

MINUTES OF A MEETING OF THE LICENSING ACT 2003 SUB-COMMITTEE (B) HELD IN COUNCIL CHAMBER, CIVIC OFFICES ANGEL STREET BRIDGEND CF31 4WB ON WEDNESDAY, 23 SEPTEMBER 2015 AT 10.00 AM

Present

Councillor DRW Lewis – Chairperson

E Dodd

P Davies

Officers:

Mark Galvin	Senior Democratic Services Officer - Committees
Andrea Lee	Senior Lawyer
Yvonne Witchell	Licensing & Registration Manager

South Wales Police representatives:

PC Kevin Ellis
PC David Barratt

Representing The Railway Inn

Spencer Morgan – Designated Premises Supervisor
Karen Cochran – Flint Bishop Solicitors

10. APOLOGIES FOR ABSENCE

None

11. DECLARATIONS OF INTEREST

None

12. LICENSING ACT 2003: SECTION 105, TEMPORARY EVENT NOTICES, RAILWAY TAVERN, DERWEN ROAD, BRIDGEND. SEA SALT FISH & CHIPS, 55 NEW ROAD, PORTHCAWL. THE GENERAL PICTON, 57 NEW ROAD, PORTHCAWL. THE GENERAL PICTON (CAR PARK AREA), 57 NEW ROAD, PORTHCAWL

(a) Railway Tavern, Derwen Road, Bridgend

The Chairperson invited all those in attendance to the meeting, and the necessary introductions were made.

The Licensing and Registration Officer advised that there were 3 Objection Notices submitted by the South Wales Police in respect of Temporary Event Notices submitted in respect of the above premises. She added that a procedure had been circulated to all parties present on the procedure to be followed at today's Hearing.

She referred to the agenda and accompanying papers, adding that 2 further letters had been circulated by the South Wales Police to the management of the Railway Inn, one dated 11 July 2014 and the other dated 9 July 2015. The Licensing and Registration Officer asked the representatives of the Railway Inn if they had any objection to these

letters being tabled as part of the Police submission, to which their Solicitor replied that they were not. Some of the information in this correspondence had been redacted.

The Licensing and Registration Officer then outlined the nature of the TEN applied for by the Premises User at the Railway Inn, Mr Spencer Morgan, which related to an extension of hours for the sale by retail of alcohol and the provision of regulated entertainment on the dates and during the hours detailed in paragraphs 4.1 of the report. Copies of the terms outlining the TEN had been served upon the Police and the local authority to which the Police had made an objection.

As this gave a resume of the TEN so applied for the Chairperson asked PC Ellis to present his case on behalf of the South Wales Police.

He then gave the following Statement:-

"I refer to the above notification and wish to inform you that application is made on behalf of the Chief Officer of Police to object to the notice as it is believed that extending the hours would undermine the licensing objectives relating to the prevention of crime and disorder and public nuisance as set out in the Act.

The Railway Inn is a public house and it is highly significant that the premises is situated within the "Saturation Area" of Bridgend town centre which is subject of Bridgend County Borough Councils "Statement of licensing policy."

The area contains a mere three streets yet has the highest concentration of public houses, nightclubs, restaurants and late night refreshment houses anywhere in the borough and therefore experiences the highest volume of pedestrian and vehicular traffic and consequently the highest number of reported incidents.

As a consequence numerous premises within this area have been subject of the review process under Section 51 of the Act due to the number and seriousness of the occurrences recorded coupled with a failure to adhere to the conditions of licences.

In this area alone more premises have been reviewed than in any other within the Borough.

Those premises which did not have their licences revoked had restricted conditions appended to the authorisation including curtailment of their operating hours.

The Railway Inn was one such venue however; the reduced hours still remain some of the longest hours of opening within the Borough.

The "event" is to facilitate the Rugby World Cup for fixtures which will take place over a weekend where there will be four matches played.

Rugby matches last for 80 minutes with an additional 15 minutes allowed for the half time period.

- The first event is for the solitary match on Friday 25/9/2015 which will be Argentina v Georgia which kicks off at 16.45hrs.

The fixture will end almost 8 hours before the "event" is due to commence.

- The latter event is required for three fixtures which will take place on Saturday 26/9/2015 i.e. the first being Italy v Canada which will kick off at 14.30hrs

- The second being South Africa v Samoa which kicks off at 16.45hrs.
- Thirdly the England v Wales fixture will kick off at 20.00hrs and end at approximately 21.35hrs.

Therefore the final fixture will end 4 hours and 30 minutes before the proposed “event” is due to start.

All these fixtures are more than comfortably catered for under the existing licence, BCBCLP265, which authorises the carrying out of the following licensable activities: -

Supply of alcohol, live music, recorded music

Monday to Sunday: 10.30 – 02.00 hours

Opening hours of the premises

Monday to Sunday: 10.30 – 02.30 hours

Therefore the venue is permitted to open for 16 continuous hours daily.

The proposed premises user wishes to extend licensable activity and opening during a period which in itself presents as problematic and even more so when fixtures involve Wales which considerably increases the footfall not only within the town centre but beyond and with it a rise in the number of recorded incidents.

With the notification of additional hours of licensable activity to 03.00am, plus a 30 minute wind down period, in an area which is problematic “*per se*” the Chief Officer feels that there will be every likelihood of increased crime and disorder and nuisance.

During 2015 there have been a number of reported criminal offences recorded and many of those incidents concern customers who have been highly intoxicated.

Officers investigating offences have also reported contraventions of the conditions of the licence.

Therefore such matters will be expanded upon at any hearing in respect of this notification.

Application is made on behalf of the Chief Officer of Police to object to the notice as it is believed that extending the hours would undermine the licensing objectives relating to the prevention of crime and disorder and public nuisance as set out in the Act.

It was important to note the following statement:

“Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership”.

The Licensing Department of South Wales Police is an integral part of the Community Safety Partnership and this is not a statement which has emanated from the Chief Officer of Police but is emphasised at Section 2 of Home Office guidance which relates to the licensing objectives and in particular Sub-section 2.1 Crime & Disorder.

It is essential that the Sub-Committee has an overview of the Railway Inn in order to determine why the Chief Officer is objecting to this notification.

There are two events proposed which are covered by one temporary licence.

This premises is best described as a public house which has the benefit of extensive hours in terms of the supply of alcohol coupled with music and dancing.

The premises is situated within the "Saturation Area" of Bridgend town centre which is subject of Bridgend County Borough Councils "Statement of Licensing Policy."

The area comprises just 3 three streets yet has the highest concentration of public houses, nightclubs, restaurants and late night refreshment houses anywhere in the Borough and therefore experiences the highest volume of pedestrian and vehicular traffic.

Consequently, there was a disproportionate amount of crime, particularly alcohol related violent crime, public disorder, anti-social behaviour, litter, noise pollution and public nuisance within this area when compared to the rest of the Borough.

In fact, more premises have been reviewed in this small area than in any other within the Borough.

The Premises Licence Holder is Michael John who has had responsibility for the Railway Inn since 2004.

The current Designated Premises Supervisor (or DPS) is Spencer Morgan who is the son-in-law of Mr John, and the proposed premises user in respect of the temporary event.

He has held the position of DPS since June 2012.

When the Licensing Act 2003 went "live" in 2005 Mr John and his then business partner became joint licence holders.

Mr John has been the sole licensee at the Railway Inn since 3rd November 2009 and was DPS from November 2009 when he made application to vary the licence proposing to extend the hours from: -

10.30am to 04.30am Monday to Saturday
10.30am to 02.30am on Sunday.

South Wales Police supported the application in 2009 to further extend the opening hours with a view to trialling the success or otherwise of the extended hours in providing a gradual dispersal of customers.

After the venue was granted extended hours in 2009 crime and disorder increased significantly and incidents were exacerbated by being alcohol related.

In short there was a persistent failure to promote the licensing objectives which included a failure to adhere to the conditions of the licence which is the most serious offence under the Act and carries the greatest penalties i.e.

- 1) An unlimited fine and/or a term of imprisonment on summary conviction not exceeding 6 months.
- 2) All alcohol and containers may be forfeited and destroyed.
- 3) The Premises Licence may be reviewed under Section 51.
- 4) Suspension or forfeiture of a Personal Licence.

Criminal offences escalated to unacceptable levels and alcohol related assaults were prevalent.

These incidents caused South Wales Police to engage in a variety of different approaches with the Premises Licence Holder which included advice, face to face meetings, telephone dialogue and e-mails, coupled with written warnings, Action Plan and video recorded interview under caution.

In fact four warnings were served prior to review.

However; despite prolonged engagement and varied enforcement numerous incidents continued to undermine the licensing objectives and in 2012, South Wales Police made application to review the Licence.

The Chief Officer did not propose that the licence should be revoked but what was suggested was that conditions should be added and amended including, and 'What is significant in respect of this temporary event, a reduction in the opening hours from 04.30am to 12.30am.

However, an agreement was reached with Mr Morgan and Mr John to relax our stance concerning the hours and a closing time of 02.30am daily was negotiated.

Your colleagues supported the agreement and appended a significant number of conditions to the licence.

As glass related assaults had been reported at the venue one of these conditions was: -

- 2) No glass drinking receptacles of any nature, including any types of bottles may be provided to members of the public after 21.00hrs i.e. all alcohol and non-alcohol/soft drinks (with the exception of hot drinks) will be decanted into polycarbonate (plastic) drinking receptacles and dispensed to patrons in that manner at the point of sale or polycarbonate bottles provided.

After the review in 2012 Mr Morgan became DPS and since this time both he and Mr John were subject of a written warning in 2014 and a more recent warning in 2015 which you have had sight of.

The first related to the employment of an unlicensed doorman which in turn lead to contraventions of the mandatory Conditions of the Premises Licence whilst examination of the Door staff Duty Register highlighted further contraventions of the licence.

2014 - Staff of premises within the town centre, including. the Railway, have been given a number of letters of advice in relation to door staff i.e. even if a person was to produce a SIA licence then that licence should be checked on the SIA Register of Licence Holders to confirm if the individual is licenced.

If he could not be confirmed then the Register of Suspended and Revoked Licences must be checked.

That was our written advice but was not adhered to.

The second warning of 2015 concerned further contraventions of the licence however; the Conditions highlighted have still not been complied with.

The letter also stressed that customers are still very intoxicated.

There have been a number of incidents recorded since the review which concern customers who have committed offences when they have been extremely drunk.

In fact, a considerable number of prisoners have been booked into the custody suite whereupon custody staff have had to place them on a Custody Care Plan and have conducted visits every 30 minutes in order to check their health and wellbeing due to their intoxication.

Some have been so drunk that they have not been given their legal rights until several hours after arrest.

The timings of these incidents are also significant in relation to the timing proposed in the Temporary Notice.

There have been 29 occurrences recorded over the last 12 months (September 2014 up to 20 September 2015).

Of those 29 incidents none were recorded prior to 22.00hrs: -

2 were recorded between 22.00hrs and 22.59hrs.

4 were reported as occurring between 23.00 and 23.59hrs.

8 were reported as occurring between midnight and 00.59hrs.

10 occurred between 01.00hrs and 01.59hrs.

5 occurred between 02.00hrs and closure.

One will note that 23 of the 29 incidents occurred between Midnight and 02.30hrs and it is during the early hours of the morning that the two events are proposed.

Incidents related to: -

Assaults by customers;

Assaults by door staff who have subsequently been convicted and also had their SIA licences revoked;

Possession of drugs;

Sale of alcohol to persons who are intoxicated;

Drunkenness;

Drunk & Disorderly conduct;

Threatening behaviour;

Breaches of the conditions of the Premises Licence contrary to Section 136;

Section 35 "Direction to Leave Notices" issued to customers for being drunk where it is believed that if they were to remain in the town centre they would commit crime or become disorderly.

Previous temporary events, the following information is also significant:-

- 1) A TEN was given for Saturday 20, Sunday 21 and Monday 22 December 2014 (i.e. Friday, Saturday, Sunday night) for the sale by retail of alcohol, provision of regulated entertainment and provision of late night refreshment between 02.00 and 03.00hrs plus a 30 minute wind down.

Incidents of intoxication and drunk and disorderly conduct were recorded on each day:-

22.15hrs 19/12; 01.20hrs 21/12; 00.36hrs 22/12.

A customer was arrested at 01.20hrs on 21/12/2014 and was similarly placed on a Custody Care Plan.

He was still drunk when checked by custody staff at 07.15hrs.

- 2) A TEN was given for Friday 1 January 2015 (i.e. New Years Eve) for the sale by retail of alcohol, provision of regulated entertainment and provision of late night refreshment between 02.00 and 03.00hrs PLUS a 30min wind down.

An incident was reported at 02.05hrs where a customer reported having been assaulted by door staff.

Attending Officers reported that he had not been assaulted however; he was heavily intoxicated and had been ejected.

As the latter event is for a wales fixture incidents have been perused in respect of the last tournament which involved Wales i.e. 2015 Six Nations

Scotland v Wales 15/2/2015 Customer arrested @ 01.21hrs 16/2/2015 for being Drunk & Disorderly

- 1) Modus Operandi: the suspect has been arrested as he has been causing a disturbance in Railway pub ejected due to his behaviour and spoken to by officers. Suspect has returned to the railway inn and continued to act in a disorderly manner. Arrested for being drunk and disorderly.

Custody Care Plan – Health and Wellbeing, detainee is intoxicated. Detainee check frequency: 30 minutes. Observation level: Level 2 - intermittent observation. Reason: Sobriety. 16/02/2015 08:34hrs - The detained person is intoxicated.

Male issued PND.

Wales v Ireland 14/3/2015 – two incidents.

One was recorded at 00:57hrs 15/03/2015; another at 01.39hrs 15/03/2015

Note intoxication of customer:

- 1) Occurrence Summary: Operation Raven. Investigator action 15/03/2015 00:57hrs PC 3331 Rees, S. Log entry: Mobupdate: Railway Inn – Officers on duty outside the Railway noted that door staff allowed a drunken male entry. Officers advised the door staff to eject him.
- 2) Original Incident Report: Call from ambulance. Assault – 40 year old male has been assaulted by having his head hit into a wall, the attacker has left the scene is apparently armed with glass – we don't have a crew available to attend at present.

Officers attending the incident located the injured person. He had not been assaulted but had fallen over coming from the toilet as he was extremely intoxicated and unsteady on his feet.

The Chief Officer will continue to object to temporary events at venues where there has been a failure to adhere to the Conditions of the licence and alcohol related incidents remain consistent which therefore undermine the licensing objectives.

Apart from a closing Statement those are the representations of South Wales Police.”

The Solicitor acting on behalf of the Premises Licence Holder sought clarification whether some of the incidents referred to by PC Ellis in his Statement actually took place inside or outside the premises, ie perhaps when patrons were en-route there from another late night establishment where they had been drinking. She added that her client felt that some of the incidents referred to had resulted outside of the premises following these patrons being refused entry to the Railway Inn by door staff.

PC Ellis contested this statement, as most of the incidents he referred to above were self-explanatory and told “as they happened and were reported”, most notably those that had occurred on 1/1/2015, 15/2/2015 and 14/3/2015.

As this was the only question raised by the Solicitor acting for the Premises Licence Holder, the Chairperson on behalf of the Sub-Committee asked the Premises Licence Holder and/or his Solicitor to present their case.

She advised that obviously the Sub-Committee were aware that the Police could serve an Objection Notice in response to an application for a TEN if sufficient proof is given that to do so, would undermine the licensing objectives. She felt however, that what her client was requesting as part of the TEN, was ‘light touch’ in terms of temporary activity regarding an extension of bar hours and regulated entertainment.

The Solicitor added that the maximum in terms of TENS applied for within a 12 month period covered a maximum of 168 hours for a 21 day period, and she wished the Sub-Committee to note, that her client was not asking for such extensions on 26 and 27 September 2015 up until 4 or 5.00am, but merely until 3.00am, with the premises closing at 3.30am. This amounted to just 2 extra hours over a weekend when the rugby World Cup was in progress ie and when Wales were playing. She added that previous requests for TENS at the Railway Inn for a similar extension had been granted by the Licensing Authority, and these had taken place without any incidents of anti-social behaviour taking place at the premises, and therefore she considered that the TENS requested, would not undermine the licensing objectives in these instances.

She was aware that there were other licensed premises within the town centre and the Saturation Area of the town that opened for trade later than the Railway Inn, as well as obtaining having secured TEN’s for the same weekend as her client was requesting. Unfortunately, there were instances that sometimes occurred outside of licensed premises when on occasions Door Control staff had to refuse patrons entry to the premises because they were intoxicated, and often this drew a bad light on the premises who rejected these patrons, if as a result of this, they caused trouble outside or in the vicinity of these premises. It was a bit of a double edged sword. She was in support of closing times of late night establishments being staggered as were the Police, as this meant that patrons were not congregating in locations such as the Saturation Area at the same time, which sometimes then incited trouble. The downside of that however, was that the places who closed their businesses earlier than others, were losing money in the shape of custom, and in the current financial climate, extra business through TENS etc, sometimes made the difference in whether or not establishments in the pub trade survived or not.

The staff at the Railway Inn acted responsibly when considering the closing times of the premises as included in the terms and conditions of its Operating Schedule of the Premises Licence, particularly at times when patrons left the premises so as not to cause a disturbance before going elsewhere of an evening.

The Premises Licence at the Railway Inn only allowed for the Premises to be open on weekends until 2.00am, and it was only on special occasions when the premises applied for TENS, so as to gain extra income on occasions when further patrons were attracted to socialising in Bridgend. She reiterated that certain other premises were regularly open later particularly on weekends, and therefore they held an advantage when obtaining extra income, ie by being open longer hours.

The Solicitor explained that there were a considerable number of Conditions attached to the Premises Licence, such as the use of plastic glasses and the provision of Door Control staff who held radio's connecting them to other staff in the town centre if they encountered trouble at the premises, and there were CCTV camera's within and to the entrance of the premises. She acknowledged the statement made by PC Ellis that 2 warning letters had been served on the management at the premises requesting that the premises operates in a more efficient way, however, her client had only had record of receiving the first of these letters. She further acknowledged that there had been previously employed at the premises unlicensed door staff, this was no longer the case and all such staff were registered and supplied by the same company, and the Police had been informed of this. She further added that there was an incident raised by the Police that on one occasion there had been no Door Staff present one evening. This had been due to the fact though, that there had been a large disturbance in a nearby late night establishment to which they had been summoned to, to provide assistance. Corrective action had been taken however, as these staff were then dismissed. She confirmed that some of the evidence submitted by the Police had not been fully substantiated, including that which was contained in the two letters they served on the management of the premises.

She added that the Railway Tavern has a licence that permits the premises to open quite late of an evening, especially on weekends, and in light of this there was inevitably at the odd times instances of trouble at the premises, but this could occur at any late night premises.

There were some people who were more responsible and would go out later in the evening without first having consumed more alcohol then they perhaps should have, but others, particularly younger individuals would consume alcohol in the house, then go out and consume more and perhaps then incite trouble. She advised that last Friday there was trouble that emanated outside the premises, but only because 2 people had been refused entry to the premises, as it had been deemed by door staff that they had consumed too much alcohol. The Police had been called as soon as these individuals had shown signs of anti-social behaviour. CCTV footage had picked up the two people concerned causing trouble. Acts such as this that occurred only every so often, did not suggest regular breaches of the licensing objectives at the premises, and staff always tried to be vigilante to ensure that the Conditions on the Premises Licence were always complied with.

PC Ellis advised that warning letters had previously been served on the Premises Licence Holder at these premises in 2004, 2014 and 2015, however, 4 other such similar letters had been served previous to this period. He added that he was not aware of any TEN applications being submitted by other nearby premises in the town centre for the rugby World Cup celebrations.

The Chairperson asked why a TEN was being applied for Friday 25 September in respect of Argentina v Georgia, the KO for which was 16:45hrs.

The Solicitor advised that this was the beginning of a rugby weekend, and whereby it was anticipated that supporters would watch this game at home, there would be scope for people to come out later, particularly if they knew the premises was opening until later than usual.

The Chairperson then asked both parties for their closing statements.

PC Ellis made the following comments on behalf of the South Wales Police:-

- The event is proposed to take place during the busiest times of the week at premises which had its hours reduced at review.
- It is proposed to take place during the two busiest days of the week Friday and Saturday night.
- The latter date involved a Wales rugby fixture and these days are particularly demanding.
- There have been 3 recent incidents recorded at the premises after matches involving Wales.
- There have been 4 incidents recorded on days when temporary events have been given.
- The premises has previously been subject of the review procedure however; there continues to be crime and disorder associated with the venue.
- A considerable number of occurrences concern customers who are highly intoxicated.
- The majority of these incidents occur during the early hours and it is significant that the proposal is to open during these times.

All these factors impact on the prevention of crime and disorder and public nuisance objectives.

Therefore in light of the previous and recent history of the premises and the impact the temporary event will have on the licensing objectives, South Wales Police respectfully request that the Sub-Committee do not allow the event to take place and wished for a counter notice to be issued.

If the Sub-Committee should determine to approve the event, South Wales Police would request that impose all the existing conditions at the premises be imposed on the TEN, as otherwise they will not be inconsistent with the event.

He concluded the Police submission by advising the Sub-Committee to note that Condition 14, 1 to 5 has still not been complied with by the Premises Licence holder.

The Solicitor acting on behalf of the premises, confirmed that she acknowledged that the Premises Licence at the premises had been reviewed in 2012. However, she pointed out that was over 3 years ago, and even though two warning letters had been served by the Police on the Premises Licence Holder on occasions both last and this year, this did not

paint some terrible picture in terms of how the premises was being operated. The Premises Licence Holder was only requesting an extra hour for opening, and this would still mean that other premises nearby would either be closing earlier or later, which would assist in terms of patrons not queuing outside premises that all shut the same time and ease any potential problem of trouble occurring in the saturation area of the town centre. Conditions attached to the Operating Schedule of the Premises Licence were being adhered to, including in respect of employing SIA regulated Door Control staff. She concluded by confirming that the extra hours the Premises Licence Holder had applied for under the TEN was 'light touch', even within the saturation area of the town.

As this concluded debate on this item, the Chairperson confirmed that Members would now retire to consider the matter further, whereupon on their return it was

RESOLVED:

The Sub-Committee considered the TEN in respect of the Railway Inn, Bridgend. The Committee have heard representations from the Police and the Premises User. The Police in their representations have informed the Sub-Committee that most incidences recorded take place after 12am and the premises continues to have warning letters in relation to the non-compliance of their licence Conditions despite previously having been reviewed.

The Sub-Committee have decided that if the TEN was granted this would undermine the licensing objectives and should therefore not take place.

The Sub-Committee have therefore decided to give a counter notice to the TEN.

(b) **Sea Salt Fish and Chips, 55 New Road, Porthcawl**

The Licensing and Registration Officer advised Members that the application for a TEN in respect of the above premises had been withdrawn.

(c) **The General Picton (including car park area), 57 New Road, Porthcawl**

The Licensing and Registration Officer advised the Sub-Committee that the application for a TEN in respect of the above premises had been withdrawn.

The meeting closed at 12:13am

The meeting closed at 12.13 pm