

## LICENSING SUB-COMMITTEE

30 MARCH 2015

<b>Application Type:</b>	Submission of a Temporary Event Notice (TEN)		
<b>Ward:</b>	Lovelace	<b>Ward Councillors:</b>	1. Councillor Colin Cross
<b>Premises user:</b>	Mr Anthony Joseph Goff		
<b>Location:</b>	Blackmoor Heath, Ockham, Surrey, KT11 1NH		
<b>Proposal:</b>	The premises user has given notice of the following licensable activities:  (a) the sale by retail of alcohol; (b) the provision of regulated entertainment; and (c) the provision of late night entertainment  on Saturday 11 July 2015 from 1200 hrs to 2400 hours		

### 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 9 December 2010.
- 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.

### 2. SITE LOCATION AND HISTORY

- 2.1 Blackmoor Heath is located in Ockham, Surrey, KT11 1NH

- 2.2 There is a mix of residential and rural properties in the vicinity of the premises. A plan showing the location of the premises is attached at **Appendix 1**, with residential properties represented by a dot.

### 3. APPLICATION

- 3.1 A Temporary Event Notice was submitted by Mr Anthony Joseph Goff on Thursday 19 March 2015. The original notification indicated that there would be 450 to 500 attendees plus staff. Clarification was sought from Mr Goff who confirmed that he was intending approximately 400 attendees plus staff. The form was amended to indicate a maximum of 499 attendees. The amended form is attached at **Appendix 2**. 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:

Saturday 11 July 2015 from 1200 hours to 0000 hours (midnight)

The licensable activities notified on the application are:

- a) the sale by retail of alcohol
- b) the provision of regulated entertainment
- c) the provision of late night refreshment

The proposed event is a day of music and refreshment showcasing local produce from around Surrey.

The premises user supplied additional information regarding the event, which is attached as **Appendix 3**.

- 3.3 On Friday 20 March 2015 Environmental Health 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 their concerns that the 'prevention of public nuisance' licensing objective would not be met. The objection notice is concerned that there are insufficient precautions in place to prevent a public 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 Act if it considers it appropriate for the promotion of the licensing objective of the prevention of public nuisance to do so.
- (d) The Sub-Committee is not entitled to impose conditions on the notice because it may only do so where there is a premises licence in effect in respect of the premises.
- (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.

- (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
- (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 5 - Paragraphs 5.1 to 5.17: Fundamental Principles
- Section 8 – Paragraphs 8.1 to 8.12: Temporary Event Notices
- Section 11 – Paragraphs 11.1 to 11.6: The Licensing Objectives – (3) Prevention of nuisance

## **6. NATIONAL GUIDANCE**

6.1 The following sections of the Guidance issued in October 2014 by the Secretary of State under Section 182 of the Licensing Act 2003 are relevant:

- Paragraphs 2.18 to 2.24 – Public Nuisance
- Paragraphs 7.1 to 7.37 – 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 public nuisance objective to give a counter notice which will prevent the event from going ahead.

### Reason for recommendation

To comply with the requirements of the Licensing Act 2003

### Background Papers:

Amended Guidance issued in October 2014 under Section 182 of the Licensing Act 2003

### Originator:

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