

MINUTES OF A MEETING OF THE LICENSING ACT 2003 SUB-COMMITTEE (A) HELD REMOTELY - VIA MICROSOFT TEAMS ON TUESDAY, 4 APRIL 2023 AT 14:00

Present

Councillor M Lewis – Chairperson

A R Berrow

J E Pratt

Officers:

Julie Ellams	Democratic Services Officer - Committees
Stephen Griffiths	Democratic Services Officer - Committees
Andrea Lee	Senior Lawyer
Yvonne Witchell	Team Manager Licensing

1. DECLARATIONS OF INTEREST

None

2. LICENSING ACT 2003:SECTION 103 - TEMPORARY EVENT NOTICE OBJECTION TO NOTICE BY A RELEVANT PERSON 35 MARKET STREET BRIDGEND

The Team Manager, Licensing presented a report asking the Sub-Committee to determine an objection notice received from South Wales Police in response to a Temporary Event Notice served on the licensing authority.

The Team Manager, Licensing explained that on 21 March 2023, the licensing authority received a Temporary Event Notice (“TEN”) from Zahid Rasul (“the premises user”) in respect of the premises known as 35 Market Street, Bridgend. The premises was described as a late bar and nightclub and the TEN was to cover inside of the premises and beer garden. The event was described as “Good Friday” and was dated from 8 April 2023 through to 10 April 2023 inclusive. The TEN was seeking authorisation for the sale of alcohol and the provision of regulated entertainment for each of the days from 0300 to 0430 hours, Friday and Saturday and from 0030 to 0430 on Sunday. The premises was currently authorised for the sale of alcohol on Good Friday from 1200 to 0000, Saturday from 1000 to 0300 hours and Easter Sunday, 1200 to 0030 hours. The TEN served did not cover licensable activities taking place between midnight and 3:00 AM on Good Friday. A copy of the TEN was served upon South Wales Police and the Council’s Environmental Health team within Shared Regulatory Services. On 27 March 2023, South Wales Police submitted an Objection Notice to the licensing authority in relation to the TEN. A copy of the Objection Notice had been served on the premises user and was attached at Appendix A to the report.

Mr Rasul, the premises user explained that the TEN was requesting permission to serve drinks until 0400 will all patrons to leave the premises by 0430 so he was only asking for an extra hour for drinking.

The Team Manager Licensing replied that this was not clear from the TEN. Mr Rasul replied that that was how he currently operated and he would keep to it.

The Clerk to the Licensing Panel confirmed that the panel would consider the application on the basis of serving alcohol until 0400 and closing at 0430.

Mr Rasul presented his case. He explained that the TENs applied for last year were granted and he had a good relationship with the police. He was dismayed to find out that his TEN application had been refused this year and he only received the supplementary information regarding the offences at 9pm the previous day and so was unable to look at them until then. He explained that he only opened these premises on Saturday evening because there was not enough trade on Fridays. He believed that the times were "mixed up" in the supplementary information. He acquired the lease under his name, it had a separate VAT number and this was a separate entity to Eden, identified in the list of offences.

Mr Rasul commented on each of the offences listed below:

1. 2300087151 – 18/03/2023 - 04:31 hours

Report of an aggressive member of door staff assaulting patrons. Officers observed a member of door staff eject a male from 33/35 Market Street by the neck and throw him to the ground. As officers approached the incident, they witnessed the same individual forcefully push a second male to the floor. Officers immediately challenged the male person who instantly became argumentative and agitated. He stated to the challenging officer *"I do not need to prove my justification to you, I only need to prove it to the courts"*. CCTV was obtained and clearly shows the incident.

Mr Rasul explained that this did not relate to his premises because they stopped serving and everyone was out just after 3. This offence took place at 0430. This did not relate to number 35 because the incident took place an hour and a half after they had closed.

2. 2300087105 – 18/03/2023 – 03:29 hours

Male arrested for drunk and disorderly in a public place (Criminal Justice Act 1967)
The male was asked by officer's multiple times during the night to leave the town centre due to his behaviour. The male failed to comply with these requests and was located and stopped by officers outside Eden. The subject was clearly heavily intoxicated and became verbally resistant with officers owing to an associate being arrested for a separate, un-related matter. The subject male pushed and grabbed at officers conducting the arrest and was subsequently pushed away to which he responded with heightened aggression and active resistance. Owing to the subjects prolonged and escalating aggression officers took the male to the ground in order to gain compliance and he was subsequently arrested.

Mr Rasul explained that the gentleman was refused entry because he was intoxicated, and he could not stand up. Staff stopped the police and asked them to remove the gentleman. This had no bearing on number 35 because it occurred at 0329 and he had not even been inside the premises.

3. 2300087104 – 18/03/2023 – 03:19 hours

Report from door staff of a violent male refusing to leave.
The male subject was outside Eden nightclub antagonising patrons that were utilising the designated smoking area. The subject was asked to leave on several occasions by door staff however refused. Police officers have then asked subject to leave the area which he eventually did.
A short time later the subject was identified at the rear of Eden looking over the wall and was again asked to leave the area. Officers identified the subject back outside the front of Eden where again he was warned to leave the area, to which he responded by becoming verbally aggressive towards Police and door staff.

The subject was arrested for Breach of the Peace and Possession of Class A drugs (Cocaine) The subject fully admitted the offence in interview. Officers were called to deal with a second violent individual (23000871050).

Mr Rasul explained that they had been told to call the police if they needed to and they had. This male was also not allowed in and this did not relate to number 35. There were 2 separate licenses for these properties.

4. 2300063693 – 26/02/2023 – 02:05 hours

Report of a disturbance within the premises, males ejected and assaulted by door staff. The male victim states on the night in question he was out in Bridgend town with some associates. Whilst in Eden a scuffle broke out between some of his associates and another group of males which resulted in him, and his friends being ejected from the club. The victim states whilst he was being ejected, the owner hit him in the back. Later that evening the victim and his associates made their way back to Eden and were granted entry by door staff. However, moments after re-entering Eden another doorman came and asked them all to leave again due to them being previously ejected. The victim stated that whilst outside things got heated and the doorman struck him in the face. The victim admitted to a degree of intoxication but stated he was not 'too drunk'. The victim struggled to recall details of the incident when he was spoken to by officers. The victim was adamant he did not wish to make a formal complaint. Officer's observations from this particular incident refer to a member of Eden door staff causing repeated issues with members of the public and describes him as being 'heavy handed' and aggressive. No formal complaint made.

Mr Rasul explained that this was in Eden and there was no bearing on number 35. When he applied for TENs the previous year, the police did not object.

5. 2300055490 – 19/02/2023 – 02:42 hours

Report of a fight involving two males outside the front of 33/35 Market Street. Taser authority granted owing to weapons being used, one male arrested for possession of offensive weapon in a public place (Prevention of Crime Act 1953). Two males engaged in a verbal altercation with two males in a vehicle parked outside Eden. One male has kicked the door of the vehicle, both occupants have alighted the vehicle and a fight has ensued. No call was made to Police at this time as parties separated and there were no requests made for Police. One male involved proceeded to walk up Nolton Street, he was kicking walls and witnessed attempting to dislodge bricks at multiple locations. The male has made his way to Market Street where he has picked up a bottle from a windowsill and smashed it. The male has concealed the broken bottle neck in a pocket of his hoodie and gone back to the location of the earlier fight. CCTV operator have made door staff aware, where they detained him on floor.

Mr Rasul explained that from one end to the other there was a distance of over 100 metres. They could not stop people parking outside or walking past the premises. The police were still quoting 33/35 but these were 2 separate entities.

6. 2300021094 – 21/01/2023 – 03:21 hours

Report of assault outside Eden.
CCTV operators witnessed two persons leaving Eden who had become involved in a minor altercation with persons outside in the open area of the club. One of the individuals involved was holding a long case which was later found to contain a snooker cue.

CCTV maintained observations on the individuals in possession of the case (a male and female) They were seen to open the case and were now each holding half of a snooker cue. Both parties made their way back towards 33/35 Market Street where they began brandishing the weapon towards members of the public and swinging it around in an aggressive manner.

Officers immediately made their way to the scene where they identified persons involved who had started walking away. Officers detained both parties, the male person was placed into the rear of the police vehicle, whilst the female was detained in the street. The arrested male proceeded to lunge towards a police officer from the rear of the police vehicle and was subsequently detained on the floor.

The male involved in the above incident was at the time of the offence on the Bridgend Pubwatch exclusion list.

Mr Rasul explained that this related to Eden and not number 35. They did not open 35 for the whole of January so he could not see how this could relate to number 35.

7. 2300022135 -22/01/2023 – 02:30 hours

Report of a fight and hate crime – the victim has learning difficulties and has been punched.

The victim was approached by the subject whilst at the premises, the subject has followed him around the smoking area before an argument has ensued. The subject has proceeded to punch the victim to the face and shouted verbal abuse outside the premises referring to the victims protected characteristics (Learning Disability).

The incident was captured on CCTV, numerous attempts were made to obtain the CCTV footage of this incident.

Mr Rasul explained that once again this was outside Eden. CCTV footage had been provided both by email and handed in. This was still not Bar 35.

8. 2200127109 – 18/04/2022 – 03:04 hours (Easter Weekend)

Report of an assault - male had been punched, fallen backwards, hit his head and was unconscious.

Officers attended the premises due to a report of an assault, upon attendance the scene was described as chaotic as there were lots of persons gathering.

The reporting person RP explained she was a nurse; she witnessed the victim on the floor unconscious and door staff trying to pick up the victim drag him down the road. The reporting person intervened in order to stop door staff from moving him any further and he clearly needed medical attention. One member of door staff has said words to the effect of *“He will wake up now, it is only like a rugby injury don’t ring an ambulance”*.

The reporting person insisted the victim was put back on the floor and placed in the recovery position. When officers arrived the victim was awake, he appeared heavily intoxicated and was incoherent. The victim had blood around his mouth, a chipped tooth, and a small laceration to the back of his head.

Witnesses confirmed the victim had been punched in the face with such force he fell to the floor which resulted in him hitting his head on the ground.

The victim was conveyed to hospital for medical treatment, and he was later spoken to by officers. The victim was unable to remember any details of the incident including being assaulted.

The suspect was identified and subsequently upon his arrest he replied "*I haven't done anything, I'm only 16*"

The victim did not want to pursue a formal complaint.

Mr Rasul explained that this had taken place in April 2022. All TENS requested after that date such as for August Bank Holiday, Boxing Day, New Years Eve and numerous other events, had been granted. If this was so serious, why were they granted TENS for the remainder of last year.

9. 2200127690 – 18/04/2022 – 16:39 hours

Report of a spiking at Eden.

Victim reported she believed she had been spiked whilst at Eden. The victim was conveyed to hospital and blood tests identified a large amount of paracetamol in her system. The victim stated she had not taken paracetamol recently.

Urine sample tested - negative.

Mr Rasul explained that the boyfriend of the victim worked for a competitor in premises on the same street. She had a urine test and it was negative.

10. 2200291031 – 27/08/2022 – 04:31 hours (August Bank Holiday extension of hours granted)

Report of assault at Eden.

The victim stated he had been assaulted whilst at Eden when he was dancing with a female. The manager and door staff were spoken to on the night who advised no assault was witnessed.

CCTV was requested however officers investigating were told as a result of flooding numerous CCTV cameras were no longer working. Officers were advised there was no CCTV coverage upstairs.

The victim did not want to make a formal complaint.

Mr Rasul explained that none of the offences were for Bar 35. He had fulfilled all his obligations under the TENS granted last year. Not one of the offences applied to Bar 35. There were different licences and they had different addresses. Some of the incidents were logged following calls by door staff as they had been asked to do, if needed. He had a young lady who covered Saturday nights. She was very professional and well spoken as were her male colleagues. They had no intention of tackling people so called the police. Bar 35 had requested the same licence as for other premises in the vicinity. They had the opportunity to tap into the late economy. Bar 35 had a separate licence from 33. He had nothing more to add as none of the incidents applied to Bar 35. He had been in the bar trade for 23 years and intended to work with the police and the Council as they were all responsible for the safety of the community. He was not asking for any more than any other pub or bar already had.

11. 2200292065 – 28/08/2022 – 02:15 hours

Report of Door staff verbally abusing member of the public.

The reporting person stated door staff forcefully removed her partner from the premises and proceeded to call her derogatory names referencing her appearance. The reporting person was sober at the time of the incident due to being pregnant.

12. 2200316993 – 18/09/2022 – 02:30 hours (Queen's Funeral – TEN)

Report of an assault at Eden by a member of door staff.

The reporting person stated a member of door staff grabbed him by the throat and pushed him.
No formal complaint forthcoming.

13. 2200317232 – 18/09/2022 – 11:37 hours

Report of an assault and robbery.

The reporting person stated whilst he was walking through Bridgend town, he was approached by a subject who alighted Eden and proceeded to assault him resulting in a swollen lip, cuts, and bruising. The reporting person stated money had also been stolen from his wallet. The fight was broken up by door staff and not as initially reported as CCTV indicates the reporting person demonstrating a level of aggression. Over the Christmas and New Year Festivities when an extension to hours was granted the following incidents were logged

14. 2200431062 – 27/12/2022 – 03:53 hours (Christmas Period – TEN 23rd, 24th, 27th, 28th & 30th December)

Report of an assault by door staff at Eden.

The reporting person advised she had been accused of causing damage to a Christmas decoration inside the premises which she alleges was already broken. The reporting person stated management at Eden were hostile and aggressive towards her and attempted to pull her over the bar to assault her. The reporting person states she was forcibly restrained by a member of door staff until Police attended. This investigation was consistently frustrated and delayed due to the repeated requests for CCTV footage.

Officers documented numerous efforts to contact management at Eden to obtain the footage on the occurrence log which was never produced. On 17th February 2023 a warning letter was issued regarding the noncompliance with the specific CCTV license condition.

“The licensee must make recordings of images available on request to any officer of the South Wales Police in the course of their duties as soon, as is reasonably practicable. Therefore, adequate training will have to be provided to duty staff in order to comply with this condition.”

15. 2200431372 – 27/12/2022 – 14:06 hours

Assault and Hate Crime at Eden.

The reporting person advised he was assaulted whilst inside Eden stating he had been spat at and was subsequently ejected from the premises by door staff.

The reporting person stated he was told by Eden management that the CCTV would be secured, and a copy would be provided where necessary. The reporting person stated the persons involved in the assault against him also used derogatory language to his associate which were homophobic in their nature.

Despite numerous efforts the reporting person did not engage with the investigation process.

16. 2200432292 – 28/12/2022 – 14:32 hours

Assault at Eden.

The reporting person stated her son was attacked in Eden by a male person, who had spat in his face and threw him to the floor.

Victim attended hospital for his injuries and confirmed no broken bones. No formal complaint.

17. 2300000228 – 01/01/2023 – 02:23 (New Year’s Eve TEN)

Report of a fight at Eden.

Upon arrival of officers two males had separated, neither party would engage with officers, no formal complaint or injuries noted.

The Chairperson asked if the entrance doors for Bar 35 and Eden were next to each other. Mr Rasul replied that they were about 25 m apart, but they fenced an area off so that people could have a cigarette in front of Eden. The Chairperson asked if they had different door staff? He replied that they did and his staff started between 1000 and 1200 and were paid until 0330. The Chairperson asked if other premises in the vicinity had been granted TENS. The Licensing Manager replied that no one else had requested a TENS for Easter.

Mr Rasul added that no one else had applied for a TENS as their licenses already allowed them to do this. If he had the same licence as the other premises, then he would not need to apply for a TENS.

The Licensing Manager replied that Mr Rasul was not the premises holder for Bar 35 so he could not make an application to extend or vary the licence. Three premises including Eden had until 4 am and one until 4.30 and there was normally a 30 min wind down. There had been no previous applications to extend the hours. Mr Rasul explained that he had discussed this with the landlord of the premises and the previous Licensing Officer for the Police and was intending to submit an application. This changed when the current Licensing Officer for the Police started, and the plans were shelved. The Licensing Officer for the Police advised that they determined each application on its own merits.

A panel member asked what the capacity was for Bar 35. Mr Rasul replied that it could hold 299 inside and a further 100 in the smoking area so 300 in total. There were usually 2 door staff however on bank holidays he would employ extra door staff to bring it up to 4.

The panel member asked if there was any internal link between 33 and 35. Mr Rasul replied that there was not. He was then asked if they would move bar staff between 35 and Eden if one was busier than the other? Mr Rasul replied that he had never come across that scenario. He always made sure that there were enough staff and stopped people coming in, if not. The panel member asked if they used a security firm or employed door staff directly. Mr Rasul replied that they used a number of companies as there was a shortage of door staff at the moment. He then asked if the private companies moved staff on behalf of their personnel. Mr Rasul replied that they would not because they were different companies.

A panel member asked how many premises had licenses until late. The Licensing Officer replied there were 4 companies with a licence until 4 and 1 with a licence until 4.30. Mr Rasul confirmed that most weekends there were between 75 and 80 people in Bar 35.

The Licensing Officer for the Police asked if Mr Rasul could confirm that the entrance to 35 was via Eden and that the entrance door was actually utilised for access to the smoking area. If people from Eden wanted to access the rear beer garden, they had to go out of Eden and into 35 as there was no direct access. That was the difficulty and the reason why officers recorded all incidents as occurring at 33/35 Market Street. Mr Rasul replied that the main entrance for Eden was to one side and Eden was open Friday, Saturday and Bank Holiday Sunday. Bar 35 was only open on Saturday nights as there was not enough trade for Friday. If Eden had thrown out someone for bad behaviour they would come straight into Bar 35 which was a problem. They had temporarily closed the entrance in January and February to monitor bad behaviour. Bar 35 had a younger crowd than Eden which attracted an older crowd. Bar 35 was only open from 1200 to 0300 and patrons had the option to go around the front to go to Eden.

The Licensing Officer asked Mr Rasul to confirm that Bar 35 was shut in January and February and that there were no door restrictions on Bar 35. Mr Rasul confirmed that this was correct and that this year, he hadn't opened on more than 4 occasions. It was common sense to have door staff in the current climate.

A panel member explained that the panel had been told by Mr Rasul that there was no direct access but there was an internal door. If the access to Bar 35 was via the same access as Eden then he could see how it was difficult to distinguish between 33 and 35. Mr Rasul replied that the entrance to Eden was at the front and there were 2 door staff. When you walked in you could turn right for Bar 35. On bank holidays this would have its own entrance because both venues would be busy. When you left Bar 35, you could walk along the smoking area and go back inside Eden by joining the queue if there was one. There was no way internally to go into Eden.

The Licensing Officer for the Police stated that this was one entity and it was run as one premises. Mrs Rasul was the DPS in Eden and Mr Rasul was the DPS for Bar 35. People went in between both. She was confused because Mr Rasul had said it was very quiet and yet his first comment was that he was very busy. There were 2 licences but it was run as 1 premises. Some incidents from Eden referred to the beer garden at the rear of Bar 35. Incidents and occurrences were happening in the vicinity of Market Street outside 33 and 35 and police focussed on that area, and this was confirmed by CCTV.

Mr Rasul replied that he was used to serving 25 people and in that context, 80 people seemed busy. They all came out of Eden at 4.30 but Bar 35 shut at 3. People leaving the Rhiw would walk down Market Street to go to Dragon taxis where they would then gather, and some altercations would take place. He was astounded that people walking past would then be linked to his premises. He explained that an assault could look completely different on CCTV and gave an example of this. His staff were advised to call the police if required but these calls were being logged against him rather than as a way of working with the police.

The Licensing Officer for the Police explained that with regard to the footfall and Dragon Taxis, when incidents were reported they checked to see if they were linked to the premises and only those occurrences that were directly linked were identified as relating to 33/35 Market Street.

The Licensing Officer for the Police then put her case forward. She explained that she was representing South Wales Police at the hearing for the objection to the TEN submitted by Mr. Rasul for 35 Market St. Bridgend, for the extension of hours on the 8th to the 10th of April 2023. She explained that the police had an obligation or duty to prevent crime and disorder and to keep the peace. The number one priority for South Wales Police was to reduce and prevent crime and disorder and antisocial behaviour, to keep people safe in their homes and communities. The whole ethos of the Licensing Act was built around the four licensing objectives including protecting people from harm, keeping them safe and preventing crime and disorder and public nuisance. South Wales Police had concerns regarding the number of crime and disorder, public safety and public nuisance calls within Bridgend Town Centre, particularly Market Street, which were linked to the late-night economy. 35 Market Street was located in the heart of Bridgend and was managed, along with Eden at 33 Market Street, by Mr and Mrs. Rasul. Mr. Rasul was the DPS at 35 Market St. and Mrs. Rasul was the DPS at 33 Market St. As previously discussed, 35 Market St. shared a communal entrance with Eden Bar and Lounge which was number 33. Mr Rasul had admitted that you could go freely between them both and that was evident in calls they had received. Officers logged all incidents against them both as it was impossible to assert in which premises an incident had occurred. The objection to the extension was a necessary and proportionate response in relation to this temporary event notice.

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Between the dates 19th of February and 18th of March 2023, there were five separate incidents inside and outside the premises of 33 and 35 Market St. Bridgend, all of which occurred after 02:00 hours. Concerningly incidents also included members of staff.

The Licensing Officer for the Police read out the details of the offences numbered 1 to 17, from the supplementary information, as discussed earlier in the hearing. She added that since the beginning of 2023, there had been 17 incidents linked to the premises. Of those 17 calls, 11 occurred after 2:00 am and a number of incidents included extreme violence and or intoxication. A number of incidents happened on dates when extensions of 2 hours had been granted or during key dates such as bank holidays. She concluded that South Wales Police could not support a premises further extending the sale of alcohol hours with the current levels of disorder, intoxication and violence. Added to this was the lack of support, specifically the repeated failure of management in producing CCTV footage, which was often essential in detecting and solving criminal behaviour.

A panel member asked if there were problems like this outside any other clubs. The Licensing Officer for the Police replied that they did not see the same level of disorder, as on Market Street, outside other premises. There were incidents but not on this scale.

With regard to not providing CCTV, the Clerk to the Licensing Panel asked why the Police were not enforcing these conditions on their license. The Licensing Officer for the Police replied that they had just received a warning in February, and if it happened again, they would continue to escalate. There had been 3 warnings and the last one was a formal written warning that was hand delivered to him by officers on the 17th of February. CCTV had not been requested since, but any further breaches would result in a review.

A panel member asked how many police officers would be in the Market Street area on the forthcoming weekend. The Licensing Officer for the Police replied that it depended on resources available. Every Friday and Saturday, they had Raven and there were dedicated officers deployed to the town centre to cover the Raven shift. It also depended on officers having overtime and other resources subject to calls coming in.

Mr Rasul responded to the information provided. He stated that unfortunately, there were no statistics regarding any other premises except Eden and Bar 35. CCTV had been requested twice. The assault was a 6ft 2 female punching his 50-year-old, 5ft 4 wife in the head. That happened in December, and they had a recording of it. The Police failed to download the incident from their email. He added that he had had one written warning.

With regard to the door staff, Mr Rasul outlined the incident and that it was reasonable force and that he had footage showing this and CCTV had been provided. They just need to download what had been sent.

He was fed up with people accusing him of something that was untrue.

The Licensing Officer for the Police replied that every occurrence was logged not just those relating to his premises. There were no complaints of assault regarding Mr Rasul's wife and if it had been recorded on CCTV he could still make a complaint and they would investigate it. She provided the dates and times when the CCTV had been requested and confirmed that there had been no response.

Mr Rasul provided information on how he had responded to the requests.

The Licensing Officer explained that they no longer required the information on USB sticks as they had a new system.

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The panel then retired to consider the application.

Decision of the Sub Committee

The Sub- Committee have taken into consideration the guidance, together with Section 182 of the Licensing Act 2003 and the Licensing Objectives under the Licensing Act. The Sub Committee have also taken into consideration the representations from the Police and the Applicant.

The Sub- Committee have found that there are problems that relate to crime and disorder and public nuisance at Eden and Bar 35. The Sub- Committee have taken into consideration the representations made by the Applicant that they are run as two separate premises however patrons often gain entry to the two premises by the entrance to Eden and both premises are run by Mr Rasul and his wife. The Sub- Committee have therefore determined that on the balance of probabilities that not all incidents reported can be attributed solely to Eden Wine Bar and not Bar 35.

The Sub- Committee have determined that if they allowed the event to go ahead this would undermine the licensing objectives and as such have resolved to give a counter notice to the Applicant.