

LICENSING ACT 2003 – HEARING TO CONSIDER A TEMPORARY EVENT NOTICE

Licensing Sub-Committee – 13 September 2013

Report of Chief Officer Environmental and Operational Services – Mr Richard Wilson

Status: For Decision

Portfolio Holder Cllr. Ms Lowe (Housing and Community Safety)

Contact Officer(s) Mrs Leeann Leeds Ext. 7270

Recommendation to Licensing Sub-Committee: Members' instructions required.

Introduction and Background

- 1 The procedure for Hearings of Sub-Committees of the Licensing Committee established in accordance with Section 9 of the Licensing Act 2003 is attached to the front of this agenda.
- 2 The application is made by Mr Ian Fenn, The White Horse Inn, 105 Main Road, Sundridge, Sevenoaks, Kent TN14 6EQ for a Temporary Event Notice from 21:00 hours until 23:45 hours on 18 October 2013. The Temporary Event Notice seeks to allow up to 150 people on the premises for the provision of regulated entertainment and the sale of alcohol. The Temporary Event Notice received on 30th August 2013 is attached as Appendix 1
- 3 The Environmental Health objection notice received via public access on 3rd September 2013 is attached as Appendix 2

Issues to be decided and options

- 4 Having regard to the Notice and the objection of the relevant responsible authority, members may
 - take no action and permit the event in the manner described in the Temporary Event Notice;
 - issue a counter notice (i.e. refuse the event) under s 105(2)(b) if the Sub-Committee considers it appropriate for the promotion of nuisance licensing objective to do so; and
 - impose one or more of the existing premises licence conditions on the Temporary Event Notice if the authority considers it appropriate for the promotion of the licensing objectives to do so and if the conditions would not be inconsistent with the carrying out of the licensable activities under the Temporary Event Notice.

5 The relevant statutory provisions are sections 98 to 110 inclusive of the Licensing Act 2003.

Key Implications

Financial

None directly arising from this report.

Legal Implications and Risk Assessment Statement.

This Hearing is regulated by The Licensing Act 2003 (Hearings) Regulations 2005 No. 44.

All parties to the hearing will receive written notice of the decision. The written notice will be given at least 24 hours before the beginning of the event period specified in the Temporary Event Notice. The parties may appeal the decision to the Magistrate's Court within 21 days of the day that the appellant was notified by the licensing authority of the decision appealed against, subject to the appeal being brought at least 5 working days before the day on which the event is proposed to commence.

The decision is to be made with regard to the Licensing Act 2003, Secretary of State's Guidance issued under Section 182 of the Act and the Council's Statement of Licensing Policy. Where the decision departs from the Policy or Guidance the departure must be directed solely at the attainment of the licensing objectives, and such departure must be supported by clear and cogent reasons.

Equality Impacts

Consideration of impacts under the Public Sector Equality Duty:		
Question	Answer	Explanation / Evidence
a. Does the decision being made or recommended through this paper have potential to disadvantage or discriminate against different groups in the community?	No	N/A
b. Does the decision being made or recommended through this paper have the potential to promote equality of opportunity?	No	
c. What steps can be taken to mitigate, reduce, avoid or minimise the impacts identified above?		

Conclusions

Without prejudice, the Officer would like to draw to Members' attention issues that they may wish to consider:

The decision is to be made with regard to the Licensing Act 2003, Secretary of State's Amended Guidance issued under Section 182 of the Act and the Council's Statement of Licensing Policy under the Licensing Act 2003. Where the decision departs from the Policy or Guidance the departure must be directed solely at the attainment of the prevention of crime and disorder and prevention of public nuisance objectives and such departure must be supported by clear and cogent reasons

Members are advised that they may only issue a counter notice if it is appropriate to promote the licensing objectives. The relevant statutory provisions are sections 98 to 110 inclusive of the Licensing Act 2003.

The applicable Licensing Objectives are as follows:

- the prevention of crime and disorder;
- the promotion public safety;
- the prevention of public nuisance; and
- the protection of children from harm.

The relevant section of the Guidance issued under section 182 (as amended in October 2012) of The Licensing Act 2003 is Chapter 7

Human Rights

While all Convention Rights must be considered, those which are of particular relevant to the application are:

Article 8 - Right to respect for private and family life

Article 1 of the First Protocol - Protection of Property

Article 6(1)- Right to Fair Hearing

Article 10 – Freedom of Expression

Under the Licensing Act 2003 the Licensing Authority has a duty to exercise licensing control in respect of temporary events.

Appendices

Appendix 1 - Temporary Event Notice

Appendix 2 - Objection Notice from Environmental Health

Appendix 3 - Part A of current premises licence

Background Papers:

<https://www.gov.uk/government/organisations/home-office/series/alcohol-licensing-premises-licence-application.html>

The Licensing Act 2003

[Section 182 of the Licensing Act 2003 guidance](#)

Mr Richard Wilson
Chief Officer Environmental and Operational Services