

## LICENSING SUB-COMMITTEE

30 MARCH 2021

<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 Nicholas Baker		
<b>Location:</b>	Delta Force Paintball Old Lane Ockham Cobham Surrey KT11 1NL		
<b>Proposal:</b>	The premises user has given notice of the following licensable activities:  (a) the sale by retail of alcohol, and (b) the provision of regulated entertainment  on the following dates and times:  • Saturday 31 July 2021 from 12:00 hrs to 23:00 hrs		

### 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 current Statement of Licensing Policy took effect on the 7 January 2021.
- 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 Delta Force Paintball is situated on Old Lane in Ockham.
- 2.2 There are some residential and commercial properties in the vicinity, and it is a rural area of the borough. A plan showing the location of the premises is attached at Appendix 1, with residential properties represented by a dot.
- 2.3 There is no premises licence in force.

## **3. APPLICATION**

- 3.1 A Temporary Event Notice was submitted by Mr Nicholas Baker on Monday 15 March 2021 and the 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 31 July 2021 from 12:00 hrs to 23:00 hrs

The licensable activities notified on the application are:

- a. the sale by retail of alcohol, and
- b. the provision of regulated entertainment

The proposed event is for the premises to be used as a music venue for persons over the age of 18, with one bar offering alcohol, soft drinks and water.

- 1.3 On 19 March 2021, Surrey Police served a notice of objection in relation to the temporary event notice. This notice was served within the timescales prescribed.
- 1.4 The objection is based on their concern that the 'prevention of crime and disorder' and 'public safety' licensing objectives would not be met. The objection notice refers to a lack of details relating to the management and controls of this event. A full copy of the objection notice is attached at Appendix 3.
- 1.5 On 19 March 2021, Environmental Health served a notice of objection in relation to the temporary event notice. This notice was served within the timescales prescribed.
- 1.6 The objection is based on their concern that the 'prevention of public nuisance' licensing objective would not be met. The objection notice refers to there being no information supplied regarding set up of the event, volume of the music and whether any consideration has been given to preventing a nuisance to residential properties in the locality. 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 these objections with a view to promoting the licensing objectives of the prevention of crime and disorder, public safety and prevention of public nuisance.
  - (b) The Sub-Committee must have regard to any representations made by Surrey Police, 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 objectives of the prevention of crime and disorder or public safety or prevention of public nuisance to do so. A counter notice prevents the event from taking place.

- (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. No conditions can be attached to the notice because conditions can only be attached if they are already on a premises licence.
- (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, Surrey Police and Environmental Health.
- (f) There is a right of appeal to the Magistrate's Court for the recipient of a counter notice or for Surrey Police or 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 – Fundamental Principles
- Section 10 – Temporary Event Notices
- Section 12.1 – The Licensing Objectives – Prevention of crime and disorder
- Section 12.2 – The Licensing Objectives – Public safety
- Section 12.3 – The Licensing Objections – Prevention of public nuisance

## **6. NATIONAL GUIDANCE**

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

- Paragraphs 2.1 to 2.6 – Crime and disorder
- Paragraphs 2.7 to 2.14 – Public safety
- 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 notices from Surrey Police and Environmental Health, together with any other submissions made at the hearing, and determine whether it is appropriate for the promotion of the prevention of crime and disorder objective and/or the public safety objective and/or 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 under Section 182 of the Licensing Act 2003

### Originator:

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