

## LICENSING SUB-COMMITTEE

THURSDAY 25 MAY 2017

<b>Application Type:</b>	Submission of a Temporary Event Notice (TEN)		
<b>Ward:</b>	Tillingbourne Ward	<b>Ward Councillors:</b>	1. Councillor Billington 2. Councillor Wright
<b>Premises user:</b>	Madeline Askey		
<b>Location:</b>	Field behind Towerhill Gomshall TQ 08381 47345 I		
<b>Proposal:</b>	The premises user has given notice of the following licensable activities:  The provision of regulated entertainment  on Saturday 12 August 2017 from 1300 hrs to 2330 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 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.

### 2. SITE LOCATION AND HISTORY

- 2.1 Field behind Towerhill, Gomshall.
- 2.2 There is a mix of residential and rural properties situated near the site location. A plan showing the location of the field is attached at **Appendix 1**.

### 3. APPLICATION

- 3.1 A Temporary Event Notice was submitted by Ms Madeline Askey on Tuesday 16 May 2017. The notification indicated that there would be 400 attendees plus organisers. The notice 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 12 August 2017 from 1300 hrs to 2330 hours
- The licensable activities notified on the application are:
- a) the provision of regulated entertainment
- The proposed event is a day of music; with ticket holders bringing their own refreshment, which may include alcohol.
- 3.3 On Wednesday 17<sup>th</sup> May 2017, Surrey Police and the Environmental Health team from Guildford Borough Council, served notices of objection in relation to the temporary event notice. These notices were served within the timescales prescribed.
- 3.4 The objection from Environmental Health is on the basis of public nuisance to local residents from the music. Surrey Police object on the basis of crime and disorder and public safety due to the lack of information from the applicant as to how the event will be managed. Copies of the objection notices are attached at **Appendix 3**.

### 4. CONSIDERING THE OBJECTIONS

- 4.1 The factors to be taken into account when considering the objections 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, prevention of public nuisance and public safety.
  - (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 notices, 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, prevention of public nuisance and public safety 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, Surrey Police and Environmental Health
  - (f) There is a right of appeal to the Magistrates' Court for the recipient of a counter notice or for Surrey Police and 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

## **6. NATIONAL GUIDANCE**

6.1 The following sections of the Guidance issued in 6 April 2017 by the Secretary of State under Section 182 of the Licensing Act 2003 are relevant:

- Paragraphs 2.01 to 2.06 – Crime and Disorder
- Paragraphs 2.07 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 Environmental Health and Surrey Police, together with any other submissions made at the hearing, and determine whether it is appropriate for the promotion of the prevention of public nuisance, public safety and preventing crime and disorder objectives 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:

Revised guidance issued under s 182 - 6 April 2017.

### Originator:

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