

Objection notices received in respect of two standard Temporary Event Notices for The Phoenix Hotel, 15 Fore street, Chard TA20 1PH

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Purpose of the Report

To inform members that two standard temporary event notices have been received under the Licensing Act 2003 from Mr Mark Pearce for The Phoenix Hotel, 15 Fore Street, Chard TA20 1PH. They relate to two separate events on 14 October 2018 and 21 October 2018. An objection notice has been duly served by Mrs Nicola King on behalf of the Chief of Police for Avon and Somerset Constabulary for each of the temporary event notices.

Recommendation

To consider the objection notices in accordance with the options detailed later in the report.

Background

A Temporary Event Notice is intended as a light touch process¹ and is submitted to the Licensing Authority by the premises user (an individual 18 years or over) and is copied to the Police and the Environmental Health Service as a means to authorise licensable activities where either:

- no premises licence/club premises certificate exists
- in cases where it is not being used
- where the operating schedule including days and timings do not meet the need of the premises user.

Where an objection notice has been received from either the Police or the Environmental Protection department or both, the Council is the authority responsible for determining the notice under sections 105 and 106A of the Licensing Act 2003.

Licensing Objectives

The licensing objectives are:

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm

The licensing objectives are to be considered paramount and the Council has a duty to promote them in its decision making process.

¹ Paragraph 7.2 of the Guidance issued under s182 of the Licensing Act 2003, April 2018

Proposed Activities and Hours

Day	Start Time	Finish Time	Maximum Number of persons at event at any one time	Licensable activity requested	Nature of Event
14 October 2018	03:00	05:00	400	Sale By Retail Of Alcohol 'On' the premises sales only	Extension to Hours
21 October 2018	03:00	05:00	400	Sale By Retail Of Alcohol 'On' the premises sales only	Extension to Hours

Relevant Observations

Should the temporary events proceed; the premises user will be responsible for ensuring that there are no more than 400 persons at the premises. Should there be 401 or more persons in that area, it will mean that particular temporary event is unlicensed.

No further information has been given relating to the nature of the events on the forms, but from the representations submitted by Mrs King, it appears that one event is due to Chard Carnival taking place on 14 October 2018 and the other is for a Birthday Party on 21 October 2018.

Each of the temporary event notices must be considered and determined separately.

Further Information

The venue is subject to a premises licence, which authorises the sale of alcohol as follows:

SALE BY RETAIL OF ALCOHOL

Monday -	START: 08.30	FINISH: 02.00
Tuesday -	START: 08.30	FINISH: 02.00
Wednesday -	START: 08.30	FINISH: 02.00
Thursday -	START: 08.30	FINISH: 02.00
Friday -	START: 08.30	FINISH: 03.00
Saturday -	START: 08.30	FINISH: 03.00
Sunday -	START: 08.30	FINISH: 02.00

On and Off the premises

The Non-Standard timings also authorise the following:

“In the event of the transmission of any international film or live music event which falls outside the current permitted hours on the Premises Licence to permit licensable activities to commencing one hour before the start of the event and ending one hour after the end of the event, the details of the transmission to be notified to the police 7 days beforehand”.

It doesn't however appear that the non-standard timings apply to these events.

The conditions attached to the premises licence consistent with the operating schedule are shown below:

Prevention of Crime & Disorder

1. The premises licence holder must be a member of pubwatch.
2. CCTV must continue to operate on all 16 cameras throughout the hours of trading.
3. Door staff must be on duty to supervise and request people to leave quietly on Friday and Saturday evenings after 21.00. This condition will only apply where numbers of patrons are greater than 100 persons and will be in line with SIA standards for numbers of door supervisors.

Public Safety

1. A satisfactory NICEIC periodic electrical installation report relating to the premises must be provided. The inspection to be carried out annually or as deemed necessary by a competent electrical engineer and a new report provided following each inspection.
2. A satisfactory NICEIC periodic emergency lighting report must be provided. The inspection to be carried out annually or as deemed necessary by a competent electrical engineer and a new report be provided following each inspection.
3. A CORGI certificate of inspection in respect of any gas boiler or calorifier or appliance must be provided. The inspection will be carried out annually or as deemed necessary by a competent CORGI registered engineer and a new report be provided following each inspection.
4. An adequate and appropriate supply of first aid equipment and materials must be made available on the premises.
5. Any glasses that are renewed are replaced with glasses made from toughened glass.
6. Where tables and chairs are provided, clear gangways to exits must be maintained.
7. No portable heating appliances will be used on the premises.
8. Staff must be fully trained on all safety issues.
9. Maximum numbers of persons permitted in the ballroom during a performances are:

a) when used for a closely seated audience -	200 persons
b) when used for dancing -	200 persons
c) when seating is provided at tables -	120 persons
d) when used for dancing and seating is also provided at tables –	120 persons.
10. All bottles and glasses will be removed from areas where alcohol is consumed on a regular basis.

Prevention of Public Nuisance

1. Noise limiters must be used in the main bar and ballroom.
2. It is not permitted for customers to take bottles or glasses outside the premises.
3. Notices must be displayed at the exit to the premises asking customers to leave quietly.
4. Plastic glasses must be used for public events in the ballroom.

5. A member of door staff must be present outside the premises at closing time on Friday and Saturday nights to supervise and request people leave quietly.

Protection of Children

1. Any activity of an adult nature must not be visible from outside the premises.
2. Proof of age must be requested after 21.00 on Friday and Saturday evenings for persons attempting to gain access to either the bar or ballroom who is not a member of a private party.
3. Persons under the age of 18 will only be allowed to remain on the premises after 21.00 when accompanied by a responsible adult.

Consideration

In determining a temporary event notice with a view to promoting the licensing objectives in the overall interests of the community, the Committee must have regard to and give appropriate weight to the following considerations:

- Any Notice of Objection (including supporting documentation received)
- Guidance issued under s182 of the Act
- The Statement of Licensing Policy published in January 2014
- The steps necessary to promote the licensing objectives
- Human Rights considerations in particular Article 6, Article 8 and Article 1 of Protocol 1
- Any Temporary Event Notice(s) are to be determined separately upon its own merits

Options

The options available to the committee in this case are as follows:

- Give a counter notice to the premises user so that event cannot proceed
- Permit the event to proceed in accordance with the temporary event notice
- Impose one or more conditions on the temporary event notice that have the same effect as those conditions that are already included on the premises licence

Section 106A of the Licensing Act 2003 permits licensing authorities to impose one or more conditions on a standard temporary event notice if:

- a) the authority considers it appropriate for the promotion of the licensing objectives to do so
- b) the conditions are also imposed on a premises licence or a club premises certificate that has effect in respect of the same premises, or any part of the premises, as the temporary event notice, and
- c) the conditions would not be inconsistent with the carrying out of the licensable activities under the temporary event notice.

Right of Appeal

Schedule 5 Part 3 of the Licensing Act 2003 sets out the rights and procedures for making appeals against the decision of the Licensing Authority:

Where the relevant Licensing Authority gives a counter-notice under section 105(3), the premises user may appeal against that decision.

Where that authority decides not to give such a counter-notice a “relevant person” as specified in section 99A of the Licensing Act 2003, may appeal against that decision.

An appeal must be made to the Magistrates’ Court

The appellant commences an appeal under Part 3 of Schedule 5 to the Licensing Act 2003 by giving a notice of appeal to the designated officer for the Magistrates’ court within 21 days beginning with the day on which the appellant was notified by the Licensing Authority of the decision appealed against.

But no appeal may be brought later than five working days before the day on which the event period specified in the temporary event notice begins.

On determining the appeal, the court may,

- Dismiss the appeal
- Substitute for the decision appealed against any other decision which could have been made by the Licensing Authority; or
- Remit the case to the Licensing Authority to dispose of it in accordance with the direction of the court.

and may make such order as to costs as it thinks fit.

Background Papers

The Licensing Act 2003

The Police Reform and Social Responsibility Act 2011

The Licensing Act 2003 (Hearings) (Regulations) 2005 No. 44

Live Music Act 2012

The Licensing Act 2003 (Permitted Temporary Activities) (Notices)(Amendment)

Regulations 2012 No. 960

(Descriptions of Entertainment) (Amendment) Order 2013

The Legislative Reform (Entertainment Licensing) Order 2014

The Latest Guidance issued under section 182 of the Licensing Act 2003.

The Statement of Licensing Policy for South Somerset District Council issued January 2014

The Deregulation Act 2015
