

Meeting of:	<b>Licensing Sub-Committee</b>
Date of Meeting:	<b>Tuesday, 19 December 2023</b>
Relevant Scrutiny Committee:	Homes and Safe Communities
Report Title:	<b>Objection to Temporary Event Notice for Cubana's Bar</b>
Purpose of Report:	To consider and determine an objection notice submitted by South Wales Police in response to a Temporary Event Notice served on the Licensing Authority
Report Owner:	Licensing Authority
Responsible Officer:	The Licensing Authority
Elected Member and Officer Consultation:	Statutory Consultation
Policy Framework:	This is a matter for decision by the Licensing Act 2003
Executive Summary:	<ul style="list-style-type: none"> <li>For the Sub-Committee to consider and determine an objection notice submitted by South Wales Police to a Temporary Event Notice given for Cubana's Bar, 7 Broad Street, Barry, Vale of Glamorgan, CF62 7AF.</li> </ul>

## **Recommendation**

1. The Sub-Committee is required to consider and determine the Objection Notices submitted by South Wales Police in respect of Temporary Event Notice One and Temporary Event Notice Two for Cubana's Bar, in line with paragraph 5.5 of this report.

## **Reason for Recommendation**

1. To ensure Members determine the matter in accordance with the Licensing Act 2003.

## **1. Background**

- 1.1 Upon receipt of a Temporary Event Notice Relevant Persons can issue an Objection Notice. In these circumstances, it is the duty of the Licensing Authority to hold a hearing to consider the Objection Notice, unless the premises user, Relevant Persons which gave the objection notice and the Authority agree that a hearing is unnecessary; and, having regard to the Objection Notice, give the premises user a counter notice under Section 105 of the Licensing Act 2003 if it considers it appropriate for the promotion of the licensing objectives to do so.
- 1.2 The Authority has the power to apply existing premises licence conditions to the Temporary Event Notice.

## **2. Key Issues for Consideration**

- 2.1 TEMPORARY EVENT NOTICE ONE – 22nd, 23rd AND 26th DECEMBER 2023.

On 7th December, 2023, the Licensing Authority received a Temporary Event Notice (TEN) from Stephen Michael Case (the premises user) in respect of the premises; Cubana's Bar, 7 Broad Street, Barry, Vale of Glamorgan CF62 7AF. The premises is described as "music venue, late night bar".

The premises user stated in the notice:

"Extension to hours for the festive period, including retail sale of alcohol and regulated entertainment. All conditions of the premises licence will apply, including security staff to wear hi vis jackets at the close of the premises to control dispersal of customers."

- 2.2 The TEN seeks authorisation for the sale of alcohol for consumption on the premises and the provision of regulated entertainment for each of the days as follows:

22nd December, 2023 – 03:00 to 05:00 hours

23rd December, 2023 – 03:00 to 05:00 hours

26th December, 2023 – 03:00 to 05:00 hours

**2.3** TEMPORARY EVENT NOTICE TWO – 28th DECEMBER, 2023 TO 31st DECEMBER, 2023

On 8th December, 2023, the Licensing Authority received a Temporary Event Notice (TEN) from Stephen Michael Case (the premises user) in respect of the premises; Cubana’s Bar, 7 Broad Street, Barry, Vale of Glamorgan CF62 7AF. The premises is described as “music venue, late night bar”.

The premises user stated in the notice:

“Extension to hours for the festive period, including retail sale of alcohol and regulated entertainment. All conditions of the premises licence will apply, including security staff to wear hi vis jackets at the close of the premises to control dispersal of customers.”

**2.4** The TEN seeks authorisation for the sale of alcohol for consumption on the premises and the provision of regulated entertainment for each of the days as follows:

28th December, 2023 – 03:00 to 05:00 hours

29th December, 2023 – 03:00 to 05:00 hours

30th December, 2023 – 03:00 to 05:00 hours

31st December, 2023 – 03:00 to 05:00 hours

**2.5** The premises has the benefit of a Premises Licence; PRM AS0658 which authorises the following licensable activities:

Sale of alcohol (for consumption on the premises)

Monday to Wednesday: 10:00 to 23:30 hours

Thursday: 10:00 to 01:30 hours

Friday and Saturday: 10:00 to 03:00 hours

Good Friday: 10:00 to 03:00 hours

Christmas Eve: 10:00 to 01:00 hours

Boxing Day: 10:00 to 03:00 hours

New Year’s Eve: 10:00 to 03:00 hours

Bank Holiday Sunday: 10:00 to 03:00 hours

Regulated entertainment in the form of Live Music (indoors), Recorded Music (indoors), Performance of Dance (indoors) and anything of a similar description (indoors)

Monday to Wednesday: 12:00 to 23:00 hours

Thursday: 12:00 to 01:00 hours

Friday and Saturday: 12:00 to 03:00 hours

Sunday: 12:00 to 23:00 hours

Good Friday: 12:00 to 03:00 hours

Christmas Eve:	12:00 to 01:00 hours
Boxing Day:	12:00 to 03:00 hours
New Year's Eve:	12:00 to 03:00 hours
Bank Holiday Sunday:	12:00 to 03:00 hours
Late Night Refreshment (indoors)	
Monday to Wednesday:	23:00 to 00:00 hours
Thursday:	23:00 to 01:00 hours
Friday and Saturday:	23:00 to 03:00 hours
Sunday:	23:00 to 00:00 hours
Good Friday:	23:00 to 03:00 hours
Christmas Eve:	23:00 to 01:00 hours
Boxing Day:	23:00 to 03:00 hours
New Year's Eve:	23:00 to 03:00 hours
Bank Holiday Sunday:	23:00 to 03:00 hours

- 2.6** The conditions attached to the premises licence can be found in **Appendix A**.
- 2.7** Copies of the TENs were served upon South Wales Police and the Council's Environmental Health team within Shared Regulatory Services.
- 2.8** On 11th December, 2023 South Wales Police submitted Objection Notices to both TENs for Cubana's Bar.  
A copy of the Objection Notices can be found in **Appendix B**.
- 2.9** The Licensing Authority is aware that it is possible for the premises user and South Wales Police to enter into a period of discussion regarding the objections raised, and that Section 106 of the Licensing Act enables the modification of TENs with the agreement of all parties.

Members are advised that the timescales governing TENs are relatively short and that, at the time this report was dispatched, the Licensing Authority has not been notified that the parties had reached an agreement. The Objection Notice is therefore to be treated as not having been withdrawn.

### **3. How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?**

- 3.1** This report relates to a regulatory function of the Council.

### **4. Climate Change and Nature Implications**

- 4.1** This report relates to a regulatory function of the Council.

## **5. Resources and Legal Considerations**

### **Financial**

- 5.1** Fees associated with the issue of Licences are set in statute and support the administration and enforcement of the Licensing Act 2003 functions.

### **Employment**

- 5.2** None.

### **Legal (Including Equalities)**

- 5.3** The Licensing Act 2003 (Section 4) states that it is the duty of all Licensing Authorities to carry out their functions under the Act with a view to promoting the licensing objectives. The licensing objectives are:

- a) The prevention of crime and disorder
- b) Public Safety
- c) The prevention of public safety
- d) Protection of children from harm.

Each objective is of equal importance and should be of paramount consideration at all times.

- 5.4** Section 4(3) Licensing Act 2003 states that the Licensing Authority should have regard to the Council's Statement of Licensing Policy, the Statutory guidance issued under Section 182 of the Licensing Act 2003 and the Licensing Act itself, in this case in particular to:

- a) Paragraphs 1, 2, 3, and 13 of The Statement of Licensing Policy
- b) Chapters 2, 3 and 7 of the Statutory guidance, as revised August 2023.
- c) Sections 4, 9, 10, 11, 12, 13, 34, 35, 36, 182 and 183 of the Licensing Act 2003.

- 5.5** The Sub-Committee must consider the points raised in the Objection Notice and make a determination on each of the TENs. Having considered the Objection Notices, the Sub-Committee has available the following options:

- a) Allow the licensable activities to go ahead as stated in the TENs.
- b) If the TENs are in connection with a licensed premises, the Licensing Authority may also impose one or more of the existing licence conditions on the TENs (insofar as such conditions are not inconsistent with the event) if it considers that this is appropriate for the promotion of the Licensing Objectives.

or;

- c) If it considers that the events would undermine the licensing objectives and should not take place, issue a counter notice to one or to both events.

## **6. Background Papers**

The Licensing Act 2003

The Secretary of State's Guidance issued under Section 182 of the Licensing Act 2003

Regulations to the 2003 Act

Vale of Glamorgan Council's Statement of Licensing Policy

## **ANNEX 2 - CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE**

### **Challenge 25**

1. The venue will operate a strict Challenge 25 policy and will be active in any Pub/Club Watch scheme in conjunction with South Wales Police and the Vale of Glamorgan Council.

### **Security**

2. All persons used for security purposes will hold a current licence issued by the Security Industry Authority.
3. There will be a minimum of two SIA staff for the first 100 patrons, and a ratio of 1-75 thereafter on all occasions when the premises is open passed midnight.
4. Members of the security team will trial personal body cameras as well as operating a strict dress code, age policy and admissions criteria.
5. Security personnel will cover all areas of the venue in order to accommodate the flow of customers. This will also apply to the beer garden and smoking area.
6. The front of the building will not be used as a smoking area.

### **Admittance**

7. There shall be no admittance or re-admittance to the premises after 1.30am.
8. The club will enforce a 1.15/20am admission policy to the area cordoned off for queuing.

### **CCTV**

9. A CCTV system, including facial identification and body cameras for security staff, to be installed to a standard approved by South Wales Police, to be maintained and operated at all times when the premises are open to the public.
10. The system will cover all areas to which the public have access excluding the toilets.
11. The images will be kept for a minimum period of 31 days.
12. The images will be produced to a police employee in a readily playable format immediately upon request when the premises are open to the public, and at all other times as soon as reasonably practicable. There will be sufficiently trained staff to facilitate this.

### **Incident Book**

13. An incident book shall be kept to standard at the premises and maintained at all times. This must be made available for inspection on request to an authorised member of the relevant authority or a member of police staff.

The incident book will record the following details;

- Ejections of patrons
- Refusal of service
- Crimes reported to the venue
- Complaints received at the venue
- Confiscated (seized) drugs and offensive weapons
- Faults on the CCTV system
- Items placed (bagged and tagged) in the drugs or sharps box
- Visits and checks made by any responsible authority

### **Smoking Areas and Beer Garden**

14. Area 1 Subway Road end (side area), beer and smoking area will be closed for the consumption of alcohol at 1.00am. This will be enforced on all occasions when the premises are open to its maximum hours.
15. The smoking area will remain open until 30 minutes before the close of the premises in order to prevent noise nuisance and management issues around the entrance to the premises.
16. Area 2 Broad Street end (back area) will be used as a beer garden and smoking area when the upper ground floor is in use and closed for the public at 23.00.

**Noise Nuisance**

17. Glass bottles should not be emptied into external skips and bins after 23:00 or before 07:00.
18. No amplification of music, voice or instrumentation shall be permitted in external areas, such as smoking and drinking areas, or to the forecourt/ pavement area.
19. Open-able windows and doors to the premise should not be used as a form of ventilation whilst unregulated and Regulated Entertainment is taking place and should be kept closed from 23:00 onwards regardless if entertainment is taking place or not.
20. Regulated Entertainment shall only take place in the upper bar between 12:00 and 23:00.
21. Clearly legible notices shall be displayed at all exits from the premise requesting the public and staff to respect the needs of local residents and to leave the premise and area quietly.
22. Clearly legible notices shall be displayed in all external areas requesting public and staff to respect the needs of local residents and to use external area quietly and respectfully.



## **Temporary Event Notice One – Objection Notice**

**From:** McCarthy,Scott swp5153  
**Sent:** Monday, December 11, 2023 3:23 PM  
**To:** Licensing  
**Cc:** Hardwick,Justin swp2027 ; About Training

Good Afternoon.

South Wales Police are objecting to the TENs submitted for Cubana's on 22/12/2023, 23/12/23 and 26/12/23 under the Licensing Objectives, namely;

- The Prevention of Crime and Disorder,
- Public Nuisance.

South Wales Police have made several attempts to contact the applicant since receiving the TENs, seeking further information and details regarding their plans and measures that will be in place to promote the licensing objectives. However, these attempts have been unsuccessful.

Therefore, without reassurances from the applicant on how they will be operating during the extended period of 03:00 - 05:00, South Wales Police have concerns that the licensing objectives will be undermined during the period of the TENs. During the past six months, there have been several incidents that have taken place during the early hours of the morning. The aforementioned incidents include domestic related assault, persons reporting issues with door staff and groups of males involved in a physical altercation.

Without sufficient reassurances from the applicant, South Wales Police believe that incidents are likely to occur during the TENs period.

Should you wish to correspond further regarding this matter, please contact me on the details at the foot of this email.

Kind regards



**Scott McCarthy**

**Cwnstabl 5153 | Constable 5153**

**Adran Drwyddedu | Licensing Department**

**Gorsaf Yr Heddlu Bae Caerdydd | Cardiff Bay Police Station**

**☎ : 02920 634 159 | Ext: 34504 | Mobile: 07584 004445**

**f /SWPolice 📷 @SWPolice 🐦 @SWPolice 📺 /SWPTV**

## Temporary Event Notice Two – Objection Notice

**From:** McCarthy,Scott swp5153 <Scott.McCarthy@south-wales.police.uk>  
**Sent:** Monday, December 11, 2023 3:25 PM  
**To:** Licensing <Licensing@valeofglamorgan.gov.uk>  
**Cc:** Hardwick,Justin swp2027 <Justin.Hardwick@south-wales.police.uk>; About Training <darren@about-training.co.uk>  
**Subject:** Second TEN Objection, 28th-31st December

Good Afternoon.

South Wales Police are objecting to the TENs submitted for Cubana's on 28/12/23 - 31/12/23 under the Licensing Objectives, namely;

- The Prevention of Crime and Disorder,
- Public Nuisance.

South Wales Police have made several attempts to contact the applicant since receiving the TENs, seeking further information and details regarding their plans and measures that will be in place to promote the licensing objectives. However, these attempts have been unsuccessful.

Therefore, without reassurances from the applicant on how they will be operating during the extended period of 03:00 - 05:00, South Wales Police have concerns that the licensing objectives will be undermined during the period of the TENs. During the past six months, there have been several incidents that have taken place during the early hours of the morning. The aforementioned incidents include domestic related assault, persons reporting issues with door staff and groups of males involved in a physical altercation.

Without sufficient reassurances from the applicant, South Wales Police believe that incidents are likely to occur during the TENs period.

Should you wish to correspond further regarding this matter, please contact me on the details at the foot of this email.

Kind regards



**Scott McCarthy**

**Cwnstabl 5153 | Constable 5153**

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