

LICENSING SUB-COMMITTEE

22 AUGUST 2016

Application Type:	Submission of a Temporary Event Notice (TEN)		
Ward:	Westborough	Ward Councillors:	1. Councillor Liz Hooper 2. Councillor Sheila Kirkland 3. Councillor Julia McShane
Premises user:	Lisa Ahmah		
Location:	Holroyd Arms 36 Aldershot Road Guildford Surrey GU2 8AF		
Proposal:	The premises user has given notice of the following licensable activities: (a) the sale by retail of alcohol (b) the provision of regulated entertainment on the following dates and times: • Sunday 28 August 2016 from 00:00 hrs to 02:30 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 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 unless conditions are imposed by the Sub-Committee, however any conditions imposed on the temporary event notice must be in line with those on the premises licence.

2. **SITE LOCATION AND HISTORY**

- 2.1 The 'Holroyd Arms' is located at 36 Aldershot Road, Guildford, Surrey, GU2 8AF.
- 2.2 The premises have Bed & Breakfast accommodation at the rear of the property. The adjoining property to the east is a commercial car premises. The 'Woodbridge Hill Members Club' is 50m across Aldershot Road to the south-east. All other remaining neighbours are residential properties which are in the immediate vicinity of the premises. A plan showing the location of the premises is attached at Appendix 1, with residential properties represented by a dot.
- 2.3 The current premises licence, GUPLA0286, permits the sale of alcohol (for consumption on and off the premises) and regulated entertainment indoors until:
- 23:30 hours Monday to Thursday
- 00:00 hours (midnight) Friday & Saturday
- 22:30 hours Sunday.
- There are a number of conditions included on the Premises Licence in sections C, D & E. A copy of the licence is attached at Appendix 2.
- 2.4 The Council has previously received noise complaints from nearby residents as detailed by the Council's Environmental Health team in their objection. A copy of this objection is attached at Appendix 3.

3. **APPLICATION**

- 3.1 A Temporary Event Notice was submitted by Lisa Ahmah (Designated Premises Supervisor) on Thursday 11 August 2016 and the form is attached at Appendix 4. 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:
- Sunday 28 August 2016 from 00:00 hrs (midnight) to 02:30 hrs

The licensable activities notified on the application are:

- the sale by retail of alcohol
- the provision of regulated entertainment

The proposed event is a 'Reunion Party' with a 'DJ'.

The premises are currently licensed for these activities indoors on a Saturday night until 00:00 hours (midnight).

On Tuesday 16 August 2016, Environmental Health served a notice of objection in relation to the temporary event notice. This notice was served within the timescales prescribed. A copy of this objection is attached at Appendix 3.

- 3.3 The objection is based on their concern that the 'prevention of public nuisance' licensing objective would not be met. The objection notice refers to a previous history of noise complaints and a recent complaint for an event held under a TEN on the 30th/31st July 2016 that included regulated entertainment.

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. If a counter notice is given, the event is not authorised to take place.
- (d) If the Sub-Committee does not consider it appropriate to give a counter notice under Section 105, it may impose conditions on the TEN if it considers it appropriate for the promotion of the licensing objective of the prevention of public nuisance to do so. The conditions that can be imposed are any which are on the existing premises licence, provided they are not inconsistent with the carrying out of the event.
- (e) If the Sub-Committee does not consider it appropriate to give a counter notice or impose conditions, the premises user will be entitled to hold the event as stated in the notice.
- (f) 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.
- (g) 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 - Fundamental Principles
- Section 10 - Temporary Event Notices
- Section 12.4 - The Licensing Objectives – Prevention of a 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 2.14 to 2.20 – 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 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:

Amended Guidance issued under Section 182 of the Licensing Act 2003

Originator:

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