

**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.

**LICENSING ACT 2003 SUB-COMMITTEE (A) - FRIDAY, 25 NOVEMBER 2016**

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