

MINUTES OF A MEETING OF THE LICENSING ACT 2003 SUB-COMMITTEE (B) HELD IN THE COUNCIL CHAMBER, CIVIC OFFICES, ANGEL STREET, BRIDGEND, ON WEDNESDAY, 24 AUGUST 2016 AT 10.00AM

Present

Councillor DRW Lewis – Chairperson

GW Davies CJ James

Officers:

Mark Galvin Senior Democratic Services Officer - Committees
Katia Daw Legal Officer
Yvonne Witchell Licensing & Registration Manager

Representing the applicants:

Mr B Parry Solicitor
Mr & Mrs Z Rasul Applicant's

Representing the Responsible Authorities:

PC Rowlatt South Wales Police
PC Ellis South Wales Police

10. APOLOGIES FOR ABSENCE

None.

11. DECLARATIONS OF INTEREST

None.

12. LICENSING ACT 2003: SECTION 105 TEMPORARY EVENT NOTICE, EDEN, MARKET STREET, BRIDGEND

The Licensing and Registration Officer presented a report which asked the Sub-Committee to consider an Objection Notice submitted by the South Wales Police in respect of a Temporary Event Notice served on the licensing authority relating to the above premises.

The report initially gave some background information, then confirmed that on 12 August 2016 the licensing section received a Temporary Event Notice (TEN) from Z Rasul (premises user) in respect of an un-named event to be held at Eden, 33 Market Street, Bridgend on August Bank Holiday, effectively the early hours of 00:00 to 04:00 on Monday 29 August 2016 (sale by retail of alcohol) with opening hours being 00:30 to 04:30 hours. The Notice also sought authorisation for the provision of regulated entertainment (no times specified), all licensable activities to take place on the premises only. The maximum number of people at any one time at the premises should be 499.

The Licensing and Registration Officer stated that the TEN was served using the correct procedures, ie on the necessary statutory bodies including the South Wales Police, who she reiterated responded by serving an Objection Notice. A copy of this had also been

served on the premises user (dated 16 August 2016). Details of the Objection Notice were set out at Appendix A to the report.

The Licensing and Registration Officer also advised the Sub-Committee that as far as she was aware, no discussions had taken place between the premises user and the South Wales Police, in an attempt to resolve the objections so raised by them. Therefore, the Objection Notice was to be treated as not having been withdrawn.

Further papers had been received from both parties, and she advised the Chairperson, that these could be tabled for those present to observe if the Sub-Committee agreed to this. These included further 'recorded occurrences' that had taken place at the premises which had been reported to the Police.

Finally, she referred to paragraph 4.6 of the report which confirmed the options that were open to the Sub-Committee with regard to determining the application.

The Chairperson asked the South Wales Police representatives, why these recorded incidents had been submitted so late, rather than being included in the papers that had been dispatched previously with the agenda.

PC Ellis advised that this had been due to the fact that the Police were not certain at that time if the application for the TEN would actually reach the stage of today's Hearing having to be convened.

The Chairperson responded by stating that in future it would be preferred by Members if they could have all evidence they need to consider at the meeting, 3 clear working days before it was being held, ie at the same time the meeting agenda and accompanying papers are sent out.

Mr Parry advised the Sub-Committee that he was not happy with the late submission of these recorded occurrences from the South Wales Police, particularly as these just referred to dates of incidents that had allegedly taken place at the premises (as reported), together with very brief details of the incidents so reported. His clients he added, were not even aware of some of these incidents having taken place, as the details relating to them were so brief.

PC Ellis explained that the applicants had made a statement to the effect, that no problems had been experienced at the premises in respect of previous TEN's, prior to the submission of the TEN being debated today, however, this was not the case. This is why the Police had responded by submitting their letter dated 22 August 2016, headed 'Recorded Occurrences' that had been reported/investigated at the premises.

The Legal Officer whilst acknowledging this point, felt that the further information that the Police representatives wished to table today was in effect new evidence over and above that which had been sent out with the agenda. Therefore ideally, it should have been circulated prior to today.

PC Ellis replied by advising that the letter of 22 August from the Police was also responding to Mr Parry's communication sent to them only yesterday, which also attached late information in respect of the application.

The Legal Officer stated that in all probability though, Mr Parry had responded yesterday to the letter received from the South Wales Police of 22 August 2016.

PC Ellis whilst accepting this, reiterated that the letter from the Police mentioned above, had only been submitted late, due to Mr Razul's comment that there had been no

problems experienced at the premises on occasions when previous TEN's had been granted there.

The Legal Officer noted that there were 24 recorded occurrences of incidents at the premises dating from 30 October 2015 to 5 August 2016, and asked if there were any other incidents recorded aside of these.

PC Ellis confirmed that a further 10 incidents had been recorded at the premises on 31 August 2015, when a previous TEN had been granted at the premises. These had not been included as part of the South Wales Police's submission, but he wished to refer to these, in response to the premises user categorically stating that there had been no problems experienced at the premises previously on the occasions of TEN'S.

The Legal Officer advised that it may have been a better idea if these further recorded occurrences had been included with the others the South Wales Police wished to refer to, in their letter of 22 August.

Mr Parry intervened, by stating that the Licensing regulations did allow for further information to be submitted late by representing parties. However, he felt that there should be sufficient time for these to be considered prior to the meeting, as opposed to being presented at the meeting itself. There had not been sufficient time for his clients to respond to the recorded occurrences so referred to in their letter of 22 August 2016, and even less so for the added incidents police representatives had raised at the meeting verbally, ie the further 10 recorded occurrences that had allegedly taken place on 31 August 2015. He therefore, on behalf of his clients, gratefully requested that the Sub-Committee agreed not to consider any of these at today's Hearing.

The Legal Officer noted that on 30 October 2015, a warning letter had been served on the premises user by the Police. She sought clarification if this was actually served (on the premises user).

PC Ellis confirmed that this was one of two warning letters previously served on the premises user, the second one being dated 12 December 2015.

Mr Parry confirmed that he and/or his clients had received the letter dated 22 August 2016 prior to the meeting, that listed the previous recorded occurrences. They had not received with this however, copies of the warning letters that had been previously served on the premises user on the above two dates. The letter of 22 August 2016, whilst listing both warning letters and other incidents that had allegedly taken place at Eden, did not elaborate on what these incidents actually were. As an example of this, he referred to Occurrence 3) which referred to contraventions of the conditions of the licence. He pointed out however, that it did not state which conditions had been contravened. He felt that it was unfair of the Police to present this letter so late, as it prevented both his clients and himself adequately responding to these occurrences, due to there being a lack of detail of what the contraventions specifically were. As far as he was aware, none of the recorded occurrences so listed had resulted in any convictions or prosecutions having being made. The same applied, for example, in respect of Occurrence 4) of the letter.

The Chairperson agreed that these recorded occurrences should include more detail by way of the incidents so recorded being expanded upon. This would in turn, allow other representatives at the meeting an opportunity to be able to cross examine and ask questions etc, of both parties.

The Legal Officer concurred with the Chairperson, ie that the letter of the 22 August 2016 should have contained more information, even though the occurrences were

referred to in date order, in order that Mr Parry could have taken instructions from his client in respect of the these, notwithstanding that this was extra information served after the agenda and accompanying reports had gone out. She felt that ideally this letter should have been included as part of Appendix A to the report, ie the South Wales Police objections to the TEN, with the information shown being clarified for the benefit of Members and the premises user.

Mr Parry stated that the application was in respect of a TEN, in order that his clients could open further into the early hours of Bank Holiday Monday following on from Bank Holiday Sunday. The premises held a Premises Licence that enabled them to open for business on the days and during the hours previously granted by the licensing authority. He felt that the South Wales Police in their submission, should have concentrated upon any incidents that had taken place at the premises on Bank Holidays where TEN's had previously been granted there, rather than listing all previous occurrences that had allegedly taken place there on dates other than Bank Holidays. He therefore questioned the relevance of the majority of the occurrences listed in their letter of 22 August.

The Legal Officer whilst accepting Mr Parry's point, stated that all the occurrences did possibly have some relevance to the current application, in that all incidents that have taken place previously at the premises did reflect how well it operated as a business, as part of the late night economy of the Bridgend town centre.

Mr Parry asked if the police representatives would be giving any evidence of previously recorded occurrences (i.e. incidents) that had taken place at the premises on Bank Holiday Sundays where TEN's had previously taken place.

PC Ellis advised, that without going back to the Police station to research on the Police database if there had been any incidents that had taken place at the premises on previous Bank Holidays, other than those referred to as part of police evidence, he could provide no such further evidence either way.

Mr Parry therefore asked PC Ellis what the Police would be referring to in terms of evidence, including anything over and above that which was contained in their letter of 22 August.

PC Ellis replied, that other than the recorded occurrences referred to in the above letter, (number 7 of which took place when there was a TEN in operation at the premises) the Police only intended to refer to two previous incidents involving the premises dated 2 and 31 August 2015 (once more TEN in operation). The Police would not have specifically highlighted incidents at the premises when TEN's were in operation there, unless Mr Parry had not raised the point that no trouble had occurred at Eden when TEN's had been in operation there.

The Chairperson advised both parties, that the Sub-Committee would adjourn for 20 minutes, in order to decide whether or not the evidence detailed in the letter from the South Wales Police dated 22 August recently circulated be expanded upon.

Upon the meeting reconvening, the Chairperson advised that the Sub-Committee had agreed that the Police evidence in the above letter not be expanded upon in terms of evidence.

The Chairperson then asked the Police to present their case, as follows:-

"Application is made on behalf of the Chief Officer of Police, to object to this temporary event notice (TEN) as it is believed that the event would undermine the licensing

objectives relating to the prevention of crime and disorder and public nuisance as set out in the Act.

The venue is subject of a premises licence, dated 8th January 2016 and is authorised to supply alcohol and provide regulated entertainment and late night refreshment (although food has never been made available).

The opening hours on a Sunday are: 11.30 – 00.30 hours

The premises is referred to in the application as Eden Wine Bar/Grill & Ego Nightclub with the former being situated on the ground floor and the latter on the first floor. However, there has never been any kitchen facilities installed.

The venue is of a generous size allowing a considerable number of customers to resort there which in turn significantly increases the number of revellers to Bridgend town centre. The capacity at the premises is 500 persons

The premises 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

The area is saturated with licensed premises as it contains the highest concentration of public houses, nightclubs, restaurants, late night refreshment houses and takeaways anywhere in the borough and therefore experiences the highest volume of pedestrian and vehicular traffic and consequently the highest number of reported incidents.

There are continuous problems of crime and public disorder, anti-social behaviour, noise and public nuisance within the town centre on weekends and on Bank Holiday weekends in particular.

During particular outbreaks of serious and prolonged public disorder premises operating under the hours proposed have had to be shut down by South Wales Police to hasten the dispersal of drunken, violent persons remaining in the vicinity of these premises.

Such incidents can be attributed to intoxicated individuals availing themselves of alcohol at venues which were operating until the very early hours.

Numerous alcohol related incidents are regularly recorded with violent crime in particular being prevalent.

Premises within this area have been subject of various and prolonged enforcement over the years due to the failure of staff to promote public safety, protect children and prevent crime and disorder and public nuisance which are the key licensing objectives.

The situation deteriorated to such an extent that South Wales Police were forced to make applications under Section 51 of the Licensing Act 2003 to review licences of every problematic venue within this area.

In some cases the expedited review process was adopted under Section 53(A) of the Violent Crime Reduction Act 2006 in order to close premises immediately pending review.

The vast majority of these venues were not only granted increased opening hours by Licensing Sub-Committees despite strong opposition from South Wales Police but some premises again had additional hours approved despite the policy being in place.

Reviews did not solely relate to premises licensed to sell alcohol but also late night refreshment houses.

In some cases reviews have led to the suspension and/or revocation of licences.

Those establishments which have not had their authorisation forfeited have all had additional restricted conditions appended to authorisations including having the opening hours reduced.

Many of these venues had hours of opening which mirror those proposed in the application and in short these hours significantly increased crime and disorder and simply did not work.

The number of late night establishments within the town centre is already high and any increase in hours inevitably results in an increased deployment of police resources to deal with problems caused by late night revellers who tend to frequent these premises.

Such premises remain a potential source of disorder and require an unwelcome level of policing to the serious detriment of other policing demands in the locality.

Diverting police resources to the town centre can only be to the detriment of the surrounding area.

PC Ellis then referred to the email sent from Mr. Parry to the South Wales Police dated 22 August 2016 in which he made the following points, with the Police's response to these detailed immediately below such points.

POINT 1. – “My clients report that they have had the hours for which they have applied in the past and that they have operated without adverse incident to those hours”.

The first TEN applied for concerned Sunday 2 August 2015 from 00.30hrs to 04.30hrs (this in effect was for a Saturday night.)

South Wales Police and the Public Protection Department of BCBC objected to the event and the matter proceeded to hearing where the application was refused.

HOWEVER; the following was recorded on an occurrence report for that particular weekend: -

- 1) Investigator action 01/08/2015 23:54hrs PC 2662 Harward. Log entry: MOBILE UPDATE: Large number of persons on the road and door staff spoken to in relation to this matter. Persons seen exiting taxis drunk depositing bottles outside club. Street pastors are attempting to clear bottles from outside club to place in large bins down the road. Pastors state that this has been the third time in the past hour. 250 Persons on premises at time of speaking to door staff.

Incidents are reported via the Command & Control Room @ Police HQ and on Sunday 27 December 2015 the emergency operator recorded an occurrence via the 999 system as an “ongoing fight at Eden nightclub, Bridgend, with 15 males turning the Club upside down. No weapons used other than tables, etc.

POINT 2. – “They also report that there are other operators in the town who will also trade to the same hours. Their wish as was made clear in the last premises application process is to have a level playing field”.

This is neither relevant nor is it accepted stated PC Ellis.

There are about 500 premises licensed to sell alcohol within the Borough, but only one other has these hours.

On average the premises which open later generally close at 02.30hrs.

In respect of this venue then I can report that it provides hot food and one of the numerous conditions attached to the Premises Licence, is that there shall be no admission/re-admission to the premises after 02.30 hours.

The operator also regularly engages with the Police PC Ellis added.

Significantly a number of premises located nearby were authorised to operate between 02.30hrs and 04.45hrs. However, as indicated, South Wales Police had to review the licences of those premises whereupon the authorisations were either revoked or the hours reduced on the basis that they failed to promote the licensing objectives within those timings.

Another venue was authorised to open until 06.00hrs but closed prior to the review application being submitted.

POINT 3. – Refers to the spirit of consultation and compromise by offering a 04.00am closure.

The proposal is to remain open for 4 additional hours. To reduce those hours by a mere 30 minutes is hardly a compromise advised PC Ellis.

POINT 4. – The relevance of the Recorded Occurrence Schedule is questioned and it is detailed that there are no incidents recorded for the events in May 2016.

That particular TEN was for an extension of hours for Late May Bank Holiday from 00.30 to 04.30hrs on Monday the 30 May 2016.

South Wales Police objected to the notification and again Mr Rasul offered a reduction in hours of 30 mins as a compromise.

South Wales Police acknowledge that there were no incidents recorded, however, the objection notice relates to incidents which have not only occurred since May which in themselves are a concern but other factors, such as an increase in occurrences since application was made for a new licence in November 2015, and a failure to adhere to the conditions of the licence after it was approved.

The premises is situated in the saturation area subject of the Cumulative Impact Policy and the licence was granted as the Operating Schedule coupled with conditions proposed by various Responsible Authorities and agreed appeared to the Sub-Committee robust enough to warrant approval of a licence.

Significantly, the Police were also reliant on the fact that if the hours were indeed approved then the opening times remained restricted by the planning hours.

Mr Rasul has however explained PC Ellis, failed to adhere to the very licensing conditions which enabled him to receive a Premises Licence.

This was unacceptable and South Wales Police has to date attempted to deal with these contraventions by written and verbal warnings.

Mr Rasul had in fact, been served with 2 warnings, yet despite these he had continued to flout the licensing conditions.

With regard to the proposed hours, the closing time on a Sunday was 30 minutes past midnight (or midnight under the planning constraints) and the notification is to extend the hours of licensable activity and opening by 4 hours.

This is a significant increase at a time when the footfall in Bridgend town centre on the final Bank Holiday exceeds that of a Saturday night when the vast majority of incidents take place at the venue.

South Wales Police object to the proposal on the grounds that crime and disorder would increase and be detrimental to the locality should this be granted.

The objection is based on the incidents which have occurred during the current hours authorised under the licence and in this respect South Wales Police consider these incidents to be relevant in respect of the event. In relation to the licensing objectives, the vast majority of these occurrences have occurred on the weekend and it is the hours on a Sunday that Mr Rasul proposes to extend.

Occurrences which have taken place are assaults, customers ejected, contraventions of the conditions of the licence, affray, drunken customers, door staff requiring assistance, disturbances inside and out the premises.

What was alarming confirmed PC Ellis, was that South Wales Police had reliable information that since the venue opened, Mr Rasul was not adhering to the Pub Watch policy by allowing entry to persons who were banned from Bridgend town centre premises under the collective scheme.

Incidents have occurred which involve those banned which clearly corroborates the information received yet condition 32 of the licence concerns the following: -

“The Premises Licence Holder will ensure that the venue actively participates in the local Pub Watch or equivalent scheme.”

The Pub Watch co-ordinator had informed South Wales Police that Mr Rasul had never attended a Pub Watch meeting.

Members, including Mr Rasul, are provided with photographs of banned persons to enable the scheme to flourish and to allow person's entry is again totally unacceptable.

One of the most recent recorded occurrences was reported on Saturday 23rd July 2016 by a distressed female who was forced to use the 999 emergency facility and the following was a text of the call: - “My husband has come in drunk and kicked me”.

The call handler has written on the incident in response, “Caller is distressed and crying and male can be heard in the background”.

What is significant is that the call was recorded at 04.44 hours and occurred after the suspect had left Eden and returned home.

Due to the nature of the call officers promptly attended and the suspect was arrested at 04.50 hours.

Custody officers are responsible for the welfare of prisoners and in the case of suspects coming into custody in an intoxicated state then 30 minute health and well-being checks have to be made.

Officers conducting these visits have endorsed the assailant's custody record, "23/07/2016 13:40hrs - The detained person is intoxicated". This was almost 9 hours after the arrest was made.

The Modus Operandi of the offence was stated PC Ellis, that the victim and the suspect are wife and husband. The victim has been asleep in bed when her husband has come into the bedroom spat at her, pulled her hair, dragged her out of bed and kicked her to the head then left the bedroom. Suspect was arrested at scene.

The suspect wasn't able to be interviewed until 14.20hrs and a summary of the interview is as follows:

"Suspect stated that he went out drinking in Bridgend town centre. He went to Eden nightclub and the next thing he recalls is waking up at the police station. He does not know how much he had to drink and was unable to recall anything."

In respect of the incidents the following was applicable confirmed: -

'Operation Raven is a regular night time economy high visibility foot patrol strategy in Bridgend town centre at weekends to provide public reassurance by visiting licensed premises with the intention of combating alcohol related crime and disorder, anti-social behaviour and public nuisance.'

Failure to adhere to conditions of the Premises Licence are also noted below confirmed PC Ellis.

An occurrence log is created weekly and Officers were given various tasks in respect of licensed venues and are instructed to populate the enquiry log with the resulting actions.

- 1) Occurrence 1500428910 of Friday 20/11/2015 @ 23.34hrs - Contraventions of conditions of licence.

Occurrence Summary: Operation Raven. Investigator action 20/11/2015 23:34 PC 3331 Rees, S. Log entry: Mobile update: Eden - 3 SIA door staff, 5 customers. Breach of condition 6 A. Door Control staff policy

- 1) One member of door staff will start work at 21.00 hours.
- 2) Another two door staff will start work immediately from 2200 hours.
- 6) An additional 3 door staff will start work at 23.00 hours.

The number of door staff is 6 until closure.

- 2) Occurrence 1500455477 of Saturday 12/12/2015 @ 23.50hrs Operation Raven - Contraventions of conditions of licence.

Annex 3 - Conditions attached after a hearing by the licensing authority: The premises shall not open to the public until the following written policies have been submitted to, and approved by, the South Wales Police: B. Drug search policy (to include provision of a suitable search room). In respect of compliance with the above the following conditions have been agreed by the South Wales Police and Premises Licence Holder and are submitted for inclusion within this

premises licence as follows: B. Drug search policy 1) A First Aid room will be available for use next to the Payment point. 2) A trained first aider will be on site whilst the premises is open. 3) The First Aid room will suitably adapted to also be used as a safe search room for persons suspected of committing any offences

There was no first aid room/search room, it was merely a location under the stairs.

- 3) Occurrence commencing weekend of Saturday 19/12/2015 – Drug dealer at venue.

Information received that a known drug dealer was supplying controlled substances within. Subject has been searched twice and on both occasions he has been allowed to remain in the premises.

Enquiries revealed that he is serving a 2 year Pub Watch ban (to November 2017) for assault and should not have been allowed entry as he is not permitted to attend Bridgend town centre licensed premises.

- 4) Occurrence 1500475648 of Sunday 27/12/2015 @ 01.54hrs – Disturbance. 15 customers fighting inside. This incident was referred to earlier.
- 5) Occurrence 1600034364 of Sunday 31/01/2016 @ 03.00hrs – Disturbance. Staff requiring assistance. Occurrence Summary: Disturbance via Storennet. Supervisor review 01/02/2016 01:50 PS 2639 Jones, N. Log entry: At approximately 03:00hrs officers attended at Eden Nightclub following a report from members of door staff that they required assistance. On arrival 2 door staff were spoken to and were unhappy as one of them had seen two males snorting white powder in the male toilets of the premises. Door staff had attempted to eject the two males from the premises however, one of the males became aggressive towards them and following this, the licensee of the premises, Zahid Rasul, has attempted to prevent them from ejecting the two males. On arrival of officers the males were still to leave the premises and eventually they were seen walking downstairs from the toilet area and waiting unescorted in the bar area. The door staff then re-entered and the males were ejected where they were subject of stop/ searches for drugs which was negative. There was clearly an issue between the door staff and the licensee, with Mr Rasul stating that he had witnessed the door staff and the two males involved in an altercation and believed that something of a bun fight had started. Therefore, he decided to tell the door staff members not to eject the males but to allow them to walk out unaided as he does not like people being ejected. However, there was clearly a delay in the males being ejected, as they had not come from the upstairs until 5 minutes after police arrival therefore giving them plenty of opportunity to dispose of controlled drugs. Initially, the door staff members were not prepared to carry on working at the premises and PC Jones advised Mr Rasul that if they left, the premises would have to close for the night. Eventually they agreed that they would finish working there that night but would not return.
- 6) Occurrence 1600056625 of Saturday 20/02/2016 @ 02.45hrs – Disturbance. Intoxicated male customer ejected.

The suspect had been ejected for assaulting his ex-partner at the bar. There was no complaint. However it led to:

- 7) Occurrence 1600059124 of Saturday 20/02/2016 @ 02.52hrs – Assault, customer assaulted another customer inside.

Occurrence Summary: Possible assault. Male has reported to bouncers at Eden that they may have been assaulted.

Modus Operandi: Suspect has approached the victim and asked, "are you so and so?" The victim replied, "yes" and has then been punched to the forehead. The victim has managed to take the suspect to the floor. Once on the floor the suspect has struck the victim with his knee to his rib area. Witnesses have then intervened and suspect has made off from the location. Complainant sustained a graze and bump to the forehead.

Upon her attendance, staff advised Sergeant James that the incident happened outside the club and they would not be logging it in their incident log.

However; the victim's statement details that the disturbance started inside where a female was pushed by her ex-partner at the bar and door staff ejected said male. Owner said he would not be reporting this as it did not happen inside his premises and he would not be supplying CCTV.

Again the following should be noted confirmed PC Ellis:

Custody officers have commenced a Custody Care Plan and under Health and Well-being it is detailed that detainee is intoxicated. Detainee check frequency: 30 minutes. Reason: Sobriety. The suspect was checked at 07:31hrs 20/02/2016 and custody staff have made an entry. The detained person is intoxicated. Suspect was charged to court.

- 8)** Occurrence 1600064223 of Friday 26/02/2016 @ 23.00hrs – Contraventions of the conditions of the licence.

Occurrence Summary: Licenced premises visits - Friday 26/02/2015. Investigator action 26/02/2016 23:32hrs PC 5102 Rowlatt, S. Log entry: Eden visited for CCTV of domestic incident last weekend. Mr Rasul was present and trading but he would not supply CCTV footage. He said he could not burn images off the system in breach of condition 1) of the Prevention of crime and disorder objective as follows:-

"The Premises Licence Holder shall maintain a CCTV recording system at the premises consisting of 60 cameras and 4 digital video recorders. Digital video recording will be in place throughout the period that the premises are open and recording shall be maintained for a period of 28 days. Recordings will be made available to police officers and responsible authority officers upon demand."

- 9)** Occurrence 1600126603 of Saturday 09/04/2016 @ 02.00hrs – Disturbance inside premises and this concerned an unsubstantiated allegation of assault.
- 10)** Occurrence 1600125290 of Sunday 10/04/2016 @ 04.56hrs – Assault and affray. Large disturbance outside premises.

Modus Operandi: The complainant and suspect are strangers and whilst in street location an altercation has ensued and the suspect has punched the complainant to the face causing bruising to the complainants left eye. The police have turned up and broke up the altercation.

Statement of PC 4400 Thomas, "At approximately 5.00hrs on Sunday 10th April 2016, I was on duty in a marked police van in company with PC 5620 Underhill.

At this time we were performing Operation Raven duties. Whilst parked at Derwen Road, Bridgend, pointing in the direction of Sax Nightclub, we were monitoring all persons exiting the nightclub. At this time a female has started banging on the passenger side of the police van and alerted us by saying, "Quick there's a load of boys by the pubs back there fighting". I have immediately contacted CCTV via my personal airwave radio, and requested they monitor outside The Roof and Eden nightclub on Market Street. I have then illuminated the blue emergency lights and driven the police van around and approached Market Street. As I am passing Eden nightclub, I can see in front of me a group of approximately 8 to 10 males in the middle of the road between the junction of Market Street and Derwen Road who are all fighting. There are a lot of punches and haymakers being thrown along with pushing and shoving. It all looked very hostile and the males are displaying a lot of aggression to one another".

4 males were arrested one of whom at just left Eden with his friend and was intoxicated.

Custody Sergeant has commenced a Custody Care Plan, and under Health and Well-being it is detailed that detainee is intoxicated. Detainee check frequency every 30mins. Reason: Sobriety. Staff have visited him at 08:11hrs 10/04/2016 and entered the following details. The detained person is intoxicated.

A summary of the interview was, 'Joseph Williams denied assault at approximately 5am 10/04/16 outside Radio Cabs, Bridgend Town Centre. Williams stated himself and Callum Taylor-Moore came out of Eden Nightclub and went around the corner near Radio Cabs.'

11) Occurrence 1600217614 of Sunday 12/06/2016 @ 03.37hrs – Assault.

The text of the call to the emergency operator was as follows advised PC Ellis: -

Occurrence Summary: Assault. "I was standing in the club and some guy said, "Don't look at me". I told him I wasn't. He said, "You stare at me again and I'll knock you out". The next thing I knew I was on the floor. Bouncers have said it's all on CCTV. I didn't know the guy who did it, and the Bouncers took me to the taxi. I came to the hospital and am in the A&E at Princess of Wales waiting for the doctor."

No call was received from Eden despite door staff ejecting the suspect who fled the scene and could not be subsequently identified.

Failing to detain a suspect is contrary to the following Condition of the Licence:-

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

12) Occurrence 1600227731 of Sunday 19/06/2016 @ 00.49hrs – Intoxicated male ejected.

Occurrence Summary: 'My son has been assaulted in Eden Bar. I want to see the police. Male in background heard to say he hadn't been assaulted the doormen threw him out.'

Enquiries revealed that person in question, is serving a 2 year Pub Watch ban (to August 2017) and should not have been allowed entry as he is not permitted to attend Bridgend town centre licensed premises.

Investigator action 19/06/2016 02:26hrs PC 1551 Howe, C. Log entry: Attended at Eden Bar and liaised with Manager who viewed the CCTV of the incident. Footage shows subject walking to the exit with door staff carrying two bottles of alcohol when he suddenly runs to the exit. Staff detained him and seized the bottles. Subject is taken outside and released. No assault took place no injuries seen. Attended at address. Subject and his parents were intoxicated complaining of him being ejected from the Eden Bar. They stated that he is being victimised by door staff in Bridgend as he is on Pub Watch. It was explained to them that door staff have the authority to remove customers or refuse them service and entry. They stated that he had done nothing wrong and that he was wrongly ejected by force. He had no visible injuries. Officer had attended the Eden Bar prior to us attending at the home address. Door security stated that he was ejected along with one other male for being drunk and abusive to management. When they were informed of this all parties were abusive towards police stating that we were corrupt and told to leave the property.

- 13)** Occurrence 1600246422 of Saturday 02/07/2016 @ 03.04hrs – Intoxicated male ejected.

Occurrence Summary: Eden Bar. Assault. "I've just been assaulted at Eden. It was door staff. I was having a drink and they just dragged me out and threw me to the floor. I don't have any injuries. It is only because some other people intervened that I didn't get further assaulted. I will wait here for police because I want them to collect CCTV before it gets wiped."

Supervisor review 09/07/2016 17:12 PS 699 John, M. Log entry: This is not a crime which proves an assault has taken place. The victim was highly intoxicated at the time of the report so views were distorted.

Again officers described a customer as very drunk.

- 14)** Occurrence 1600267594 of Sunday 17/07/2016 @ 00.37hrs – Female assaulted.

Occurrence Summary: assault. Location is Eden club. I was walking out of the toilet and the current girlfriend of my ex-partner attacked me. She punched me in the face. My tongue and front tooth is chipped. My ear is hurting. This happened 10 mins ago. I am now home. I think they are still in Eden.

PC Ellis confirmed, that again what was alarming about this incident, was that that the victim is serving a 2 year ban (to April 2017) imposed by Bridgend town centre licensees as part of Pub Watch and should not have been allowed entry.

This s the third person allowed entry who is banned on pub watch.

- 15)** Occurrence 1600268027 of Sunday 17/07/2016 @ 00.37hrs – Counter allegation of assault.

Occurrence Summary: Assault. I was in the club last night and walked to the toilet. As a female approached me we had an argument and she threw her glass and drink at my face. Next thing I remember I was on the floor and she was punching me I have bruises on my face and ribs and scum marks on my neck and arms and a lump on my head.

- 16)** Occurrence 1600269761 of Saturday 23/07/2016 @ 03.25hrs Operation Raven – Contraventions of the conditions 22 of the licence.

22) There shall be no entry/re-entry to the premises after 02.30 hours.

Operation Raven - Investigator action Sergeant. 4859 Munro, In relation to Eden Bar, Officers have attended at 03:25hrs on 23/07/2016 and the premises were still open with persons going in and out.

17) Occurrence 1600277162 of Saturday 23/07/2016 @ 04.44hrs – Assault.

This was the domestic related assault committed by an intoxicated husband which was referred to earlier.

18) Occurrence 1600269761 of Sunday 24/07/2016 @ 02.34hrs – Contraventions of the conditions of the licence.

Occurrence Summary: Operation Raven. Investigation update by PC 5553 Beynon: Attended at Eden nightclub at 02:34hrs. Premises still open and customers still entering. This is in clear breach of Licensing condition 22) There shall be no entry/re-entry to the premises after 02.30 hours.

19) Occurrence 1600283033 of Saturday 30/07/2016 @ 02.50hrs Operation Raven – Contraventions of the conditions of the licence, namely Condition 22) "There shall be no entry/re-entry to the premises after 02.30 hours."

Investigator action 30/07/2016 03:17hrs PC 2802 Thomas, C. Log entry: Eden - At 02.50hrs I saw one male person enter the premises from outside of the smoking area. Door staff were present at this time and allowed this male in. Door staff spoken to and they stated that the owner had instructed them to allow people in until 03.00hrs. Owner spoken to and he stated that he is allowed to remain open until 03.30hrs. I informed him that planning restrictions stated the premise is to close at 02.30hrs. Owner stated that the planning application is in appeal and that he has been told by the Planning Department. he is allowed to open until 03.30hrs whilst the appeal process takes place. He also informed me that police do not have the power to enforce planning restrictions. I informed the owner that his licence conditions state no entry after 02.30hrs and that I had seen a male enter at 02.50hrs. Owner stated that this should not have happened and that he will speak to his staff about it. Owner instructed to enforce the 30 minute closure of the smoking area prior to premise closing.

20) Occurrence 1600040384 of Friday 05/08/2016 – Drunken minor.

On the 06/08/2016 at 12.45hrs a female was spoken to by PCSO Dobbs and stated she had got very drunk and had been dancing in Eden Nightclub last night, Friday 5th August.

She is classed as a suicidal, self-harmer with mental health issues who is at risk of child sexual exploitation.

SWP would not expect staff to know those facts but they would reasonably be expected to know a person is under 21yrs. She is in fact aged 16 years and allowing a minor entry is contrary to Condition 1 of the Licence, ie,

1) The Premises Licence Holder will operate a strict over 21 admission policy whilst open to the public.

PC Ellis then referred to Warning letters that had been served on Mr Z Rasul.

Written warnings were served on 20 October and 12th December 2015, which relate to contraventions of the Conditions of the licence. Both were appended within the bundle of papers confirmed PC Ellis.

The first warning related to 6 infringements which were noted during a licensing visit and the second warning related to 3 further breaches.

What was unacceptable he felt, was that Officers have noted that there had been further contraventions on 4 separate occasions since the above, in relation to the premises.

He advised that Section 2 of Home Office guidance related to the Licensing Objectives. and in Particular, Sub-section 2.1 with regard to Crime & Disorder.

“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”.

The Licensing Department of South Wales Police is an integral part of the Community Safety Partnership

Scores of temporary event notices are served on the Police every year, and PC Ellis speculated that about 95% of these events do not impact on the crime and disorder objective.

Therefore if a TEN was subject of representations, then the Police had very good reason to do so he explained.

There had been an increase in reported incidents recorded by South Wales Police since the new licence was granted at Eden in 2016.

The times incidents have been recorded detail that they all have taken place during the early hours of the morning and the notification is until 04.30hrs.

The event proposed would not promote the crime prevention objective due to the timing of it and the location of the venue being in the saturation area of the town.

Mr Rasul also appeared he added, unable or unwilling to adhere to the Licensing Act or planning legislation.

South Wales Police therefore saw little point in issuing further warnings, and if the situation did not improve at the premises, then the licence would be subject of the review procedure as the authorisation was approved subject of numerous conditions.

Apart from some closing remarks where the Police would sum-up their representations, it was due to the above reasons why the Police were objecting to the application for a TEN, PC Ellis concluded.”

Mr Parry acknowledged the points made by the South Wales Police representative(s). He reminded the Sub-Committee however, that his client had only made application for a TEN which he was entitled to under the terms of the licensing legislation. He reiterated that there had been next to no trouble at the premises when TEN's had been successfully applied for on previous occasions, and felt that this had not really been reflected in the evidence given by the Police. He asked Members to take on board, that today's meeting had not been convened to review the Premises Licence of Eden, nor was it an application for a new Premises Licence. The request his client had made, was just for a TEN so that he was able to open for trade on a Sunday evening/Monday

morning on the August Bank holiday. He added that in 2016, the premises user successfully applied for a number of TENS that allowed them to open longer hours, primarily on bank holidays.

PC Ellis made the point, that there had been an incident that had taken place on a previous occasion when a TEN had been granted in respect of Eden, and that he had made reference to this in his submission.

Mr Parry contested this point and further added, that the previous two TENS granted in respect of the premises were on bank holidays on 28 March and 2 May 2016. He asked PC Ellis if any trouble had taken place there on these occasions.

PC Ellis advised that there had been no incidents reported at the premises on either of the above occasions, but reiterated that this had not been the case with regard to all TENS granted in 2016.

Mr Parry advised the Sub-Committee that also on the two above mentioned occasions, the South Wales Police had not made an objection to the applications for TENS so made, yet they had for the TEN applied for in respect of the up and coming August Bank holiday. He did not think that this reflected a consistent approach being adopted by the South Wales in respect of previous applications for TENS relating to Eden. Mr Parry added that the Police had objected to a TEN applied for on another bank holiday, namely 30 May 2016, but this did not reach a Hearing, as the premises user compromised with the Police by agreeing to trade until 03:30 hours and close at 0:400 hours, rather than a half hour later for both of these timings. He asked PC Ellis if any incidents had occurred at the premises on this occasion, to which PC Ellis replied no.

A Member asked what the normal opening hours were at Eden.

PC Ellis advised that these were as follows:-

Sunday – Wednesday – 11:30am – to 12:30am
Thursday – 11:30am – 02:30am
Friday – 11:30am – 03:30am
Saturday – 11:30am – 04:30am

The Chairperson enquired how Eden compared with other late night establishments in Bridgend town centre, when it came to incidents taking place at the premises.

PC Ellis advised that there was no comparable data that could be relied upon, in respect of one premises compared to another. He added however, that there had been no breaches of the Premises Licence in establishments nearby to Eden, other than one incident that had occurred just a couple of weeks ago.

The Chairperson noted that PC Ellis had previously referred to an incident that had taken place between Derwen Road and Market Street, and had related this incident to Eden. He asked him how he was so sure that patrons involved in this had come from Eden, as opposed to The Roof or the Railway public houses that also held late night opening licences.

PC Ellis advised that both the above premises closed earlier than Eden, and the incident occurred immediately outside Eden's premises. Arrests were made as a result of this disturbance, and it was proven that one of those arrested had just left this premises, though it could not be determined if the others that were arrested had also come direct from Eden and out into the street. The incident had taken place around the time of 04:30 – 04:45 hours he added.

The Chairperson also noted that in relation to the incident of domestic violence referred to by PC Ellis, he noted that the offence whereby the husband kicked his wife, had occurred in their family home. In view of this, he asked PC Ellis why the premises user at Eden had been labelled as being responsible for this incident.

PC Ellis confirmed that the patron who kicked his wife, had been drinking copious amounts of alcohol at Eden prior to the incident taking place. He added that he had consumed so much alcohol, that he could not be interviewed until some 9 hours following his arrest. So the offence was linked to the fact that he was allowed to continue consuming alcohol at this venue, when it should have been apparent to staff working there that he was drunk, and therefore should not have been served any more alcohol due to his intoxicated state. If he had been drunk for argument's sake when he had entered the premises, then why did staff serve him more alcohol in the first instance.

A Member noted from previous experience, that on occasions the South Wales Police did object to applications for TEN's. He noted that in respect of Eden that they had objected to the TEN on 28 May 2016, but had not objected to the one applied for on 2 May 2016. He asked the reasons why they chose to object to one rather than the other in less than a space of a month.

PC Ellis confirmed that there had been an extremely short time frame within which the South Wales Police could have objected to the TEN on 2 May, and the Licensing Division of the Police have experienced staff reductions, including a case of long term sickness absence ie himself. If he had been in work at the time, he advised Members that he would have advised the Chief Officer of Police to object to the TEN applied for in respect of the 2 May also.

The Legal Officer sought clarification on whether or not the premises had deteriorated with regard to incidents and/or occurrences that had taken place there within the last few months.

PC Ellis conceded that the premises did operate fairly well under its previous Premises Licence. However, since they had been granted a licence whereby the hours of opening had been extended, there had been a deterioration in the manner in which the premises operated. He added that if the premises user did not start showing an improvement in terms of complying fully with the conditions of the Premises Licence, with a view to reducing the number of incidents that took place there, the South Wales Police would consider making an application to review the Premises Licence. He further added that trouble that had taken place at the premises did not occur that often in respect of TEN's.

As this concluded the presentation of South Wales Police including questions, the Chairperson asked Mr Parry to present his case on behalf of the premise user.

As he had alluded to previously, he wished the Sub-Committee to note that the purpose of today's meeting, was not to review the Premises Licence at Eden, or application for a new Premises Licence. It was merely an application for a TEN to extend hours of opening at the premises on a bank holiday. By stating this, he advised that he was not in any way diminishing the role of South Wales Police and their right to object to the application. He felt however, that Members needed to put the application before them into perspective, and adopt an evidence based approach to the application. He suggested that the Sub-Committee needed to also take on board the extent of trouble that had taken place at the premises on previous bank holidays when TEN's had been granted at Eden, as this was relevant to today's application. He felt that Members should not be examining the Premises Licence per se. Mr Parry considered that the list of recorded occurrences detailed in the letter from the police dated 22 August 2016, was

most illuminating. However, he asked how much of the information referred to by the Police in this letter was directly relevant to today's application. On occasions when other TEN's referred to earlier that had taken place at the premises had been granted, no trouble had taken place at Eden, and this had been confirmed by PC Ellis. On the last three such occasions the premises had traded until 04:00 hours, closing at 04:30 with no trouble having taken place there. Today's application was just a duplicate of this he added. This he felt was significant if Members adopted an evidence based approach to the application. He acknowledged what had been raised in the case for the Police, in that the premises was situate in the cumulative impact area of Bridgend town centre, subject of BCBC's 'Saturation Policy'. He asked the Sub-Committee however, if it considered that any more (or less) patrons will visit the town centre on the Sunday bank holiday if the application for a TEN was granted. The answer to this he felt was no, as pubs and clubs in the town centre would cater for the amount of people that visit them, and abide with the maximum number allowed in any particular premises, at any one time.

Mr Parry then asked the Sub-Committee if they wished for either him or his clients to respond to the recorded occurrences referred to in the letter that was dated 22 August 2016, notwithstanding the fact that the South Wales Police representatives had expanded upon these in their case.

The Chairperson on behalf of the Sub-Committee confirmed that he was happy for these incidents to be briefly responded to.

Mr Parry advised those present that he would start in reverse order from recorded occurrence number 24 and work his way back to number 1.

24) Occurrence dated 5/08/2016 – Drunk minor

Mr Razul advised that he did not recall this incident and that both he and his employees adopted a Challenge 25 (proof of age) policy at the premises.

23) Occurrence dated 30/07/2016 – Contraventions of the conditions of the licence

Mr Parry believed this to be an incident whereby a patron entered the Club after the deadline of no admittance or re-admittance to the premises. Mr Rasul explained that what took place was that the person in question had bought a round of drinks which were poured and placed on the bar. He then realised that he didn't have enough cash to pay for them, so therefore he was allowed to quickly go to the cashpoint nearby and re-entered the premises immediately, to pay for the drinks

22) Occurrence dated 24/07/2016 - Contraventions of the conditions of the licence

Mr Parry was aware that this incident related to a contravention of the condition whereby a patron breached the no re-entry policy by coming back into the premises after 02:30 hours. Mr Rasul confirmed that until today he was unaware of this incident so could not therefore respond to it.

21) Occurrence dated 23/07/2016 – Assault

Mr Rasul confirmed that until today he was unaware of the incident so could not therefore respond to it

20) Occurrence dated 23/07/2016 – Contraventions of the conditions of licence

Mr Parry understood that this incident was with regard to a patron being allowed to re-admit the premises after 02:30 hours which breached a condition of the Premises Licence. Mr Rasul confirmed that he recalled this. A patron was experiencing breathing problems in the premises, so therefore he was allowed out briefly to take in some fresh air. He re-entered the Club to retrieve his coat following which he left the premises.

19/18) Occurrence dated 17/07/2016 – Counter allegation of assault and female assaulted

Mr Rasul confirmed that this incident involved two women who got involved in a fight over another man. The Police requested CCTV of the incident, however, the altercation was not shown on CCTV even though footage of this was provided. Both women were ejected from the premises, but separately, so as not for the feud to continue out into the street. He added that altercations in the premises are few and far between, but when they do take place, appropriate action is taken by the staff or himself personally.

17) Occurrence dated 02/07/2016 – Intoxicated male ejected

Mr Parry in relation to this incident, asked Mr Rasul what would happen if a patron came into the premises at 12:50 hours and was intoxicated. Mr Rasul confirmed that they would not be allowed to purchase any alcohol, and would also be asked to leave the premises forthwith.

16) Occurrence dated 19/06/2016 – Intoxicated male ejected

Mr Rasul confirmed that he recalled this incident. Staff had escorted a patron out of the premises due to the fact he was intoxicated. It transpired that this individual was on 'Pubwatch', and the fact that he had been allowed entrance to the premises. He added that a member of staff subsequently realised the person was on 'Pubwatch', so therefore, he would have been escorted from the Club when that was known regardless of whether he was drunk or not. Mr Rasul also stated that prior to this occurrence he had updated his list of names and photographs of members of the public on Pubwatch, though staff could easily be forgiven for allowing a person in who had been banned from a number of licensed premises, as there were around 200 – 300 people on Pubwatch. As his Club did not charge an entrance fee, it was quite easy for someone who was on Pubwatch to discreetly enter the Club.

15) Occurrence dated 12/06/2016 – Assault

Mr Rasul advised that he was not aware of this incident as it took place after the time his premises shut.

14) Occurrence dated 10/04/2016 – Assault and Affray

Mr Parry advised that this alleged incident had involved 8 – 10 males fighting immediately outside the premises? Mr Rasul confirmed that he was not aware of this taking place at all. He added that neither the Police or anyone else had made a complaint previously regarding this.

13) Occurrence dated 09/04/2016 – Disturbance

Mr Rasul advised the Sub-Committee that he was not aware of this occurrence until today.

12) Occurrence dated 26/02/2016 – Contraventions of the conditions of the licence

Mr Parry thought that this occurrence was in respect of an incident at the premises that took place the week before. Mr Rasul expanded upon this, by confirming that two Police Officers had visited the premises in the middle of a Wales v England rugby international and asked Mr Rasul if he had provided CCTV footage of this incident previously as they had not received this, to which he replied that he had. He assured the Officers at the time however, that if this had not clearly shown the incident or been lost/misplaced he would provide a replacement tape.

10/11) Occurrences dated 20/02/2016 – Disturbance and assault

Mr Parry recalled that the disturbance was due to a drunken male having to be ejected from the Club. Mr Rasul confirmed that he could not recall either of these instances, and had not previously been spoken to by the Police in respect of them.

9) Occurrence dated 31/02/2016 – Disturbance

Mr Parry reminded Members that this related to an incident that took place in the premises toilet, where patrons had been seen taking drugs. Mr Rasul advised that there had been a disturbance in the male toilets, and a member of Door Control staff had asked for back-up from other staff. 4 other Door Control staff then proceeded to the toilet where there were two male patrons. The original member of staff had one of the males in a choke hold, and Mr Rasul said 'let him go' and he took the male in question to one side. The Police were called, and prior to them arriving, the man who was said to be in possession of drugs was searched by staff with his consent. There were no drugs found in this person's possession, but he was asked to leave the Club which he did without creating any fuss. Police Officers also searched both men outside the Club, but they did not find them in possession of drugs either, and they let them go without any further action being taken. As the minimum number of Door Control staff on duty at the time, a Police Officer stated that if one of them left the premises that evening, then the Club would have to close. One of these staff had threatened to do so, as he didn't want to be involved in any way with drug related incidents. However, the staff remained on the premises so the Club stayed open. Mr Rasul advised that he then dismissed the member of staff who put a choke hold on one of the males, as he condemned such an action.

8) Occurrence dated 08/01/2016 - Second issue licence

Neither Mr Parry or Mr Rasul referred to this as part of their responses to all occurrences

7) Occurrence dated 27/12/2015 – Disturbance

Mr Parry recalled that this was to do with a 999 call due to an ongoing 15 involving 15 males. Mr Rasul clarified that two brothers and their wives together with other family members had entered the Club. A feud subsequently developed involving the two brothers, and when this happened, they were all escorted from the premises together.

6) Occurrence weekend of 19/12/2015 – Drug dealer at venue

Mr Rasul confirmed that he was not aware of this, and he would have been made aware of it if it had been the case.

Mr Parry confirmed that he would not respond to recorded occurrences numbered 1 – 5 as the premises on these dates had operated under a different Premises Licence.

The Chairperson opened the meeting at this point to questions.

PC Rowlatt referred to the incident involving drug taking in the toilet, where the male in question was apprehended by Door Control staff who then called the Police. She noted that this person had been searched at the premises and she asked where that had taken place.

Mr Rasul replied that the search took place outside the toilets where there were CCTV camera's, rather than in the usual area of the premises where searching of patrons was normally conducted.

PC Rowlatt advised those present, that under Condition 17 of the Premises Licence patrons should be randomly searched upon entry to the premises, and she asked if he had been searched at this point.

Mr Razul replied that he did not know if this person had been searched when he entered the premises.

PC Rowlatt followed-up, by asking what kind of random search policy existed in respect of Eden wine bar.

Mr Razul confirmed that random searches of patrons were carried out at the premises during the course of the evening, but he left this to the discretion of his Door Control staff.

PC Rowlatt asked if such searches conducted at the premises were recorded.

Mr Parry at this point of the proceedings, asked what relevance this question had to the application.

PC Rowlatt advised that another Condition of the licence, was that he complied with the Pubwatch Scheme. She asked Mr Razul what his involvement was in Pubwatch.

Mr Razul confirmed that he was normally on frontline duty at the time when Pubwatch meetings usually took place, though he was represented at these meetings by the Head of his Door Control team.

PC Rowlatt referred to Condition 26 of the Premises Licence. This stated that Door Control staff should monitor customers levels of alcohol consumption should they become intoxicated. She asked if this condition was complied with.

Mr Parry once more intervened, stating that this was strictly relevant to the TEN application.

PC Ellis advised that he did not agree with Mr Parry, in that PC Rowlatt was merely asking questions of the responses given by Mr Razul in relation to the Police representations. One of these was, that as far as the Police were aware, the premises did not have an official search room which was a Condition of the Licence. A lot of the points the South Wales Police were making/had made, were that Mr Razul was not complying with a number of the Conditions of his Premises Licence.

The Chairperson asked what relevance the point relating to the search room was, in that all the applicant was requesting was to open his premises for a few extra hours on a bank holiday Sunday through a TEN.

PC Ellis acknowledged this point, but stated that the Premises Licence holder has to adhere to the Conditions of his Licence at all times the venue was operating, regardless of whether or not a TEN was in operation at any given time.

PC Rowlatt added that under the provisions of the Licensing Act 2003, the Police were able to pose questions in relation to TEN's, should they feel that if a TEN is granted, this may result in the licensing objectives being compromised. The Chief Officer of Police felt on this occasion that they would, particularly due to the fact that the premises was situate in the area of town recognised as the "Saturation area". PC Rowlatt once more asked if the premises user had an official search room at the premises in accordance with Condition 1 of his licence.

Mr Razul confirmed that this area was situate under the stairway of the 1st floor, where there were 3 CCTV cameras located. He also used his office as a First Aid room. He added that PC Rowlatt was aware of these facts..

PC Ellis advised that in a warning letter from the South Wales Police to Mr Rasul dated 12 December 2015, it was revealed that he did was not fully complying with a Condition of his Licence, in that he had to have a search room. He did not have this, ie the search facility was just an open area under the stairs.

The Legal Officer advised that this was a matter that could possibly be taken up between the South Wales Police and the premises user in the immediate future. This needed to be considered, as obviously the applicant had confirmed that he has an allocated area at the premises to satisfy this purpose, whilst the Police contest this should be a room as opposed to an area.

A Member referred to occurrence 12) identified in the letter dated 22 August 2016 from the South Wales Police, where the Police had implied that CCTV footage had not initially been forthcoming from the premises user to the Police, at the time this was originally requested. However, Mr Razul had contested this, though the timing of the incident may not have mirrored the incident; the CCTV footage had not recorded correctly, or it had been provided but subsequently lost/misplaced.

Mr Razul confirmed that all CCTV recordings were kept at the premises for 28 – 30 days, and both he and his staff complied with this Condition of the Licence, and supplied footage to South Wales Police at times when this was requested. In regards to this matter, he stated that he had given the relevant footage to the Police on a USB stick.

A Member referred to incidents numbered 22, 23 and 24 in the letter of the 22 August from the Police, and asked if they had requested CCTV evidence in respect of any of these occurrences.

Mr Razul replied that they had not.

A Member noted that Mr Razul seemed au fait with some of the recorded occurrences, and due to this, he asked him if he was on duty at the premises 7 days a week.

Mr Razul advised that the premises opened on Thursday, Friday, Saturday, Sunday and some Monday's. If he was not on duty on any of these days then his wife was. He was always working at the premises however, on Saturday between the hours of 12:30pm – 04:30am (ie into Sunday).

As this concluded the submissions of both parties including all questions and answers, the Chairperson asked them to sum-up their cases.

Mr. Parry stated that he would be very brief. He asked Members to consider the nature of the application which was just for a one-off TEN. He asked therefore for Members to deal with what was before them, as opposed to what was not before them. He asked the Sub-Committee to also consider the evidence of what trouble had been experienced in and immediately outside the premises, primarily on the nights when previous TENS had been granted at Eden wine bar. He specifically asked this, as very little trouble indeed had taken place at the premises on such occasions, including previous Bank Holiday Sundays.

PC Ellis in summing-up, confirmed that South Wales Police submit that to approve the TEN would give rise to an increase in crime and disorder and public nuisance both at the premises and within the area where it is situated.

What should be of concern he felt, is that there has been an increase in occurrences since the current licence was approved with extended hours and the hours proposed are excessive.

With that in mind, he reminded the Sub-Committee that they had three options open to them as follows:-

1. Grant the TEN as it stands, however, South Wales Police felt that this would impact on the licensing objectives.

2. Grant the TEN with conditions transposed from the existing premises licence. However, South Wales Police saw little point in doing this due to the numerous offences which have been committed in relation to the conditions which have been substantially undermined at the premises.
3. Or issue a Counter Notice.

A Counter Notice would promote the licensing objectives and not add to the existing problems currently being experienced at the premises and in the saturation area generally.

This he concluded, were the reasons for the objection of the South Wales Police.

Members then retired to consider the matter further, whereupon on their return, it was

RESOLVED:

The Sub-Committee considered the application for a TEN for Eden Wine Bar on the August bank holiday, specifically for an event taking place from 00.00hrs hours to 04:00hrs on Monday 29th August 2016 with opening hours of 00:30hrs to 04:30 hours. They noted that this was currently a running business that operates with a license allowing it open:

Sunday to Wednesday:	12:00-00:00 – licensable activities – half an hour later for closing
Thursday:	12:00-03:00 – licensable activities – half an hour later for closing
Friday:	12:00-03:00 – licensable activities – half an hour later for closing
Saturday:	12:00-04:00 – licensable activities – half an hour later for closing

In essence, the TEN is to replicate the opening hours on a regular Saturday night / Sunday morning to the bank holiday Sunday night / bank holiday Monday morning.

Members also also noted the police objections to this application, being that allowing the TEN would undermine the licensing objectives of:

1. Crime and disorder; and
2. Public nuisance.

The Sub-Committee dealt with each of these in turn, but first, in considering the application they dealt with two preliminary issues:

The first being consideration of the Police representations and what can be admissible during the hearing. The Sub-Committee had raised concerns regarding the brevity of the police objections and the timing of these. Members noted that a document (a letter dated 22nd August) listing 20 incidents were served by the Police to all parties prior to the hearing on the 22nd August. As it was served prior to the hearing, it is admissible under the regulations and the Police were entitled to expand upon the objections during the hearing. The Sub-Committee however highlighted concerns that this document was not sent earlier providing the applicant with more notice. During the hearing, the Police attempted to reference further in incidents which were not listed in the aforementioned letter of the 22nd August. The Applicant's, through their solicitor, objected to this course of action. As such, the Sub-Committee considered the admissibility of the Police objections. It decided that although the letter of the 22nd August was brief, it was precise. The incidents are not referenced in any detail, and Members highlighted that they would like this to be done in future cases, however they noted the details provided

(being the dates and times) would have allowed the Applicant time to check his own records and to provide his Solicitor with instructions. As such, the Police were entitled to expand on these incidents and the Sub-Committee did not feel the applicant was disadvantaged by this, and he was able to respond. In the contrary however, Members were concerned that the Applicant had no warning regarding the incidents not listed in the letter of the 22nd August, and that this amounted to admitting new evidence. The Applicant objected to this evidence being omitted, and Members felt it should be excluded. They therefore proceeded with this decision basing their conclusions not on the two incidents in August 2015.

The second preliminary issue was one of planning. The Sub-Committee noted that the Police did not deal with planning law in any detail, however, as it was referenced Members felt the need to address it herewith. It noted that the planning and licensing functions of a Local Authority are separate, and Members accepted that a license can be granted with hours separate to those contained in any planning permission. This is expressly covered in the Statutory Guidance at paragraphs 13.57 (which confirms the planning and licensing regimes involve consideration of different (albeit related) matters and that Licensing laws and Sub-Committees, are not bound by decisions made by a Planning Committee, and vice versa) and at paragraph 13.58 (which confirms there are circumstances when as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes, where these hours are different to the licensing hours, the applicant must observe the earlier closing time.) Members noted paragraph 7.7 specifically relating to a TEN and highlighted this to the Applicant:

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

Having dealt with the preliminary issues, the Sub-Committee turned to the main issue, and in particular, the two licensing objectives the Police say would be undermined:

Crime and Disorder and Public Nuisance:

The Sub-Committee considered these under the same heading as in this case they were difficult to separate. The Police suggested that both objectives would be undermined due to the Applicant's current failure to comply with the existing conditions, and as evidence of this, they listed 20 incidents between 20th November 2015 and 5th August 2016. Members also noted that 10 of these incidents have occurred since the last TEN. The Sub-Committee had considered each incident in turn and noted both the account recorded by the Police and the Applicant's recollection of the facts.

It noted that on three occasions during the year there had been found a person, banned through the pub watch scheme, drinking in the Premises. Members noted the Applicant's explanation for this. It further noted the disturbances and affrays which had taken place either inside or outside the premises and also noted the Applicant's recollection of the facts.

The Police had indicated that they were not happy with the current situation and may review the premises licence in due course. The Sub-Committee were aware that today they were not dealing with a review application. They were however, aware that they were dealing solely with the TEN and whether allowing this, which is in essence an extra 4 hours on the current licence, would undermine the licensing objectives.

The Sub-Committee had further noted that there had been previous TENS. There were TENS granted whilst the old premises license was in operation during 2015, however, Members had only looked at the TENS that have taken place since the current licence was granted on the 22nd December 2015. Members had noted that there have been three TENS in 2016 as follows:-

28/3/16 – TEN to trade until 4am and open until 4.30am – there were no Police objections to the TEN and the Police log shows that there were no incidents that took place on the night;

2/5/16 – TEN to trade until 4am and open until 4.30am – there were no Police objections to the TEN and the Police log shows that there were no incidents that took place on the night;

30/5/16 – TEN to trade until 3.30am and open until 4am – there were Police objections to the TEN but the matter was resolved without a hearing following negotiations and the Police log shows that there were no incidents that took place on the night.

The Sub-Committee were not bound by what had happened previously, and considered the application on its merits, and as a stand-alone application. Even though the Police had not objected to the first two TENS of 2016, and had reached an agreement of the last TEN, the Sub-Committee would be entitled to give a counter notice today if Members felt the TEN undermined the licensing objectives. However, they felt it was important to note that in 2016 during the 3 TENS aforementioned, there have been no incidents recorded by the Police. It also noted that the only explanation given by the Police for objecting to this TEN and not the previous 3, was capacity in the Police Force and not a deterioration of the situation or an increase in the number of incidents at the premises. Bearing in mind that the previous 3 TENS look place without a recorded incidence, and the totality of incidents at the premises since May had not increased significantly (although the Sub-Committee did note an increase in July) it believed that allowing the TEN would undermine the licensing objectives of Crime and Disorder or Public Nuisance.

Dealing finally with the Cumulative Impact Policy, the Sub-Committee had considered this, and noted paragraph 13.30 of the Statutory guidance. It noted any rebuttable presumption created in relation to grant or variations, but further noted that this was a TEN. It had further heard the representations from the Applicant through his Solicitor that there would be no negative cumulative impact.

Taking into account all of the above the Sub-Committee considered that for the promotion of the licensing objectives aforementioned, it was appropriate to allow the TEN to go ahead, but it imposed the existing license conditions as far as practicably possible (it had provided a list to the Licensing Officer dealing with such conditions).

The meeting closed at 1:12pm