

HEARING REGARDING POLICE AND ENVIRONMENTAL HEALTH OBJECTIONS TO A TEMPORARY EVENT NOTICE FOR EDEN PARK, DEN CROSS, ROMAN ROAD, MARSH GREEN, KENT TN8 5PW UNDER SECTION 105 (2) OF THE LICENSING ACT 2003

APPLICATION REFERENCE NO: 12/02706/LATEN

Licensing Committee (Hearing) – 22 August 2012

---

Report of the:	Community and Planning Services Director
Status:	For Decision
Head of Service	Head of Environment & Operational Services – Mr. Richard Wilson

---

**Recommendation:** Members' instructions are requested to determine the Notice and decide whether to:

- To take no action and permit the event in the manner described in the Temporary Event Notice;
- To issue a counter notice (i.e. refuse the event) under s 105 (2) (b) if the sub-committee considers it necessary for the promotion of the prevention of crime and disorder and prevention of public nuisance objectives to do so.

(Note: There is no discretion in this case, to impose a condition on a TEN where it is decided not to give a counter notice, because there is no premises licence or club premises certificate in existence for any part of the premises to which the application relates.)

---

### 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 agenda front page. Temporary Event Notice Guidance is attached at Appendix A.
- 2 The application is made by Mr Alistair James Campbell, Den Cross, Roman Road, Marsh Green, Kent. TN8 5PW for a Temporary Event Notice from 17:00 hours on Friday 31 August 2012 until 02:00 hours on Sunday 2 September 2012. The Temporary Event Notice seeks to allow up to 499 people on the site for the provision of regulated entertainment, sale of alcohol and late night refreshment for a party/small festival. The Temporary Event Notice received on 2 August 2012 is attached as Appendix B.
- 3 The Police Objection Notice received via public access on 7 August 2012 is attached as Appendix C.

- 4 The Environmental Objection Notice received via public access on 7 August 2012 is attached as Appendix D

#### Issues to be decided and options

- 5 Having regard to the Notice and the objections of the two relevant authorities, members must take such steps (mentioned below) as they consider necessary for the promotion of the licensing objectives.

- 6 The steps are:

- To take no action and permit the event in the manner described in the Temporary Event Notice;
- To issue a counter notice (i.e. refuse the event) under s 105 (2) (b) if the sub-committee considers it necessary for the promotion of the prevention of crime and disorder and prevention of public nuisance objectives to do so.

(Note: There is no discretion in this case, to impose a condition on a TEN where it is decided not to give a counter notice, because there is no premises licence or club premises certificate in existence for any part of the premises to which the application relates.)

- 7 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 of public safety;
- The prevention of public nuisance; and
- The protection of children from harm.

#### Conclusions

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

- 8 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
- 9 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 of public safety;
- The prevention of public nuisance; and
- The protection of children from harm.

- 10 The relevant section of the Guidance issued under section 182 (as amended on 25 April 2012) of The Licensing Act 2003 is Chapter 7
- 11 The Council recommends that at least three months notice be given to hold these events, to allow it to help organisers plan their events safely. Any longer period than this may mean that organisers do not have all the details available at the time of submitting the notice, and any lesser time means that planning may be rushed or haphazard. The law states that at least ten clear working days notice must be given.
- 12 Members of Licensing Sub-Committee are reminded of their duty under section 17 of the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the Licensing Authority's responsibility to co – operate in the reduction of crime and disorder in the District.

Section 17 of the Crime and Disorder Act 1998 states:

“Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those function on, and the need to do all that it reasonably can to prevent, crime and disorder in its area”

## Human Rights

While all Convention Rights must be considered, those which are of particular relevance 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.

## 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.

**Sources of Information:** <http://www.culture.gov.uk/alcohol and entertainment>

**Contact Officer(s):** Mrs. Leeann Leeds Ext. 7270

**KRISTEN PATERSON  
COMMUNITY AND PLANNING SERVICES DIRECTOR**