

LICENSING SUB-COMMITTEE

27 October 2016

Application Type:	Submission of a Temporary Event Notice (TEN)		
Ward:	Effingham	Ward Councillors:	Councilor Liz Hogger
Premises user:	Mr Richard Jaehme		
Location:	High Barn Lane , Effingham, KT24 5PR Latitude 51.258484 N, Longitude 0.389596		
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: From 14:00 Saturday 29 October 2016 to 02:00 Sunday 30 October 2016		

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 event is in the field behind the house, High Barn, High Barn Road. (Latitude 51.258484N, Longitude 0.389596W).
- 2.2 The event will be held in the southeast corner of the field, which is bordered by woodland and fencing.
- 2.3 The location is a private field and does not have a premises licence.
- 2.4 The premises are in an area with residential properties in the vicinity. A plan showing the location of the premises is attached at Appendix 1.
- 2.5 There is one record of a previous event at this location in 2015, a party event for 499 people with an end time of 2100 hrs.

3. APPLICATION

- 3.1 A Temporary Event Notice was submitted by Richard Jaehme, the Designated Premises Supervisor for the Keystone Public House in Guildford (who holds a Personal Licence) on Sunday 16 October 2016 and the notice is attached at Appendix 2. This notification was submitted within the correct time period and has been accepted as a valid notice.
- 3.2 The dates and times shown on the Notice are as follows:
- Saturday 29 October 2016 from 14:00 to 02:00 Sunday 30th October 2016
- 3.3 The licensable activities notified on the application are:
- the sale by retail of alcohol
 - the provision of regulated entertainment

The proposed event is for a 'DJ' for up to 450 people. Loud music will terminate at 0000hrs. Ambient music will terminate at 0200.

- 3.4 On 19 October 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.
- 3.5 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 high probability that events with an emphasis on bass beat will be audible at noise sensitive premises.

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, the

premises user will be entitled to hold the event as stated in the notice. No conditions may be imposed on the event because there is no premises licence from which conditions can be taken.

- (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, which in this case means that it is not possible for either party to appeal the Sub-Committee's decision.

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.

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

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