

LICENSING ACT 2003 SUB-COMMITTEE (A) - WEDNESDAY, 3 JANUARY 2024

MINUTES OF A MEETING OF THE LICENSING ACT 2003 SUB-COMMITTEE (A) HELD REMOTELY - VIA MICROSOFT TEAMS ON WEDNESDAY, 3 JANUARY 2024 AT 10:00

Present Virtually

Councillor M Lewis – Chairperson

MJ Kearns

J Llewellyn-Hopkins

Officers:

Julie Ellams

Kirsty Evans

Andrea Lee

Oscar Roberts

Yvonne Witchell

Democratic Services Officer - Committees

Senior Licensing Officer

Senior Lawyer

Business Administrative Apprentice - Democratic Services

Team Manager Licensing

Declarations of Interest

None

15. Licensing Act 2003: Section 104 Temporary Event Notice Objection to Notice by South Wales Police for Bar 35

Decision Made	<p>The Team Manager Licensing presented a report asking Members to consider and determine Objection Notices submitted by South Wales Police in response to 3 Temporary Event Notices served on the Licensing Authority.</p> <p><u>Decision Notice</u></p> <p>The Licensing Sub-Committee held a hearing on the 3rd January 2024 to consider this application made by the Applicant. The hearing was attended by an Officer from South Wales Police namely Fiona Colwill, Mr</p>
---------------	---

Ewen Macgregor Solicitor on behalf of Mr Rasul, and the premises licence holder Mr 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; the objection notice from the Police, additional information from the Police namely CCTV footage and 3 word documents.

Representations made by the Applicant.

There are three applications for Temporary event notices and they're all exactly the same.

Mr MacGregor informed the Committee that in essence, the applications covered the last three weekends of January to enable the premises to trade for an additional hour on Friday night and Saturday nights for the last three weekends. The applicants are applying for a very brief extension of hours, an additional hour on the Friday nights and Saturday nights on those three weekends.

There was a notice that was submitted for New Year's Eve, but following discussions with officers, that application was withdrawn because it was established that the existing premises licence for Bar 35 authorised the premises to stay open until the hours that they had requested.

Mr MacGregor referred to the review hearing of the premise licence for Eden and informed the members that there was a review on the 5th October 2023. For the purpose of these applications, it was confirmed that so far as these three Temporary Event Notices are concerned Eden would be closed for refurbishment during these events.

It was explained that the officer made a comment about attaching conditions to the Temporary Event Notices, and it was confirmed that Bar 35 will operate in line with their licence conditions and at last entry to the premises will be at 2:00 in the morning. Bar 35 will provide door security and at least 4 door security will be provided on Friday night and at least six door security will be provided on Saturday night and the provision of door security will of course be kept under review for the continuation of the three Temporary Event Notices.

The Sub-Committee were informed that previous Temporary Event Notices have been granted for these premises, they go back to 2022, but for the same hours that they were seeking today and there were no issues in relation to the operation of those Temporary Event Notices and indeed, there's no evidence produced by the police to show that previous Temporary Event Notice granted to these premises have undermined the licensing objective

Insofar as the police counter notice is concerned, the applicant has been provided with some papers, some CCTV and then very late in the day yesterday afternoon at about 4:30pm they had some additional allegations.

Mr MacGregor advised that a document headed "Further 5 Allegations of Assault" had been received in relation to the CCTV footage that relates to an incident on the 15th October 2023, and it relates to an incident outside Eden and to be absolutely clear Eden and Bar 35 have separate premises licences. They have separate licence holders, and they have separate DPS so they are two distinct premises and at the time of the incident on the 15th October Bar 35 was closed, but for the sake of the record in so far as it's relevant to this application, those door staff that you may have seen on the CCTV, they have been suspended.

The five further allegations, save for the allegation in relation to the incident on the 1st January at New Year's Eve going into the 1st January, Bar 35 was closed. So, none of those incidents relate to operations at Bar 35. And in fact, if you do look through and I'm sure you will as an experienced Committee, look through the reports that's been provided to the police and Bar 35 is not referenced at all in in those papers and there is continual reference to Eden in Bridgend.

And if you look at the final incident, the assault, the alleged assault on the 1st January at 3:24, officers spoke to door staff at Eden and then over the page in relation to an alleged incident of spiking. There is reference again to Eden Nightclub and all of these occurred, as I say at a time when Bar 35 was closed and these are the premises for which the application has been made and I would invite you to disregard the evidence that has been provided by the police that in relation to these applications for Temporary Event Notices, Temporary Event Notice scheme of course is meant to be a light touch scheme, but we've already committed to saying that Eden will be closed, that we will adopt the conditions on the Bar 35 license and that door security will be provided.

What the police have sought to do, here is to conflate the two premises.

Eden and Bar 35 are separate premises. They have separate licence holders and separate DPS's, and this is precisely the same thing that they sought to do at the review, and indeed were criticised by the Committee at the review hearing for the approach that they adopted at that time.

Mr MacGregor invited the Sub-Committee to take exactly the same approach today as the Committee took back on the 5th October and then extracted from the Minutes of the meeting on the 5th October, when the review of Eden and not Bar 35 was brought and the findings of the Sub-Committee.

Mr MacGregor quoted from the minutes of that meeting: -

“Eden and Bar 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, provides inaccurate information, and as such the Committee must disregard it.”

Mr MacGregor invited the Sub-Committee to adopt the same approach in relation to this application as their colleagues adopted on the application for the review of Eden, back in October.

Mr MacGregor added that the police have said that it is impossible to consider what incidents are happening in which premises and if that is right then it would have been perfectly open to the police to have reviewed the licenses for both Eden and Bar 35 back in in October but they chose only to review the license in relation to Eden and not Bar 35 presumably because they had no evidence to support a review for Bar 35. The second point is that they say it's impossible to consider which is which and that's simply not right because when you look at the report the second report that came through with the five further allegations, firstly they happened save for the final incident which I've dealt with already which happened on New Year's Eve is that they all happened at the time when Bar 35 was closed. It did not trade on any of the evenings, but the police say these incidents happened and insofar as the incident that happened when Bar 35 was trading it's clear from the police reports that the incident took place within Eden and not outside but within Eden.

Mr MacGregor added that there is nothing that has been presented that can point the finger at the way that Bar 35 and has operated insofar as the issue of separate door staff and basically the door staff are not just controlling the access but also what goes on within the premises. Whilst the premises share a common entrance, the premises themselves have their own security and they have separate security and so you can, again, you cannot simply conflate the two premises and try and say, well, what is good for Eden is good for Bar 35 and that is simply not fair or right.

The Representations made by the Police

The number one priority for South Wales Police is to reduce and prevent crime and disorder and antisocial behaviour to keep people safe in their homes and communities.

South Wales Police have concerns regarding the number of crime and disorder, public safety and public nuisance calls within Bridgend town centre, which are linked to the late-night economy.

The Police informed the Sub-Committee that Eden and Bar 35 have 2 separate Licences, Mrs Rasul holds

the Licence for Eden and Mr Rasul holds the Licence for Bar 35. However, due to the layout at the front of the premises, it is impossible to differentiate what incidents occur in Eden and which occur in Bar 35. Therefore, all incidents are logged under Eden 33 Market St. The smoking area to the front of the premises shares a communal entrance which is directly in front of the main doors into Eden with a door to Bar 35 being located to the right, concealed by the covered barriers. This is evidenced in the stills and CCTV footage provided to the committee. The yellow arrow indicates the entrance to both premises, the entrance being immediately in front of Eden, which is indicated by the green arrow. The entrance to Bar 35 is indicated by the red Arrow, with the entrance being obscured by the fencing and its advertising banners.

Since the review application hearing for Eden on the 5th October 2023 and the 22nd December 2023, on the South Wales Police Nice system, there are a further 13 occurrences linked to the premises.

Three did not involve the premises, one was theft, one hate crime, three drugs and five assaults. Of the 10 involving the premises, seven were reported after 0230 hours. Concerningly on the 15th of October 2023 at 02:55 hours, CCTV reported door staff are battering a male. This incident occurred to the entrance into the smoking area and you could not differentiate which premises the door staff were acting for. CCTV footage which has been provided to members prior to this hearing. Within the footage, 2 assaults are witnessed. Both members of door staff were interviewed under caution and both admitted assault on the male. On the 17th of November 2023, both were suspended by the security Industry Authority SIA. Footage shows two separate incidents involving one individual male.

Incident 2 An altercation can be seen between DS2 and the male within the entrance to Eden/Bar 35. This is into the smoking area, which covers both premises. DS2 and DS1 could be seen to push the male across the road, striking him numerous times whilst the male is on the floor. DS1 can be seen to stamp on the male and kick the male whilst on the floor DS2 can be seen to stamp on the male and kick the male to the back of the head. DS4 security from another premises assisted to break up the altercation. On the 11th November 2023 DS1 and DS2 voluntary attended Bridewell police station> DS1 and DS2 were separately interviewed under caution. Both admitted to assaulting the male on Sunday the 15th October 2023, whilst working as door supervisors for Eden and Bar 35 Market St, Bridgend. Since the 28th July 2023, three members of Eden and Bar 44 have been suspended by the SIA. Within the footage provided, patrons could be clearly seen walking back and forth to each premises confirming the premises are run as one and that it is impossible for South Wales Police officers to determine which premises an incident has occurred.

This shows both 35 was trading at the time and disputes Mr Macgregor's comment that Bar 35 was not trading at that time.

Where we appreciate Bar 35 does not have door staff conditions as the two premises had run as one SIA

are employed at both 33 and 35 and deal with patrons that are attending both premises. Local authorities CCTV operators alerted officers to a male that been ejected from another premises after making racist comments. CCTV operators alleged that Mr Rasul was argumentative and unprofessional towards operators and allowed the male access as he knew him.

Between the 24th December 2023 and the 1st January 2024, a further 5 allegations of assault have been received.

Occurrence numbers 435965 and 436005 racially and religiously aggravated common assault, reports of a disturbance. This was on the 24th December and the investigation is ongoing. The circumstances are 2 males have tried to assault Mr Rasul. Assailant also assaulted a female member of staff. Officers have attended and spoken with the owner. Mr Rasul alleged that the male had called him a derogatory name and then proceeded to assault him by grabbing him by the clothing and punching him to the face. Officers located the male a short distance away and arrested him for the above offence. Officers have then returned to conduct further inquiries and in doing so it become apparent the male has not punched Mr Rasul but has grabbed him by the clothing whilst using racially offensive language. It transpired the male who was with the detained person had also assaulted the female bar member of staff by punching her to the face whilst he was trying to assault Mr Rasul.

Incident number 438475 assault, last night there was an argument with my friend and a female. The female has slapped me to the face and her friend has approached me and punched me to the face. I have a cut to my mouth. It happened in Eden in the room up the stairs, I believe there is CCTV.

Occurrence number the 2400000255, assault with injury, offenders had dispersed by the time Police arrived, Officers spoke with door men who stated a fight had broken out in Eden but all those involved were removed from the premises. One of the door men had been assaulted while trying to stop the fight and had been head butted to the nose but declined to press charges.

There was a report that a female had her drink spiked while out in Bridgend Town Centre and consumed alcohol in a few premises prior to attending Eden/Bar 44 there is no evidence that her drink was spiked at Eden but recalls being thrown out of Eden by Door Staff. The female was ejected by staff with no concerns as to her safety.

Finding of the Sub-Committee

Findings of the Sub- Committee

For the sake of clarification, it is confirmed that the 3 members sitting today, also sat on the review hearing for the premises known as Eden.

The Applicant has referred to the Sub-Committee decision in the Eden review. The Police called for a review of the premises licence and on the list of occurrences it was unclear whether the occurrence happened at Eden or Bar 35. The applicant specifically stated during that hearing that several of the occurrences took place at Bar 35 and not Eden, and as the review specifically related to Eden premises, the occurrences were not taken into consideration. However, that decision can clearly be distinguished in this case as this relates to 3 Temporary Events that will be run by Mr Rasul and he is involved in a number of occurrences that take place in Eden and although the premises have two separate licences it is clear that Mr Rasul actively takes part in the management and running of the Eden Bar.

Mr Rasul informed the Sub-Committee that there are separate door staff for Eden and Bar 35 and it may well be the case that he employed them with the intention of working for a specific premise, however from the video evidence the Door Staff are situated at the entrance to the smoking area which makes it impossible to determine for which premises they are working. Also, in IUC the Door Staff confirmed that they were working for both premises.

The Sub-Committee find that on the balance of probabilities that the door staff do work for both premises during the times that they are open together as when an incident occurs, they would not stick to distinct roles based on premises but would act together to deal with an incident that occurs.

The Sub-Committee also find on the balance of probabilities that although there are two separate licences and that Mr Rasul holds the licence for Bar 35 and Mrs Rasul for Eden, Mr Rasul is heavily involved in the running of Eden and takes the lead in all the incidents that occur there and is responsible for also running those premises with Mrs Rasul. He cannot therefore extricate himself from the incidents that happen in the Eden premises that specifically involve him.

The Sub-Committee find that on the balance of probabilities Mr Rasul does not uphold the licensing objectives in some of the incidents namely on the incident on the 9th December 2023 when he was advised by the Council's CCTV camera operators that a male had been ejected from another premises and he still allowed him into Eden and was argumentative to the CCTV operators when they were trying to stop incidents of disorder in the town centre.

Also, in a further incident at Eden Mr Rasul made a false allegation that someone had punched him in the face and when checking the CCTV at the premises this allegation was found to be untrue.

The Sub-Committee also found on the balance of probabilities that it is highly likely that if Eden is closed

LICENSING ACT 2003 SUB-COMMITTEE (A) - WEDNESDAY, 3 JANUARY 2024

	<p>during the time of the TENs events that the patrons of Eden would then attend Bar 35 and as such the incidents that occur at Eden will migrate to Bar 35 which would undermine the Licensing objectives particularly crime and disorder and public nuisance.</p> <p><u>RESOLVED:</u> 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.</p> <p> The Sub-Committee have determined to issue a counter notice for all 3 Temporary Event Notices as they have determined that allowing the events to go ahead will undermine the licensing objectives particular the Crime and Disorder and public nuisance.</p>
Date Decision Made	3 rd January 2024

To observe further debate that took place on the above items, please click this [link](#)

The meeting closed at 11:20.