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**Bridgend County Borough Council**  
Cyngor Bwrdeistref Sirol Pen-y-bont ar Ogwr



Civic Offices, Angel Street, Bridgend, CF31 4WB / Swyddfeydd Dinesig, Stryd yr Angel, Pen-y-bont, CF31 4WB

Legal and Regulatory Services /  
**Gwasanaethau Cyfreithiol a Rheoleiddiol**  
Direct line / Deialu uniongyrchol: 01656 643147  
Ask for / Gofynnwch am: Andrew Rees

Our ref / Ein cyf:  
Your ref / Eich cyf:

**Date / Dyddiad: 21 August 2015**

Dear Councillor,

**LICENSING ACT 2003 SUB-COMMITTEE (B)**

A meeting of the Licensing Act 2003 Sub-Committee (B) will be held in Council Chamber, Civic Offices Angel Street Bridgend CF31 4WB on **Thursday, 27 August 2015 at 10.00 am.**

**AGENDA**

1. Apologies for Absence  
To receive apologies for absence (to include reasons, where appropriate) from Members / Officers.
2. Declarations of Interest  
To receive Declarations of personal and prejudicial interest (if any) from members/ officers in accordance with the provisions of the Members Code of Conduct adopted by Council from the 1st September 2008.
3. Licensing Act 2003: Section 105 Temporary Event Notice 33 Market Street, Bridgend 3 - 8

Yours faithfully  
**P A Jolley**  
Assistant Chief Executive Legal and Regulatory Services

**Distribution:**

Councillors:  
PA Davies

Councillors  
E Dodd

Councillors  
DRW Lewis

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## BRIDGEND COUNTY BOROUGH COUNCIL

### REPORT TO SPECIAL LICENSING ACT 2003 SUB-COMMITTEE

27 AUGUST 2015

### REPORT OF ASSISTANT CHIEF EXECUTIVE, LEGAL AND REGULATORY SERVICES

#### LICENSING ACT 2003: SECTION 105 TEMPORARY EVENT NOTICE 33 MARKET STREET, BRIDGEND

#### 1. **Purpose of Report**

- 1.1 To ask the Sub-Committee to consider Objection Notices submitted by the South Wales Police in respect of a Temporary Event Notice served on the Licensing Authority.

#### 2. **Connection to Corporate Improvement Plan/Other Corporate Priority**

- 1.2 None.

#### 3. **Background**

- 3.1 Upon receipt of a Temporary Event Notice the Relevant Persons can issue an Objection Notice. In these circumstances, it is the duty of the Licensing Authority to hold a hearing to consider the Objection Notices, unless the premises user, the Relevant Persons which gave the Objection Notices and the Authority agree that a hearing is unnecessary; and, having regard to the Objection Notices, give the premises user a counter notice under Section 105 of the Licensing Act 2003 if it considers it appropriate for the promotion of the licensing objectives to do so. The authority also has the power to apply existing Premises Licence conditions to the Temporary Event Notice.

#### 4. **Current Situation/Proposal**

- 4.1 On 14 August 2015, the Licensing Authority received a Temporary Event Notice ("TEN") from Saima Rasul ("the premises user") in respect of 33 Market Street, Bridgend.
- 4.2 The premises has the benefit of a Premises Licence for the supply of alcohol and recorded music from 1130 until 2330 hours Sunday to Wednesday and from 1130 until 0200 hours Thursday to Saturday. Live music on the first floor from 1130 until 2330 hours Sunday to Wednesday and from 1130 until 0200 hours Thursday to Saturday. Live music on the ground floor from 1130 until 2300 hours Sunday to Thursday and from 1130 until 0000 hours Thursday to Saturday.
- 4.3 The Temporary Event Notice relates to an extension of hours for the sale by retail of alcohol and the provision of regulated entertainment from 2330 hours until 0200 hours on 31 August 2015. The premises will close at 0230 hours. The maximum

number of people at any one time to be present during the duration of the TEN is 499 persons.

4.4 The premises user served a copy of the Temporary Event Notice upon the South Wales Police and the Council's Public Protection Department and the South Wales Police have submitted an Objection Notice in relation to the Temporary Event Notice to the Licensing Authority. Copies of the Objection Notice has been served on the premises user dated the 16 and 17 July 2015 and are attached at Appendix A and B.

4.5 The relevant chapters of the Statutory Guidance are: Chapters 2. The licensing objectives; 7: Temporary Event Notices (TENs); and 13: Statements of licensing policy. In particular, the following paragraphs should be noted:

7.7 A TEN does not relieve the premises user from any requirements under planning law for appropriate planning permission where it is required.

13.57 The statement of licensing policy should indicate that planning permission, building control approval and licensing regimes will be properly separated to avoid duplication and inefficiency. The planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice versa.

13.58 There are circumstances when as a condition of planning permission a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law. Proper integration should be assured by licensing committees, where appropriate, providing regular reports to the planning committee.

4.6 The Licensing Authority is aware that it is possible for the premises user and the South Wales Police to enter into a period of discussion regarding the objections raised and that Section 106 of the Act enables the modification of the Temporary Event Notice with the agreement of all parties. Members are advised that the timescales governing Temporary Event Notices are relatively short and that, at the time this report was dispatched, the Licensing Authority had not been notified that any party had reached agreement.

4.7 The Objection Notice is to be treated as not having been withdrawn. A copy of the Premises Licence conditions will be available at the hearing.

4.8 This hearing must therefore consider the points raised in the Objection Notices and make a determination on the Temporary Event Notice. Having considered the Objection Notices, the Sub-Committee has the following options:

- a) Allow the licensable activities to go ahead as stated in the Temporary Event Notice (TEN);
- b) As the TEN is in connection with a licensed premises, the licensing authority may allow the licensable activities to go ahead but also impose one or more of the existing licence conditions on the TEN (insofar as such conditions are

not inconsistent with the event) if it considers that this is appropriate for the promotion of the licensing objectives;

or

- c) If it considers that the event would undermine the licensing objectives and should not take place, give a counter notice.

**5. Effect upon Policy Framework & Procedure Rules**

5.1 None.

**6. Equality Impact Assessment**

6.1 There are no implications in relation to age; disability; gender and transgender; race; religion or belief and non-belief or sexual orientation.

**7. Financial Implications**

7.1 None.

**8. Recommendation**

8.1 The Sub-Committee is required to consider the Objection Notice having regard to the information contained within this report, the Council's Statement of Licensing Policy and the guidance issued to licensing authorities under Section 182 of the Licensing Act 2003 and make a determination on the Temporary Event Notice.

**P A Jolley - Assistant Chief Executive, Legal and Regulatory Services**

**Date: 21 August 2015**

**Contact Officer:** Yvonne Witchell  
Licensing and Registration Officer

**Telephone:** 01656 643105

**E mail:** [Yvonne.Witchell@bridgend.gov.uk](mailto:Yvonne.Witchell@bridgend.gov.uk)

**Address:** Civic Offices, Angel Street, Bridgend, CF31 4WB

**Background documents:**

Temporary Event Notice

South Wales Police Objection Notice

Public Protection Department Objection Notice

Bridgend County Borough Council Statement of Licensing Policy: [www.bridgend.gov.uk](http://www.bridgend.gov.uk)

Statutory Guidance issued under Section 182 of the Licensing Act 2003 issued March 2015: [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk)

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Licensing Officer 5102 Rowlatt  
Community Safety Partnership  
Licensing Department  
Police Station  
Brackla Street  
Bridgend  
CF31 1BZ

B.3-306/15

Monday, 17 August 2015

Legal Services Department  
Corporate Services  
Bridgend County Borough Council  
Angel Street  
Bridgend  
CF31 4WB

Mrs Saima RASUL  
Designated Premises Supervisor & Premises Licence Holder  
Eden Wine Bar & Ego Night club  
33 Market Street  
BRIDGEND  
CF31 1LJ

Sir/Madam,

**RE: OBJECTION TO TEMPORARY EVENT NOTICE UNDER SECTION 100 OF THE LICENSING  
ACT 2003**

**EDEN WINE BAR ,33 MARKET STREET BRIDGEND CF31 1LJ**

Extension of hours for Bank Holiday from CLOSURE on Sunday 30<sup>th</sup> August 2015 until 02.00 am on Monday the 31<sup>st</sup> August 2015.

For the sale by retail of alcohol and the provision of regulated entertainment and to supply alcohol on the premises only, with a 30 minute wind down period closing at 02.30am.

Application is made on behalf of the Chief Officer of Police, to object to this temporary event notice (TEN) as it is believed that the event would undermine the licensing objectives relating to the prevention of crime and disorder and public nuisance as set out in the Act.

**Sub section 7.7 of the revised guidance section 182 of the Licensing Act 2003 issued by the Home Office**

*"A TENS does not relieve the premises user from any requirements under planning law for appropriate planning permission where it is required."*

CURRENTLY THE BUILDING IS SUBJECT OF PLANNING RESTRICTIONS:

... The use hereby permitted shall not be open to the public between the hours of 24.00 Sundays - 07.00 Mondays.

The reason for this restriction is: In the interests of residential amenities as there are a number of dwellings in close proximity.

The planning authority is not one authority that can object to a Temporary Event notice as this power is only designated to the police and environmental health officers.

**Subsection 3.6 of the Bridgend County Borough Council Statement of Licensing Policy Licensing Act 2003 states:**

*"Nothing in this policy should be taken as indicating that any requirement of licensing law or any other law may be overridden by the terms of this policy."*

South Wales Police respectfully suggest that this event is for the extension of hours on a Sunday preceding a Bank holiday Monday to accommodate 499 persons for the club to open and operate as it would on a normal Saturday night.

The applicant is the designated premises supervisor who has day to day control of the premises and this is the second TEN that has been applied for since the premises opened on Friday 31<sup>st</sup> July 2015. The applicant has been in contact with South Wales Police in reference to this ten application and has explained the rational behind it.

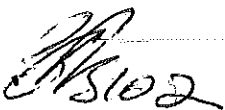
**Sub section 7.39 of the revised Home Office guidance issued under Section 182 of the Licensing Act:-**

*"Section 105 of the 2003 Act is clear that a licensing authority must hold a hearing to consider any objections from the police or EHA unless all the parties agree that a hearing is not necessary. If the parties agree that hearing is not necessary and the licencing authority decides not to give a counter notice on the basis of the objection, it may impose existing conditions on the TEN."*

However, if the authority decide not to issue a counter notice and agree to impose existing conditions from the premises licence, SWP respectfully submit that there are no suitable conditions that can be adopted that will prevent the breach of planning legislation from taking place if this TEN is granted.

However, the operation of such a large premises, with such additional hours, outside of its planning hours will only set a precedent for future events. The premises is located in the saturation policy / cumulative impact area and the grant of this event is likely to have a negative impact in this area if it is granted therefore consideration should be given to refuse this application and issue a counter notice.

Yours faithfully,



Licensing Officer 5102 Rowlatt