

MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE HELD IN THE COUNCIL CHAMBER, CIVIC OFFICES, ANGEL STREET, BRIDGEND ON WEDNESDAY, 25 NOVEMBER 2009 AT 2.00PM

Present:-

Councillor D K Edwards - Chairperson

Councillors
D N W Jones
PJ White

Officers:-

Y Witchell - Licensing and Registration Officer
R Morris - Senior Licensing and Registration Assistant
R Lewis - Legal Officer
G P Jones - Principal Cabinet and Committee Officer

Applicant

Mr Robert Owen - Applicant
Ms Sian Phillips - Personal License holder
Ms Chloe Murphy - Personal License holder

Objector

PC K Ellis - Divisional Licensing Officer, South Wales Police

249 APOLOGIES FOR ABSENCE

None

250 DECLARATIONS OF INTEREST

None.

251 LICENSING ACT 2003: SECTION 105
TEMPORARY EVENT NOTICE
CLWB CALON LAN, CHURCH STREET, BLAENGARW, BRIDGEND

The Chairperson welcomed those present and introduced the Members and Officers participating in the meeting.

The Licensing and Registration Officer raised a procedural matter regarding the conduct of the hearing. She advised that attendees were required to confirm attendance at the hearing and to indicate whether they would be represented or intended to provide any additional information in support of the application which had not previously been disclosed to all parties in accordance with the Regulations. Members were informed that Mr Owen had not received the paperwork as he had been abroad and his mother had opened any mail that had been received.

PC Ellis commented that the LAR Form needs to be completed so that representative can be identified to all parties. Mr Owen stated that he had not received any additional documentation and he indicated that Ms Murphy and Ms Phillips were not making representations but would be available to respond to any issues raised by PC Ellis.

The Chairperson adjourned the meeting at 2.15pm to allow the Legal Officer to consider the legal position. The meeting was re-convened at 2.27pm.

The Legal Officer confirmed with those present that there was unlikely to be any supplementary information and that the hearing could proceed.

The Licensing Officer advised Members that on 4 November 2009, the licensing authority received a Temporary Event Notice (“TEN”) from Mr Robert Owen (“the premises user”) in respect of Clwb Calon Llan, Blaengarw. A full copy of the Notice was attached at Appendix A of the report.

The Notice related to the sale by retail of alcohol and the provision of regulated entertainment from Thursday, 24 December 2009 to Sunday 27 December 2009, between 1200 and 0200 each day. The Notice was submitted in respect of an extension of hours over the Christmas period. The maximum number of people at any one time to be present was 88.

The Licensing Officer further advised that the venue has the benefit of a Premises Licence permitted hours as follows:-

- Supply of alcohol and provision of regulated entertainment : Sunday to Thursday 1000 hours to 2300 hours and Friday and Saturday 1000 hours to 2330 hours.
- The Premises Licence is subject to a number of conditions which prohibit the consumption of drinks outside the curtilage of the premises, and which require the beer garden to close at 2100 hours and the smoking area at 2230 hours respectively.

The Licensing Officer was advised by the parties present that no discussions had taken place following the submission of the Notice and that the Objection Notice had not been withdrawn and advised that, as a consequence, the hearing must proceed.

The Licensing Officer advised Members that the hearing must therefore consider the points raised in the Objection Notice. She advised that having considered the Objection Notice, the Sub-Committee may resolve to give the premises user a counter notice under Section 105 of the Licensing Act 2003 if it considers it necessary for the promotion of the crime prevention objective to do so, or resolve not to give a Counter Notice. She requested that the Sub-Committee consider the Objection Notice given by the South Wales Police and determine whether or not a counter notice should be issued.

Mr Owen then provided the meeting with the details which supported the Notice. He commented that the paperwork that had been submitted by the South Wales Police was inaccurate regarding the dates and times listed.

He stated that he had spent £15.5k getting the establishment sorted and ensuring that the Licensing conditions were met. He added that he had recently been congratulated by PC Thomas for adhering to the licensing regulations particularly as the problems that had arisen in the past had been addressed.

He continued that there had been four issues that had arisen as a result of Operations which had been conducted by the Police since 2007. On one occasion the Designated Premises Supervisor (DPS) on duty had stepped out for a cigarette as there were only 5 members in the club, leaving the trainee staff member to carry on with their duties. The establishment was then visited by Police officer within 30-45 minutes of time being called to check for underage drinkers. The Police Officers allegedly observed the trainee staff member serving alcohol after hours and that the DPS was not on the premises at the time.

On another occasion the club had been closed at 11.00pm and 2 Police Officers attended the club. Mr R Owen was requested to attend the premises at 11.20pm but was unable to attend. The signed statement from the Police Officers indicated that he was called at 12.20am. The statement also referred to the Sale of alcohol after hours but the club had been closed from 11.05pm.

Mr Owen continued that when he had previously been granted TENs there were no incidents on the premises. The incidents stated in the Police information were not directly linked to the club and no responsibility could be apportioned to the TENs that was in effect.

With regard to the TENs application Mr Owen explained that he had spoken to Helen Williams from the Public Protection Department, who had suggested that any TEN that Mr Owen applied for included a one hour winding down time to prevent any problems arising from noise and general disturbance. Mr Owen had subsequently applied for a TEN Licence which comprised 5 licences until 1am and that the premises would be cleared by 2am.

PC Ellis reminded Mr Owen that he had received a 3rd Warning letter for not adhering to the conditions of his licence and with regards to the alleged inaccuracies of the statement Mr Owen had been given ample opportunity to make representations to challenge the content of the statement.

PC Ellis informed the Sub-Committee that an application had been made on behalf of Chief Superintendent James, the Chief Officer of Police to object to the notice as it is believed that extending the hours would undermine the licensing objective relating to the prevention of crime and disorder as set out in the Act.

Note 5 of the guidance to applicants details the following, "A description of the nature of the event assists the Chief Officer of Police in making his decision whether or not to make an objection. You should clearly state that the event taking place at the premises would be, for example a wedding with pay bar, the supply of beer at a particular farmers' market, a discotheque, the performance of a string quartet, a folk group or rock band".

The applicant is required on page 2 of the notice to "describe the nature of the event" whereupon it is detailed "Extend licensing hours on Thursday 24th

December 2009 until Sunday 27th December 2009 from 12.00 – 02.00 hrs each day”.

The vast majority of Temporary Event Notices (TEN) are submitted for the purpose of licensing a specific named event but this is an application merely to extend hours. Only the Police can object to a TEN on the grounds of the licensing objective relating to the prevention of crime and disorder. The Police have processed over 600 TEN's since 2005 and have objected to relatively few. He added that the Police object to about 1% of the TEN's served upon both the Police and the Licensing Authority.

Significantly the hours requested in this application are to operate for licensable activity until 2.00am for four consecutive days, i.e. a Thursday (i.e. early hours of Friday morning), Friday (early hours of Saturday morning), Saturday (early hours of Sunday morning) and Sunday (early hours of Monday morning).

The Premises Licence currently permits the establishment to open from:-

- Sunday to Thursday: 10.00 – 23.30 hrs
- Friday and Saturday: 10.00 – 00.00 hrs
- Licensable activity ceases 30 minutes prior to closure.

The proposed hours are an increase of two hours and 30 minutes on Thursday, two hours on Friday and Saturday and two hours and 30 minutes on Sunday. These extended hours are proposed despite the applicant having the hours severely curtailed after a review.

The premises is situated in a cul-de-sac in the heart of a residential community and the only pedestrian and vehicular access to it is by passing those terraced dwellings which are located either side of it. Since the introduction of the Licensing Act 2003 in November 2005 there have been a number of incidents reported to the Command & Control Room (CACR) at Police Headquarters, Bridgend and these have been recorded on the Licensed Premises Management System (LPMS) as assaults, drunkenness, thefts, criminal damage, underage drinking etc. The Police have also received a number of complaints of noise nuisance emanating from the premises and these have been communicated to the Public Protection Department as a result of the sharing of information protocol under Section 185 of the Act.

The increased hours of licensable activity originally requested and afforded to the premises has seen crime and disorder and public nuisance increase and this is most definitely not what Parliament intended. Various Police licensing operations have evidenced a number of breaches of the conditions and mandatory conditions of the Premises Licence and other offences under the Act.

Additionally, the Police have served upon the applicant two warning notices, dated 25th September 2006 and 28th May 2007 for committing offences under the Licensing Act. On the 26th June 2007 a file of evidence was submitted to the Licensing Authority requesting that Mr Owen be prosecuted for breaching several restricted conditions of the Premises Licence evidenced during licensing visits on 1st, 2nd and 15th June 2007. The offences of 1st, 2nd and

15th June 2007 occurred within a short period of Mr Owen having been served the second letter of warning.

The Public Protection Department were subsequently forced into the position of reviewing the licence and the Police fully supported that review in a written response of 19th March 2008 concluding that, "The Police support the review application, in particular the detailed conditions requested to be imposed, removed and modified due to the frequency and seriousness of the incidents, coupled with the fact that the conviction and the verbal and written communication methods have been exhausted without the desired effect".

There had previously been prolonged and persistent incidents of crime and disorder and public nuisance both at and connected to the premises and the review application endeavoured to promote the licensing objectives by preventing such occurrences.

As a result of the review a hearing was convened before the Licensing Sub-Committee on the 25th March 2008 who determined that the opening hours be reduced from Sunday to Thursday from 10.00am to 00.30am, Friday and Saturday from 10.00am to 1.30am to the current hours, i.e. Sunday to Thursday 10.00am to 23.30pm (a reduction of one hour), Friday and Saturday 10.00am to 00.00 hrs (a reduction of one hour and 30 minutes).

Eight other stringent conditions were placed on the licence by the Sub-Committee as follows:-

Conditions attached after a hearing by the Licensing Authority

1. That intoxicating liquor shall not be sold or supplied other than to the following persons:
 - a) Members of the Charter Club admitted to membership only in accordance with provisions contained in Section 41(1) of the Licensing Act 1964.
 - b) Bona fide guests of such members entertained by such member at his or her own expense.
 - c) Servants of the club in the club's bona fide employ.
2. That no intoxicating liquor shall be sold or supplied for consumption off the premises except to a member of the club in person.
3. The consumption of drinks outside the curtilage of the premises is prohibited.
4. The beer garden will be closed at 21.00hrs.
5. The smoking area will be closed at 22.30 hrs.
6. The Premises Licence Holder will ensure the regular clearance of any glass, litter (including cigarette ends), bottles or cans within two metres either side of and in front of the front door entrance to the club no later than 12 noon the following working day.
7. The Premises Licence Holder will implement and maintain a scheme to deal with underage drinking which must be agreed with the

Bridgend County Borough Council's Public Protection Department and South Wales Police.

8. There will be no admittance or re-admittance to the premises after 22.30hrs.

Despite the review in March 2008 a concerned resident contacted the Police on Friday, 19th September 2008 whereupon officers conducted a licensing visit at the establishment and found Mr Owen to be displaying clear contempt for the decision of the Sub-Committee. Officers attended after being flagged down by a resident who reported excessive noise coming from inside and persons congregating outside.

On entering the premises there were approximately 20-30 people still inside consuming alcohol. It was 01.15 hrs and the sale of alcohol should have ceased at 23.30 hrs and the premises should have closed at midnight. The DPS, Robert Owen, was seated in the lounge area and the officers then had to remove customers from the premises whereupon some had to be spoken to outside due to their rowdy behaviour. PC Thomas then examined the licence which was on display above the bar and noted that this was not the current licence. He requested sight of the current licence, but Mr Owen indicated that it was not available at that time. Licensing Officers are unable to conduct appropriate enforcement without having sight of the licence and the conditions which form part of it. Mr Owen was reminded that it was a mandatory condition to display a Summary, Part B of the current licence and have the full licence, Part A and B or a certified copy available for examination. Mr Owen was duly reported for breaching the conditions of the licence by offering alcohol for sale outside the permitted hours of licensable activity.

On Saturday, 7th February 2009 officers again conducted a licensing visit to the premises and found that the applicant had "reverted to type" by opening for the sale of alcohol. At 01.25 hrs PC Thomas found approximately 20 persons inside still consuming alcohol when the premises should have closed at midnight. Robert Owen was present, and when spoken to he stated that an 18th birthday party had been held there and that the only reason there were still patrons inside was because a handbag had been stolen just before midnight, and they wanted to view CCTV that night. This was clearly not the case as persons were still drinking and when the officers began to empty the premises, one of the patrons informed them that bar staff had still been serving alcohol at 00.30hrs. PC Thomas informed Mr Owen that his licence detailed last orders as being 23.30hrs and the doors were to be closed at midnight and he confirmed that he was aware of this.

He was later reported for selling alcohol outside permitted hours of licensable activity but the Police dealt with the matter by way of a third warning notice which was served on Mr Owen on the 6th May 2009.

Officers attended at the premises as recently as Saturday, 30th October 2009 and found four female customers engaged in the consumption of alcohol in the form of bottle of lager. Two were aged 17 years and two aged a mere 16 years contrary to two conditions of the licence, i.e. Condition 7 (above):-

The Premises Licence Holder will implement and maintain a scheme to deal with underage drinking which must be agreed with the Bridgend County

Borough Council's Public Protection Department and South Wales Police and contrary to Conditions Consistent with the Operating Schedule in the prevention of crime and disorder in that all staff are mindful of the problems of underage drinking and when in doubt to request age identification by reference to driving licence or passport.

Bar staff who served them were spoken to and they had sold them alcohol without any request for proof of age. The sale of alcohol anywhere to a person under 18 years is Contrary to the Licensing Act 2003. Additionally, the person engaged in bar duties had not been trained, was not supervised and could not be regarded as effective and responsible again contrary to the strict conditions of the Premises Licence, i.e. Conditions Consistent with the Operating Schedule by ensuring that at all times there will be an effective and responsible manager on duty on the premises when it is open for licensable activities and to ensure that all staff are trained and properly supervised.

The Licensing Guidance issued by the Department of Culture, Media and Sport suggests that the "purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people is one of several criminal activities which should be treated by Licensing Committees very seriously".

Paragraph 12.5 of the guidance issued under Section 182 of the Licensing Act 2003 indicates that "the Government primarily sees the development of these offences (Sections 6 and 147) as having a deterrent effect on sales of alcohol to children by raising the risk of detection and by making the consequences of non-compliance significant". Much of the anti-social behaviour experienced throughout the County Borough of Bridgend, i.e. public disorder, criminal damage and drunkenness can be attributed to such sales.

On Sunday, 1st November 2009 and Monday, 2nd November 2009 officers again attended at the premises and contrary to the decision of the Sub-Committee to reduce the hours of licensable activity found Robert Owen to have:-

- Breached a significant condition of the Premises Licence by selling alcohol by retail after 23.00 hrs outside the permitted hours of licensable activity.

On Sundays licensable activities are from 10.00am to 23.00pm.

- Breached a significant condition of the Premises Licence by opening at 00.05hrs on Monday outside the permitted hours.

At 00.05hrs on Monday, 2nd November 2009 PC 2802 Thomas and Special Constable 7843 Job conducted a licensing visit at the premises and noted that there were between 10 and 15 customers within who were again engaged in the consumption of alcohol. The officer spoke to a female member of bar staff Rachel Bowen-Jones aged 20, who stated that although she had requested patrons leave the premises she had been ignored. Bowen-Jones further stated that she was the only person working at the premises that night and she was not in possession of a personal licence. She was unsupervised and the DPS was not present at the premises.

PC Thomas again had to remove patrons from the club and duly seized the till roll, detailing the following timings and dates: 17.17hrs, 1st November 2009 to 00.52hrs, 2nd November 2009. It showed that a licensable activity, i.e. the sale of alcohol had taken place between 00.13hrs and 00.52hrs on 2nd November 2009. Mr Owen explained that British Summer Time ended on Sunday, 25th October 2009 and “the clocks went back” one hour. However, the till had not been amended accordingly and the clock timer re-set and therefore the aforesaid sale of alcohol timings should actually be 23.13hrs; 23.17hrs; 23.27hrs; 23.32hrs; 23.33hrs; 23.35hrs; 23.37hrs; 23.40hrs; 23.41hrs and 23.52hrs.

These sales related to Smirnoff Vodka, Strongbow Cider, Red Stripe Lager and Fosters Lager all of which are alcoholic beverages. The final sale prior to the arrival of Police occurred at 23.52hrs and amounted to £24.60, i.e. six cans of Strongbow and six cans of Red Stripe.

In respect of the last TEN served on the Police in August 2009 this TEN also concerned the sale by retail of alcohol and the provision of regulated entertainment and the events related to a “Carnival after Part” on 21st August 2009 between 16.00hrs and 01.00hrs and 22nd August 2009 between 12.00 and 01.00hrs.

The Police did not object to the TEN due to the previous decision to grant a TEN despite strong Police objections. However, three incidents of crime and disorder were recorded on the weekend of this TEN.

On the 18th May 2007 Environmental Health Officers served an Abatement Notice on Mr Owen in his role as Designated Premises Supervisor arising from “amplified music and speech” and informed him to keep noise at the premises to an acceptable level. Despite being served this notice he appeared at Bridgend Magistrates Court on the 19th November 2007 and was found guilty of breaching the notice and was fined £450 with costs of £320.

The proposed hours are totally unacceptable at premises where the applicant has a chronic failure to adhere to the Licensing Act. The event in particular will not promote the prevention of crime and disorder given the location of the premises in a quiet cul-de-sac coupled with the fact that the applicant has a history of abject failure to promote all four licensing objectives. Furthermore, Mr Owen has been convicted of offences under the Environment Protection Act 1990 in respect of statutory noise nuisance. He has recently been reported once again for committing offences under the Licensing Act and South Wales Police has served a file of evidence on the Licensing Authority recommending that Mr Owen is prosecuted.

In fact the Police are now minded to review the Premises Licence as clearly the situation has not improved at the premises. If these additional hours are approved there will be every likelihood of increased crime and disorder at and connected to the premises given its history. The Police believe that extending the hours would therefore undermine the objective relating to the prevention of crime and disorder set out in the Act. The reality of the situation according to the Police is that this is the worst premises in both the Ogmere and Garw Valleys.

There have been a number of breaches of both the conditions and mandatory conditions of the Premises Licence and the number of recorded incidents at

the venue remain prevalent and persistent. Incidents have been recorded regularly since 2005 when the licence was approved and after review right up to the present day. A number of incidents also involve persons who are aged under 18 years contrary to the premises own policy of challenging customers who appear to be under 18.

The DPS has been served with three warning letters and has additionally been subject of a number of verbal warnings issued by South Wales Police due to the unacceptable levels of crime and disorder at the premises. There are only two options open to the Sub-Committee in respect of this application.

One is to resolve to give the premises' user a Counter Notice if you consider it necessary for the promotion of the crime prevention objective to do so.

OR

Not give a Counter Notice.

In light of the history of the venue the Police believe that extending the hours would undermine the objective relating to the prevention of crime and disorder set out in the Act and respectfully request that the Licensing Sub-Committee reject the application and issue the applicant with a Counter Notice.

Mr Owen was given the opportunity to respond to these points but indicated that he had already done so earlier in his submissions.

Members retired and upon their return:

RESOLVED: That the Sub-Committee, considered these matters in full and in particular the evidence put forward on behalf of the South Wales Police. It was concerning to note that the premises had a review in March 2008 and as a result the licensable hours were reduced and more stringent conditions attached.

There had been no clear evidence put forward by the Premises User that the situation had improved and it was further disappointing to note that there were three incidents of crime and disorder at the last temporary event in August 2009.

The Sib-Committee consider that the notice, if granted, would not prevent crime and disorder. This was particularly the view since the Temporary Events Notice requested sale of alcohol on and off the premises.

That the Sub-Committee resolved to serve a Counter Notice.

The meeting closed at 4.08pm.