to Sunday 10:00 to 02:00

From the start of permitted hours on New Years Eve to the start of permitted hours on New Years Day.

An additional hour on the day British Summer Time begins to dis-apply its effect.

2. The provision of recorded music (indoors):

Monday to Sunday 10:00 to 02:00

From the start of permitted hours on New Years Eve to the start of permitted hours on New Years Day.

An additional hour on the day British Summer Time begins to dis-apply its effect.

3. The provision of late night refreshment (indoors):

Monday to Sunday 23:00 to 02:00

New Years Eve: 23:00 to 05:00

An additional hour on the day British Summer Time begins to dis-apply its effect.

4. The supply of alcohol for consumption on and off the premises:

Monday to Sunday 08:00 to 02:00

From the start of permitted hours on New Years Eve to the start of permitted hours on New Years Day.

An additional hour on the day British Summer Time begins to dis-apply its effect.

2. Promotion of Licensing Objectives.

- 2.1 The additional conditions proposed by the applicant to meet the licensing objectives are attached to the report.

3. Relevant Representations

Representations have been received in respect of the application, copies of which are enclosed with the report.

4. Legal Considerations.

- 4.1 In respect of the application the decision must be taken following consideration of the representations received with a view to promoting the licensing objectives which are:

Prevention of crime and disorder
Public Safety
Prevention of Public Nuisance
Protection of Children from Harm

- 4.2 In each case the Sub-Committee may make the following determination

- a) To grant the application.
- b) To modify the conditions of the licence, by altering, omitting or adding to them, where relevant.
- c) Reject the whole or part of the application.

- 4.3 All decisions taken by the Sub-Committee must (a) be within the legal powers of the Council and its Committees; (b) comply with any procedural requirement imposed by law; (c) be undertaken in accordance with the procedural requirements imposed by the Council eg. standing orders and financial regulations; (d) be fully and properly informed; (e) be properly motivated; (f) be taken having regard to the Council's fiduciary duty to its taxpayers; and (g) be reasonable and proper in all the circumstances.

5. Issues for Discussion.

- 5.1 The application should be determined and the appropriateness of any conditions on the licence needs to be discussed.

M Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b, c, d and e) (please read guidance note 10)

As per the attached Operating Schedule and other policies.

b) The prevention of crime and disorder

As per the attached Operating Schedule and other policies.

c) Public safety

As per the attached Operating Schedule and other policies.

d) The prevention of public nuisance

As per the attached Operating Schedule and other policies.

e) The protection of children from harm

As per the attached Operating Schedule and other policies.

THE BOTANIST CARDIFF

OPERATING SCHEDULE

Staff shall be trained in the requirements of the Licensing Act 2003 with regard to the Licensing Objectives.

A) The Prevention of Crime and Disorder

1. A full CCTV system shall be installed to a standard agreed with South Wales Police. It will be maintained and operated at all times the premises are open to the public. The system shall cover all areas to which the public have access (excluding toilets), including entrances and exits and any outside areas used by customers. Images shall be kept for a minimum of 31 days. The images shall be produced to an authorised police employee in a readily playable format immediately upon request when the premises are open, and at all other times as soon as reasonably practical. There will be sufficient staff training to facilitate the above.
2. SIA registered door staff shall be employed at a ratio of 1:100 from 21:00 until close on Friday and Saturday nights and on all major event days. A 'major event' is defined as any event that South Wales Police deem as such and which will be published on the South Wales Police website and/or the Licensees' Forum website.
3. At all other times, SIA registered door staff shall be employed at the premises, in accordance with a risk assessment to be carried out by the DPS.
4. When employed, a register of those door staff employed shall be maintained at the premises and shall include:
 - (i) the number of door staff on duty;
 - (ii) the identity of each member of door staff;
 - (iii) the times the door staff are on duty.
5. Open containers of alcohol shall not be removed from the premises, save for consumption in any delineated external area.
6. Any external furniture will be moved inside or alternatively secured by 23:00 daily.
7. Staff will be trained in the laws relating to under age sales, and that training shall be documented and repeated at 6 monthly intervals.
8. A refusals book will be maintained at the premises, and made available to an officer of a responsible authority upon request.
9. On major event days (as defined in Condition 2) all drinks will be dispensed in non-glass vessels with the exception of people partaking of a substantial table meal or consuming wine or champagne.

B) Public Safety

1. A first aid box will be available at the premises at all times.
2. Regular safety checks shall be carried out by staff.
3. Management shall liaise with the Fire Authority as necessary to ensure compliance with all necessary fire regulations.

4. The premises shall maintain an Incident Log and public liability insurance.

C) The Prevention of Public Nuisance

1. Noise from amplified music or voices shall not be such as to cause a noise nuisance to occupants of nearby premises.
2. The exterior of the building shall be cleared of litter at regular intervals.
3. A Dispersal and Smoking Policy will be implemented and adhered to (see attached).
4. The emptying of bins into skips, and refuse collections will not take place between 11pm and 7am.
5. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
6. At any given time, a minimum of 75% of the public trading area will be set aside for tables and chairs.
7. There shall be a full meals menu (subject to a wind down period) and waiter or waitress service available throughout the premises.

D) The Protection of Children From Harm

1. A "Challenge 21" Policy shall be implemented in full and appropriate identification sought from any person who appears to be under the age of 21. The only acceptable photographic driving licences, passports, HM forces cards, or a form of identification with the "PASS" hologram
2. Staff training will include the Challenge 21 Policy and its operation. In particular, staff shall be trained to take such action as is necessary to prevent the sale of alcohol to persons over the age of 18 where those customers are engaged in the distribution of alcohol to persons under the age of 18. The training must be given to a new member of staff before they commence employment and all staff must receive refresher training every 6 months.
3. Children under the age of 18 shall not be permitted into or to remain on the premises after 21:00 unless accompanied by an adult.

Barker, Kirstie

From: Tony.Bowley@south-wales.pnn.police.uk
Sent: 29 August 2017 16:13
To: rebeccaegan@kuits.com
Cc: Licensing (Licensing, Regulatory); Timothy.Davies@south-wales.pnn.police.uk; Justin.Hardwick@south-wales.pnn.police.uk
Subject: FW: Message from "SWPPRN1055"
Attachments: 20170829170423526.pdf

*** Warning: This email contains a Microsoft Office (Word, Excel, PowerPoint) or Adobe PDF attachment. Although this email has been scanned for threats, please think before opening attachments from unrecognised senders.

Rhybudd: Mae'r e-bost hwn yn cynnwys atodiad Microsoft Office (Word, Excel, PowerPoint) neu PDF Adobe. Er bod yr e-bost hwn wedi'i sganio ar gyfer unrhyw fygythiadau, meddylwch cyn agor atodiadau gan anfonwyr nad ydych eu hadnabod. ***

Dear Rebecca,

Please find attached a Police objection to this application.

We ask that the application be heard by the licensing subcommittee.

The Police ask that should the licensing subcommittee be minded to grant this application then we seek the placing of the listed conditions and amended conditions on the licence.

Sent on behalf of my colleague P.C. Tim DAVIES

Regards

Tony

-----Original Message-----

From: SWPPRN1055@south-wales.pnn.police.uk [mailto:SWPPRN1055@south-wales.pnn.police.uk]

Sent: 29 August 2017 16:04

To: Bowley,Anthony swp54909 <Tony.Bowley@south-wales.pnn.police.uk>

Subject: Message from "SWPPRN1055"

This E-mail was sent from "SWPPRN1055" (MP C5504ex).

Scan Date: 08.29.2017 17:04:23 (+0200)

Queries to: SWPPRN1055@south-wales.pnn.police.uk

Ydych chi angen siarad gyda'r heddlu ond nad oes angen ymateb brys arnoch? Ffoniwch 101... Gellir defnyddio'r rhif i roi gwybod am achos nad yw'n un brys i unrhyw heddlu yng Nghymru a Lloegr.

Mewn argyfwng, ffoniwch 999 bob amser.

Do you need to speak to police but don't require an emergency response? Call 101... The number can be used to report a non-emergency to any force in Wales and England.

In an emergency, always dial 999.

Mae Heddlu De Cymru yn croesawu derbyn gohebiaeth yn Gymraeg a Saesneg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

South Wales Police welcomes receiving correspondence in Welsh and English. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.



Licensing Department
Cardiff Bay Police Station,
James Street,
Cardiff
CF10 5EW

18th August 2017

New World Trading Company
2 Malt Street
Knutsford
WA16 6ES

Dear Sir

Application for a premises licence to be granted under the Licensing Act 2003

The Botanist, Unit D, 5 – 10 Church Street, Cardiff

I Chief Inspector Mark Hobrough of South Wales Police, hereby give notice that an objection shall be made to the application for a new premises licence for The Botanist, Unit D, 5 – 10 Church Street, Cardiff.

This Police objection is based upon the licensing objectives:-

1. The prevention of crime and disorder. (The premises are situated in an area which has high incidents of crime and disorder and incidents associated with alcohol)
2. The prevention of public nuisance (The premises are situated in an area which have incidents of public nuisance)

As a result the premises are located within the agreed Cumulative Impact Policy area for Cardiff City Centre. (*Special Policy Statement in respect of Cardiff City Centre adopted 2016*)

South Wales Police will object to the application to allow a Licensing Committee the opportunity to undertake the rebuttable presumption that the premises licence will not be granted unless the applicant can demonstrate that there will be no negative cumulative impact on one or more of the licensing objectives

Within the current application, you have detailed the steps you intend to take to promote the four licensing objectives. These are in the way of voluntary conditions that would be placed on the premises licence. If you successfully challenges the Saturation Policy or are able to demonstrate that the premises are likely to promote the licensing objectives, I feel that these conditions do not adequately promote the four licensing objectives, in particular the prevention of crime and disorder and the prevention of public nuisance.

OFFICIAL

For that reason I have identified conditions that are necessary and proportionate that would enable the premises to operate whilst reducing the negative impact it will have on the licensing objectives.

However, I feel that it is pertinent to take this opportunity to reinforce the point that these conditions will not adequately promote the licensing objectives but merely go some way in limiting the extent as to which they are likely to be undermined.

Operating Schedule submitted by applicant (replacement wording)

(3) At all other times, SIA registered door staff shall be employed at the premises, in accordance with a written risk assessment to be carried out by the DPS. A copy of the risk assessment must be maintained for 12 months and be made available to police immediately should it be requested.

(8) An incident book shall be kept at the premises and maintained on site at all times for a period of 12 months. It shall be made available on request to an authorised officer of the local authority or a member of police staff, which will record the following:

All crimes reported to the venue

Any complaints received (of a Criminal or Licensing nature)

Any incidents of disorder

Any refusal of the sale of alcohol

Live Music

Mon – Sun 10.00 – 01.00

Recorded Music

Mon – sun 10.00 – 01.00

Late Night Refreshment

Mon – Sun 23.00 – 01.30

Supply of Alcohol On and off the premises

Mon – Sun 08.00 – 01.00

Hours open to the public

Mon – Sun 08.00 – 01.30

Added conditions other than those on the operating schedule

(10) The premises will operate a South Wales Police approved radio system at all times when open to the public.

(11) The DPS or personal licence holder will be on the premises at all times licensable activities are taking place.

(12) The DPS will ensure that an adequate system for measuring the number of patrons in the premises is used by door security when on duty, such as counting clickers. Numbers of customers on the premises will be recorded each half an hour. The record will be kept for a minimum of 12 months and will be made available to a police employee or representative of a responsible authority immediately upon request.

(13) The premises must be an active member of the Cardiff Licensee Forum or other such scheme operated within Cardiff City Centre. The DPS or other nominated member of staff must attend meetings when they take place

OFFICAL

(14) There shall be no entertainment of a sexual nature

(15) There will be no mobile alcohol sales persons of any sort.

(16) There will be no bars situated in any outside area associated with the premises.

(17) The premises will operate predominantly as a restaurant and the licence will remain in force as long as the primary use of the premises is that of a restaurant.

Should you have any queries regarding the above representations, please contact Police Constable Tim Davies at the Licensing Department, Cardiff Bay Police Station on telephone 029 20527207.

Yours faithfully



PP Insp Jason Rees

Mark Hobrough
Chief Inspector

NOT PROTECTIVELY MARKED - HEB FARC GWARCHOD

SOUTH WALES POLICE EASTERN BCU
Cardiff Bay Police Station, James Street, Cardiff Bay CF10 5EW
Telephone: 029 2022 2111 Facsimile: 029 2052 7280

HEDDLU DE CYMRU URHS Y DWYRAIN
Gorsaf Heddlu Bae Caerdydd, Stryd James, Bae Caerdydd CF10 5EW
Teliffon: 029 2022 2111 Ffacsimili: 029 2052 7280

Barker, Kirstie

From: Morgan, Rhys
Sent: 30 August 2017 15:38
To: Barker, Kirstie
Subject: FW: THE BOTANIST, UNIT D, 5-10, CHURCH STREET CATHAYS, CARDIFF (NEW218/21)

Kirstie,

In regard to the above application to vary/grant premises license, I wish to advise that the Licensing Authority of Cardiff Council will be objecting to the application.

A Cumulative impact Policy has been adopted for the City Centre area of the City. The Licensing Authority has adopted the policy due to high levels of alcohol related crime and disorder, in the interests of public safety and the avoidance of nuisance.

The policy creates a presumption that new applications for Premises Licences will be refused unless the applicant can demonstrate the business will have no negative effect on any of the licensing objectives.

The premises detailed above falls within the boundary of the Cumulative Impact Zone and therefore an objection is submitted in respect to the following Licensing Objectives.

The prevention of crime and disorder.
The prevention of public nuisance.
Public safety.

Consequently the Licensing Sub-Committee will need consider this application.

However the Authority will withdraw its objection if the applicant can demonstrate that the premises is primarily a restaurant in that alcohol is only sold with a substantial table meal and there is no public bar area exclusively for the sale the sale of alcohol, in line with Cardiff Councils Cumulative Impact Policy.

Kind regards



Rhys Morgan

Shared Regulatory Services / Gwasanaethau Rheoliadol a Rennir
Bridgend, Cardiff and the Vale of Glamorgan
Pen-y-bont ar Ogwr, Caerdydd ar Bro Morgannwg
Telephone | Ffôn 02920 871123

Finalist

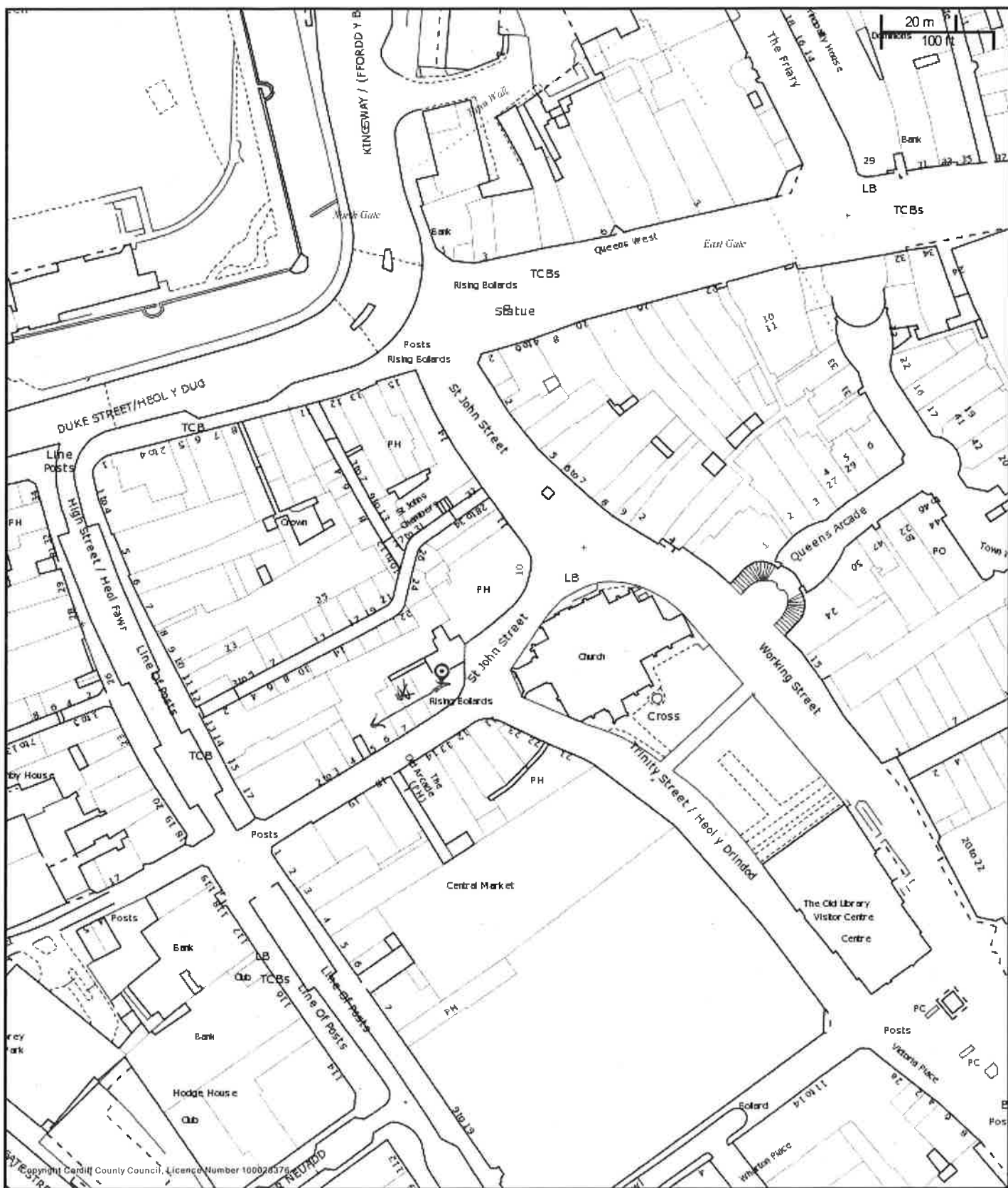


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The Council welcomes correspondence in English or Welsh and we will ensure that we communicate with you in the language of your choice, whether that's English, Welsh or in Bilingual format as long as we know which you prefer. Please contact 029 20871651/ licensing@cardiff.gov.uk to register your language choice. If we do not receive your language choice, we will continue to correspond with you in accordance with current procedure. Corresponding in Welsh will not lead to any delay.



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CHIEF EXECUTIVE
 Paul Orders
 County Hall
 Atlantic Wharf
 Cardiff CF10 4UW
 Tel: 029 20872000

City of Cardiff Council
Cyngor Dinas Caerdydd



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