

LICENSING ACT 2003 SUB-COMMITTEE (A) - THURSDAY, 5 OCTOBER 2023

MINUTES OF A MEETING OF THE LICENSING ACT 2003 SUB-COMMITTEE (A) HELD HYBRID IN THE COUNCIL CHAMBER - CIVIC OFFICES, ANGEL STREET, BRIDGEND, CF31 4WB ON THURSDAY, 5 OCTOBER 2023 AT 12:30

Present

Councillor M Lewis – Chairperson

MJ Kearn

J Llewellyn-Hopkins

Officers:

Julie Ellams	Democratic Services Officer - Committees
Stephen Griffiths	Democratic Services Officer - Committees
Andrea Lee	Senior Lawyer
Michael Pitman	Technical Support Officer – Democratic Services
Yvonne Witchell	Team Manager Licensing

8. DECLARATIONS OF INTEREST

None

9. LICENSING ACT 2003 SECTION 51: APPLICATION TO REVIEW PREMISES LICENCE, EDEN, 33 MARKET STREET BRIDGEND, CF31 1LJ

The Team Manager, Licensing presented a report to determine an application received from South Wales Police to review the premises licence for the premises known as Eden 33 Market St, Bridgend. An agenda and a bundle of papers had been circulated prior to the meeting. South Wales Police were the responsible authority for the purposes of the application. The premises licence LP740 was jointly held by Zahid and Saima Rasul and a copy was attached at appendix B to the papers. Saima Rasul was the Designated Premises Supervisor.

The Team Manager Licensing confirmed with both parties that they had received the additional information submitted by both parties. South Wales Police had submitted a bundle numbered ASD1 to ASD15. Mr Phipps, the representative for the Premises Licence Holder, had submitted CCTV images, a plan and a plan showing the location of the CCTV cameras. She asked if either party proposed to introduce any additional written material at the meeting and they both replied that they did not.

The Team Manager explained that the application had been given public notice and no other representations were received. The steps they could take were outlined within the report along with the relevant sections of the Licensing Policy and the Home Office Statutory Guidance.

The Legal Officer explained that Members had read the papers and asked the Licensing Officer for South Wales Police (SWP) to bring out any salient points that needed to be highlighted.

The Licensing Officer, SWP explained that initial representations in the form of the application to review the premises license were contained in the bundle. Supporting information in the form of warning letter, emails and NICE Investigate information were on pages 19 to 30. In addition to the original supporting information on pages 19 to 30, there was further additional supporting documentation in the form of statements, emails and other documentation which was forwarded to licensing on Wednesday 4th October 2023. She explained that the police had an obligation and duty to prevent crime and

disorder and to keep the King's peace. The number one priority for SWP was to reduce and prevent crime and disorder and antisocial behaviour and to keep the communities of South Wales safe. The whole ethos of the Licensing Act was built around the four licensing objectives, the prevention of crime and disorder, the protection of children from harm, public safety and the prevention of public nuisance. The promotion of these licensing objectives was a paramount consideration at all times. Although the local authority and police licensing were always a source of advice and support in understanding all legislation, it was ultimately the business operator's, responsibility to ensure that steps were put in place to comply with the law and to ensure licensing conditions were adhered to. In this case the responsibility lay with the Premises Licence Holders, Mr Zahid Rasul and Mrs Saima Rasul. Mrs Rasul was also the Designated Premises Supervisor (DPS).

SWP had brought the Premises Licence for Eden, 33 Market Street Bridgend to review due to the persistent breaches of the CCTV conditions. The Licensing Officer, SWP read the CCTV conditions of the premises licence to Members, as contained within the report under "grounds for review".

The Licensing Officer, SWP had been privy to information relating specifically to Eden, Market Street, Bridgend and three separate incidents. This information had been provided through public information, public reporting and police officer evidence. The Licensing Officer read to the panel, the details of each incident, the log updates and the attempts to obtain the CCTV footage, as contained within the report.

With regard to the first occurrence, the investigation was still ongoing but delays in obtaining crucial evidence such as CCTV had a detrimental effect on the case and those involved. The second occurrence related to a potential serious sexual assault, with a male currently on bail whilst the incident was investigated. CCTV was finally provided on Friday 28th July 2023, some 4 weeks after the first request on 4th July 2023, however, the quality was poor. CCTV was requested from Mr and Mrs Rasul numerous times, before eventually being provided. The third occurrence was one of criminal damage and was reported by Mr Rasul.

The Licensing Officer, SWP explained that the failure to provide CCTV was a significant and worrying breach of the Premises Licence. This failure had shown a complete and utter disregard to the prevention and detection of crime and the Criminal Justice System in its entirety. It also impacted the time wasted by officers trying to obtain CCTV to investigate reports. This had a significant cost implication on the public purse and officers were unable to utilise their precious resources on other matters. It was of serious note that these breaches were not the first instances of breaches by the licence holders.

Mr and Mrs Rasul had received a number of emails requesting they comply with their CCTV conditions and had also received a warning letter from the CSP Inspector (Appendix A1) which was contained in the original bundle, dated 16th February 2023 and hand delivered to Mr and Mrs Rasul on 17th February 2023. It seemed that they were reluctant to assist SWP with investigations, including when they had reported incidents and were themselves potentially victims of crime.

The Licensing Officer, SWP explained that the premises licence already had such a strong and robust CCTV condition so it was impossible to add anything further that would ensure Mr and Mrs Rasul provided CCTV. The concerning element of this review was that the incidents of failure to provide CCTV or provide in a timely manner were following Mr and Mrs Rasul receiving the warning letter from the CSP Inspector. The warning letter was received due to the same failing to provide CCTV of an incident involving Mrs Rasul. The Licensing Officer, SWP explained that the incident was one of criminal damage and racial abuse. Details of the incident were included in the additional

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documentation provided (ASD 9) and in an email trail (ASD10) (dated 13/01/2023) and were read to the panel. Mr Rasul stated he had CCTV, and stated he would release it on Facebook but failed to provide the footage to South Wales Police, even after numerous requests, until it was finally received by SWP in April 2023.

The Licensing Officer, SWP explained that this was another example of breach of CCTV where officers had continually requested CCTV, wasting officers time and seemingly putting barriers in the way of investigations. She referred to ASD 13 in the Additional Supporting Documentation which detailed further incidents surrounding CCTV breaches. From the details it could be seen that there were blatant breaches in not providing CCTV, an incident where CCTV was not fully operational and an incident where a member of the public had been shown footage.

The Licensing Officer, SWP referred to one last incident which was contained in Additional Supporting Documentation ASD13, where it showed the lack of cooperation in providing CCTV could result in a perpetrator not being identified and the case closed. She added that there was an error on the dates on this occurrence and that the year was 2022 not 2023. She read details of the incident to the panel.

The Licensing Officer, SWP explained that there had been stages of inconsistent compliance during short periods. This brought the behaviour of the licensee into further investigation from a departmental stance, as it was clear that they were able to identify their shortcomings but unable to remain compliant and adhere to the noted conditions. CCTV was the beating heart of the identification tools utilised by the Criminal Justice System. Not only was it used in detecting crime or identifying offenders, but also in protecting those wrongly accused and providing police with the impartiality of their investigation. In explanation to the process of obtaining CCTV, requests for CCTV were made via NICE Investigate which was a link sent to an email. There was no requirement for premises to purchase discs or USB sticks, however premises could provide CCTV by downloading on to disc or USB should they wish to.

The Licensing Officer, SWP stated that it was the viewpoint of the department that there was no excuse for the failure to provide CCTV. Not providing CCTV as per condition of licence was detrimental to the investigating of crimes, some of which were of an extremely serious nature. It also played a part in allowing perpetrators to go unidentified. It was evident that Mr and Mrs Rasul had little or no regard for the safety of their patrons or the apprehension of offenders, there was also no regard for the laws surrounding the Licensing Act 2003 or conditions of their premises licence. SWP had no alternative but to request the revocation of the licence.

A panel member asked if the Licensing Officer, SWP thought that the lack of CCTV would affect the outcome of the cases they were investigating. She replied that you could not argue with something on CCTV. It identified subjects but also protected those that had been wrongly accused. Sgt Daniel Parry added that as police officers, they were impartial investigators and the role that CCTV played in impartiality was so impactive. He could not emphasise that enough in this hearing.

A panel member asked if they felt that a lot of time and resources had been wasted in the time spent chasing the CCTV footage. The Licensing Officer, SWP replied that as in her representations, there was a huge amount of officer time wasted, continually trying to obtain the CCTV. It was not just officers on the ground, it was Sergeants and Inspectors and had a huge detrimental effect on the public purse.

Sgt Myfanwy Beaumont added that it was not only impacting victims of crime, but also individuals that they had on bail for offences which they may or may not have committed. With regard to not complying with this CCTV condition, there was a much

wider ripple effect which did not impact just one or two people. Some of these crimes were fairly straightforward in their nature. They shouldn't be taking months, simply because officers could not get their hands on very straightforward pieces of evidence.

There were no further questions. Mr Matthew Phipps, the solicitors acting on behalf of Mr and Mrs Rasul asked for a 2-minute break.

The Hearing reconvened at 13:30.

Mr Matthew Phipps, TLT solicitors introduced himself and stated that he was acting for and on behalf of Mr and Mrs Rasul, who were there with him.

Mr Phipps explained that Mr and Mrs Rasul had had the premises since 2015. It was a well-known night club venue in Bridgend.

They had a neighbouring business called Bar 35 in immediate proximity to the premises. They employed 4 door staff. Mr Rasul was almost always at the premises and Mrs Rasul was also there regularly. They employed 3,4, 5 or six door staff depending on the risk assessment and 2-disc jockeys. Predominantly the premises opened for customers at about 10:00pm on Friday, Saturday, and Bank Holiday Sunday, trading as per the hours of operation for licenced activities. Generally, customers came after midnight and in terms of operating numbers, they were looking at about 150 people on Friday and up to around 200 on Saturday.

Mr Phipps referred Members to page 3 of the agenda where it stated that no other representations had been received by any responsible authorities, residents, councillors or the authority themselves. The case was fairly summarised at paragraph 3.3 as a failure to provide CCTV as per police requests. There were a number of times when they had not in any way delivered to the standard expected. They needed improve their position around the CCTV provision. It was important to say that from the outset. In the majority of cases, the failure to provide CCTV was more failure to provide CCTV as quickly as it should have been, not a failure to provide it at all. Appendix A of the report referred to predominantly 3 incidents of issue and concern that the police had taken some time to articulate, one about criminal damage, one about the concern about the conduct of some Asian males in the premises and one about a sexual assault away from the premises, but investigations suggested that the individuals had been together at the premises.

Mr Phipps referred to the incident of the 1st of July, set out on page 10 of the report. CCTV was slow to be provided but it was also right to highlight that on the 21st of July, officers had attended the premises, viewed the CCTV and reported back in connection with that. They had attended with Mr Rasul, who they visited and spoke with. The failure to provide the CCTV was unfortunate, but the CCTV provision was not straightforward. Within the papers, Mr and Mrs Rasul mentioned Nice links falling off and on page 30 of the report, there was detail of the Nice links that had been provided. A link effectively lasted for a couple of days and had to be provided in that window. He entirely accepted the reference to that period being extended upon request in connection with one of the events. The premises were closed Sunday, Monday, Tuesday, Wednesday, Thursday, so requests, phone calls, attendance on many of those days would achieve nothing. This was not his clients obstructing or wanting to be awkward about the provision of CCTV.

Mr Phipps referred to a second incident about the concern about Asian males in attendance. This was raised with the Licensing Officers at the Pub Watch meeting on the 10th of May. They explained that they had had some concerns about their conduct, not criminal activity but concerns about their conduct. They also advised that they had viewed the CCTV and there was little to report on the CCTV but that they had quite

properly raised with them their concerns. There was reference to Nice links expiring and so forth but the CCTV was uploaded, albeit later deemed to be insufficient. The text at the top of the police application was internal text to the police. This issue, as far as they were concerned, was something that they raised in good faith with the officers and it was right that they did not turn the request for CCTV around, but they had viewed it and had taken the view that there was not much in it. It was not their understanding that this was the investigation of any crime, because they had raised it. Page 13 of the report shows that the request was for footage from all cameras between 2:00am and 4:00am. He referred Members to the plan and the CCTV snapshot image that had been provided within the additional papers, effectively given a snapshot of each camera. There were other attachments and a map plan of all the CCTV cameras and where they were situated.

Mr Phipps referred to a third incident set out in the application, which was the criminal damage allegation. They were the victims of that allegation and CCTV was provided, albeit slowly and late, and despite a number of requests. On this occasion when the incident happened, they called the police. They detained the individual. The officers did not use their body, worn video themselves, and they thought he was clearly identified as being the perpetrator. They had understood on the night in question that he had accepted what he had done. Officers visited in the interim period, they had a conversation with officers and explained that the person had been detained on the night. Their understanding was that that was sufficient. There had earlier been a suggestion that there was a concern about one of the individuals who was a witness, later being employed by them. He could not see what was wrong with that. They obviously employed from the local community and people took jobs with them who knew the premises. They did not want to engage or pursue this, and they should have told the police earlier that they did not want to pursue this. It was directed toward the premises and ultimately Mr and Mrs Rasul, not to be used as part of the application seeking revocation of the licence, particularly when CCTV had been provided, albeit late.

Mr Phipps explained that the application on page 17 of the report referenced the refusal of two temporary event notices, one for December 2021 and one for the 28th of March 2023. They did not believe that this related to these premises but to number 35, their other premises. He could not understand why that had been included in the papers. With regard to the additional material that was served the previous afternoon, he questioned the legitimacy of that material and the degree of reliance that they could put on that additional material, which had typo errors about the year in which the event occurred. In terms of the warning letter, they recognised that they had not been getting the issue right. The CCTV provided in connection with this was actually provided before the letter was signed off, although they accepted that it was later provided again. There was a failure to attend Pub Watch for a period but since February that had been attended to. The warning letter was fairly setting out some concerns. There was a failure to ensure that they were as up to date with the people who were excluded on the banned list within the Bridgend Pub Watch. Photographs had since been provided and effectively displayed by the door so that staff could be aware of who was to be banned. GDPR intervened and now there was an app and materials provided. He accepted that they staff had not been good at this in the past. They had now improved and were in good order since the warning letter.

Mr Phipps referred to the CCTV condition on page 35 of the report which was the focus of police attention. The condition says that they need to be capable to download CCTV recordings in a recordable format, either to disc or USB. There was no reference to the NICE reporting protocol. If it was being suggested that the condition was being breached, then officers/ solicitors should reconsider that condition. It should also be upon lawful demand for investigation of a crime. He asked the panel to reflect on this, particularly in respect of the second of the incidents where there were concerns about

the conduct of the Asian males and whether they were acting appropriately. With regard to the other conditions which governed the licensing objectives, CCTV apart, there was nothing in the evidence to suggest that any of those conditions were being breached, undermined or not satisfied or complied with.

Mr Phipps explained that on 22nd June, two Licensing Officers inspected the premises. They requested that some notices were replaced and apart from that the premises was given a completely clean bill. In terms of the CCTV request, this application was made nine weeks ago and there had not been any suggestion that there had been a failure to comply with CCTV requests in that intervening period. There had not been any requests for CCTV in that nine-week period and this reflected how the premises was operating. He added that they had had requests for CCTV on the 22nd of January, delivered 28th of January, 31st of March delivered 5th of April, 23rd of April delivered 5th of May, 30th of April delivered 9th of May, 18th of June delivered 10th of July, 15th of July delivered on the same day, so they were able to deliver. Receiving a review made them take stock and consider whether they were doing everything that they should be doing. The premises merited a review, having had warnings and failed. Having reflected on their ability to deliver, they had introduced a number of improvements. The CCTV system had been serviced, overhauled and the plans provided both the images and the position of the 19 cameras showing this was a comprehensive system. There had been training for members of the team, Mr and Mrs Rasul, their two sons and their daughter. One of the issues they faced was that if people were away, then it was not attended to because not enough people could access the system and provide the material. How to upload to the link system had also been a feature of discussions although they had not had the chance to put that in practice in the last couple of months. Additional keys had been provided for everyone so that access to the premises could be gained at any time by any of them. They believed it was a good system fit for purpose.

Mr Phipps stated that in terms of the additional materials that had been provided the previous afternoon by the police, whilst perfectly legal it was a slight irony that materials were being provided nine weeks after the review application was made, the afternoon before the licensing hearing. ASD15 appeared to stray into new areas that had not been incorporated within the application itself. It appeared to be a list of incidents and issues at the premises through the course of 2023. This was a summary document produced by the police without any CAD or NICE reports being provided. Only seven of these incidents referred to Eden and he provided the dates, 24 September, 9th September, 15th July, 29th April, 1st April, 26th February, 22nd January. It was unclear whether these actually related to Eden as Eden was the calling point in that part of town when reporting or recording an issue. He questioned the degree to which the late material could be relied upon when making their decision. A number of the incidents portrayed the premises in a responsible, transparent manner promoting the licensing objectives. There were a number of incidents where drugs had been detected on the door. The person had been detained, the police had been called, the individual had been dealt with as on 24th of September where the police were involved and they were engaged. That showed they had nothing to hide. They were engaging with the officers as per all good Pub Watch protocol. This document painted the premises in a very different picture to the position that they had heard that morning. He asked if it was a fair conclusion that the premises was hopeless and undermining the licensing objectives. They had a particular area where they needed to improve but were not in a position that could be described as the end of the road to merit revocation of a licence and ASD 15 was the best evidence of that.

Mr Phipps added that there was reference to some of the failings in the papers provided the afternoon before. Some of this was in 2022, a year ago. CCTV was being dropped in, uploaded, received and so forth. The other point to make about the period since the review was that the premises would have been monitored closely, both during the

consultation period and the time since the review consultation period closed. There was no evidence that they had continued to fail. There was nothing to suggest that the premises was anything other than in good order. The national guidance stated that co-operation at a local level in promoting the licensing objectives should be encouraged and reviewed, not be used to undermine this cooperation. The use of AD15 as a means of suggesting the premises was not in good order, this issue aside, was unfair. He was unaware of any reference to revocation before the start of the hearing that day. Revocation meant that there was nothing about the operation of the premises that could be remedied. That included consequences such as the loss of jobs, loss of entertainment venue, closure of the business, etc. Reviews were not about punishment, and they were not in court being prosecuted. It would be difficult to see how they could be prosecuted because the condition was not as tightly worded as it should be. They recognised that valid points had been raised but what was being requested was a punishment for previous failings. They were there to find resolution to help promote the licensing objectives at this premises and sorting the CCTV was the obvious point. Licences were respectfully not revoked for that. They were revoked for the most egregious failings, where there was very significant consequence, not late or modest delivery of CCTV.

A panel member asked if it was appropriate that the police had to wait almost up to a week for evidence, particularly if a serious crime had been committed on a Saturday, because the premises were shut on Monday, Tuesday, Wednesday and Thursday. Mr Phipps replied that it was not appropriate and that he was providing an explanation why the premises was shut.

The panel member asked if they had addressed the delay in giving the CCTV to the police when requested? Mr Phipps replied it was a slight irony that they had not had any CCTV requested in the last nine weeks. They were prepared that if CCTV was requested, they needed to demonstrate that they could deliver to the standard required. In terms of the additional training, the servicing of the system, the repositioning of the camera to make sure that the whole of the premises was in order, the additional keys to assist lock up, the training on the USB stick, the dialogue and discussion they had had about the NICE upload, they had not been able to do it in practice because they had not had a request.

The Chairperson asked why some CCTV was submitted straight away but others were taking weeks and asked why it was not standard practice? Mr Phipps replied it should be but sometimes, because of working patterns or holidays, the size or the volume of the CCTV that had been requested, whether it was 19 cameras for two hours or whether it was a clip to show someone attending or not attending the premises, the fundamental point was that they had to be able to do it consistently time after time.

Mr Rasul added that that was totally correct. They had done it time after time but on this occasion, they had taken their eye off the ball. They had now put their house in order. Unfortunately, in the last nine weeks, they had not had a chance to prove it. They had been there since 2015 and it was only now that they had got it wrong. They had never been in that situation and would not get it wrong again.

The Licensing Officer, SWP raised a few observations. They had been at this stage before after the warning letter in February 2023. Mr and Mrs Rasul complied up until May and now they were back in the same position again. As in her report, these breaches had been going on and on. Her report only went back to January 2022, but you could see consistently from January last year, they had had the same issues. With regard to the NICE link, the date of expiry was put in by officers. It could last a week or 2 as the officer could insert the date. Officers knew the premises were shut in the week

and quite often they would extend the last link that was sent. It was easy to extend and could be done via a phone call.

The Licensing Officer, SWP explained that the complaint with the Asian males was brought up in Pub Watch, but it was actually a complaint made by a member of the public. The actual call that came in was noted on the application form. It was discussed and Mr and Mrs Rasul also raised it. The complaint had come from some young females attending the club. With regard to the information relating to the TENs, the information was for number 35 however everyone knew 33 and 35 were in Eden. They were run as one and the same and there was access back and forth through the same smoking area into 35. All occurrences that happened were logged against Eden. If you looked at a police report, it looked like nothing ever happened in 35 because it was known as Eden. Number 35 had the smoking area at the back but could not be accessed through number 33 but occurrences in the smoking area stated it was Eden. That was the reason for including the TEN information.

The Licensing Officer, SWP explained that with regard to CCTV conditions, Mr Rasul's licence was from 2015. They did not have NICE Investigate in 2015 and originally CCTV could only be provided by USB or disc. It was not feasible for the local authority to change every licence within the County Borough of Bridgend to update their CCTV condition to include NICE links. NICE links had been going since the beginning of last year as evidenced in other occurrences. With regard to the late circulation of the additional information, unfortunately due to operational reasons and short staff at the moment, they were a licensing officer down and it had been impossible to get that information through any quicker. It was a battle to get it in yesterday. Obviously apart from doing this review, they still had day-to-day duties to be covered. ASD15 was there to show they were impartial. They were not hiding anything. Those 36 occurrences were linked to Eden. There were fifty occurrences where Eden was down as the address and she had checked them individually to ensure they were linked, which added to the delay. There were fourteen that were not directly linked and they had not been included. Of the 36, only four of those incidents happened before midnight. If Mr Rasul was failing to provide CCTV, then they had concerns about the premises being open when it was getting busy and when these occurrences were happening. This had been happening for a long time and they had tried to work with Mr and Mrs Rasul with emails through to warnings. They would comply for a time then it would fall back to the same old pattern. They seemed to pick and choose which CCTV they would send and which they would not. That was her observation as a Licensing Officer.

Mr Phipps replied that the admission that the information contained within the papers touched on a different licensed premises, with a separate premises licence and a separate premises licence holder was extraordinary. He expected the comment about the TEN to be yes, sorry incorrectly included. He suggested there was a contamination within the evidence and that a number of these incidents might have occurred at a different licensed premises. Each application was to be determined on its individual merits. The late evidence needed to be treated carefully, because by the officer's own admission, they had not differentiated between this and another licensed premises which was not before then for licensing review.

In terms of the acceptance that these conditions had been around for a while and did not include NICE Investigate report, that did not mean that by failing to provide a NICE, you were in breach of this if the conditions had not been changed. Premises could be invited to undertake a minor variation and amend the condition in line with current thinking. The minor variation procedure was set up for this purpose.

With regard to the timing of the additional information, Mr Phipps respected the point about resources however ASD14 was dated 22nd September, ASD7 was not dated, ASD6 was not dated and they were not in a statement format. They did not have any

sign off and were Word documents with text. Reference was made to the witness statements, but he did not accept them as witness statements and the witnesses were not there. He accepted that ASD15 was produced to demonstrate the neutrality and objectivity of the officers, but it did not explain why revocation was being requested. It was clear from that document that the premises were working across a variety of the licensing objectives and issues that were faced in a night-time economy in an entirely appropriate, transparent, proactive manner. This premises needed a severe reprimand, and this review had caused them to reflect. The review itself, the service of the paperwork, had promoted the licensing objectives. The panel were not there to punish, they were there to find the best means of promoting the licensing objective and that was the appropriate approach.

Sgt Daniel Parry explained that they were not there to review shortcomings. They came to review what they believed as a police service, was a serious breach of the Licensing Act. As a police service, this was an opportunity to send a clear message that the level of breach would not be tolerated, to give reassurance and safeguarding for their communities and especially the most vulnerable victims of crime. There were also alleged perpetrators, so it was the full demographic of the public. From the police point of view, there had been a total disregard for the Criminal Justice System and the Licensing Act and the cherry picking almost of how CCTV was provided. As a police service, they had attempted to engage with the subjects but they had failed to repay on numerous occasions. Police officers from all over the local community, from response officers, PCOSs, officers and Detectives of the Criminal Investigation Department and then the Licensing Team as a whole, when looked at in totality, they demonstrated the subject's propensity for breaching the Licensing Act.

The Licensing Officer, SWP stated that as in the evidence submitted, representing SWP it would be remiss not to bring this review before the panel to request revocation of the premises licence for Eden, 33 Market Street, Bridgend.

SWP believed it was proportionate and just to request the revocation of the premises licence for Eden, however, they were mindful if the panel did not feel it was appropriate then SWP requested that the hours of trading were reduced to midnight. As in the additional supporting documentation ASD 15, 32 of 36 relevant incidents linked to Eden since the start of 2023 had taken place after midnight.

The Licensing Officer, SWP explained that the Premises Licence Holders, Mr and Mrs Rasul had a duty to uphold all four licence objectives and to abide by the conditions of the licence for Eden. It was clear from the evidence provided that Mr and Mrs Rasul were not fulfilling their duties as licence holders. These breaches were not the first instances of breaches by the licence holders. Mr and Mrs Rasul had received a number of emails requesting they comply with their CCTV conditions and had also received a warning letter, yet they were reluctant to assist SWP with investigations, including when they had reported incidents and were themselves potentially victims of crime. In a period of less than two months (8th May to 1st July 2023), there had been three separate occasions where there had been a significant failure in providing CCTV footage when requested. The premises licence already had such a strong and robust CCTV condition so it was impossible to add anything further that would ensure Mr and Mrs Rasul provided CCTV. The failure to provide CCTV was a significant and worrying breach of the Premises licence. This failure had shown a complete and utter disregard to the prevention and detection of crime and the Criminal Justice System in its entirety. Not only this but it also impacted the time wasted by officers trying to obtain CCTV to investigate reports. This had a significant cost implication on the public purse and further led officers to being unable to utilise their precious resources on other matters. As

previously mentioned South Wales Police believed it was proportionate and just that the premises licence for Eden, 33 Market Street, Bridgend was revoked.

Mr Phipps replied that in terms of the first officer's comments, this was not a criminal inquiry. In terms of the Licensing Officer SWP comments, this had been brought because of the failure to produce CCTV in a timely fashion. He entirely accepted the point that it was time for this premises licence to be reviewed but the suggestion of revocation was not a proportionate dispensation based on the evidence in front of them. She made reference in her closing remarks to a complete disregard for the licensing objectives. A haphazard and inconsistent delivery of the CCTV was not a complete disregard. If every single point against the Licensees was looked at, it was very disappointing but not a complete disregard. ASD15 showed that they detained and caused to be arrested someone recently and that could not fairly be said to be a complete disregard.

The Licensing Officer SWP had said that if the panel were not minded to support revocation, they would ask for the hours to be cut back to midnight, which was a new request. If they looked at the incident profile, most of the incidents occurred after 12. That was because most customers were in the premises after 12 as it was a nightclub. Pubs had longer hours under licensing and generally lots of pubs had a midnight finish. The premises were busy from midnight so a midnight finish would leave them operating 10 till midnight on Fridays and Saturdays, 2 hours on each night. The commercial reality of that was completely unsustainable, so it was the equivalent of revocation. The officers had not given any evidence or analysis of any significance, bar the schedule of summary incidents that did not refer to the premises. The officer had told them that they may be contaminated by incidents at other premises or references to Eden because it was the manner in which people referred to that part of town. Midnight would finish them and that was not a fair way to dispose of this matter. The first 3 incidents on ASD15 referred to Eden staff capturing people for drugs and calling the police after 3 am. They were doing everything that was asked of them in the Pub Watch meetings and to help deter drugs and that should not be the basis on which they should be cutting back the hours on this premises. Reviews were not intended to be used to drive a wedge between the responsible authorities and the licensees and that was exactly what this would do. The suggestion was that the hours should be cut back based on some analysis in the closing remark on ASD15, served at 3pm yesterday afternoon. He asked the panel to be very cautious of relying on that material to any great extent.

DECISION NOTICE

The Licensing Sub-Committee held a hearing on the 5th of October 2023 to consider this application made by the Police. The hearing was attended by Officers Fiona Colwill, Sgt Daniel Parry and Sgt Myfanwy Beaumont, Mr Mathew Phipps Solicitor on behalf of Mr and Mrs Rasul, and the premises licence holders and Mr and Mrs Rasul.

MATERIAL BEFORE THE SUB-COMMITTEE

At the outset of the hearing, the Sub-Committee had before it a report from the Council's Licensing Officer; review application form and supporting evidence from the Police, supporting evidence from the Licence holders. The Sub-Committee was also provided with a copy of the licence under review, and of the statutory Section 182 Guidance.

The Police Case

The Police informed the Committee that there were persistent breaches of the Licensing conditions in relation to CCTV at the premises. They stated that there was a potential serious sexual assault at the premises with the male currently being on bail. The CCTV

was first requested on the 4th of July 2023 and was finally provided on the 28th of July 2023. The Licence holders took 4 weeks after the first request to produce the images and the quality was poor. The Police had requested the images on a numerous occasion before it was eventually provided. On the 4th of July 2023 the Police contacted the manager of Eden who informed them that they were not open during the week, and he would copy the footage onto a memory stick and bring to the Police station. By the 12th of July 2023 the footage had not been received by the Police and a second email was sent requesting the footage. The officer tried ringing on the mobile number provided but there was no answer, and the premises were closed during the week. The footage was further requested on the 15th of July and on the 20th of July and the Police tried to contact the Licence Holders on the mobile number several times, but they could not get an answer and there was no answering facility available. The Police officer received an email on the 24th of July and was advised that Mr Rasul had been away on holiday. On 25th July the Officer spoke to Mr Rasul and asked why the CCTV footage had not been provided and was advised by Mr Rasul that he was expecting an officer to be at the club on Saturday 27th July. The officer informed Mr Rasul that the delay was unacceptable and that he was once again frustrating the Police investigation which was having a detrimental impact on the persons involved in the case.

Mr Rasul advised the Police that he would send the CCTV via NICE on that day. On that day a NICE link was sent to Mr Rasul. The officer who sent the link then telephoned Mr Rasul and advised him that the link had been sent, however Mr Rasul informed the officer that he did not know what footage he had to send. The officer then clarified with the officer in charge, the footage required, and an email was sent to Mr Rasul informing him. They also tried to contact Mr Rasul by telephone but could not get an answer. On the 26th of July the officer tried to telephone Mr Rasul but could not get a response and as a result the officer emailed Mr Rasul pointing out his responsibility to provide the information. On the 28th of July 2023 the Police received the CCTV footage on a USB stick and stated that the continual delay in providing the footage has had a detrimental effect on those involved in the investigation.

The Police also informed the Committee that they were investigating an incident of harassment and sexual touching, and the footage from this incident was finally received on the 3rd of July 2023. The initial request was sent on the 27th of May 2023.

However, the footage received was not the correct footage which had been requested. The footage received was from one camera angle and was approximately 2 minutes long and the request made by the Police was for all cameras from the time 0200 hours to 0400 hours. The footage provided was poor quality. The Officer spoke to Mrs Rasul who informed the Police that they had no prior knowledge of any of these men and had never seen them in Eden before. They also claimed they might be hospital staff or people on placement due to them not being regular customers. Mrs Rasul stated that when she viewed CCTV that she did not recognise them and there was not much of the incident caught on camera. The Police requested copies of the footage and on the 28th May the officer again spoke to Mrs Rasul who confirmed that she would send the footage via NICE link. On 1st June the matter was reviewed by an Inspector who stated that the officers needed to engage with the Licence holder today and escalate if the CCTV is not forthcoming. On the 1st of June no footage had been received and an email was sent to Mrs Rasul and on that date an officer spoke with Mr Rasul on his mobile number who requested that a NICE link be sent to Mrs Rasul via email and the footage would be sent on that day. The officer expressed to Mr Rasul the importance of receiving the footage and if there were any issues, he should contact the Police as soon as possible owing to the time that already elapsed. The officer asked for all the footage from the premises to maximise the opportunity to identify all the individuals involved in this matter. A new link was sent on the 1st of June which would expire on the 7th of June. On the 3rd of June footage was sent from one camera, which was not acceptable as the Police had requested footage from all camera angles and the footage provided was not in accordance with the times requested. The footage was of poor quality and

individuals could not be identified from the footage. To date the identity of the males, remain unknown.

An incident of criminal damage was reported by Mr Rasul on the 8th of May. A male has tried to smash the front window at the premises and was being detained by door staff, Police attended the premises and arrested the suspect who was subsequently released on bail pending further enquires. On the 13th of June 2023, two months after the incident officers were contacted by Mr and Mrs Rasul's son and informed that they were not sure whether they wanted to pursue the complaint and needed a few days to discuss the issue. The alleged perpetrator is still on bail at this point and there had been numerous attempts to contact the witness in this case without success and this witness was now employed by Mr and Mrs Rasul. At this stage there is nothing linking the defendant to the offence and the CCTV footage and witness statement was required to progress the case and a further link was sent to Mr Rasul to provide the footage. During this period officers tried on numerous occasions to contact Mr Rasul both by telephone, email and attending at the premises. On the 9th of July officers tried to contact Mrs Rasul without success. On the 18th of July an officer texted Mrs Rasul and tried ringing her but could not get a response. On the 28th of July as officers did not have any evidence against the defendant, they could not pursue the matter any further. It also appears that the wrong person was detained for the alleged offence because the person described at the time was wearing Jeans and the person detained was wearing shorts. The Police informed the Committee that the failure to provide CCTV is a significant breach of the premises licence. The Licence holders have shown a complete disregard to the prevention and detection of crime and the criminal justice system in its entirety. This also impacts the time wasted by officers trying to obtain CCTV to further an investigation and has significant cost implication and cost to the public purse and further leads to officers unable to utilise their precious resources on other matters. It is of serious note that these breaches are not the first instances of breaches by the Licence holders and Mr and Mrs Rasul have received a number of emails requesting they comply with CCTV conditions and have also received a warning letter from the Inspector on the 16th of February 2023, but it seems that they are reluctant to assist South Wales Police with investigations including incidents reported against them. The premises licence already has a strong and robust CCTV condition so it is impossible to add anything further that will ensure that Mr and Mrs Rasul provide CCTV.

The Police informed the Committee of a case of criminal damages, a complaint received from the premises on 27th December 2022 of criminal damage and racial abuse. When the Police attended the premises the subject of the complaint stated that she had picked up a plastic stick which was being used as decoration which was already broken, and she put the stick down. The subject stated that she was then shouted at by the victim Mrs Rasul who then grabbed her top and pulled it and reacted by pushing Mrs Rasul away. The victim Mrs Rasul informed the Police that the subject had broken the stick and when challenged hit Mrs Rasul around the head with it. Due to the number of persons at the premises it was not practical to take statements or look at CCTV at the premises at the time of the incident. The subject advised the Police that she had been accused of breaking a Christmas ornament by the owner's daughter who then called Mrs Rasul who was standing behind the bar shouting at her that she had to pay for the damage. The subject stated that she demanded that they check the CCTV, she then proceeded to try and leave the premises and Mrs Rasul grabbed her and tried to pull her over the bar exposing her breasts. The subject stated that she tried to stop this happening and she hit Mrs Rasul once and was then restrained by the bouncer and was unable to move while Mrs Rasul and her daughter tried to come at her over the bar. She was trying to leave the premises when the Police arrived, and she then left. On the 2nd of January 2023 officers tried contacting Mr and Mrs Rasul without success. The officer reported that on the 6th of January 2023 he had spoken to Mr Rasul who informed him that the CCTV has been available since Saturday and is happy for officers to attend that evening to collect. The officer advised Mr Rasul that he would attend at the premises 7pm to collect the same. On the 7th of January the officer sent a link via NICE to Mr

Rasul to send the footage and was advised by Mr Rasul that it would be sent ASAP. On the 8th of January the officer spoke to Mr Rasul as he had not received the footage and was advised by Mr Rasul that he would attempt to put the same onto a USB stick. However, nothing was received, and an officer advised that he had attended the premises on the 6th of January and was advised by Mr Rasul that the CCTV had already been collected. Following this several visits were made to the premises, but different excuses were made each time as to why the CCTV could not be collected and there were also emails to the licence holder requesting the footage.

By the 17th of February 2023 the footage had still not been provided and the Police decided to send a warning letter to Mr and Mrs Rasul about complying with the licensing conditions.

On the 17th of April 2023 the hate crime officers tried to speak to Mrs Rasul, but Mr Rasul answered her telephone and advised that she had business commitments and would not be available for a few days. The CCTV was then provided which showed Mrs Rasul pulling at the subject's top causing the victim to use necessary and justifiable force to stop her breasts being exposed. The CCTV backed the subject's version of event and was not a hate crime and no further action would be taken.

This is another example of breach of the condition of the licence in relation to CCTV within a reasonable time and putting barriers in the way of the investigation again wasting police time and resources.

The Police further advised the Committee that there was a complaint of assault by a victim who was punched to the nose at Eden and advised Police that the premises would have CCTV of the incident. The Police started requesting the footage on the 13th of March. The footage had not been received by the 31st of March and on that date, Mr Rasul promised to provide the footage the following day by dropping the same into the Police Station. On the 5th of April the Police had still not received the footage and contacted Mr Rasul who advised that he had dropped the footage at the front desk of the police station, however there was no record of any CCTV being handed in. CCTV was then received which was not sufficient to ascertain whether an offence had been committed and further footage was requested. Mrs Rasul informed the Police that she would drop off the footage once her USB sticks had been returned. The officer then gave Mrs Rasul 3 new USB sticks to use to download footage. Several attempts were made to obtain the footage and eventually on the 24th of August footage was received but unfortunately it was for the wrong date. With no CCTV of the incident the Police could not progress the complaint any further and could not proceed with the case. It was clarified during the course of the hearing that ASD 15 is not accurate in relation to events registered against Eden as the Licensing Officer confirmed that if there are occurrences at no 35 then will be registered against Eden. The Police asked the Sub-Committee to revoke the Licence or bring the hours down to midnight for closing.

The Premises Licence holder's case

Mr and Mrs Rasul have had the premises since 2015 which is a well-known night club venue in Bridgend, they also have a neighbouring premises, Bar 35 which is in immediate proximity to Eden. They employ 4 door staff and Mr Rasul is always at the premises and Mrs Rasul is regularly at the premises. The premises usually open from 10pm Fridays, Saturdays and Bank holiday Sunday's trading as per the hours in the Licence. Generally, customers arrive at the premises after midnight.

Mr Phipps advised the Committee that there were no other representations from any other responsible authority which is an important point in this review. The case involves failure to provide CCTV upon request and officers have given evidence about several times when the licence holders have not delivered in any way to the standard expected. Mr Phipps confirmed that the premises licence holders needed to improve. In most of the cases it was a failure to provide CCTV as quickly as it should have been provided

and not a failure to provide it at all. The application by the Police relates to 3 incidents of concern which relate to criminal damage, the conduct of Asian males in the premises and a sexual assault away from the premises.

The first incident on the 1st of July set out at page 10 of the report CCTV was slow to be provided. Officers attended the premises on 21st July viewed the CCTV and it was understood that they were going to report back the contents of the same. The CCTV provision is not that straight forward and as can be seen from the paperwork, Mr and Mrs Rasul have mentioned the NICE links falling off. The links last a couple of days and must be provided in that window. It is accepted that it can be extended by request. The premises are closed Monday, Tuesday, Wednesday, Thursday so any request made during those days cannot be construed as Mr and Mrs Rasul being awkward about providing CCTV.

There is then a second incident relating to concern around Asian males in attendance which was raised by Mr and Mrs Rasul at the Pub watch meeting on the 10th May as there were concerns about their conduct not criminal activity. Mrs Rasul also reported that the CCTV had been viewed but there was little to report from that. CCTV was uploaded but later deemed insufficient and this was a matter that Mr and Mrs Rasul had raised in good faith with the officers, it is right that it was not turned around, but they had viewed it and taken the view that there was not much in it. Mr and Mrs Rasul did not believe that it was the investigation of a crime as they had raised the issue.

The third incident which is criminal damage in which Mr and Mrs Rasul are the victims and CCTV was provided late despite a number of requests. On this occasion the Police were called, and officers did not use their body cameras and the individual was clearly identified as the perpetrator. Mr and Mrs Rasul thought that this was sufficient and that the person had accepted what he had done.

The fact that Mr and Mrs Rasul did not want to pursue the matter was a decision for them, but it is accepted that they could have told the Police earlier. This is a matter which was reported by Mr and Mrs Rasul and is now being used in the application for revocation of the licence. It seems extraordinary that this event could be part of the application for revocation particularly when CCTV has been provided but has been late. The application mentions the refusal of two temporary event notices which do not relate to these premises but relate to the other premises no 35.

Mr and Mrs Rasul did receive the warning letter and they recognise that they have not been getting this right, however the CCTV was provided, and Mr and Mrs Rasul believe that it was provided before the warning letter was signed off.

There has been a failure to attend pub watch but since February that has been attended to. There was also a failure to keep up to date with persons on the banned list which is accepted by Mr and Mrs Rasul however the system has changed, and this information must be accessed by downloading an APP and Mr and Mrs Rasul are not good with IT. However, since the warning letter this has now improved and been rectified.

The application sets out the CCTV conditions which state that the images have to be downloaded to disc there is no mention of the NICE protocol in that condition, it doesn't mean that Mr and Mrs Rasul shouldn't be doing it that way but it does not breach the condition, and in relation to the remaining conditions there is nothing in the evidence to suggest any of those conditions are being breached or undermined. On the 22nd of June 2023 two licencing officers visited the premises and asked for some notices to be replaced but apart from that the premises were given a clean bill of health.

There have been several occasions when CCTV has been requested and delivered in a timely manner and several examples were given so it is not that the licence holders are bereft of an ability to deliver. It is accepted that the review by the Police was merited as the Licence holders had warnings, and they failed to remedy the situation, so review is the next step. The review has made Mr and Mrs Rasul reflect on their ability to deliver and as a result they have made improvements namely: -

1. The CCTV system has been serviced and overhauled and there are 19 cameras.

2. Training for members of the team to download the images.
3. USB training
4. Additional keys for members of staff to access the premises.

The additional information served by the Police strays into new areas which cannot be fairly said were incorporated into the application. It is a list of incidents at the premises during 2023, they are a summary document produced by police without any CAD or Niche reports only 7 incidents relate to Eden and mention Eden and can't confirm whether they are actually about these premises. There are several incidents where the licence holders have acted responsibly by catching persons in the premises with drugs and engaging the police.

The Licence holders are engaging throughout the period, and it cannot be said that the premises are at the end of the road. It is submitted that during the review period the premises would have been monitored throughout, it is often the case applicants continue to fail during this period that is not the case for these premises. There is nothing to suggest that the premises are not in good order.

The national guidance and Licensing policy that state cooperation at local level should be encouraged and review should not be used to undermine. The use of ASD 15 suggesting that the premises are not in good order is unfair and improper because of the reference to revocation today. Revocation has not been mentioned anywhere in the papers and it first mentioned today. Revocation means that there is nothing in the premises that can be rectified which means closure of the business and loss of jobs and revenue. Reviews are not about punishment they must be reasonable and what is being requested here is a punishment for previous failings and the review is about being able to meet the licensing objectives. Licences are revoked for egregious failings not late or modest delivery of CCTV.

Finding of the Sub-Committee

The Sub-Committee have disregarded the entries in documents ASD 15 as the Police have confirmed that they register everything against Eden, even if the incident occurs at no 35. Eden and number 35 are separate premises with separate Licences and as such the Police should keep a proper record of all incidents that occur at each premises and not lump them all together. The Sub-Committee find that producing evidence in this way is not acceptable and provides inaccurate information to the Committee and as such the Committee must disregard it.

The Sub-Committee find that the Licence Holders have not complied with their Licence condition which relates to CCTV, it is noted that on many occasions that the CCTV is given in a timely manner but on other occasions the delay is unacceptable. The Police have had to waste valuable resources in trying to obtain footage which has resulted on occasion in cases being dropped. This undermines the licensing objectives particularly the prevention of crime and disorder. The Sub-Committee find that the Licence Holders attitude towards the Police on the occasions when they are chasing CCTV totally unacceptable, they appear to treat the matter as an afterthought and not something that deserves their attention as an urgent matter. The fact that the premises are closed on the Monday, Tuesday, Wednesday and Thursday is not an excuse not to comply with the Licensing conditions, it is their responsibility to ensure that on those days that they or members of their staff can be contacted, and access given to the premises. The Sub-Committee have been assured however that this has now been rectified and other members of staff now hold keys to the premises.

The Sub-Committee also note that there have been warnings in the past and the situation improves but quickly deteriorates. The Licensing Sub-Committee have noted that there have now been other measures in place to rectify the matter namely there has been some training for the family on downloading the CCTV.

RESOLVED

The Sub-Committee must in its decision-making promote the statutory licensing objectives and in particular, the prevention of crime and disorder and public safety. The Sub-Committee have taken into consideration the Licensing Act 2003, the statutory guidance issued under the Act and the Council's statement of Licensing Policy.

The Sub-Committee have determined that Licence holders have breached their licensing conditions which relates to CCTV which has undermined the prevention of crime and disorder and public safety.

The Sub-Committee have heard that Mr and Mrs Rasul have accepted that their behaviour has fallen short of what is expected from them as Licence holders but have put in place several matters to rectify the situation such as overhauling the cameras and putting in place training the family on downloading the images. However, the Sub-Committee have determined that this does not go far enough to ensure compliance with the licensing condition and the licensing objectives.

The Sub-Committee have determined that every member of staff at the premises must be trained on downloading the CCTV images, in order that if Police attend the premises and require the footage then every member of staff should be able to produce them on demand. The premise licence holder must produce a log that contains the names of all the members of staff who have been trained and this must be produced to the Licensing Department of the Council and the Licensing department of the Police before the 14-day period has elapsed.

The Sub-Committee have determined that they will suspend the Licence for a period of 14 days to ensure that during that period all members of staff are trained on downloading the images and the log of the training and the names of staff who have been trained are produced to the Police and the Licensing Department of the Council. Also, during this period, the Licence holders must produce the names of every member of staff who holds keys to the premises and produce that list to the Police and the Licensing Department of the Council.

The Sub-Committee have also determined that the CCTV condition on the Licence requires amendment to ensure that the licensing objectives are met, and the condition is amended as follows: -

CCTV will be provided in the form of a recordable system capable of providing pictures of evidential quality and in particular facial recognition. Cameras will encompass all access to and exits from the premises including fire exits and all areas, with the exception of the toilets to which public have access. The equipment will be maintained in good working order. The System will continually record whilst the premises is open for licensable activities and during all times when customers remain at the premises. Recordings will be timed and kept in date for a period of 28 days and will be handed to a Police officer within 72 hours upon lawful demand. The designated premises supervisor will ensure that at all times all members of staff on duty must be trained in the use of the CCTV equipment and be able to produce recordings in a recordable format either to USB or to disc or via the NICE system used by South Wales Police, upon lawful demand by a Police officer or Local Authority officer. The Premises will also maintain a log containing the names of the members of staff who have been trained on downloading the CCTV system together with the date the staff were trained. All new members of staff must be trained within 21 days of commencing employment at the premises. The recording equipment will be kept in a secure environment under the control of the DPS or another responsible named individual. An operational daily log will be maintained indicating that the system has been checked and is compliant. In the event of any failings of the system actions taken to rectify such failings will be recorded. If there is a technical failure of the CCTV equipment the DPS will report such a failure to the Police.

The meeting closed at 14:45