

PREMISES/PERSONAL LICENSING SUB-COMMITTEE

21 MAY 2024

REPORT OF ASSISTANT DIRECTOR (GOVERNANCE & LEGAL)

A.1 TEMPORARY EVENT NOTICES – BUSH WOOD, HIGH BIRCH FARM, WEELEY REF: TENOP/5113/24, TENOP/5118/24, TENOP/5114/24, TENOP/5120/24, TENOP/5119/24, TENOP/5115/24, TENOP/5116/24

PURPOSE OF THE REPORT

To provide information in order that the Premises/Personal Licensing Sub-Committee can determine objections to seven Temporary Event Notifications (TEN).

SUMMARY

Seven Temporary Event Notifications (TEN) have been sent to the Licensing Authority of Tendring District Council in accordance with Section 100 of the Licensing Act 2003 by Mr James Kingston.

Essex Police and Tendring District Council Environmental Services Department, the Responsible Authorities within the Tendring District area have submitted objection notices with reference to the prevention of public nuisance.

The Sub-Committee is asked to determine the matter in accordance with the Licensing Act 2003, Tendring District Council Licensing Police and the Home Office Guidance issued under Section 182 Licensing Act 2003, having due regard to the applicant's submissions and objections by the statutory body.

SUPPORTING INFORMATION

When carrying out its functions the licensing authority must have regard to the four licensing objectives.

The objectives are:

- The prevention of crime and disorder
- Public Safety
- The prevention of public nuisance
- The protection of children from harm

Temporary Event Notices are intended to allow an individual to use premises for one or more licensable activities on an infrequent basis. There is no application process, but the premises user must give at least 10 working days' notice to the relevant Licensing Authority, the relevant Chief Officer of Police, and Environmental not including the day of the event or the day of receipt of the Notice. There is no provision to attach any terms, conditions, limitations, or restrictions to such a Notice.

Mr Kingston (referred to in the Licensing Act as the 'premises User') has submitted the following Temporary Event Notifications to cover the licensable activities on the below dates:

Ref: TENOP/5113/24 - Fump Magical Meadows

Date	Activity	Times
24/05/2024	Provision of Regulated Entertainment and Sale of Alcohol on the premises	1800 – 0200
25/05/2024		1200 – 0200
26/05/2024		1200 – 0000
24/05/2024	Late Night Refreshment	2300 – 0200
25/05/2024		2300 – 0200
26/05/2024		2300 – 0000

Ref: TENOP/5118/24 - Deep Street

Date	Activity	Times
15/06/2024	Provision of Regulated Entertainment and Sale of Alcohol on the premises	1200 - 2300

Ref: TENOP/5114/24 - Fump Magical Meadows

Date	Activity	Times
21/06/2024	Provision of Regulated Entertainment and Sale of Alcohol on the premises	1800 – 0200
22/06/2024		1200 – 0200
23/06/2024		1200 – 0000
21/06/2024	Late Night Refreshment	2300 – 0200
22/06/2024		2300 – 0200
23/06/2024		2300 – 0000

Ref: TENOP/5120/24 – Keep it Real Folk Festival

Date	Activity	Times
13/07/2024	Provision of Regulated Entertainment and Sale of Alcohol on the premises	1200 – 2300
14/07/2024		1200 – 2200

Ref: TENOP/5119/24 - Food and Drink Festival

Date	Activity	Times
03/08/2024	Provision of Regulated Entertainment and Sale of Alcohol on the premises	1200 – 2300
04/08/2024		1200 – 2200

Ref: TENOP/5115/24 - Fump Magical Meadows

Date	Activity	Times
23/08/2024	Provision of Regulated Entertainment and Sale of Alcohol on the premises	1800 – 0200
24/08/2024		1200 – 0200
25/08/2024		1200 – 0000
23/08/2024	Late Night Refreshment	2300 – 0200
24/08/2024		2300 – 0200
25/08/2024		2300 – 0000

Ref: TENOP/5116/24 - Fump Winter Solstice

Date	Activity	Times
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20/09/2024	Provision of Regulated Entertainment and Sale of Alcohol on the premises	1800 – 0200
21/09/2024		1200 – 0200
22/09/2024		1200 – 0000
20/09/2024	Late Night Refreshment	2300 – 0200
21/09/2024		2300 – 0200
22/09/2024		2300 – 0000

The address of the event is Bush Wood, High Birch Road, Weeley, Essex. The premises does not hold a valid premises licence under the Licensing Act 2003.

The notifications were submitted electronically to the Licensing Authority on 8 May 2023. Essex Police and Environmental Health were informed on the same day. During the 3 full working day objection period, which expired on 13 May 2023, the Licensing Authority received objection notices from Essex Police and Tendring District Council Environmental Services Department.

This hearing must therefore consider the points raised in the Objection Notices and make a determination on the Temporary Event Notice. The Premises User, Essex Police and Tendring District Council Environmental Services have been invited to attend the hearing and will be given the opportunity to address members.

The Safety Advisory Group which included Essex Police and Tendring District Council Environmental Services Department met on Tuesday 14th May 2024 to discuss the event/s. As a result of this meeting, it was confirmed that the Responsible Authorities would be willing to consider withdrawing their objections to the events should the applicant be able to provide sufficient evidence to address the concerns relating to noise impact and to reduce the finish end time to 0100 hours. In addition to this the applicant was advised they should look to withdraw all temporary event applications, other than the first event known as Fump Magical Meadows on 24th May 2024 – 26th May 2024. More information can be found in the Appendix.

FINANCE, OTHER RESOURCES AND RISK

A decision made by the Sub-Committee is subject to appeal at the Magistrates Court by the premises user or a relevant person.

COUNCIL'S ADOPTED GUIDELINES AND LEGISLATION

The Sub-Committee should be aware that a Temporary Event Notice is not an application for the purposes of the Licensing Act 2003. It is a notification that licensable activities are going to take place at a certain venue and at notified times. The limit on numbers at such an event, including audience, staff and performers is 499. The Police and Environmental Health have the right to object if, they are of the opinion that allowing the event to take place would undermine any of the licensing objectives.

The Sub-Committee's decision is whether or not to issue a counter notice. If a counter notice is issued this means the event cannot take place. A notice with reasons for the decision must also be given.

If the Sub-Committee decide not to issue a counter notice and allow the event to go ahead the premises user and the relevant persons must be given a notice of that decision.

The TEN can be modified (times, layout of venue, licensable activities) but only with the agreement of the premises user and all relevant persons.

The Sub-Committee must determine the matter in accordance with Section 105 Licensing Act 2003.

Section 105 Licensing Act 2003 Section (2) states: The Licensing Authority must –

- a) Hold a hearing to consider the objection notice, unless the premises user (Mr Kingston), the relevant person (Essex Police and Tendring District Council Environmental Services) who gave the objection notices and the authority agree that a hearing is unnecessary.
- b) Having regard to the objection notices, give the premises user a counter notice under this section if it considers it appropriate for the promotion of the licensing objectives to do so.

Section 105 Licensing Act 2003 Section (3) states:

The Licensing Authority must –

- a) In a case where it decides not to issue a counter notice under this section, give the premises user and each relevant person a notice of the decision.
- b) In any other case –
 - i. Give the premises user the counter notice and a notice stating the reasons for its decision and
 - ii. Give each relevant person a copy of both of those notices

The Licensing Sub Committee's decision is whether or not to issue a counter notice. If a counter notice is issued this means the event cannot take place. A notice with reasons for the decision must also be given.

Section 182 Guidance - Police and environmental health intervention

7.32 The system of permitted temporary activities gives police and EHAs the opportunity to consider whether they should object to a TEN on the basis of any of the licensing objectives.

7.33 If the police or EHA believe that allowing the premises to be used in accordance with the TEN will undermine the licensing objectives, they must give the premises user and the licensing authority an objection notice. The objection notice must be given within the period of three working days following the day on which they received the TEN.

7.34 Where a standard TEN was given, the licensing authority must consider the objection at a hearing before a counter notice can be issued. At the hearing, the police, EHA and the premises user may make representations to the licensing authority. Following the hearing, the licensing authority may decide to impose conditions which already apply to an existing premises licence or club premises certificate at the venue or issue a counter notice to prevent the event going ahead. As noted above, there is no scope for hearings (or appeals) in respect of late TENs and if objections are raised by the police or EHA in relation to a late TEN, the notice will be invalid and the event will not go ahead.

7.35 Such cases might arise because of concerns about the scale, location, timing of the event or concerns about public nuisance – even where the statutory limits on numbers are being observed. The premises user who signs the form is legally responsible for ensuring that the numbers present do not exceed the permitted limit at any one time. In cases where there is reason to doubt that the numbers will remain within the permitted limit the premises user should make clear what the nature of the event(s) is and how they will ensure that the

permitted persons limit will not be exceeded. For example, where notices are being given for TENs simultaneously on adjacent plots of land it may be appropriate for door staff to be employed with counters. In each case it is important that licensing authorities and relevant persons can consider whether they believe that the premises user intends to exceed the 499 person limit or will be unable to control or know whether the limit will be exceeded. Where the planned activities are likely to breach the statutory limits or undermine the licensing objectives, it is likely to be appropriate for the police or EHA to raise objections.

7.36 However, in most cases, where for example, alcohol is supplied away from licensed premises at a temporary bar under the control of a personal licence holder, (such as at weddings with a cash bar or small social or sporting events) this should not usually give rise to the use of these powers.

Section 182 Guidance - Applying conditions to a TEN

7.38 The 2003 Act provides that only the licensing authority can impose conditions to a TEN from the existing conditions on the premises licence or club premises certificate at the venue. The licensing authority can only do so:

- if the police or the EHA have objected to the TEN;
- if that objection has not been withdrawn;
- if there is a licence or certificate in relation to at least a part of the premises in respect of which the TEN is given;
- and if the licensing authority considers it appropriate for the promotion of the licensing objectives to impose one or more conditions.

7.39 This decision is one for the licensing authority alone, regardless of the premises user's views or willingness to accept conditions. The conditions must be notified to the premises user on the form prescribed by regulations.

RECOMMENDATION(S)

The Licensing Sub Committee must consider in its own right and on its own merits only as to how it might impact on the four licensing objectives which are the Prevention of Crime and Disorder, the Prevention of Public Nuisance, Public Safety and the Protection of Children from Harm.

The Licensing Sub Committee is therefore asked to determine this notification taking into consideration all the relevant information that has been submitted as part of this report and at the hearing itself.

That the Sub-Committee consider this report together with any other submissions at the hearing and determine if it:

- a. Accepts the objections and issues a Counter Notice for all seven applications, or,
- b. Rejects the objections, allowing all seven events to take place.
- c. Partially accept the objections, reject/accept selected events to take place. Issuing a Counter Notice for the events which have been rejected.

APPENDICES

- Appendix A - Temporary Event Notifications and Location Plan
- Appendix B - Essex Police Objection
- Appendix C - Tendring District Council Environmental Health Objection
- Appendix D - Recommendations from Tendring District Council Environmental Health following the Safety Advisory Group

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