

Public Document Pack

Cyngor Bwrdeistref Sirol Pen-y-bont ar Ogwr

Bridgend County Borough Council



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

*Rydym yn croesawu gohebiaeth yn Gymraeg.
Rhowch wybod i ni os mai Cymraeg yw eich
dewis iaith.*

*We welcome correspondence in Welsh. Please
let us know if your language choice is Welsh.*



Gwasanaethau Gweithredol a Phartneriaethol / Operational and Partnership Services

Deialu uniongyrchol / Direct line /: 01656 643148
Gofynnwch am / Ask for: Mr Mark Anthony Galvin

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

Dyddiad/Date: 21 February 2017

Dear Councillor,

LICENSING SUB-COMMITTEE A

A meeting of the Licensing Sub-Committee A will be held in Committee Rooms 2/3, Civic Offices, Angel Street, Bridgend, CF31 4WB on **Monday, 27 February 2017 at 10.00 am.**

AGENDA

1. Apologies for Absence
To receive apologies for absence from Members.
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 1 September 2008.
3. Approval of Minutes 3 - 50
To receive for approval the public Minutes of the following meetings of the Licensing Sub-Committee:-

Special Meeting – 25 November 2016
Special Meeting – 28 November 2016
Special Meeting – 2 December 2016
Ordinary Meeting – 3 January 2017
Ordinary Meeting - 31 January 2017
4. Urgent Items
To consider any other item(s) of business in respect of which notice has been given in accordance with Rule 4 of the Council Procedure Rules and which the person presiding at the meeting is of the opinion should by reason of special circumstances be transacted at the meeting as a matter of urgency.
5. Exclusion of the Public
The minutes and reports relating to the following items are not for publication as they contain exempt information as defined in Paragraph 12 of Part 4 and/or Paragraph 21 of Part 5 of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information)(Variation)(Wales) Order 2007.

By receiving this Agenda Pack electronically you will save the Authority approx. £1.28 in printing costs

If following the application of the public interest test the Committee resolves pursuant to the Act to consider these items in private, the public will be excluded from the meeting during such consideration.

- | | | |
|----|---|---------|
| 6. | <u>Approval of Exempt Minutes</u> | 51 - 56 |
| | To receive for approval the Exempt Minutes of Ordinary meetings of the Licensing Sub-Committee dated 3 and 31 January 2017. | |
| 7. | <u>Application for Renewal of Licences</u> | 57 - 60 |
| 8. | <u>Application for Grant of Licences</u> | 61 - 64 |

Yours faithfully

P A Jolley

Corporate Director Operational and Partnership Services

Councillors:

P James
RM James
M Jones

Councillors

JE Lewis
MEJ Nott OBE
E Venables

Councillors

R Williams

MINUTES OF A MEETING OF THE LICENSING ACT 2003 SUB-COMMITTEE (A) HELD IN COUNCIL CHAMBER, CIVIC OFFICES ANGEL STREET BRIDGEND CF31 4WB ON FRIDAY, 25 NOVEMBER 2016 AT 10.00AM

Present

Councillor R Williams – Chairperson

JE Lewis

HE Morgan

Officers:

Mark Galvin – Senior Democratic Services Officer - Committees

Andrea Lee – Legal Officer

Yvonne Witchell – Team Manager - Licensing

South Wales Police

PC Kevin Ellis

Premises Licence Holder

Mr Pat Evans and his Support team, including Legal Advisors

16. DECLARATIONS OF INTEREST

None

17. LICENSING ACT 2003: SECTION 51 APPLICATION FOR REVIEW OF PREMISES LICENCE CABIN BAR & BREEZE NIGHTCLUB CONEY BEACH PORTHCAWL

The Chairperson announced that the meeting was late commencing, due to the fact that the South Wales Police representatives and the Premises Licence Holder together with his Legal Advisors, had been in lengthy discussions with the view of reaching a compromise with regard to the application for review of the Licence submitted by the Police. Unfortunately however, no agreement between both parties had taken place.

The Team Manager – Licensing therefore gave a resume of the report, which related to an application being received by the Licensing Department from the South Wales Police for a Review of the Premises Licence in relation to the premises known as the Cabin Bar & Breeze Nightclub, Coney Beach, Porthcawl.

She highlighted the background to the report, then explained that the application had been advertised in accordance with the regulations. Representations had been received from the Premises Licence Holder's representative, Blackford's LLP and these were shown at Appendix B to the report.

The Premises Licence holder's Lawyer advised the Sub-Committee that she requested that the meeting stand adjourned, due to the fact that pages 20 – 29 of the report, which detailed relevant occurrences and criminal offences etc, listed in chronological order that had allegedly taken place at the premises was very extensive. She explained that this had only arrived to her two days ago on Wednesday, and that in view of the fact that the worst case scenario outcome of today's meeting, would be her client having his Licence revoked and therefore losing a key business interest that generated income. She added that due to this, she wished for more time to be able to discuss these

occurrences/criminal offences with her client, and prepare suitable responses to these and provide any representations, as appropriate.

PC Ellis contested this, and advised that this had been served on all interested parties including the Premises Licence Holder with other relevant documents prior to Wednesday of this week. He added that it had been e:mailed to Mr Evans the same day as it had been sent to the Licensing Authority.

The Lawyer added that there were Statements served on her client by the SIA detailing further incidents that had taken place at the premises, but similarly, these had also only been received mid-week and likewise to the above, she needed further time to consider and respond to these.

PC Ellis reiterated that the Police documentation had been served on Mr Evans on 15 and 16 November 2016, and that he had not been made aware that the Premises Licence Holder was being legally represented until he had received the agenda and accompanying documentation for today's meeting. This was the reason why he had served the Police representations on the Premises Licence Holder as opposed to Blackford's LLP.

At this point in proceedings ie at 12.10pm, the meeting further adjourned, in order that the Team Manager – Licensing could check dates of e:mails the Licensing Authority had received with regard to the serving of papers exchanged between the South Wales Police, SIA and the Premises Licence Holder & his Lawyer/Solicitor.

The meeting re-opened at 12.25pm and the Team Manager – Licensing advised that a number of e:mails had been exchanged between all the relevant parties involved in the process as far back as 27 October 2016. She added that the list of chronological offences/occurrences had been served on the Licensing Authority by the South Wales Police on 4 November 2016, but she was not aware whether or not this had been served also on Mr Pat Evans or Blackford's LLP.

PC Ellis confirmed that the list of offences/occurrences so referred to, he thought had been served on Blackford's LLP on 3 November last, though he would have to check this.

The Chairperson following the receipt of legal advice from the Legal Officer, suggested that the meeting once more be adjourned at 12:35pm, in order that PC Ellis could visit the Police Station to check on the date he sent the relevant emails to Blackford's LLP. He added that the meeting would also break for lunch and requested those in attendance to return to the meeting at 1:30pm.

The Chairperson re-opened the meeting at 1:37pm.

PC Ellis confirmed that he had sent an email to Mr P Evans at 1.10pm on 4 November 2016 confirming the list of incident and occurrences that had taken place at the premises as detailed in the bundle of papers. He could not therefore understand why the Premises Licence Holder had not seen these and other emails exchanged between the parties and forwarded these onto his Solicitor.

Mr Evans advised that he had not picked this information up until today upon reading the papers that accompanied the agenda for the meeting. He assumed that the information ended up in his Spam mailbox of his emails. He added that he was under the impression that the Police were corresponding with his Legal Team rather than himself.

Mr Evans' Lawyer added that Mr Evans did not ignore any emails that had been sent to him by the South Wales Police in advance of today's Hearing as implied by PC Ellis, as they had gone into his Spam account. Due to this having taken place, she had not had sufficient time to consider these incidents/occurrences even though the Legal Team together with herself had tried to put some responses together just prior to the meeting commencing ie during the previous adjournments. It was only fair however she felt, if she had more time to formally respond to each of these.

The Chairperson once more suggested that the Panel retired to decide whether or not the Hearing should proceed, given the information shared by both parties at the meeting. He once more therefore adjourned the meeting at 1:42pm

The meeting reconvened at 1:45pm, and the Chairperson confirmed that the Sub-Committee were not very happy, as not for the first time in meetings of these nature, serving of all appropriate documents to be considered at today's meeting had not been successfully achieved, and that both the South Wales Police and the Premises Licence Holder had been partly to blame for this.

The Sub-Committee agreed to adjourn the meeting, in order that all papers could be served on the other by both parties, and that this, as part of a fresh set of papers be exchanged prior to the meeting being reconvened on 16 December 2016.

RESOLVED: That for the reasons stated immediately above, the meeting stands adjourned to 16 December 2016.

The meeting reconvened on Friday 16 December 2016 at 10.50am, and the Chairperson apologised for the delay in re-opening the meeting at the scheduled start time of 10.00am. The reason for this he confirmed was in order that the Legal Officer could legal advice to the Sub-Committee.

The Team Manager – Licensing referred those present to the agenda and accompanying papers which were those that had originally served on all parties by the South Wales Police and Premises Licence holder, together with certain further added information and evidence.

She advised the Sub-Committee that she was aware that progress had been made by both parties in possibly resolving various issues, that had originally culminated in the South Wales Police making an application to Review the Premises Licence of the Cabin Bar and Breeze Nightclub, with a view to seeking revocation of the Licence due to ongoing incidents of crime and disorder being committed at the premises.

The Team Manager – Licensing confirmed that the South Wales Police may be withdrawing their application for review by way of agreement of changes being made affecting the premises. To this end, she asked PC Rowlatt to explain this further to members.

PC Rowlatt confirmed that there had been a change in tact by the South Wales Police, due to negotiations that had taken place with Mr Pat Evans and his Legal Advisors since the meeting had stood adjourned.

The original application was made under Section 151 of the Licensing Act 2003, where the Police were seeking revocation of the Licence, PC Rowlatt confirmed.

PC Rowlatt added that violent crime has continued to be committed at the premises, including incidents of grievous bodily harm that has also extended to assaults on Police

Officers. It was not necessary the amount of these incidents, though there had been a considerable number of these, but it was more the severity of these she explained.

A lot of the incidents advised PC Rowlatt were of violent crime and these had been fuelled by the consumption of excessive amounts of alcohol being consumed at the premises by the perpetrators.

Two major failings had taken place explained PC Rowlatt. Firstly, there had been a failure by management at the premises to recognise the severity of the incidents that had taken place and admitting responsibility for these, and to continue selling alcohol to patrons already heavily intoxicated, which reflected non-compliance with their Conditions of Licence and a general failing also of meeting the licensing objectives.

PC Rowlatt further advised, that if the management at the premises failed to recognise their failings as exemplified above, then the South Wales Police had no option other than to consider a Review of the Premises Licence on the basis that management were of the impression that they were operating the premises to a standard required by which the licensing objectives would be met.

The South Wales Police however, had reconsidered its previous position in respect of this matter. This she explained was largely due to fresh negotiations taking place with Mr Rankin, who was a Barrister acting on behalf of Mr. Evans. PC Rowlatt added, that Mr Rankin was an experienced Licensing Legal Advisor who had brought a wealth of knowledge and experience to the table, to the extent, that the South Wales Police had reconsidered their stance on looking to revoke the Licence at the premises, and to instead, reach agreement conditional upon a number of changes being implemented with regard to the way the premises operated.

The intention now was for the South Wales Police to work with a newly appointed and experienced Designated Premises Supervisor at the premises, with the view to improving the manner by which business was conducted there. Mr Rankin would play a supportive role here added PC Rowlatt.

Agreement had also been reached to close the upstairs part of the premises ie Breeze nightclub, notwithstanding that some considerable investment had been committed to this by the Personal Licence Holder Mr Svenson. The reason for this, was due to the fact that of the last 22 serious incidents that had taken place at the premises, 16 of these had occurred in Breeze with only 5 having occurred in the downstairs Cabin Bar. Therefore, removal of the nightclub part of the premises would in all probability reduce the number of incidents that have taken place within the premises overall.

PC Rowlatt advised Members that all other Conditions that presently formed part of the Premises Licence would remain. There was a caveat however, which was that any functions scheduled to be held at Breeze nightclub over the Xmas period would be honoured, up to and including New Year's Eve. It would then however be closed as a nightclub she added and agreement had been reached with the Designated Premises Licence holder regarding this. The view of the Police was that this was fair as it was pre-planned trade.

PC Rowlatt added that the 5 incidents that related to the downstairs Cabin Bar related to incidents of drunkenness by patrons without any acts of crime and/or anti-social behaviour which could be managed by an improved management team at the premises, or if need be the Police. To this end, PC Rowlatt confirmed that agreement had also been reached to remove from the premises the current Designated Premises Supervisor, and to add another Condition to the Premises Licence ie that the Premises Licence holder be present at the premises at certain key times. The new Designated

Premises Supervisor had been recruited, and he was suitably qualified and experienced to act out this role, whereby the current DPS had it appeared, followed short in this regard.

In summary therefore, PC Rowlatt that agreement had been reached with the premises Management with regard to the following being effective at the premises:

- 1) The Designated Premises Supervisor (DPS) will be removed and a new experienced DPS put in position. The PLH will be given a maximum of 3 months to find a suitable candidate.
- 2) The DPS will participate in the local Pubwatch scheme as long as one exists and attend regular meetings.
- 3) A Personal Licence Holder will be on duty at the premises from 9pm on all Fridays and Saturdays and on Sundays preceding a bank holiday (as well as during the Elvis Festival; the Porthcawl Carnival and such other days as may be agreed with the police).
- 4) There will be no licensable activity in the 1st floor area of The Cabin bar, in effect this area will remain closed to public access. These conditions will take effect after the end of trade for New Years Eve, i.e. the 1st January 2016. Due to current Christmas bookings. (For sake of clarity, this will be whenever trade stops for New Year's Eve). This condition does not prohibit applications for TENs which shall be determined on their individual merits.
- 5) All existing conditions to remain in place.

The Chairperson asked Mr. Rankin, acting on behalf of the premises if he was in agreement with the proposals recommended above, and as explained by PC Rowlatt in her submission on behalf of the South Wales Police.

Mr. Rankin wished it placed on regard his thanks to PC Rowlatt for her patience and understanding in reaching an amicable position that would hopefully assist and aid both parties.

He understood the stance made by the Police, in that they had to do their utmost to protect the safety of patrons whilst they were at the premises, and obviously the extent and nature of the incidents that had taken place in Breeze nightclub was reflecting that this was not always the case.

Mr. Rankin confirmed that Mr. Svenson had committed £100k to the nightclub area of the premises, and it was difficult for him now knowing that this would have to be closed as a nightclub venue, he would however, still be responsible for the day to day management of the Cabin Bar under the control of the new DPS. He added that he did not want to become involved in an argument with the Police as to whether or not some of the incidents that had taken place had emanated from the premises, though his client had contested some of these allegations. He conceded however, that the agreement made would be able to address all the issues of concern raised by the Police moving forward and that his client would work more closely with them to ensure that the operation of the premises improves, and that this improvement is maintained. PC Rowlatt had also made it clear that she was confident of building up a good relationship as Licensing Officer of the Police with the new DPS when he commenced employment at the premises, following making application to take over from the current DPS.

Mr. Rankin also advised, that depending on how viable the business was under the new arrangements agreed today, his client may end up putting in an application within the coming months, to use the upstairs part of the premises for a function suite for more private events.

As this concluded the main business of the meeting, the Chairperson confirmed that Members would now retire at 10:50am to make a decision after hearing the evidence of both sides, and reconvene when such decision had been made.

The Chairperson re-opened the meeting at 12:00 midday, and advised those present that the Sub-Committee had

RESOLVED:

The Sub-Committee considered an application by the Police for a review of the Premise Licence in relation to premises known as the Cabin Bar and Breeze Nightclub, Coney Beach, Porthcawl.

The Sub-Committee have heard representations from the Police and the Premises Licence Holder, and that they had been in discussions and have both agreed that in order to rectify the problems at the premises the following Conditions should be added to the licence:-

- 1) The Designated Premises Supervisor (DPS) will be removed and a new experienced DPS put in position. The Premises Licence Holder will be given a maximum of 3 months to find a suitable candidate.
- 2) The DPS will participate in the local Pub watch scheme as long as one exists and attend its regular meetings.
- 3) A Personal Licence Holder will be on duty at the premises from 21:00 on all Fridays and Saturdays and on Sundays preceding a bank holiday (as well as during the Elvis Festival; the Porthcawl Carnival and such other days as may be agreed with the Police.)
- 4) There will be no licensable activity in the 1st floor area of The Cabin bar, and in effect this area will remain closed to public access. These Conditions will take effect after the end of trade for New Years Eve, i.e. the 1st Jan 2016. Due to current Christmas bookings. (For sake of clarity, this will be whenever trade stops for New Year's Eve). This Condition does not prohibit applications for Temporary Event Notices ie TEN'S which shall be determined on their individual merits.
- 5) All existing Conditions remain on the Licence.

The Sub-Committee have heard from the Police that there are serious problems at the premises which involve serious violent assaults at the premises which have increased in severity.

The main difficulty the Police have encountered is that the DPS has failed to accept the problems at the premises and is in denial, and as such the Police and the DPS have been unable to 'meet in the middle' to resolve the problems. The Police have stated that as a result of Mr Rankin who is an experienced licensing Barrister becoming involved, they have now understand the source of the problems at the premises.

The Police gave evidence that out of the 22 incidents at the premises, 16 occurred in the nightclub and only 5 took place in the Cabin Bar, so in agreeing that the nightclub is closed the Police believe that this will significantly reduce the problems at the premises.

The Police also stated that as well as the nightclub, the other remaining difficulty is poor management and they believe this issue would be resolved by the removal of the DPS which has been agreed by the parties.

The Sub-Committee commend the parties involved in this review with the sensible solution that has been reached, and agreed that the Conditions will promote the Licensing objectives and will go a considerable way to resolving the difficulties at these premises.

The Sub-Committee have decided that in order to promote the Licencing Objectives, there is a need to modify the Conditions on the Licence by adding the further Conditions agreed by the parties, with all existing conditions to remain on the Premises Licence.

The meeting closed at 3.00 pm

This page is intentionally left blank

MINUTES OF A MEETING OF THE LICENSING ACT 2003 SUB-COMMITTEE (A) HELD IN COUNCIL CHAMBER, CIVIC OFFICES ANGEL STREET BRIDGEND CF31 4WB ON MONDAY, 28 NOVEMBER 2016 AT 10.00 AM

Present

Councillor R Williams – Chairperson

Councillors

P James
D Patel

Officers:

Katie Brook	Senior Licensing Technical Officer
Katia Daw	Lawyer
Andrea Lee	Senior Lawyer
Andrew Rees	Senior Democratic Services Officer - Committees
Yvonne Witchell	Team Manager Licensing

21. APOLOGIES FOR ABSENCE

None.

22. DECLARATIONS OF INTEREST

None.

23. LICENSING ACT 2003: SECTION 51 APPLICATION FOR REVIEW OF PREMISES LICENCE CAERAU VILLAGE STORES PREMIER, 8-9 CAERAU ROAD, CAERAU, MAESTEG

The Legal Officer informed the Sub-Committee that the Premises Licence Holder's representative will be making an application for an adjournment of the hearing and asked the representative of the police if he had any objections to the request for adjournment. PC Ellis stated that he did not object to the application for an adjournment.

The Premises Licence Holder's representative confirmed that she had made an application for an adjournment, but her client was prepared for the hearing to proceed. The Legal Officer referred to the absence of information relating to the outcome of appeal on immigration matters and asked again whether the Premises Licence Holder was prepared for the hearing to proceed. The Premises Licence Holder's representative again confirmed that her client was prepared for the hearing to proceed.

The Sub-Committee adjourned at 10.27am and reconvened at 10.35am to consider whether to proceed with the hearing.

On reconvening the Sub-Committee determined that it would proceed with the hearing insofar as it could.

The Team Manager Licensing reported on an application for a review of the premises licence submitted by the Chief Officer of Police in relation to the premises known as Caerau Village Store Premier, 8-9 Caerau Road, Caerau, Maesteg. She stated that the Premises Licence Holder is Harminder Kaur Malhi and the licence authorised the supply of alcohol Monday to Saturday 0800 – 2300 hours and Sunday 1000 – 2230 hours.

The Team Manager Licensing informed the Sub-Committee that the application had been advertised in accordance with the regulations and representations had been received from the Licensing Authority. She stated that additional documentation had been served by Hutton's Solicitors acting for the Premises Licence Holder seeking an adjournment and opposing the application for the review of the premises licence.

PC Ellis commenced his submission by stating that reviews must, not only have regard to Section 11 of the Home Office Guidance but also Section 12 of the Council's own "Statement of Licensing Policy. He stated that section 12 dictates that "reviews represent a key protection for the community if problems arise at licensed venues". Information highlighted within the review demonstrates a systematic and deliberate failure to promote 2 key objectives namely: the prevention of crime & disorder and the promotion of public safety. He also highlighted that "Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership". He stated that the Licensing Department of South Wales Police is an integral part of the Community Safety Partnership and that his statement had not emanated from the Chief Officer of Police but was emphasised at Section 2 of Home Office Guidance which relates to the licensing objectives and in particular Sub-section 2.1 Crime & Disorder.

PC Ellis informed the Sub-Committee that the shop is authorised to sell alcohol by a Premises Licence and Harminder Malhi is both the Premises Licence holder and Designated Premises Supervisor, the DPS. However; the address which she has given on the Premises Licence of Caerau Village Stores is that of Costcutter as she resides above the premises with her husband, Gurpreet Singh. He stated that significantly the 3 migrants found to be illegally in the UK, who are referred to in the review, had given this as their residence when arrested.

PC Ellis informed the Sub-Committee that the Premises Licence Holder of Costcutter is H&G Trading Ltd., and Harminder Malhi who is the secretary of that company, whilst the DPS is Mr Hardev Singh Johal. He stated that there is a strong association between both premises and disclosure of this information is relevant and necessary for the promotion of the licensing objectives. Harminder Malhi has an association with Costcutter dating back to at least 2007 when she first reported an incident to SWP and the context of the call was "two boys outside our shop Costcutters, they are banging on our shutters". PC Ellis stated that she refers to the premises as 'our shop'. He stated that since this date she has been subject of 35 reported incidents to South Wales Police where she is either the reporting person, victim or witness. He stated that what was significant is that 32 relate to Costcutter and only 3 the subject of occurrences at Caerau Village Stores, the first being on 26 June 2012, the second on 17 December 2012 and the last on 28 September 2013. Gurpreet Singh has reported 8 incidents to South Wales Police and again what was significant is that 6 relate to Costcutter. Mr Singh has only reported 2 occurrences at Caerau Village Stores. South Wales Police therefore submit that Harminder Malhi is effectively responsible for Costcutter as well as Caerau Village Stores and the representations are relevant as they refer to her role at both premises which she has managed for a prolonged period during which time she has failed to promote the licensing objectives. PC Ellis stated that for reasons outlined in the application Costcutter was also subject of a review application and therefore the situation Harminder Malhi now finds herself in is entirely of her own making.

PC Ellis informed the Sub-Committee that Harminder Malhi has committed offences at both premises mainly the employment of migrants who have illegally entered the UK or have remained in the country illegally. He stated that the financial penalty on an

employer for engaging in the employment of an illegal migrant worker was highlighted within the review. If the UK Border Agency was considering that such a fine should be imposed then the procedure on evidencing the offence is that a Referral Notice is served on the employer.

PC Ellis informed the Sub-Committee that the evidence collated is subsequently examined by the Home Office Illegal Working Civil Penalty Compliance Team (IWCPCT) which determines whether the employer should be subject of a penalty notice under Section 15 of the Immigration, Asylum & Nationality Act 2006. He stated that Section 15 is referred to at page 16 of the application. To deter such criminality fines of up to £20,000 per worker can be served on employers by the Secretary of State. Prior to May 2014 this sum was £10,000, given that the penalty had since doubled, it provided a strong indication that the previous fine was insufficient and did not deter employees who continued to employ illegal migrants as a cheap alternative to lawful workers.

PC Ellis informed the Sub-Committee that there is vast amount of documentation available electronically and otherwise to help employers avoid committing immigration offences. There is also a help line manned by UK Border Agency staff. The stated there also exists a document titled, "Home Office checks to ascertain if someone can work in the UK" which was included at pages 19 to 21 in the agenda pack. This was a simplistic, staged and chronological check which enables employers to ascertain if a potential employee can work in the UK legally and asks pertinent questions for example such as: -

Does the worker have a UK passport?

Are they a British Citizen?

Do they possess a permit or visa showing that they have a right to work in the UK?

Do they have any other relevant documents entitling them to work in the UK?

PC Ellis stated that those relevant documents are listed in the guidance and if the answer to those questions is, "No" then the guidance is clear as it details that, "the worker may not be currently entitled to work in the UK". He stated that extracts from other UKBA guidance appear in the application and that in short employers are given every assistance to thoroughly scrutinise potential staff and there is no reason for any employer to employ migrants who are not permitted to work. If an employee produced documentation to suggest he is in the UK legally then those documents can be verified on the Home Office website or UKBA can be contacted on their helpline telephone. It was not just a case of merely accepting documentation provided to employers. That documentation must be checked in order to ascertain if it is legal or otherwise.

PC Ellis stated that licence holders who have previously been subject of the review procedure have informed previous Sub-Committee's that they were given documents which appeared credible. He commented that this was misleading and was not accepted or indeed acceptable as those credentials must be substantiated.

PC Ellis informed the Sub-Committee that in relation to immigration offending arrest warrants issued under the Immigration Act 1971 are sworn out by UK Border Agency Officers before a Justice of the Peace only if reliable information is received that immigration offences are being committed. They must have reliable intelligence to suggest that illegal migrants are employed at premises.

PC Ellis informed the Sub-Committee that when the review process commences the local authority has to affix a notice near to the premises which is a precis of the application and highlights to the public that the premises has failed to promote the objectives. He stated that after the service of the original reviews in October 2015 Harminder Malhi telephoned the Licensing Department wishing to know why South Wales Police were bringing a review. It was explained to her that it was due to the

employment of illegal migrant workers whereupon she stated that all the relevant document checks had been conducted in respect of those migrants.

South Wales Police submit that, given all the help that is afforded employees, coupled with the disclosures detailed in the review this was not a credible statement. PC Ellis suggested that this was a complete fabrication and Harminder Malhi has employed those individuals with the full knowledge of their UK status.

PC Ellis informed the Sub-Committee of the enforcement visits undertaken by the UK Border Agency. He stated that South Wales Police work in conjunction with the UK Border Agency exchanging information and intelligence and often accompanying them on enforcement visits when immigration warrants are executed at premises. This partnership had evolved since an important part of Home Office licensing guidance relating to reviews was updated to specifically focus on enforcement around serious criminality involving the unlawful employment of illegal migrants.

He informed the Sub-Committee that the Immigration Compliance & Enforcement Team of the UK Border Agency has conducted intelligence led enforcement visits to the premises utilising power of entry immigration warrants granted at Swansea Magistrates Court under Section 17(2). The warrants could be broken down as follows in date order from when the original warrant was executed: -

1st Visit 25th August 2011 – Occurrence 62110285252 - Parvinder Singh

On 25 August 2011 the Immigration Compliance & Enforcement Team executed a warrant and a male Indian migrant (Subject 1) was found at Costcutter. Immigration checks detailed that he had illegally entered the country and had been previously served immigration papers and as he was likely to be deported he was arrested.

Further enquiries revealed subject 1 has been employed on a number of occasions. There were 11 occurrences involving Subject 1 which relate to incidents at Costcutter and those occurrences detail him as either the reporting person, the aggrieved, a witness, a suspect or a person arrested (which relates to the immigration arrest).

PC Ellis stated that what was significant is that the first incident took place on 5 June 2009 and 5 other incidents were recorded in 2009, which was 2 years before UK Border Agency officers executed the warrant and arrested him. Subject 1 had unlawfully been in the UK since 2009 at least. He stated that what was again significant is that 4 incidents have occurred since his arrest, 1 in 2013, 1 in 2014 and 2 in 2016 with the latest incident being reported on 16 April.

2nd 15th March 2013 @ 12.16hrs Occurrence 62130076242 - Lakhvir Kaur Khosa

UK Border Agency executed a second warrant on 15th March 2013 and no arrests were made however; Kelly Griffiths, a Border Agency Officer who executed the warrant, was sufficiently concerned with the demeanour of Harminder Malhi that she e-mailed PC Ellis shortly after as follows: -

From: Griffiths Kelly (SWANSEA) UKBA South & West Wales
[mailto:Kelly.Griffiths28@homeoffice.gsi.gov.uk]
Sent: 22 March 2013 13:21
To: Ellis, Kevin swp2458

“We conducted an enforcement visit to Costcutter on 15th March 2013 and encountered two females on the premises one of which we believe to be working illegally but unfortunately we were unable to prove at the time..... The other

female the owner Harminder Malhi was particularly unhelpful and quite obviously not being truthful with regards to the persons employment at the premises.

Is there anything in the licensing rules/regulations that states a person must be “employed” at the premises to be behind the counter which is selling alcohol and cigarettes? The owner stated that her friends/family including her young children always stand behind the counter and help her out when they come to visit”.

PC Ellis informed the Sub-Committee that this was the first occasion Harminder Malhi was evasive with the authorities and her responses suggest that she had ready-made answers for the authorities to circumvent the employment of migrants illegally in the UK.

14th July 2015 - Occurrence 1500254846 - Rocky Ahuga

PC Ellis stated that an incident then occurred on 14th July 2015 which was followed by an unconnected licensing enforcement visit to Costcutter 15 days later.

On 14th July 2015 a Caerau resident reported a suspicious incident to South Wales Police which concerned a male staff member at Costcutter (Subject 2). His details were obtained by the officer who attended at the premises and dealt with the matter.

On 29th July 2015 PC 5102 Rowlatt, a SWP Licensing Officer and Fiona Colwill, a Licensing Enforcement Officer with the local authority undertook a routine joint licensing visit at Costcutter and found Harminder Malhi working at the premises alongside a 31 year old female Indian migrant (subject 3) Nande Tajinder Kaur.

PC Ellis stated that he did not personally attend the premises but informed the Sub-Committee that Fiona Colwill and PC Rowlatt could provide details of this visit whilst Fiona Colwill can address matters in her submissions concerning the subsequent visit. However; both Mrs Malhi and subject 2 were dishonest and evasive in relation to the employee’s name, date of birth and UK status and furthermore even providing details of the college where she was supposedly a student. He stated that some students are permitted to work restricted hours and it was believed the information provided that (subject 3) was a student and was a further attempt to deceive the authorities. The college had ceased to operate at the time of the visit and continued to do so. He stated that both officers were so concerned with the answers given that they reported their findings to the UK Border Agency which led to the:

Third Visit On 20th August 2015 – Occurrence 1500302778

UK Border Agency Officers again executed a warrant and were accompanied by Mrs Colwill. On this occasion subject 3 was found to be working alone at the off-licence and she was equally dishonest and evasive with the immigration officers as she again provided a false name and date of birth. PC Ellis stated that she was so evasive that the only way her identification could be determined was by way of a hand-held fingerprint identification device. Enquiries revealed that she had remained in the country illegally after her visa expired and was classed as what UKBA describe as a Section 10 “overstayer”.

PC Ellis informed the Sub-Committee that significantly she had been served with documentation in July 2014 and had restrictions placed upon her in relation to reporting to the UK Border Agency but had absconded and had effectively been “on the run” ever since. She was also duly arrested as a person liable to be detained pending deportation.

PC Ellis informed the Sub-Committee that enquiries led the Immigration Team to Caerau Village Stores where subject 2, who was involved in the incident on 14th July 2015, was located. He was a 32 year old Indian migrant who had illegally entered the UK in the rear of a heavy goods vehicle. He admitted to working at Caerau Village Stores for about 3 months and was similarly arrested pending deportation and became the third illegal migrant worker to be detained. He stated that it was notable that during the July 2015 occurrence and the August 2015 visit both migrants were working unsupervised.

PC Ellis informed the Sub-Committee that employing an individual who had no authorisation to work, entering the UK illegally, "failing to observe immigration restrictions" and "overstaying" are contrary to immigration legislation and are separate offences which are highlighted in more detail within the review.

He stated that what should be of serious concern to the Licensing Sub-Committee is that serious offences had already been committed in 2011 but the very same immigration offences were then committed in 2013, 2014, 2015 and 2016. This was not only unacceptable and did not promote the licensing objectives but more importantly guidance dictated that the authorities should tackle such offending with the utmost rigour.

He stated that there was clearly an obvious need for persons to be employed but those job opportunities had been denied to individuals legally entitled to work and it could be argued that the vulnerability of such persons was being exploited. The exploitation aspect was corroborated in the questions an Immigration Officer put to the female employee (subject 2) during the visit and her subsequent responses

Q. What time do you start in the mornings? A. 6am I open the shop.

Q. What time do you finish? A. 10am

Q. What do you do in the shop? A. Serve customers, clean.

Q. How much do you get paid? A. I don't get paid she's my sister.

Q. Do you get food and accommodation for free? A. Yes.

PC Ellis stated that what was also significant is that even if British nationals did not wish to fill those vacancies they could be occupied by migrants who are in the UK legally and are lawfully able to work.

PC Ellis detailed the offences committed by the employees under the Immigration Act 1971, which are: -

Subject 1 - Enter or remain in the UK without leave is contrary to Section 24(1)(a)

Subject 2 - Knowingly remaining beyond the time limited by leave (i.e. "overstaying" in the UK) contrary to Section 24(1)(b)(i); Obstructing an Immigration Officer contrary to Section 26(1)(g) and Without reasonable excuse, fails to observe any restriction imposed on him under Schedule 2 or 3 to this Act as to residence or as to reporting to the police, an immigration officer or to the Secretary of State: contrary to Section 24(1)(e)

PC Ellis stated that a person commits the offence on the day when he or she first knows that leave to enter or remain has expired, and continues to commit it until such time as his or her position is regularised, for example through a further grant of leave in any category. The aforesaid offences carry a penalty of 6 months imprisonment and / or a fine not exceeding £5,000.

Obstructing a constable: Police Act 1964 - Willfully obstructs a constable in the execution of their duty contrary to Section 15(3). This offence carries a penalty of a maximum one month imprisonment and / or a fine not exceeding £1,000.

PC Ellis outlined offences committed by the employer under the Immigration, Asylum & Nationality Act 2006, Employing an adult subject to control who had not been granted leave to enter or remain in UK contrary to Section 15 and employs another knowing that that person is an adult subject to immigration control contrary to Section 21. The penalties for an employee in respect of both offences are: - Upon indictment - imprisonment for a term not exceeding 2 years, a fine, or both. Summary – Imprisonment for a term not exceeding 12 months in England and Wales or a fine, or both.

PC Ellis informed the Sub-Committee that offences have also been committed by Harminder Malhi of wilfully obstructing a constable in the execution of their duty contrary to Section 15(3) Police Act 1964 and offences under the Licensing Act which concern 3 offences contrary to Section 57 of: failing to keep the Premises Licence at the premises; failing to produce the Premises Licence for inspection and failing to display a summary of the Premises Licence.

PC Ellis informed the Sub-Committee that in relation to the immigration offences the Immigration Compliance & Enforcement Team were unable to serve a Referral Notice on 20th August 2016 as there were no persons of responsibility at either premises which in itself presents as a serious failure to promote the objectives. The notice was subsequently posted to Harminder Malhi and the letter highlighted that the details of the visit would be passed onto the Home Office Illegal Working Civil Penalty Compliance Team (IWCPCT) for consideration.

PC Ellis informed the Sub-Committee that on 6th October 2015 the Home Office felt there was sufficient evidence to warrant a fine and a Civil Penalty Notice in the sum of £30,000 was served on the Premises Licence holder, H&G Trading Ltd., for the one worker at Costcutter and the other at Caerau Village Stores. He stated that the fine was not to be confused with various penalties just detailed and may be classed as a Home Office type of fixed penalty, albeit a substantial one. He stated that H&G objected but after a review of the case the penalty of £30,000 was maintained, with the Objection Outcome Notice issued on 30th November 2015. The employer submitted an appeal against the penalty at the beginning of January 2016 which is still ongoing and as far as he was aware no hearing date had been set yet.

He requested the Sub-Committee note the guidance relating to outstanding matters in relation to Sub-section 11.24 relates to Reviews arising in connection with crime. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective. The appeal relates solely to the warrants executed in August 2015 and had not been finalised, however; this was a matter not relevant to the Sub-Committee. He stated that the appeal is to the Home Office and not the courts and the nature of the appeal is unknown and it may be against the amount to be paid. If it was against the fact that persons were employed then that can be rebutted by evidence in the review which has been provided by officers of South Wales Police, the local authority and UK Border Agency. He stated that significantly the warrant executed in 2011 has been finalised and further evidence in the form of recorded incidents highlight that this individual had been employed on a number of occasions since 2011 with the latest incident being reported in August 2016.

PC Ellis informed the Sub-Committee that in relation to the public safety objective absolutely nothing is known of the antecedent history of those migrants who have illegally entered the UK and as a consequence seriously impacts on the public safety objective. He stated that in relation to Home Office Guidance issued under Section 182

of the Licensing Act, Section 11 relates to reviews, Sub-section 11.5 support a number of key aims and purposes which include protecting the public from crime caused by irresponsible licensed premises. The Guidance in relation to the review process is specific and very clear. It focused on: "reviews arising in connection with crime". Sub-section 11.27 of the Guidance highlights that certain criminality should be treated particularly seriously. These activities include the use of licensed premises: -

- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
- for the sale and distribution of illegal firearms;
- for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
- as the base for the organisation of criminal activity, particularly by gangs;
- for the organisation of racist activity or the promotion of racist attacks;
- for unlawful gambling; and
- for the sale or storage of smuggled tobacco and alcohol.

He stated that these are serious offences and there is obviously a growing concern with the number of migrants entering the UK illegally or remaining in the country unlawfully after their visa has expired for example coupled with the fact that these individuals are also working illegally that the Home Office has since included alongside these serious criminal activities the offence of knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter.

PC Ellis informed the Sub-Committee that Sub-section 11.28 states "It is envisaged that licensing authorities, the police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered." He stated that the aforesaid guidelines are extremely specific to this application as they have been ignored.

He informed the Sub-Committee that offences have been committed under the Immigration Act 1971 and the Immigration, Asylum & Nationality Act 2006. Additionally offences have been committed under the Licensing Act 2003. He stated that the guidelines issued by the Home Office in relation to immigration are clear and unambiguous and are freely available to all employers on the Home Office website. Similarly guidance under the Licensing Act requires a clear emphasis on promoting the licensing objectives.

PC Ellis informed the Sub-Committee that as individuals have been illegally employed at both Costcutter and Caerau Village Stores there are working opportunities available however; those chances had been denied to persons who are lawfully able to work. He stated that it was also arguable whether transient non-British nationals who speak very little or no English and have little or indeed no knowledge of licensing law promotes the licensing objectives. He commented that in any event South Wales Police believe Harminder Malhi to have employed persons in the full knowledge that they are illegally in the UK.

PC Ellis informed the Sub-Committee there are currently about 550 licensed premises located within the Bridgend County Borough and to understand the overall picture of

enforcement since 2005 when the Licensing Act was introduced South Wales Police allowed a period of time for licence holders to acclimatise themselves with it and the first review application was not submitted until 2007. Since this time South Wales Police has had to review the authorisations of 27 other premises in order to promote the licensing objectives, which equated to 3 reviews each year.

PC Ellis informed the Sub-Committee that again taking into consideration the Home Office guidelines that, "Licensing authorities should look to the police as the main source of advice on crime and disorder it was strongly recommended to various Sub-Committees that 19 of those authorisations should be revoked. He stated that the police did not propose that authorisations should be forfeited unless it was felt absolutely necessary to do so to promote the licensing objectives.

He stated that what was extremely alarming is that since 2014 8 other reviews had been submitted which concerned the employment of migrants who were not permitted to work as: -

- they had entered the UK illegally
- they did not return to their country of origin after their visas had expired
- their visa did not authorise them to work

PC Ellis informed the Sub-Committee that there was therefore clearly an escalating problem of employing illegal migrants which had been recognised by the Home Office who had included measures in the licensing guidance.

To combat these offences, the guidance unambiguously requires licensing committee's to address these matters very robustly.

PC Ellis drew the Sub-Committee's attention to the new immigration bill and Home Office Guidance highlights the following: -

"In their role as a responsible authority, the police are an essential source of advice and information on the impact and potential impact of licensable activities, particularly on the crime and disorder objective. The police have a key role in managing the night-time economy and should have good working relationships with those operating in their local area. The police should be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective, but may also be able to make relevant representations with regard to the other licensing objectives if they have evidence to support such representations. The licensing authority should accept all reasonable and proportionate representations made by the police unless the authority has evidence that to do so would not be appropriate for the promotion of the licensing objectives. However, it remains incumbent on the police to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing".

PC Ellis informed the Sub-Committee that the grounds for review are based on promoting 2 objectives and the offending associated with the premises demonstrated that there had been an abject failure to promote those objectives and an unwillingness to remedy the situation. He stated that the representations made by the police within this review are reasonable and proportionate and the guidelines therefore dictate that they should be readily accepted as such. In particular criminality associated with the premises which impacts on the objectives relates to offences of: -

- 1) Entering the UK without leave.
- 2) Knowingly remaining beyond the time limited by leave (i.e. "overstaying" in the UK).

- 3) Employing an adult subject to control who had not been granted leave to enter OR remain in the UK.
- 4) Knowingly employing another subject to control who had not been granted leave to enter OR remain in the UK.

PC Ellis stated that the penalty for employers who commit offences 3 and 4 are clearly severe and seriously impact on the prevention of crime and disorder and public safety objectives.

PC Ellis concluded that the following extract from the guidance was in two parts and was extremely important to the authorities and to the Sub-Committee: -

- Knowingly employing a person who is unlawfully in the UK or
- Who cannot lawfully be employed as a result of a condition on that person's leave to enter.

PC Ellis stated that these are offences which the Home Office guidelines dictate should trigger a review of the licence and when such an application is submitted the Sub-Committee should then consider revocation of the licence even in the first instance and that forfeiture of the licence is a measure the police are strongly recommending that the Sub-Committee take.

The Legal Officer asked whether the case by South Wales Police was based on a breach of the crime and disorder and public safety licensing objectives of employing illegal migrants. PC Ellis referred to a number of reported incidents to have taken place at both Costcutter and Caerau Village Stores. Eleven incidents are in relation to the employment of illegal migrants. The Legal Officer questioned whether any other crimes had been committed from the premises. PC Ellis informed the Sub-Committee that the main thrust of the review was based on the employment of illegal migrants. In response to a question from the Legal Officer, as to whether any prosecutions had taken place, PC Ellis stated that he was not aware of any other prosecutions, other than that relating to the immigration matters with the outstanding fine. The Legal Officer questioned whether the premises licence holder had received civil penalties. He informed the Sub-Committee that a referral notice had been given to Mrs Malhi and served on H&G Trading Limited. The Legal Officer questioned PC Ellis in relation to the email he had received from the Civil Penalties Compliance Team. PC Ellis confirmed that this was the last response he had received from the Civil Penalties Compliance Team which stated that the appeal had been granted but it was not known whether the appeal was in relation to the fine imposed or the conviction. The Legal Officer stated that the Sub-Committee would need to evidence of the appeal to assist in making a determination.

The Premises Licence Holder's representative questioned the link between the person arrested at the premises on 25 August 2011 and in 2016. PC Ellis stated that of the 12 incidents to have taken place at Caerau Village Stores and Costcutter all related to the employment of illegal migrants with the exception of one incident. The Legal Officer clarified that only 3 instances related to the employment of illegal migrants. The Premises Licence Holder's representative questioned how the other offences relate to the employment of illegal migrants. PC Ellis stated that one incident involved an assault on a member of staff who was an illegal migrant. The Legal Officer advised the Sub-Committee that it needed to consider the 3 incidents of employment of illegal migrants at the premises and that the Premises Licence Holder would get an opportunity to respond. PC Ellis informed the Sub-Committee that South Wales Police relied on the incidents which involved the employment of illegal migrants at the premises and being the victim of an assault. The Legal Officer questioned PC Ellis how he knew the people are illegal migrants. PC Ellis stated that the incidents relate to people who have been arrested by

the UK Border Agency who then returned to the premises to work. He stated that all the incidents at the premises involve Subjects 1, 2 and 3 who have been given travel documents to return to India, but those travel documents have never been used.

The Premises Licence Holder's representative informed the Sub-Committee that the review was based on 2 cases of the employment of illegal migrants at the premises which completely changes everything. She stated that an adjournment may be necessary as the 2011 matter was still ongoing as South Wales Police had now suggested that other matters relate to the same people found at the premises. PC Ellis stated that the first incident at the premises was in relation to subject 1.

The Sub-Committee adjourned at 11.30am and reconvened at 12.00noon.

The Legal Officer advised the Sub-Committee that she was led to believe that South Wales Police wish to have further time. PC Ellis informed the Sub-Committee that he was not seeking an adjournment as he was clear that Subjects 2 and 3 relate to the Orders, while Subject 1 was not the subject to a fine. The Premises Licence Holder's representative informed the Sub-Committee that she was happy for the hearing to continue.

The Premises Licence Holder's representative informed the Sub-Committee in response to a question from the Legal Officer in relation to the email from the Civil Penalties Compliance Team that it had been clarified there was a link between the Subject arrested in 2011 and 2016.

The Licensing Enforcement Officer presented the case in support of the application for the review of the premises licence of Caerau Village Stores. She stated that Licensing Enforcement shared the concern of South Wales Police that the management at Caerau Village Stores had failed to promote the licensing objectives. The Premises Licence Holder and Designated Premise Supervisor is Harminder Malhi who took responsibility on 24 April 2012 and who also manages Costcutter and above which she resides. A joint routine licensing inspection was carried out at Costcutter on 29 July 2015, where a lone female was serving behind the counter. Enquiries were made with Harminder Malhi as to the personal details and immigration status of the female and concerns were passed to the UK Border Agency on 6 August 2015. Harminder Malhi confirmed that the female lived above the premises and advised that she was from Punjab and in the UK on a student visa.

The Licensing Enforcement Officer informed the Sub-Committee on 20 August 2015, she accompanied the UK Border Agency on a visit to Costcutter and afterwards attended Caerau Village Stores where a lone female was behind the counter. She stated that while she discusses licensing issues with the female, the UK Border Agency officers were given permission to enter the upstairs of the property in order to look for any paperwork. On entering the upstairs, officers discovered and detained a male of Indian origin on suspicion of being in the country illegally.

The Licensing Enforcement Officer informed the Sub-Committee that even though there had been no further visits to the premises, mainly due to not interfering or hampering any immigration investigation, it was clear information given to officers by Harminder Malhi on 29 July 2015 was false. She stated that it was concerning that two persons who were illegal in country were residing in both premises managed and run by Harminder Malhi and there was also no authority in place for staff to hold a personal licence. She concluded that Licensing enforcement has no confidence that management at Caerau Village Stores is effectively promoting the licensing objectives and that the review of the licence was welcomed as a means of identifying the most appropriate way to ensure these concerns are addressed.

In response to a question from the Sub-Committee as to whether the people found illegally at both premises had received training, the Licensing Enforcement Officer confirmed that they had not received training.

The Premises Licence Holder's representative questioned the Licensing Enforcement Officer that Harminder Malhi had been obstructive and knowingly gave false information at the enforcement visit. The Licensing Enforcement Officer stated that Harminder Malhi was initially obstructive and then provided a different name for the same person to the one provided at the previous enforcement visit. The Premises Licence Holder's representative questioned the Licensing Enforcement Officer whether Harminder Malhi was present at the second enforcement visit. The Licensing Enforcement Officer stated that Harminder Malhi was not present during the second enforcement visit, but the female serving at the premises was able to provide documentation confirming her identity which was given to the UK Border Agency officers but said very little. In response to a question from the Sub-Committee, the Licensing Enforcement Officer confirmed that it is a criminal offence to give false information to the UKBA and informed the Sub-Committee that the name of the college which the female was to attend was no longer in existence.

The Premises Licence Holder's representative commented that the review application relied solely on immigration matters and that her client had not received information from the Home Office. She stated that the immigration matters had been dismissed by a Judge, which had been confirmed by the solicitor acting for the premises licence holder at the time. She also stated that the Home Office had not appealed against this decision as H&G Trading Limited and Harminder Malhi would have been served with a notice of appeal. She informed the Sub-Committee that it could not ignore that Judgment had been granted in favour of her client.

The Premises Licence Holder's representative informed the Sub-Committee that Subject 1 who had been involved in incidents 1, 2, 4 and 8 is Harminder Malhi's cousin and visits her regularly. He sign in regularly with the Home Office and is to return to India on 5 December 2016 which he had arranged himself. She stated that the cousin had never worked at the premises and while he may be present ion the shop has not served there. She also stated that is Harminder Malhi had been the member of staff making a complaint of racially aggravated assault on 11 March 20145 referred to as incident 5. She stated that Harminder Malhi could not confirm who had been the member of staff reporting the theft from the premises without having further information. She stated that her client could not comment on the offences listed.

The Premises Licence Holder's representative informed the Sub-Committee that there had been no further incidents from the premises since last year's review application and the enforcement visit by the UK Border Agency. The business now employs local people and full training procedures were now in place. The Premises Licence Holder was also fully aware of procedures for employing people and checked their rights to employment. She stated that the Sub-Committee may be in some difficulty in reaching a decision today as she was still in the process of obtaining information on the matters the subject of appeal, which also included the fine. She confirmed that she was awaiting authority from the solicitor who had acted for the Premises Licence Holder previously in order that she could request information from the Court. She stated that an immigration specialist had previously acted for the Premises Licence Holder.

The Sub-Committee questioned in relation to the female found at the premises. The Premises Licence Holder's representative informed the Sub-Committee that the female living at the premises was staying there as she was in the process of changing colleges. The Sub-Committee questioned whether the female was receiving pay while working at

the premises. The Premises Licence Holder's representative confirmed that the female working at the premises did receive pay with payment arrangements being made through the accountant who held information on payments and did the book keeping for the business. PC Ellis questioned whether the female came from. Harminder Malhi stated that she has family who live in London and they contacted her as the female was applying to attend college in Wales and she was asked whether she could help her out by offering a few hours of employment. PC Ellis asked whether checks were made of her status to work in the UK. Harminder Malhi stated that the female had shown her a card with a visa number and national insurance number on it which she gave to her accountant for payment purposes. She stated that Mr Johal employed the female.

The Legal Officer requested information of Subject 3. The Premises Licence Holder's representative stated that he stayed at the premises and is a friend of Mr Singh. PC Ellis asked whether checks had been made in relation to Subject 3. The Premises Licence Holder's representative stated that no checks were made of Subject 3 as he was a friend of Mr Singh and he was staying at the premises above Costcutter. PC Ellis referred to the comment made by the Premises Licence Holder that Subject 3 was not living there but commented that Harminder Malhi has a pivotal role at both premises.

The Legal Officer questioned in relation to the employment of the female. The Premises Licence Holder's representative stated that the female was employed at Costcutter which is managed by Mr Johal. She stated that Harminder Malhi has a secondary role at Costcutter as her primary role is to manage Caerau Village Stores. The Legal Officer asked the Premises Licence Holder's representative in relation to her request for more time to produce documentation. The Premises Licence Holder's representative stated that the Sub-Committee does need to consider the information arising from the court Judgment prior to making a decision on the review of the premises licence.

The Sub-Committee questioned in relation to the checks made of the rights of the female to work in the UK. Harminder Malhi stated that Mr Johal would have made the relevant checks and that he is at the premises on Monday to Friday.

PC Ellis questioned whether checks had been made that the male found at the premises had entered the UK lawfully. The Premises Licence Holder's representative stated that he signs every 3-4 weeks and that he was returning to India on 5 December 2016. PC Ellis stated that there had been reporting restrictions on the male found at the premises as he had absconded. The Legal Officer questioned whether the male was subject to a fine. PC Ellis stated that South Wales Police had the male recorded as working at the premises and that they could evidence that he was working in the UK illegally and had been given travel documents to return to India.

In response to a question from the Licensing Enforcement Officer, Harminder Malhi stated that Subject 1 is not her sister. The Licensing Enforcement Officer stated that Bennett International College where Subject 1 was studying was no longer in existence and as she had only 5 months left on her visa at the time could not have studying at college. Harminder Malhi stated that this was the information given to her by the Subject 1. The Licensing Enforcement officer questioned why Harminder Malhi was aware of the appeal status of the immigration matters when she was company secretary of H&G Trading Limited. The Premises Licence Holder's representative stated that her client may have a different understanding of the appeal. In response to a question from the Licensing Enforcement Officer as to where Subject 3 lives, the Premises Licence Holder's representative stated that Subject 3 lives at Caerau Village Stores.

In response to a question from the Licensing Enforcement Officer, the Premises Licence Holder's clarified that Mr Johal is DPS of Costcutter and that Mrs Malhi resides at the premises. The Licensing Enforcement Officer questioned the access arrangements to

Costcutter. Mrs Malhi stated that the main door to the premises leads to Costcutter, she and her husband enter the shop briefly to go into their flat. The Licensing Enforcement Officer questioned whether Mrs Malhi had access to documentation relating to Costcutter. Mrs Malhi stated that she only had access to documents relating to Costcutter which Mr Johal allowed her to see, such as bank statements, cheques and bills. The Licensing Enforcement Officer asked whether Mr Johal gave Mrs Malhi access to training records relating to the premises. Mrs Malhi stated that Mr Johal has access to all documentation relating to the business and only allows her access to certain documents.

The Licensing Enforcement Officer questioned Mrs Malhi in relation to the enforcement visit undertaken which took place on a Wednesday when Mr Johal was not present, but Mrs Malhi was able to produce documentation relating to the business. Mrs Malhi stated that she had access to certain documents but did not have access to training records.

The Legal Officer advised the Sub-Committee that it may need to adjourn before it could proceed to a conclusion for it to be presented with information on the application for appeal, a copy of the Judgment and documentation relating to the employment of the female at the premises held by the accountant.

The Sub-Committee adjourned at 1.00pm and re-convened at 1.03pm.

RESOLVED: That the Sub-Committee stand adjourned and reconvene on Monday 16 January 2017 at 10.00am.

The meeting closed at 1.07pm.

The meeting re-convened at 10.20am on Monday 16 January 2017.

Present:-

Councillors
R Williams -
Chairperson
P James
D Patel

Officers:

Y Witchell - Team Manager Licensing
K Brook - Senior Licensing Officer Technical
A Lee - Legal Officer
A Rees - Senior Democratic Services Officer - Committees

Representing the Responsible Authorities

Sgt A Bennett - South Wales Police
PC S Rowlatt - South Wales Police
F Colwill - Licensing Enforcement Officer, BCBC

Representing Premises Licence Holder and Designated Premises Supervisor

Mr S Panchal - Representing Premises Licence Holder and Designated Premises Supervisor
Mrs H Malhi - Premises Licence Holder and Designated Premises Supervisor

The Team Manager Licensing reported that this was a continuation of a hearing which was adjourned on 28 November 2016 in order that the Sub-Committee receives further information. She stated that both parties wished to address the Sub-Committee to update it following discussions held immediately prior to the re-commencement of this hearing.

Mr Panchal representing the Premises Licence Holder and Designated Premises Supervisor stated that he was very grateful for the discussions held with South Wales Police which had led to an agreement of proposed conditions as a way forward. The proposed conditions were as follows:

- The Personal Licence Holder to be present on the premises at all times when Licensable activities are taking place.
- There would be a change of DPS at the premises who will be trained to Level 2 BIIAB.
- There would be a training manual kept at the premises and made available and be produced on request by the Police, or the Licensing Enforcement Officers.
- Every member of staff will undertake Licensing Training/refresher training within six weeks by an accredited training company and will produce the training certificates to the Police and the Licensing Enforcement Officer after the expiration of the six week period.
- The Premises Licence Holder will check each and every employee at the premises that they are legally entitled to work in the UK and will keep copies of their documentation for inspection by the Police, Licensing Enforcement Officers and Border Control.
- An alcohol authorisation document will be kept and displayed at the premises which will be dated and signed by the staff and the DPS.
- The training of all Staff at the premises will be carried out by an accredited Licensing Company.

The Premises Licence Holder and Designated Premises Supervisor's representative informed the Sub-Committee that the training of staff working at the premises would be undertaken by his company. He stated that the six staff employed at the premises will hold personal licences and the most appropriate person would be selected from the staff to be the DPS.

The Sub-Committee adjourned at 10.30am to consider the proposed conditions and reconvened at 11.02am.

PC Rowlatt informed the Sub-Committee that it had part heard this case previously and since that time discussions had taken place with the respondent in order to start afresh with the Responsible Authorities. She stated that the Responsible Authorities had brought this case which was basically an immigration case involved the employment of illegal immigrants at another premises which was inextricably linked to these premises. Discussions had been held with the Premises Licence Holder and Designated Premises Supervisors and representative on proposed conditions where it was proposed to put in place a new DPS to have day to day control for the management of the premises. Other conditions had been agreed relating to the training of staff by an accredited licensing training company and every member of staff will be checked as to their right to work in the UK. This gives the police, licensing enforcement and border staff the ability to check records at the premises when visits are made to the premises. PC Rowlatt informed the Sub-Committee that the proposed conditions gives all the parties the best structure to work with and allows the enforcement of conditions and gives an opportunity to work together to ensure the premises are well run.

The Sub-Committee adjourned at 11.10am and reconvened at 12.15pm wherein it was:

RESOLVED: That this is an application by the Police for a review of a Premises Licence in respect of Caerau Village Stores.

This matter was opened on the 28th November 2016 when the Sub-Committee heard evidence in full from Police and was subsequently adjourned for the Licence Holder to produce further information.

The Sub-Committee has heard from the Police, Licensing Enforcement and the Licence Holder that they have now reached an agreement and put forward 7 conditions that they agree should be placed on the Licence to rectify the problems at the premises; all parties have signed an agreement which is annexed to this decision.

The main problem at these premises is the employment of migrants who are not authorised to work in this Country and the Licence Holders connection with Cost Cutter also in Maesteg who also have been caught by the Border Agency employing illegal migrants. The concern of the Police is that these migrants are not trained under the Licensing Act and nothing is known about their antecedent history as they have entered the Country illegally.

The Sub-Committee has considered the Licensing Act and the guidance thereunder especially 11.27 which states that certain criminal activity that may arise which should be treated particularly seriously and one of the grounds is "for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter". It further states that if the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the Licence even in the first instance should be seriously considered.

The Sub-Committee has considered this and the representations made by the Police and Licensing Enforcement Officer that the additional conditions should resolve the problems on the premises and on that basis the Sub-Committee has decided to give the Licence Holder a chance to rectify the problems at the premises and in order to promote the Licensing objectives have resolved to add the following conditions to the Licence which have been slightly amended from the agreed conditions:

1. The Personal Licence Holder to be present on the premises at all times when Licensable activities are taking place.
2. The DPS at the premises will be trained to Level 2 BIIAB.
3. The Licence Holder will ensure that a training manual will be kept at the premise and made available and be produced on request by the Police, or the Licensing Enforcement Officers. The Manual will contain the names and full training records of all staff at the premise and each entry will be signed by the member of staff trained and the DPS.

4. Each and every member of staff will undertake Licensing Training/refresher training within six weeks of the date of this decision by an accredited training company and will produce the training certificates to the Police and the Licensing Enforcement officer after the expiration of the six week period. All staff will receive refresher training every six months and in future all new staff employed at the premise will receive accredited licensing training within six weeks of their employment.
5. The Premises Licence Holder will check each and every employee at the premises that they are legally entitled to work in the UK and will keep copies of their documentation and produce the same to the Police, Licensing Enforcement Officers and Border Control.
6. An alcohol authorisation document will be kept and displayed at the premise which will be dated and signed by the staff and the DPS.
7. The training of all Staff at the premises will be carried out by an accredited Licensing Company.

The meeting closed at 12.20 pm

This page is intentionally left blank

MINUTES OF A MEETING OF THE LICENSING ACT 2003 SUB-COMMITTEE (A) HELD IN COUNCIL CHAMBER, CIVIC OFFICES ANGEL STREET BRIDGEND CF31 4WB ON FRIDAY, 2 DECEMBER 2016 AT 10.00 AM

Present

Councillor R Williams – Chairperson

RM James JE Lewis

Officers:

Mark Galvin Senior Democratic Services Officer - Committees
Andrea Lee Senior Lawyer
Yvonne Witchell Team Manager - Licensing

South Wales Police

PC Sarah Rowlatt

Premises Licence Holders

Mr & Mrs Rasul

1. APOLOGIES FOR ABSENCE

None

2. DECLARATIONS OF INTEREST

None

3. LICENSING ACT 2003: SECTION 105, TEMPORARY EVENT NOTICES EDEN BAR AND EGO, 33 MARKET STREET, BRIDGEND

The Team Manager – Licensing presented a report, which asked the Sub-Committee to consider two Objection Notices submitted by the South Wales Police in respect of Temporary Event Notices served on the Licensing Authority, referred to as Notice A and Notice B in the report.

The Team Manager – Licensing outlined the report, and advised the Sub-Committee that as far as she was aware no agreement or compromise had taken place in advance of the meeting by the Premises Licence Holder of Eden and the South Wales Police, which would give rise to the South Wales Police withdrawing the two Objection Notices. Both parties in turn agreed that this was the case and therefore the Hearing would have to proceed.

The Team Manager – Licensing added, that other than the Objection Notices to the TEN's attached at Appendix A to the report, the only other document that had been put forward by the Police was a letter dated 1 December 2016, which had been served on the Premises Licence Holder as well as being tabled at the meeting, giving detailed reasons as to why the South Wales Police were objecting to the TEN's. She added that paragraph 4.1 of the report contained details of both the events applied for, as well as the hours that the Premises Licence had applied for on the weekends of 3/4 and 10/11 December 2016.

The Chairperson then asked the Police representative, PC S Rowlatt to present her case, and in particular, the reasons why the Objection Notices to the events had been submitted.

PC Rowlatt then presented the case of the South Wales Police details of which were shown at the attached Appendix to these Minutes.

A Member referred to page 4 of the attached Appendix 1, and the investigation of the Police made on 6 November 2016 at 06:08 when there were only 4 Door Control staff on duty at the premises when there should have been more. She noted that the premises should have not been open to the public at this time and asked PC Rowlatt for clarification upon this.

PC Rowlatt advised that this was the time the entry was subsequently logged at the Police station, whereas the time of the investigation being made had been at 02:30.

The Member also referred to page 5 of Appendix 1, and the maximum number of patrons that should be at the premises at one time, i.e. 350 persons on the ground floor at any one time, and 150 on the first floor. However, it also referred to the fact that any TEN's could only allow for 499 persons to be present at the premises at any one time, including members of staff. She sought clarification upon this.

PC Rowlatt advised that the above information was correct, in that there was a slight difference in the number of patrons that should occupy the premises at one time, with this being a maximum of 499 including staff on TEN occasions, and 500 under the terms of the Premises Licence.

The Member asked if there was a fire escape in the downstairs area of the premises.

PC Rowlatt confirmed that there were a number of fire escapes at the premises. The split of the maximum numbers allowed at the premises as explained above was due to the narrowness of one set of stairs to the first floor, hence a capacity there of 150 persons. She added however, that there were a total of 3 stairways at the premises as well as 2 entrances/exits to the building, with 1 also at the right hand side of the back of the building. The layout in terms of the split in numbers for both the ground floor and the first floor, had been established following a Risk Assessment being undertaken.

As this concluded the case for the Police and any questions, the Chairperson asked the Premises Licence holder to present his case in response to the serving of the Objection Notices to the proposed events from the South Wales Police.

Mr Rasul advised Members, that the premises was recognised as Eden bar and grill, however, the serving of any food at the premises was only licensed up until the hour of 23:00, with any such food having to be fully consumed by patrons by 00:00. Therefore, he could not provide any food after this time period, which he felt would be advantageous if he could, as it would line patrons stomachs whilst they were consuming possible large quantities of alcohol.

The main bar at the premises was situated on the ground floor, whilst the restaurant area was situated on the first floor in that part of the premises which was more a function room/dance area called Ego's.

Mr Rasul wished to point out to Members, that since the premises had opened in 2015, Ego had only been opened 5 times. The applications before Members for TEN's were for functions in the ground floor part of the premises only, and the purpose for applying for these, was to try and attract patrons to the premises leading up to Xmas, as since he

had opened the premises it had never been full to capacity downstairs. Under the terms of his Licence, there should be 6 Door Control personnel to cover both floors. However, if the ground floor of the premises only was open to the public, then it was in order for him to employ 3 Door Control staff, though he always employed 4 on these occasions. He personally did not think that the extra hours of opening he had applied for through the TEN's would necessarily bring in more customers to the premises, as patrons would be out in town having a social evening, regardless if they visited his premises or any other late night establishments in Bridgend town centre. The only times that the ground floor of the premises had been anywhere near full, was during the 6 Nations rugby competition.

The Legal Officer whilst taking into consideration the comments made by Mr Rasul, advised that as the application for the TEN's stood, these applied to both the ground floor and the first floor of the premises as per the wording of the application.

Mr Rasul confirmed that he had applied for TEN's for the month of November and these had not been objected to by the South Wales Police and had turned out to be good nights, free of trouble. He added that he could only apply for a TEN for the premises itself as opposed to either the upstairs or downstairs part of the premises, as the premises was recognised as one ie and not defined by two different areas, for example the ground floor and the first floor. He reiterated that if the number of patrons attending the premises exceeded the maximum number on the ground floor, then he would have to open the first floor and employ more Door Control staff to effectively manage the extra number of patrons there at the same time.

The Legal Officer stated that Mr Rasul could just apply for a TEN for one area of the premises (as opposed to two) by way of a TEN. He could not however do this under the terms of his Premises Licence as the provisions of this applied to the premises as a whole.

Mr Rasul advised that he wished the TEN to apply to both floors of the premises, in the unlikely event, that he would have more than 350 persons capacity on the ground floor. If this happened to transpire, he could then resort to opening the first floor of the premises. He had been successful in applying for TEN's previously, including at his other late night establishment in Neath, and he once more reiterated for the benefit of those present, that he would employ more Door staff should he have to open the first floor of the building due to there being excessive numbers downstairs.

He added that as Licensee at the premises, he was only too aware of the fact that he had to ensure that the safety of the public was not compromised whilst they were in attendance at the premises. He once more also added, that the downstairs area of the premises had never really reached full capacity at any one time, and so he did not envisage the need to open up the first floor of the premises even on weekends leading up to the Christmas period.

Mr Rasul advised that an extra half hour of opening would not set a precedent, in that Sax nightclub under the provisions of its Premises Licence was open until 05:00 at weekend evenings. He was also aware, that representatives of the South Wales Police had been possibly looking at relaxing the no admittance/re-admittance rule at late night establishments, as not to do so, may result in excessive numbers congregating in town during the same time period. Mr Rasul was trying to push for this at his premises for this reason, and was in discussion with Police representatives in relation to this proposal, which would mean if it was agreed, a small variation to his Premises Licence.

In terms of any recent problems at his premises when TEN's were granted, there were two incidents as referred to by the Police in their evidence. However, these had been

reported by himself to the Police on the night they took place, and now he found it ironic, that they were using this against him. These were in relation to a theft and an assault and on both occasions when he had contacted the Police they had sent Officers to his premises to take charge of both incidents.

Mr Rasul further added, that the TEN's applied for would only allow for his business to open for a further half an hour over and above the hours of trading currently. He did not concur with the Police's view, that his premises was not operating quite as it should be, as he was a responsible licensee that operated his premises effectively including contacting the Police when infrequent incidents occurred at the premises that neither he nor his staff could deal with by themselves. There would never due to the current economy, be 500 patrons within Eden/Ego. On a good night, the number of patrons at the ground floor of the premises rarely exceeded 65 on Friday evenings, and this may possibly rise to 150 over the coming Xmas period. He had been refused planning permission to extend his hours of operation and had appealed this to Welsh Government, though unfortunately, the Appeal had been dismissed. Though this could not be taken into consideration under the Licensing Act, he had appealed further to the High Court over this decision.

The Legal Officer intervened at this point, and advised Mr Rasul that until such time that the High Court made a ruling on the above, he was continuing to breach planning law by regularly opening the premises for periods over and above those which exceeded his hours of operation under the Planning Act, and if he continued to do this he would not satisfactorily meet crime and disorder objectives for which he could be prosecuted.

Mr Rasul advised that he had received different legal advice to this. He added that it was his intention to provide a proper restaurant facility at the premises as he had originally intended. He had to firstly however, make more money from his existing business in order to achieve this. He also discouraged trouble at the premises by catering for a more mature clientele, and to this end, the DJ in the ground floor of the premises only played music from the 1980's and 1990's era. It was fact that patrons in their 40's and 50's were less likely to incite acts of crime and anti-social behaviour, than individuals aged in their teens/20's.

A Member asked the Premises Licence holder how many patrons were normally present at the premises on a Saturday evening.

Mr Rasul confirmed that this number was generally around a total of 100 – 125 during the course of those evenings. He felt that an extra half hour of trading would help increase these numbers and assist more in supporting his business.

A Member asked how Mr Rasul would be able to recruit more Door Control staff at short notice, if the number of patrons at his premises increased the number that was permitted there (at any one time)

Mr Rasul responded by stating that he was able to obtain extra door staff if required, from other late night establishments that closed earlier than his, as they were employed by the same company as his usual Door Control staff.

A Member asked if Mr Rasul considered whether the Police were implying that more patrons attend the premises of a weekend than was factually the case.

Mr Rasul felt that there was merit in this, adding that the business was not making much of a profit at all due to the current economic climate.

The Team Manager – Licensing sought clarification from the Eden representatives, that the TEN's applied for were Saturday 3 and 10 December from 02:30 to 04:30, and Sunday 4 and 11 December 2016 from 02:30 to 05:00, as though these were the hours specified on the first TEN application this was not confirmed on the second application.

Mrs Rasul advised that this was the case, ie the timings should be the same on both Notices.

The Team Manager – Licensing also asked if there was an expectation that the premises would be busier in December on the nights the TEN's had been applied for, than they had been in November.

Mr Rasul confirmed that he hoped this would be the case, though expectancy levels were not that high. The maximum number he had ever had in the premises at one time since it had opened had been 200 patrons, but this number had never been exceeded to.

The Team Manager – Licensing asked if any parties had pre-booked for Xmas functions at the premises, bearing in mind it did not strictly provide for the serving of food.

Mr Rasul confirmed that there had been some enquiries, but no bookings. He could provide food for large groups of patrons if they booked, through recruiting outside caterers to provide food.

PC Rowlatt asked Mr Rasul why the times of the TEN were requested to commence from 02:30.

Mr Rasul advised that was his mistake, and that the commencement times of the TEN's should be 03:30.

PC Rowlatt asked if the Conditions that applied to his Public Entertainment Licence would also apply to the TEN's.

Mr Rasul advised that all of the Conditions on his Public Entertainment Licence would apply to the TEN's so applied for.

PC Rowlatt asked if 4 Door Control staff would be employed on the dates that the TEN's had been applied for.

Mr Rasul confirmed that he would definitely have 3 Door Control staff working on these evenings, but would increase these to 4 if numbers in the ground floor of the premises exceeded the number he expected.

PC Rowlatt referred Members to page 4 of her submission where upon a previous Police investigation carried out on 4 November 2016, an evening when a TEN had been in operation at the premises, there had only been 3 Door Control staff on duty at that time, which was the minimum requirement for a premises of this size/nature.

Mr Rasul replied that he had only 3 door staff on duty on the evening stated above, as there were only a total of 50 – 60 persons in the premises at this time.

PC Rowlatt asked Mr Rasul what company he currently hired his Door Control staff from.

Mr Rasul advised that there were two such companies, ie Bridge Security, Bridgend and Titan Security based in Swansea.

PC Rowlatt referred to page 7 of the Police representations and two offences that had taken place at the premises on 20 November 2016. She noted that this was an evening when a TEN was in operation at the premises.

Mr Rasul confirmed that he and his staff had dealt with both incidents, and also done the right and proper thing, by calling the Police so they could investigate the incidents further.

PC Rowlatt whilst appreciating this course of action, advised Members that trouble had occurred when previous TEN's were in operation as recently as last month, and earlier in the debate Mr Rasul had confirmed the contrary to this.

PC Rowlatt sought clarification if there would be sale of alcohol on the 4 and 11 December, ie Saturday night proceeding into Sunday morning between the hours of 4:00 – 5:00 effectively allowing for the consumption of alcohol between these times ie an hour extra than he was permitted to do so under his Public Entertainment Licence.

Mrs Rasul advised that alcohol would be served until 04:30, with a further half hour of drinking-up time.

PC Rowlatt asked if patrons would be allowed admittance/re-admittance to the premises after 02:30 if the TENS were to be granted.

Mrs Rasul advised that this would not be allowed, as all of the Conditions on the Premises Licence would continue to apply whilst the TEN's were in operation as was always the case.

PC Rowlatt noted from Mr Rasul's submission, that he catered for older patrons at the premises.

Mr Rasul confirmed that clientele of a varied age visited the premises, though staff aimed to attract the more older patrons, hence the playing of 80's and 90's music there.

PC Rowlatt whilst accepting this explanation, advised the Sub-Committee that crime reports reflected that younger people were involved in crime and anti-social incidents that took place at the premises.

PC Rowlatt asked the representatives from Eden if they applied Condition 1 of their Premises Licence, ie and challenged patrons from entering the premises if they appeared under age.

Mrs Rasul advised that there weren't that many younger patrons who visited the premises, however, staff did challenge any patrons if by appearance they seemed very young, either at the entrance to the premises or at the main bar.

A Member asked PC Rowlatt if the Police were looking to relax the general Condition attached to Premises Licences of late night establishments, whereby they could allow entry or re-entry to the premises after 02:30.

PC Rowlatt stated that the above was a provision by way of Condition, that was attached to a Premises Licence of all bars, pubs and nightclubs in Bridgend. If this was not strictly by a Licensee then they were in breach of their licence. This Condition was particularly important in respect of late night establishments in premises in this area of Bridgend as it was in the saturation area of the town centre recognised as a cumulative area (in terms of the number of similar type premises there). She explained further, that this Condition was beneficial, in that if one premises closed at 02:30 then patrons leaving

there would go home rather than to another late night establishment that opened longer hours. If patrons were allowed admittance to a premises that opened later, there would be a risk that they would become more intoxicated being allowed in there, particularly if they had been consuming alcohol in other such premises during the course of the same evening. This also resulted in patrons congregating and proceeding from one premises to another into the early hours of the morning of a weekend ie Friday/Saturday and/or Saturday/Sunday.

PC Rowlatt further added, that if the TEN's applied for today were granted, then it would mean that on the evenings in question applied for, the premises would be open later than any other premises in the town centre, and also, all late night food establishments would be closed and it would be difficult for patrons to get transport home.

As there were no further questions at this point in the proceedings, the Chairperson asked both parties to sum-up their cases, commencing with Mr and Mrs Rasul.

Mr Rasul advised that he was applying for TEN's which would allow him to extend his opening hours at Eden on two Fridays/Saturdays and two Saturdays/Sundays in December to seek to obtain extra income in the lead up to Xmas. This would mean, that he would be permitted to open for a further hour of trading for the sale of alcohol on the former days until 04:00 (closing at 04:30) and the latter days until 04:30 (closing at 05:00). He emphasised that the Friday opening hours would go from a Friday into a Saturday, and the Saturday opening hours would go from a Saturday into a Sunday.

He emphasised that if the numbers of patrons on these occasions exceeded 499, then he would open both floors at the premises and employ 6 door staff. That would not happen though he added, as he didn't expect anything near that number visiting the premises even when considering it was the lead up to Xmas. Mr Rasul added that all the Conditions on his Premises Licence currently would apply also in respect of the TEN's and the later opening hours. He assured the Sub-Committee that he had operated under TEN's previously without any significant problems occurring at the premises. On the two occasions that the Police had referred to in their evidence, ie a case of theft and an assault, he stated that he undertook appropriate action for both these incidents by contacting the Police in order for them to resolve these issues, having firstly controlled them within the confines of the premises. As his business was not thriving that greatly, he wished to open for a little bit longer into the evening/next day, in the hope of boosting the business through the generation of increased income from extra patrons visiting the premises. Mrs Rasul added, that within the last 3 months there had only been 2 incidents at the premises as referred to above.

PC Rowlatt in summing-up, advised that incidents of crime and disorder have previously taken place at the premises, and confirmation of this was detailed in the papers before Members where reference was made to 3 incidents taking place recently within the premises. Due to this, she had some level of doubt that the licensing objectives in respect of crime and disorder in particular would be met should the application for TEN's be granted today. She felt that for this reason, and those contained in her submission of evidence attached to the Minutes as an Appendix, the Sub-Committee should consider issuing a Counter Notice in support of the Objection Notice submitted by South Wales Police, thus not allowing the TEN's.

The Chairperson advised all parties present, that the Sub-Committee would retire from the meeting at 12:03pm in order to make a decision on the matter before them, and reconvene at 2.00pm for its decision.

The meeting reconvened at 2:00pm, where the following decision was made.

RESOLVED:

The Sub-Committee considered the applications for Temporary Event Notices in relation to Eden Bar and Ego at 33 Market Street, Bridgend referred to in the Licensing Officers report as Notice A and Notice B.

It has noted that this is currently a running business that operates with a license allowing it to open:

Sunday to Wednesday:	11:30-00:30 – licensable activities
Thursday:	11:30-02:30 – licensable activities
Friday:	11:30-03:30 – licensable activities
Saturday:	11:30-04:30 – licensable activities

The Sub-Committee have also noted the police objections to the application, being that allowing the TEN would undermine the licensing objectives of Crime and Disorder.

The Police have made representations that the applicant was granted a TEN for the weekend of 20th November 2016, and during the existence of the TEN there were two recorded incidents inside the premises when two aggressive females were detained for stealing a bag. The Police log stated that the victim of the crime was highly intoxicated and did not see her mobile phone being taken, in addition whilst dealing with this call an alcohol related assault took place at the premises when a male received bruising and swelling to his jaw. The victim is recorded as being intoxicated and scoring 7 out of 10 on the scale of intoxication.

The Sub-Committee noted that the planning and licensing functions of a Local Authority are separate, and accepted that a license could be granted with hours separate to those contained under planning permission laws. However, once the premises is opened and the planning hours have not been extended, then the applicant is potentially committing a criminal offence every time they open beyond the hours permitted by the planning permission.

These premises have been opened for over a year and the applicants by their own admission have stated that the premises regularly open on a Friday and Saturday and trade past 2.30am in breach of the premises planning permission regulations. The Police in their representations stated that they have witnessed the breach of planning permissions, and have now reported the matter for prosecution.

The applicants stated that they have now made an application for a Judicial Review to the High Court in relation to the decision by the Planning Inspectorate to refuse their application for the opening hours to be extended in relation to their planning conditions. Until such time as this goes before the Court and they overturn any decision by the Inspectorate, then the planning condition remains in force and each time the applicants open the premises later than the time stated in the permission, they are potentially committing a criminal offence.

The Sub-Committee have therefore taken into consideration the guidance and the Licensing Objectives under the Licensing Act, and have decided that because of the Licence Holders past history of breaching the planning laws and the two incidences of crime and disorder when the previous TENS were in place, if Members allowed the TENS to go ahead, this would undermine the crime and disorder objectives of the Act and therefore the Sub-Committee agreed to issue a counter notice to the applicant.

The meeting closed at 2:25pm

This page is intentionally left blank



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

B.3-423/16

Thursday, 1st December 2016

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
33 Market Street
BRIDGEND
CF31 1LJ

Sir/Madam,

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

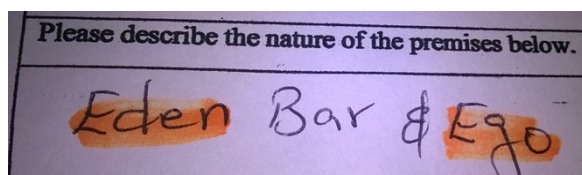
EDEN and EGO, 33 MARKET STREET BRIDGEND – HEARING 2nd December 2016
Further Evidence

Application is made on behalf of the Chief Officer of Police, to object to these two temporary event notices (TEN's) as it is believed that the events would undermine the licensing objectives relating to the prevention of crime and disorder as set out in the Act.

THE PREMISES

The venue is subject of a premises licence, BCBC LP 655 dated **8th January 2016, Issue 1** and is authorised to supply alcohol and provide regulated entertainment (including boxing), dancing and late night refreshment.

The premises is referred to in these notifications as 'Eden bar & Ego' with the former being situated on the ground floor and the latter on the first floor.



Food, hot food, in particular is not available and has never been made available. The premises licence LP 655 therefore which gives the permission for a late bar and grill, has actually never operated as a grill. The kitchen equipment have never been installed. This is being highlighted here as allowances were given on the current licence for less regulation in regards to a restaurant where alcohol is considered ancillary.

Hot food is also known to help revellers sober up to get them home, so it is important to note that the times these authorisations required are after all other hot food vendors in Bridgend are closed, the terminal hour for these premises being 04.00 am.

The current licence regulates two floors and two types of businesses, however, currently only downstairs is open on weekends. There appears to be no demand for 'Ego'. However, Eden, downstairs effectively run's as a night club as it has a dance floor and can facilitate all elements that make up a night club.

The current opening hours on the premises licence that is pertinent to these TENS are:-

Friday: 11.30 – 03.30 hours
Saturday: 11.30 – 04.30 hours

The current licensable activities are:-

Sale of alcohol ; Recorded Music, Performance of Dance and Anything of a similar nature to Live Music, Recorded Music and Performance of Dance and Boxing or Wrestling:

Friday: 1200 - 0300 hours
Saturday: 1200 - 0400 hours

The premises license is regulated with many conditions, but in relation to conditions that come into effect after 02.30 am, the key times on these notifications, there appears to be only two:-

The prevention of crime and disorder:-

5) When the nightclub/function room is trading there shall be a minimum number of 6 SIA security staff on duty - 3 of whom will be located at ground floor until 0230 hours and the other 3 will be at first floor to be joined by 3 additional SIA security staff from the ground floor from 0230 hours until closure of the first floor facility.

22) There shall be no entry /re-entry to the premises after 0230 hours. The smoking area shall close 30 minutes prior to closing.

THE (TEMPORARY EVENT) NOTIFICATIONS

It is important that the committee is made aware that these two tens are not just requiring extra hours to trade. There is an overlap of licensable activity times that are already catered for on the current licence.

All four dates on these TENS wish to operate from 02.30 am onwards. The TENS are for licensable activity to start whilst the existing premises licence is already in place.

So the existing overlap of what is already licensed is by 30 mins on the Saturday and 1 hour 30 mins on a Sunday. This could be for one or two reasons.

(1)

The first reason, could be, to ignore the existing conditions that have effect from 2.30 onwards.

The 'last entry – no re-entry' condition, was put on the licence to deal with potential 'ASB – anti-social behaviour' issues within the town centre to prevent migration from other venues. The condition allows customers to leave other venues and go home instead of continuing their drinking at this establishment. Hence reducing the demand for service industries and police later on, by instigating a steady gradual dispersal. As each venue closes at different times demanding taxis and kebabs for example at different times. Conditions, such as these prevent such flash points occurring at taxi ranks, etc., as the need and demand is naturally reduced.

The door staff condition, changing door staff from 3 controllers to 6 is contained within the licence to promote public safety and to regulate the operation of the venue. For example, the building comprises of 3 floors and three stairwells. Therefore safety, in relation to fire exits and escapes are paramount and enough staff have to be present in case of such emergencies.

The current license also has 16 specific conditions placed upon it, in relation to door staff. Therefore to run with less door staff would be detrimental.

The prevention of crime and disorder:-

2) The Premises Licence Holder will ensure that door staff are responsible for checking customer's ID and age verification at the point of entry to the premises.

3) The Premises Licence Holder will ensure that door staff record all incidents occurring at the premises or in the outside queuing area or in the smoking area and that these are recorded in the incident book to be maintained at the premises.

6) Door staff will manage entry and re-entry into the premises during the opening hours of the nightclub/function room.

7) Door staff will manage the queue for the nightclub which is to be clearly defined and separated from the smoking area.

8) Door staff will monitor customers and eject any persons who are heavily intoxicated in the manner approved by SIA training.

11) The head door person will monitor the night net radios and communicate with other users of the night net radio system in Bridgend town centre.

14) Persons who have committed criminal offences will be detained until the arrival of the police.

17) The premises shall operate a random search policy for the purposes of searching persons on entry and also persons inside the venue.

20) Customers from the ground floor bar and grill who wish to go upstairs to the nightclub area will have their drinks decanted into polycarbonate vessels at the bottom of the stairs leading to the first floor nightclub area. Door staff will be in a position at these points to ensure drinks are decanted into the polycarbonate vessels. One door staff will be positioned at the bottom of the stairs and at the internal entrances to the nightclub.

24) To prevent overcrowding a clicker system will be employed at each entrance to the premises to allow door staff to monitor numbers of customers at both ground floor and first floor. The maximum capacity of persons allowed into both the ground floor and the first floor will be written into the fire safety risk assessment.

25) Door staff will conduct a perimeter search of the premises including toilets on commencement of duty and prior to the nightclub opening.

26) Door staff will monitor customer's levels of intoxication and customers who appear drunk will be required to leave the premises. When a customer is required to leave the premises because he or she appears to be drunk this will be notified and recorded on night net.

27) There shall be no drinking permitted in any outside area at any time.

28) One member of door staff will be located by the back stairs entrance of the nightclub to monitor customer's access to and from toilets. Another SIA door staff will be permanently located at the bottom of the main staircase in order to apply wrist bands, to decant glasses, and to check levels of intoxication of customers at ground floor.

The prevention of public nuisance:-

9) That for the purpose of preventing public nuisance door staff are present at the front entrance to the premises every Friday and Saturday from 2200 hours until closing time.

11) That at least one member of door staff at the entrance to the premises shall be responsible for controlling the noise from patrons outside in order to prevent noise nuisance to residents.

Door staff have to be positioned at set locations, as dictated by the licence. However, they also needed to carry out random checks like drugs checks and the monitoring of customers, so extra door staff are needed to be able for some to flow freely.

It is therefore recommended, that if the committee wishes to grant these tens, then the existing licence conditions must be maintained. South Wales Police can evidence that this has not been the case with previous notifications.

1600454096 25/11/2016 – 27/11/2016 OPERATION RAVEN

Investigation action by SWP 5784 CARRA

[INVESTIGATION UPDATE](#)

Licensing check conducted at EDEN Nightclub, Market Street, Bridgend at 02:30
Four doorstaff on duty:

1600420953 04/11/2016 – 06/11/2016 OPERATION RAVEN

04/11/2016 23.42

Investigation action by SWP 3590 HARRIS

Eden -11 patrons 3 doorstaff.

06/11/2016 06.08

Investigation action by SWP 5879 ATTEWELL

[INVESTIGATION UPDATE](#)

4 x door staff at Eden

2)

The second reason why these TENS wish to operate from 02.30 onwards, could possibly be in relation to planning restrictions that the premises has. Planning restrictions come into effect from 02.30 on a weekend stating that the premises must be closed. This issue will be dealt with later on in these representations.

3)

The third reason, is it could be an error, or oversight, yet this is doubtful as previous notifications have stated the same timings.

EDEN and EGO

It is important that the committee note that all the TENS have stated that the extra hours required, are to trade in both venues, Eden late bar and Ego night club.

The capacity limits as described in a previous risk assessment curtails the number of persons that can frequent the premises safely as:

“350 on the ground floor at any one time

And 150 which can occupy the first floor. An overriding capacity of 500 being acceptable on both.”

Any TENS can only allow 499 persons, including staff to be present at any one time under an event so for these type of numbers to be admitted the building has to be open on both floors.

This risk assessment does state:-

“It is imperative that door staff control numbers externally upon entrance and also internally between floors ...”

It is imperative that door staff control numbers externally upon entrance and also internally between floors, this will be reflected in the fire risk assessment, bearing in mind the divide is 350 for the ground floor and 150 for the 1st floor.

Section 182 guidance: point 7.20

TENS may be given in respect of premises which already have a premises licence to cover licensable activities NOT PERMITTED BY THE EXISTING AUTHORISATION.

The description of the nature of these events, on the TENS have been described as a ‘Christmas celebration early party’ and a ‘Christmas party’. Therefore an event where drinking, dancing, music, etc. will be played across the 2 floors. We are told the event wishes to trade over the two floors as both names are included within the notification document.

There are no extra licensable activities that these tens are having.

Therefore one must question why have they been given? It is believed that the notification system is being used incorrectly, to ignore existing regulations and to stay open later than any other venue, hoping to attract some extra custom but with no measures being put in place.

THE HOURS

The extra hours that the TENS are applying for are as follows:-

Tens for Saturday 3rd December 2016 and Sunday the 4th Dec 2016

Licensable activity hours on the early hours of Sat from 03.00 until 04.00 - an extra hour.

Licensable activity hours on the early hours of Sun from 04.00 until 04.30 – an extra 30 minutes.

The Committee must be made aware that technically the notice has stated that the sale of alcohol hours are until 04.30 and 05.00 respectively, but are accompanied with a hand written note to the side that states that the ‘sale of alcohol hours stopped ½ hour before’, the existing report to the Licensing subcommittee does not include this information and has included the later time. Therefore which statement is believed to be true?

Please state the dates on which you intend to use these premises for licensable activities. (Please read note 8)	
3rd & 4th Dec 16	
Please state the times during the event period that you propose to carry on licensable activities (please give times in 24 hour clock). (Please read note 9)	
2:30 until 4:30 Sunday 2:30 until 5:00 Saturday	Sale of Alcohol stopped 1/2 hour before
Please state the maximum number of people at any one time that you intend to allow to be present at the premises during the times when you intend to carry on licensable activities, including any staff, organisers or performers. (Please read note 10)	
499	
If the licensable activities will include the supply of alcohol, please state whether the supplies will be for consumption on or off the premises, or both please tick as appropriate. (Please read note 11)	On the premises only
	<input checked="" type="checkbox"/>

The second TENS for the Saturday 10th December and Sunday 11th Dec 2016 has not included this hand written note so one must assume that what has been applied for is Licensable hours and therefore materially different to the first TEN.

TENS for the Saturday 10th December 2016 and Sunday 11th December 2016

Licensable activity hours on the early hours of Sat from 03.00 until 04.30 am – an extra hour and a half.

Licensable activity hours on the early hours of Sun from 04.00 until 05.00 am – an extra hour.

It is important for the committee to be reminded that TENS do not cover any closing times, they just authorise licensable activity, as they are intended to be used for places that do not have a licence.

However, a premises asking for extra licensable activity via a TEN does not include a closing time as effectively they can close whatever time they chose. However the closing times are important factors for service industries like taxis and the police to be able to cater for potentially 500 persons, out in the town centre, all at one time. Therefore it makes sense for applicants to include them within their notifications and in fact it is something that the police do ask for.

The information on closing times are also important for the committee to be aware of, when making an informed decision regarding the effects that granting such a TENS can have on the licensing objectives. Not only on the flow of patrons leaving a premises at a specific time, but also the effect this can have on street disorder and limited transport links to service these customers, on one off events.

If the events were 'private parties' for example a set group of people from a certain locality, the likelihood of private buses shuttling revellers 'back and forth', is highly likely, therefore potentially having less of an effect on Bridgend late night economy.

However, if the notices have been given just to run the premises with later hours then the likely effect on Bridgend town centre will be higher. What time will the premises be closing and what measures will be put in place as the grant of these TENS will make the premises the latest in the borough.

Running with later hours will have an effect on the town centres 'saturation policy' known as 'the cumulative impact' of other venues that are in close proximity and the times they all close. If they all close at the same time then there is a higher probability of disorder linked to these events, as there is a possibility that all revellers will need taxis ALL at the same time, causing a potential problem.

Not knowing the time that the premises wishes to close is detrimental to the panel making an informed decision about the likely effect it is likely to have on the autonomy of the town centre.

BACKGROUND TO THE LOCATION OF THE VENUE IN THE "SATURATION AREA"

The premises being a late bar and night club is situated in Market Street which is one of only 4 streets which form the "saturation area" which is subject of Bridgend County Borough Councils "Statement of licensing policy".

Although this is not a GRANT or VARIATION application, it is notification of extra hours.

The Bridgend statement of licensing policy states:

6.4 “Whilst each case will be determined on its merit the term variation is taken to mean an INCREASE IN HOURS during which licensable activities may take place, ... insofar as these are likely to add to the negative cumulative impact.”

BACKGROUND TO OBJECTIONS

Section 182 of the Licensing Act 2003 7.35

“Such cases might arise because of concerns about the scale, location, timing of the event or concerns about public nuisance.”

Police have objected to this notice under the crime and disorder objective.

Police have evidence that crime has been reported under notices with the same timings that were not previously objected to.

Tens 9 & 10 for the weekend of the 20th November, two incidents were recorded. One called in by the applicant of an allegation of a stolen mobile phone.

1600448751 20/11/2016 02.01 CR41 Theft & handling

“Two female caught stealing. We have detained two females for stealing a bag. The girls are kicking off. They are aggressive and ready to punch out at door staff.”

This occurrence has been crimed as a theft but police could not prove that a theft of a mobile phone had taken place. The door staff had not detained two females. Only 1 subject was nearby and searched which proved negative. The victim was highly intoxicated and did not see her mobile get taken, her cash was still in her bag, and she still had her bag. Officers were informed it was caught on CCTV.

When officers viewed the CCTV this was not the case. No persons were seen to remove a mobile phone and the females believed to be looking into the bag on CCTV is believed to be the aggrieved.

However, whilst officers were on scene they were diverted to another call, one of assault, Occurrence 1600448806 at 02.50 hours in reported.

1600448806 20/11/2016 02.50 “ASSAULT”

CR37 Violence against the person. Crimed as 8/1 ‘Assault with injury no intent’

Modus operandi:

“Alcohol related. The victim has been approached by the suspect who has punched him once to the face in an unprovoked attack, suspect detained by witness and police contacted. “

CCTV does not show the assault.

Victim went to hospital and updated officers with his injuries “his jaw is quite bruised and swollen”

In interview the suspect stated

“...he was at the Eden bar with a friend and had drunk 10 pints. That on a scale of intoxication he was 7/10. He doesn't remember full details of the incident”

A further incident was recorded.

1600435412 Operation Raven 12/11/2016

Swp4986 SULLIVAN 05.42 hours

Supervisors review

Eden: Call from CCTV at 04.01 hours stating there was a disturbance in Market Street. Units attended and called for further assistance as a large crowd was present. A couple of minor altercations, no offences alleged.

Therefore crime occurrences are now being recorded against the premises whilst previous notification were given, at times when the previous notifications have been in place and with a likelihood, over the festive period that these crimes will increase.

BACKGROUND TO PLANNING

7.7 Section 182 of the Licensing Act 2003 which states: -

“A TEN DOES NOT RELIEVE THE PREMISES USER FROM ANY REQUIREMENTS UNDER PLANNING LAW FOR APPROPRIATE PLANNING PERMISSION WHERE IT IS REQUIRED.”

SWP fully understand that planning and licensing are different regimes however; the council's *“Statement of licensing policy”* in respect of the Licensing Act highlights that the earlier closing times must be observed and this panel needs to be aware that there are recent developments in relation to failure to comply with planning restrictions and observing the later times. SWP can prove that crimes have taken place after the restricted times.

South Wales Police can supply witness statements in relation to failing to adhere to the planning hours. South Wales Police are also aware that a potential prosecution case is running as statements have been provided after a breach of condition notice was served.

To make an informed decision the panel need to be made aware of such matters.

The panel therefore have to be satisfy that the applicants are fully aware that a TENS does not override any planning notice. Why else have the notifications been asked to start at the specific time of 02.30 on both Friday and Saturdays when the planning constraints are a clear constraint.

CONCLUSION

South Wales Police submit that to approve this event will increase crime and disorder and public nuisance both at the premises and within the area where it is situated. The event will not promote the crime prevention objective due to the timing of it and the scale and location for extra hours.

You have three options OPEN TO YOU.

1. Grant the TEN as it stands HOWEVER; it is felt that this would impact on the objectives.
2. Grant it with conditions transposed from the existing premises licence HOWEVER; SWP state this will not reduce further offences as the offence against planning will still be reported.
3. Or issue a **COUNTER NOTICE**.

A **COUNTER NOTICE** will promote the licensing objectives and not add to the existing problems

PC 5102 Rowlatt
Divisional Licensing Officer

MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE A HELD IN COMMITTEE ROOMS 2/3, CIVIC OFFICES ANGEL STREET BRIDGEND CF31 4WB ON TUESDAY, 3 JANUARY 2017 AT 10.00 AM

Present

Councillor R Williams – Chairperson

RM James HE Morgan

Apologies for Absence

P James, D Patel and E Venables

Officers:

Katie Brook	Senior Licensing Technical Officer
Katia Daw	Lawyer
Andrew Rees	Senior Democratic Services Officer - Committees
Yvonne Witchell	Team Manager Licensing

153. DECLARATIONS OF INTEREST

None.

154. APPROVAL OF MINUTES

RESOLVED: That the minutes of the meeting of the Licensing Sub-Committee of 1 November 2016 be approved as a true and accurate record.

155. APPLICATION TO LICENCE HACKNEY CARRIAGE VEHICLE

The Team Manager Licensing submitted a report regarding an application by Stephen Munro to licence a Peugeot Expert E7 MPV registration number SD58 PHA as a hackney carriage vehicle to seat 8 persons. The vehicle is wheelchair accessible but there is no tail lift fitted to it.

Mr Munro attended in support of his application and the Sub-Committee adjourned the meeting in order to view the vehicle. On inspecting the vehicle, the mileage was confirmed as 329,534 miles. The Team Manager Licensing informed the Sub-Committee that the vehicle was previously licensed as a hackney carriage until 1 December 2016 but no application to renew the licence was submitted. The application falls outside the Hackney Carriage Vehicle Policy, but a relaxation maybe considered in exceptional circumstances.

The applicant informed the Sub-Committee that he runs a fleet of vehicles and had renewed the MOT certificates and licences of three of his fleet in November 2016 but had not received a reminder that the licence for this vehicle was to expire. He would have renewed the licence and out the vehicle in for an MOT test had he received the reminder from the Council. The Team Manager Licensing informed the applicant that the disc displayed in the windscreen of the vehicle showed that the licence had expired on 1 December 2016. She stressed the importance of the applicant in ensuring that his vehicle registration records are kept up to date as the Council does not write to licence to check the reasons why no applications for renewal are made.

The Sub-Committee retired to consider the application and on their return, it was:

RESOLVED: That the Sub-Committee has considered the application to licence a Peugeot Expert E7 MPV registration number SD58 PHA as a wheelchair accessible hackney carriage vehicle to seat 8 persons formerly a licenced hackney carriage until 1 December 2016 and the reasons for the licence not being renewed.

The Sub-Committee has noted the application falls outside paragraph 2.1 of the policy but that under paragraph 2.2 of the policy may be relaxed in exceptional circumstances.

By a majority decision, given the exceptional quality of the vehicle and safety standards as well as the reasons for not renewing the licence 6 weeks previously, the Sub-Committee feel that there are exceptional circumstances in this case and are prepared to grant the licence. The Sub-Committee stressed the importance of the applicant keeping his records up to date and to not rely on prompting to make applications for renewal by the Council.

156. URGENT ITEMS

There were no urgent items.

157. EXCLUSION OF THE PUBLIC

RESOLVED: That under Section 100A (4) of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007, the public be excluded from the meeting during consideration of the following items of business as they contained exempt information as defined in Paragraph 12 of Part 4 and/or Paragraph 21 of Part 5 of Schedule 12A of the Act.

Following the application of the public interest test it was resolved that pursuant to the Act referred to above, to consider the following items in private, with the public excluded from the meeting, as it was considered that in all the circumstances relating to the items, the public interest in maintaining the exemption outweighed the public interest in disclosing the information, because the information would be prejudicial to the applicants so mentioned.

158. APPROVAL OF EXEMPT MINUTES

159. APPLICATION FOR RENEWAL OF LICENCES

160. APPLICATION FOR GRANT OF NEW LICENCES TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES

The meeting closed at 11.18 am

MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE A HELD IN COMMITTEE ROOMS 2/3, CIVIC OFFICES ANGEL STREET BRIDGEND CF31 4WB ON TUESDAY, 31 JANUARY 2017 AT 10.00 AM

Present

Councillor R Williams – Chairperson

P James

RM James

JE Lewis

E Venables

Apologies for Absence

M Jones and MEJ Nott OBE

Officers:

Katie Brook

Senior Licensing Technical Officer

Mark Galvin

Senior Democratic Services Officer - Committees

Andrea Lee

Senior Lawyer

Yvonne Witchell

Team Manager Licensing

162. DECLARATIONS OF INTEREST

None

163. APPROVAL OF MINUTES

RESOLVED:

That the Minutes of a meeting of the Licensing Sub-Committee dated 29 November 2016, be approved as a true and accurate record.

164. URGENT ITEMS

None

165. EXCLUSION OF THE PUBLIC

RESOLVED:

That under Section 100A(4) of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007, the public be excluded from the meeting during consideration of the following items of business as they contain exempt information as defined in Paragraphs 12 of Part 4 and Paragraph 21 of Part 5 of Schedule 12A of the Act.

Following the application of the public interest test it was resolved that pursuant to the Act referred to above to consider the following items in private, with the public excluded from the meeting, as it was considered that in all the circumstances relating to the items, the public interest in maintaining the exemption outweighed the public interest in disclosing the information, because the information would be prejudicial to the applicants.

166. APPROVAL OF EXEMPT MINUTES

LICENSING SUB-COMMITTEE A - TUESDAY, 31 JANUARY 2017

167. APPLICATION FOR RENEWAL OF LICENCES

168. APPLICATION FOR RENEWAL OF LICENCES

The meeting closed at 11.00 am

By virtue of paragraph(s) 12 of Part 4 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 12 of Part 4 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 12 of Part 4 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 12 of Part 4 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank