

LICENSING SUB-COMMITTEE

29 MAY 2019

Application Type:	Submission of a Temporary Event Notice (TEN)		
Ward:	Holy Trinity Ward	Ward Councillors:	1. Councillor John Rigg 2. Councillor John Redpath 3. Councillor Maddy Redpath
Premises user:	Guildford Harbour Hotel		
Location:	3 Alexander Terrace Guildford Surrey GU1 3DA		
Proposal:	The premises user has given notice of the following licensable activities: Outdoor Cinema Evening 6-7pm start conclusion by 10pm		

1. BACKGROUND

- 1.1 The Licensing Act 2003 (the 2003 Act) requires the Council (as licensing authority) to carry out its various licensing functions to promote the following four licensing objectives:
 - (1) the prevention of crime and disorder;
 - (2) public safety;
 - (3) the prevention of public nuisance;
 - (4) the protection of children from harm.
- 1.2 The 2003 Act further requires the Council to publish a 'Statement of Licensing Policy' that sets out the policies the Council will generally apply to promote the licensing objectives when making decisions on applications made under the Act. The Council adopted its current Statement of Licensing Policy on 7 January 2016.
- 1.3 Under the 2003 Act, it is the duty of all licensing authorities, in carrying out their functions, to have regard to guidance issued by the Secretary of State under section 182. As long as the licensing authority has properly understood and considered the Guidance, it may depart from it when it has reason to do so. However, as the licensing authority is under a duty to have regard to the Guidance, it will need to give full reasons for its departure from it. This would be a key consideration for the courts should departure from the Guidance result in a determination, which gives rise to an appeal or judicial review.
- 1.4 Temporary event notices allow licensable activities to be carried on without the need for a premises licence. If a premises has a premises licence, they allow licensable activities to be carried on otherwise than in accordance with the licence. They can therefore allow different activities or different hours. Events carried on under the authority of a temporary event notice are not subject to the conditions on the premises licence, however any conditions imposed on the temporary event notice must be in line with the premises licence.

2. SITE LOCATION AND HISTORY

- 2.1 Guildford Harbour Hotel is a large hotel situated at the top of Guildford Town Centre. The hotel has a number of restaurants and function rooms available to the general public. The

event will take place on the open veranda at the rear of the hotel facing out onto Deane Road.

- 2.2 There is a mix of residential and commercial properties situated near the site location. A plan showing the location of the hotel and residential properties is attached at **Appendix 1**.
- 2.3 The Guildford Harbour Hotel currently holds a Premises Licence for a variety of licenced activities, which includes films. However as the location is not within the area licenced under the Premises Licence, attached as **Appendix 2**, a Temporary Event Notice is required for the event to take place.

3. APPLICATION

- 3.1 A Temporary Event Notice was submitted on Friday 3 May 2019. The notice form is attached at **Appendix 3**. This notification was submitted within the correct time periods and has been accepted as a valid notice.
- 3.2 The dates and times shown on the Notice are as follows:

The licensable activities notified on the application are:

- a) the provision of regulated entertainment

An Outdoor Cinema Evening will take place on Thursday 4 July 2019 at the rear of the HarBar dining area – in the external terrace starting between 6-7pm with a conclusion by 10pm.

- 3.3 On Tuesday 7 May 2019, Environmental Health team from Guildford Borough Council served a notice of objection in relation to the temporary event notice. This notice was served within the timescales prescribed.
- 3.4 The objection is based on concerns that the prevention of public nuisance licensing objective would not be met. The objection notice states that “issues surrounding noise from events on the external terrace at the Guildford Harbour Hotel have been ongoing for several years, and despite attempts by Environmental Health to minimise the noise and therefore the risk of complaints from these events, and despite meetings held with management at the hotel, Environmental Health have continued to receive complaints from nearby residents when events are held on the external terrace. It is my opinion that an outdoor cinema event on the terrace would also give rise to noise complaints if held on the Terrace”.

The ground is potential nuisance.

A full copy of the objection notice is attached at **Appendix 4**.

4. CONSIDERING THE OBJECTION

- 4.1 The factors to be taken into account when considering the objection are listed below:
 - (a) The Sub-Committee is obliged to consider this objection with a view to promoting the licensing objective of the prevention of public nuisance.
 - (b) The Sub-Committee must have regard to any representations made by Environmental Health and the applicant and any supporting evidence.

- (c) The Sub-Committee must, having regard to the objection notice, give a counter notice under Section 105 of the 2003 Act if it considers it appropriate for the promotion of the licensing objective of the prevention of public nuisance to do so. If a counter notice is given, the event is not authorised to take place.
- (d) The Sub-Committee does not consider it appropriate to serve a counter notice under Section 105, it may impose conditions on the notice if it considers appropriate for the promotion of the 'prevention of public nuisance' licensing objective to do so. Because there is a premises licence in effect in respect of the premises, any conditions imposed on the temporary event notice are limited to those already imposed on the premises licence.
- (d) If the Sub-Committee does not consider it appropriate to give a counter notice, the premises user will be entitled to hold the event as stated in the notice, subject to any conditions imposed by the Sub-Committee.
- (e) If the Sub-Committee decides to give a counter notice it must give the counter notice and a notice stating the reasons for the decision to the premises user and Environmental Health. If the Sub-Committee decides to impose conditions, it must give notice to the premises user together with a separate statement of conditions and provide a copy to Environmental Health.
- (f) There is a right of appeal to the Magistrate's Court for the recipient of a counter notice or for Environmental Health where no counter notice is given, however no appeal may be brought later than 5 working days before the event period begins.

5. LICENSING POLICY

5.1 The following sections of the Council's Licensing Policy are relevant:

- Section 4 - Paragraphs 4.1 to 4.12: Fundamental Principles
- Section 10 – Paragraphs 10.1 to 10.7: Temporary Event Notices
- Section 12 – The Licensing Objectives – Specifically 12.4 – Public Nuisance.

6. NATIONAL GUIDANCE

6.1 The following sections of the Guidance issued in 6 April 2018 by the Secretary of State under Section 182 of the Licensing Act 2003 are relevant:

- Paragraphs 2.15 to 2.21 – Public Nuisance
- Paragraphs 7.1 to 7.40 – Temporary Event Notices.

7. RECOMMENDATION

7.1 The Sub-Committee is asked to consider the objection notice from Environmental Health, together with any other submissions made at the hearing, and determine whether it is appropriate for the promotion of the prevention of the public nuisance objective to give a counter notice which will prevent the event from going ahead or whether to impose conditions from the existing premises licence on the event.

Reason for recommendation

To comply with the requirements of the Licensing Act 2003

Background Papers:

This revised guidance issued under s 182 comes into force from 6 April 2018.

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