

## STATUTORY LICENSING SUB-COMMITTEE

Minutes of a Remote Meeting held on 19<sup>th</sup> December, 2023.

The Committee agenda is available [here](#).

The Meeting recording is available [here](#).

Present: Councillors P. Drake, H.C. Hamilton and J.M. Norman.

Also present: S.M. Case (the Applicant), K. Evans (Licensing Team Manager, Vale of Glamorgan Council), P.C. J. Jones (South Wales Police), R. Price (Legal Officer, Vale of Glamorgan Council), D. Sheppard (representing the Applicant) and M. Swindell (Cabinet and Committee Services Officer, Vale of Glamorgan Council).

(a) Announcements –

Prior to the commencement of the business of the Sub-Committee, the Cabinet and Committee Services Officer read the following statement: “May I remind everyone present that the meeting will be live streamed as well as recorded via the internet and this recording archived for future viewing.”

The Officer also advised that a copy of the procedure for the meeting was available to Elected Members within the agenda papers circulated in advance of the meeting. Further submissions had been received from South Wales Police and the representative to the Applicant that had been distributed to all parties and would be made available as supplemental information as soon as practicable after the meeting.

(b) Appointment of Chair –

RESOLVED - T H A T Councillor P. Drake be elected as the Chair for the duration of the Sub-Committee hearing.

(c) Declarations of Interest –

No declarations of interest were received.

(d) Objection to Temporary Event Notice for Cubana’s Bar (LA) -

The Chair welcomed those present to the Sub-Committee hearing and thanked the Cabinet and Committee Services Officer for making introductions.

The Chair subsequently invited the Licensing Team Manager to present the report to the Sub-Committee, who advised that the report was to consider and determine an

objection notice submitted by South Wales Police in response to a Temporary Event Notice served on the Licensing Authority.

The Officer presented a brief summary of the report to Members, advising that the Licensing Authority had been served with two Temporary Event Notices (TENs) on 7<sup>th</sup> and 8<sup>th</sup> December, 2023 respectively from the premises user in respect of the Cubana's Bar, 7 Broad Street, Barry, Vale of Glamorgan.

The premises user stated in both Notices that the applications referred to "Extension to hours for the festive period, including retail sale of alcohol and regulated entertainment. All conditions of the premises licence would apply, including security staff to wear hi-vis jackets at the close of the premises to control dispersal of customers." The extension to hours and the related dates for each of the TENs were described in paragraphs 2.2 and 2.4 of the report.

The premises had the benefit of a premises licence for sale of alcohol (for consumption on the premises), regulated entertainment in the form of live music (indoors), recorded music (indoors), performance of dance (indoors) and anything of a similar description (indoors). The related hours for the Premises Licence were described in paragraph 2.5 of the report.

The conditions attached to the premises licence could be found in Appendix A attached to the report.

Copies of the TENs were served upon South Wales Police and the Council's Environmental Health team within Shared Regulatory Services and South Wales Police submitted Objection Notices to both TENs for Cubana's Bar on 11<sup>th</sup> December, 2023, copies of which could be found in Appendix B to the report.

Supplementary information had subsequently been received by the Police which had been circulated to all parties prior to the meeting and would be made available online as soon as practicable after the meeting.

The Licensing Team Manager advised that as both parties were unable to come to an agreement, the Licensing Sub-Committee was required to consider the points raised in the Objection Notices and make a determination for each of the TENs.

Having considered the Objection Notices, the Sub-Committee had available the following options:

- a) Allow the licensable activities to go ahead as stated in the TENs.
- b) If the TENs were 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 were not inconsistent with the event) if it considered that this was appropriate for the promotion of the Licensing Objectives. or;
- c) If it considered that the events would undermine the licensing objectives and should not take place, issue a counter notice to one or to both events.

The Chair then invited the Applicant's Representative, Mr. D. Sheppard, to present their case.

The Applicant's Representative advised that he had circulated some further information to the Sub-Committee as to why the applicant felt the objections to the Notices should not be in place, and it was confirmed that this had been shared with all parties. He was in attendance with the Applicant who had over 30 years of licensing experience and had submitted the TENs to extend the festive period both for customers and for staff to earn more over the holiday period.

Initial conversations with the Police had been open and they had considered the 5.00 a.m. extension but had since raised points about disorder. As a premises already operating to 3.30 a.m. it was already prepared to accommodate a later finish time and the occurrences submitted by the Police were not all relevant to the premises, e.g. one concerned an issue of domestic abuse which took place the following day and the others were at the point of entry when entry had been refused, so not related to the venue itself.

One area of concern was that other venues had been granted premises licence and a Temporary Licence granted to a premises which was under application currently, to 4.00 a.m. and without objections being raised. There were no representations from Environmental Health concerning noise and the Police objected on the basis of undermining the licensing objectives which the premises already operated within. None of the objections had led to a conviction and were not directly related to patrons leaving the premises. The Police had not objected to a premises licence extension at another premises and their objections to these TENs concerned their ability to control multiple areas rather than be directly related to the premises itself.

The TENs related to short extensions over the two weeks of the holiday period and would not set a precedent for any variations to the existing premises licence going forward as they were just for the holiday period.

The Applicant's Representative did not believe there was enough evidence to say that crime and disorder affected the premises and legally under the Licensing Act that the licensing objectives were being undermined in any way as they were promoted fully by the premises.

The Chair then asked all parties present if they had any questions of the Applicant's representative, to which Councillor Norman asked if the premises were happy with the extension to 4.00 a.m. as supported by the Police, or still proposed to request the extension to 5.00 a.m. The Applicant's Representative said that their proposal was based on Police availability at different areas at different times. The other temporary licence had been granted where there was no historical establish operations and was not fair to an already established premises that had proven they could successfully operate until 3.30 a.m.. Both operating till 4.00 a.m. could potentially have issues for the Police and taxi availability also.

Councillor Norman said that the TENs were for several days over the holiday period each rather than one single event. The Applicant's Representative confirmed that legally the conditions of a TEN could cover a maximum of 7 days per licence,

therefore the two submitted TENs would cover the requested days over the Christmas period.

Councillor Norman asked if there were any other premises locally that had a similar 4.00 a.m. or 5.00 a.m. licence. The Applicant's Representative said there was one premises under application across the road to the Applicant's premises, but he believed the only 4.00 a.m. licence still active was for Finnegans Inn on Barry Island, but he was not sure if that was still being utilised. Some other venues nearby had 3.00 a.m. licenses.

The Applicant's Representative said that the applications were not to bring people to Cubana's Bar from other venues, but for the benefit of customers who already attend the venue and an incentive to keep them rather than encourage others. There were already strict policies on admission.

Councillor Hamilton said that the Applicant's Representative had said that the Applicant did not wish to encourage people to come from other venues but as a consequence by extending the opening hours would give people adequate time to enter the premises. The Applicant's Representative said the term used was 'drift' meaning that people would be encouraged by security staff to disperse once the evening was coming to an end, being in high-vis clothing to be seen and then to control people moving on. The movement of people was encouraged and had been tried and tested in Cardiff successfully. People from other venues would not be encouraged to try and gain entry at 4.00 a.m., the intention was more to encourage existing patrons to remain at the venue and then be dispersed safely.

Councillor Norman asked if there was a cut-off time for admission to the venue. The Applicant's Representative said that the cut-off time for admission was 1.30 a.m. The Chair referred to the admittance policy that was contained in Appendix A to the report which stated there was no admittance or re-admittance to the premises after that time, and asked if that position would stand if the TENs were to be agreed. The Applicant's Representative said that was correct and would remain in place and would be made clear to the customers.

The Chair asked if there were any further questions for the Applicant's Representative, none were forthcoming. As such, the Chair asked for the case for the Responsible Authority, in this case South Wales Police, to be made.

P.C. Jones advised the Sub-Committee that he would be making the case on behalf of his colleague, P.C. McCarthy who had originally made the objection. The TENs both contained the same extensions and conditions were being adhered to as described in the existing licence. South Wales Police felt that the licensing objectives would not be upheld were the TENs to be granted with no additional measure in place. The later that premises remained open, the more chance there was for people to drink and for more serious incidents to take place at the later end of the night.

There were occurrences that related to the premises and whilst some were outside the premises themselves, they would not have occurred if the premises had been closed. The incidents referred to were related to Cubana's Bar and the extended

period from 3.00 a.m. to 5.00 a.m. caused concerns for the Police due to the increases in domestic assaults, issued with door staff, etc., and without sufficient assurances from the Applicant it was felt that the applications for the TENs could not be supported. An extension to 4.00 a.m. was a proposal that South Wales Police would support. The objection was not based on Police demand as that was not included in the Licensing Act. An extension to 5.00 a.m. with a 1.30 a.m. last entry condition could mean patrons having nothing to do but dance and drink for three and a half hours, which could cause issues to occur.

P.C. Jones referred to the other license application from another party that had been mentioned by the Applicant's Representative previously. That application had now been withdrawn and so the issues with taxis were no longer a consideration. He also referred to the setting of precedents that was referred to earlier; allowing the TENs would set a precedent as other applicants could make the same cases in future.

There were no questions asked of P.C. Jones concerning the objections documentation that had been submitted.

P. C. Jones concluded that the view of the South Wales Police, after discussion with the Senior Management Team, was there was no premise open that late at that location and although it would cause an issue with Police availability, the basis of the objection was concern from the Senior Management Team due to the increased chances of issues due to later opening hours and based on the submitted objections.

The Chair then asked all parties present if they had any questions of the Responsible Authority, to which Councillor Norman asked about the reported incidents and if there were any further such incidents reported in the same area. P.C. Jones said that searches would relate to a specific premise rather than an area, and as such he did not have that information available due to the quick turnaround for the hearing as there was no time for a manual search. A traffic light system was utilised for the 4,000 or so licences in place for Cardiff and the Vale and each incident was reviewed the following day and incidents were attributed to specific premises.

The Applicant's Representative asked about the traffic light system as they were unaware of that and if that was a South Wales Police system rather than a licensing system. P.C. Jones said that it was a National Police Chiefs' Council (NPCC) approved way of monitoring incidents within premises fairly, but had no impact on the hearing. The Applicant's Representative asked where Cubana's Bar stood on the traffic light system. Currently P.C. Jones said he did not have that information to hand but would be happy to provide it. The Applicant's Representative asked if premises would be advised if there was any change in their placing on the traffic light system. P.C. Jones said that a notification would be received if a premise moved to Amber or Red. The Applicant's Representative assumed that as no such notification had been received that Cubana's bar was green. P.C. Jones said again he was not aware but was happy to provide that detail.

With no further questions from any party and no further comments from other interested parties, the Chair invited representatives to sum up their representations.

The Principal Lawyer said that if every party had said everything that had wished to say then the Sub-Committee could consider its decision.

Councillor Hamilton asked the Applicant's Representative if he was content and had been given a full opportunity to put his case forward. The Applicant's Representative confirmed he was content.

Councillor Norman asked the Applicant's Representative if now they had been made aware that the other premises had withdrawn their application for a 4.00 a.m. licence whether that made any difference to their own application. The Applicant's Representative said that depended on whether the TEN had been withdrawn, however the Applicant would prefer to apply for more than the half an hour extension that the Police had supported and have music to 4.00 a.m. and then allow patrons to safely allow people to move on.

The Licensing Team Manager confirmed that the other premises licence being referred to had withdrawn their new premises licence application but their TEN application remained in place for 4.00 a.m. No objections had been received from the Police or Environmental Health.

With no other parties to consult and no further questions from the Sub-Committee, the Legal Officer confirmed that the Sub-Committee would go into private deliberation, with the decision on the application to be provided to all parties as soon as possible after the meeting given the timescales concerned and with written confirmation of the Sub-Committee's reasons to follow.

Following this, all persons in attendance disconnected from the remote hearing, as confirmed by the Cabinet and Committee Services Officer, and the Licensing Sub-Committee deliberated the application in private.

RESOLVED – T H A T following consideration of the Temporary Event Notice applications at the Licensing Sub-Committee meeting, the Sub-Committee unanimously agreed to approve both applications as applied for and add the premises conditions to the same with an additional condition that there be no admittance or readmittance to the premises after 1.30 a.m.

#### Reason for decision

In reaching its decision, the Sub-Committee were of the view that the objections put forward by South Wales Police were vague in nature, lacking detail and did not raise concerns of the premises currently operating poorly or being mismanaged. The Sub-Committee did not conclude that an extension of two hours would lead to an increase in crime and disorder based on the representations put forward by the applicant.