



Licensing Sub Committee

Thursday 29th April 2021

11.00 am

Virtual Meeting **Using Zoom meeting software**

The following members are requested to attend the meeting:

Crispin Raikes

Linda Vijeh

Martin Wale

The applicant or any interested parties wishing to address the virtual meeting need to email democracy@southsomerset.gov.uk by 9.00am on Wednesday 28 April 2021.

The meeting will be viewable online by selecting the committee meeting at:
https://www.youtube.com/channel/UCSDst3IHGj9WoGnwJGF_soA

For further information on the items to be discussed, please contact
democracy@southsomerset.gov.uk

This Agenda was issued on Friday 23 April 2021.

Alex Parmley, Chief Executive Officer

This information is also available on our website
www.southsomerset.gov.uk or via the modern.gov app

Members Questions on reports prior to the Meeting

Members of the Committee are requested to contact report authors on points of clarification prior to the Committee meeting.

Information for the Public

The Statutory Licensing Committee has responsibility for all activities under the Licensing Act 2003 and the Gambling Act 2005 except for policies and fees. Established under the Licensing Act 2003, it exercises the functions of the Licensing Authority which itself is the Council.

The Other Licensing Committee can be responsible for all other licensing matters. Established by the Council under discretionary power contained in section 101 of the Local Government Act 1972.

It is lawful for the membership of the two committees to be the same, but they are differently constituted and run under different powers.

Licensing Sub Committee agendas and minutes are published on the Council's website at: [Browse meetings - Licensing Sub Committee \(southsomerset.gov.uk\)](https://www.southsomerset.gov.uk/browsetime)

Agendas and minutes can also be viewed via the modern.gov app (free) available for iPads and Android devices. Search for 'modern.gov' in the app store for your device and select 'South Somerset' from the list of publishers and then select the committees of interest. A wi-fi signal will be required for a very short time to download an agenda but once downloaded, documents will be viewable offline.

The Council's Constitution is also on the web site and available for inspection in council offices. [Constitution \(southsomerset.gov.uk\)](https://www.southsomerset.gov.uk/constitution)

Further information can be obtained by contacting the agenda co-ordinator – details are provided on the front page.

Meetings of the Licensing Sub Committee are held as required usually in the Council Offices, Brympton Way - However during the coronavirus pandemic these meetings will be held remotely via Zoom video-conferencing. For more details on the regulations regarding remote/virtual meetings please see the Local Authorities and Police and Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 as part of the Coronavirus Act 2020.

Public participation at meetings (held via Zoom)

We recognise that these are challenging times but we still value the public's contribution to our virtual meetings. The applicant and interested parties are able to participate and contribute to the meeting, you will need to be able to access the meeting through Zoom at: <https://zoom.us/join>

Each individual speaker shall be restricted to a total of five minutes.

If you would like to address the meeting, please email democracy@southsomerset.gov.uk by 9.00am on Wednesday 28 April. When you have registered, an officer will provide the details to join the meeting. The Chairman will invite you to speak at the appropriate time during the virtual meeting.

If you would like to view the meeting without participating, please see:
https://www.youtube.com/channel/UCSDst3IHGj9WoGnwJGF_soA

Virtual meeting etiquette:

- Consider joining the meeting early to ensure your technology is working correctly.
- Please note that we will mute all public attendees to minimise background noise. If you have registered to speak during the virtual meeting, the Chairman will un-mute your microphone at the appropriate time.
- Each individual speaker shall be restricted to a total of five minutes.
- When speaking, keep your points clear and concise.
- Please speak clearly – the Councillors are interested in your comments.

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Licensing Sub Committee

Thursday 29 April 2021

Agenda

Preliminary Items

1. Declarations of Interests

In accordance with the Council's current Code of Conduct (adopted July 2012), which includes all the provisions relating to Disclosable Pecuniary Interests (DPI), personal and prejudicial interests, Members are asked to declare any DPI and also any personal interests (and whether or not such personal interests are also "prejudicial") in relation to any matter on the Agenda for this meeting. A DPI is defined in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (SI 2012 No. 1464) and Appendix 3 of the Council's Code of Conduct. A personal interest is defined in paragraph 2.8 of the Code and a prejudicial interest is defined in paragraph 2.9. In the interests of complete transparency, Members of the County Council, who are not also members of this committee, are encouraged to declare any interests they may have in any matters being discussed even though they may not be under any obligation to do so under any relevant code of conduct.

2. Procedure to be followed when considering licensing applications under the Licensing Act 2003 (Pages 5 - 8)

3. Objection notice received in respect of a standard Temporary Event Notice for outside Boots the Chemist, Fore Street, Castle Cary, Somerset, BA7 7BG (Pages 9 - 18)

4. Objection notice received in respect of a standard Temporary Event Notice for outside Lion House, High Street, Castle Cary, Somerset, BA7 7AN (Pages 19 - 28)

5. Objection notice received in respect of a standard Temporary Event Notice for Pavement between Leyton and Francis House, Fore Street, Castle Cary, Somerset, BA7 7BG (Pages 29 - 38)

6. Objection notice received in respect of a standard Temporary Event Notice for Bailey Hill, Castle Cary, Somerset, BA7 7AA (Pages 39 - 48)



Procedure to be followed when considering Licencing Applications under the Licensing Act 2003

Pre meeting Prior to the start of the Hearing the Committee Administrator will check that any person wishing to address the Sub-Committee is either an Interested Party or an authorised representative of an Interested Party or a Responsible Body and is entitled therefore to do so.

Where there is any doubt about the person's eligibility to address the sub-Committee, the Committee Administrator will seek advice from the Legal Officer(s).

1. **The Chairman will introduce:**

- members of the Sub-Committee (which will be made up of three District Councillors);
- the officers present;
- the Parties and their representatives (if any).

The Chairman will ask, before starting the Hearing, if any representations are being withdrawn.

2. At the start of the hearing **the Chairman will advise:-**

- all Parties of the reason for the Hearing and the procedure to be adopted;
- that where a Party wants another person to appear at the Hearing they must ask permission (under Regulation 8(2)) although such permission will not be unreasonably withheld. No permission is needed where the other person is acting only as the Party's representative;
- that if any Party wishes to ask the Sub-Committee to consider documentary or other information at the hearing, which was not provided before the Hearing, then all Parties must consent;
- that if any Party does not attend or is not represented at the hearing, the Hearing can go ahead but the Sub-Committee will consider any application, notice or written representations received by the relevant deadline from that Party;



- that in some circumstances, the Hearing may be adjourned, where the Sub-Committee consider the public interest demands it.

3. **The Chairman will ask each Party to confirm receipt** of the following documents:-

- Officer's report relating to the case;
- The procedure to be adopted during the Hearing;
- The documents, which the authority is required to provide under the Regulations – this varies according to the type of application but normally this means checking that the applicant has received copies of all the representations made in response to the application notices.

Any queries on the procedure or the factual content of the Licensing Officer's report should be dealt with at this point, with the assistance of the legal officer(s), as required.

4. **The Chairman will then ask** the Licensing Officer to present their report on the application. The report will include confirmation that the requirements as to advertising the application and the serving of notices have been met.

5. **The Chairman will inform all present - prior to receiving representations** - that each Party will be given an equal amount of time to make their representations. This will normally be a maximum of five minutes. However, the Chairman has discretion about the time given to each Party and may vary the time limit where reasonable to do so although reasons will be given and fairness maintained.

6. **The Chairman will invite any Responsible Bodies present** e.g. representatives of Police/Fire Service/ Environmental Services to address the Sub-Committee on any relevant representations they have made.

7. **The Chairman will then invite:**

- Parties or their representatives speaking in support of the application (including the applicant for the review) to address the Sub-Committee on their relevant representations. The address shall relate only to those matters already raised in the application, representations or notice (as applicable). No new information can be presented at the hearing unless all Parties agree, however, where the authority has notified the Party that it requires clarification on any points, this should be provided at this stage;
- Parties or their representatives, speaking in opposition to the application for review, to address the Sub-Committee on their relevant representations. The address shall relate only to those matters already



raised in the application, representations or notice (as applicable). No new information can be presented at the hearing unless all Parties agree, however, where the authority has notified the Party that it requires clarification on any points, this should be provided at this stage.

The Chairman will permit a Member to seek immediate clarification of a point made by a Party, their representative or any another person permitted to attend where, prior to this point in the Hearing, circumstances arise which make it desirable to do so, provided that the question is relevant and helps the proper conduct of the Hearing. The rules of natural justice will be followed.

No Cross examination will be permitted without the consent of the sub-Committee and this will only be given where Committee considers that cross-examination is required for it to consider the representations, application or notice.

8. **The Chairman will ask** whether anyone has any further relevant comments to make and whether each Party is satisfied with the conduct of the Hearing.
9. **The Chairman will then invite** Members of the Sub-Committee to ask any questions of any of the Parties or any other person permitted by the Sub-Committee to appear at the Hearing.
10. **The Chairman will check with the legal adviser(s) that all relevant points have been addressed before asking the Parties to leave the room while** the Sub-Committee consider its decision in private. Only the clerk and the legal adviser(s) will remain with the Sub-Committee although only the sub-committee will be making the decision.
11. **Once in private the Chairman will advise the other Members** that they must consider all the information before them in making their decision but will disregard any information which is not relevant to the application, representations or notice and which does not relate to promoting the Licensing Objectives. Members will take account of the Statutory Guidance and the Council's Statement of Licensing Policy but shall be free to depart from it where the merits of the case warrant it. Full reasons shall be given for any such departure. If Members require further information from any Party or any further evidence, they will reconvene the hearing with all Parties able to be present.
12. **The Chairman will ensure, on the Parties return to the Hearing room,** that any legal advice given to the Sub-Committee in private is summarised to the Parties.
13. **The Chairman will notify** all Parties of their decision and the reasons for the decision. The decision will normally be given orally, at the Hearing, in a plain English format to help those attending the Hearing to understand it more easily. This is not the official written Notice of Decision which be sent to all of the Parties shortly afterwards.



Where the Sub-Committee is unable to give a decision at the meeting, **the Chairman will advise all Parties when a decision can be expected.** The decision will be sent to all Parties within the timescales set down in the Regulations.

14. **The Chairman will inform all Parties** of their possible rights of appeal (if any).

NOTES

1. A Party is anyone who has submitted an application or made a relevant representation or served a notice.
2. Where an adjournment is granted the Sub-Committee will notify the Parties forthwith of the date, time and place to which the Hearing has been adjourned.
3. Under no circumstances must the Parties or their witnesses offer Members of the Sub-Committee information in the absence of the other Party. Similarly, Members will not attempt to elicit information from any Party to the Hearing in the absence of the other. Members will not make pronouncements on the merits of the case until all the evidence has been heard. These are essential elements of the rules of natural justice.
4. The Chairman may vary this procedure, as circumstances require but will have regard to the rules of natural justice.
5. The Hearing will take place in public. However, the public can be excluded from all or part of the hearing where the Sub-Committee considers that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking place in public.

The Sub-Committee may also require a Party to leave the hearing if that Party is behaving in a disruptive manner. The Sub-Committee can refuse to readmit the Party or readmit upon conditions but the Party can nevertheless submit to the Sub-Committee before the end of the Hearing any written information it would have been entitled to submit orally at the Hearing.

6. District Councillors representing the area (District Council Ward) to which the application refers, or have declared an interest, will not form part of the Sub-Committee.
7. Where any irregularity is brought to the attention of the Sub-Committee during the hearing, the Sub-Committee may, if it feels that a Party has been prejudiced as a result of the irregularity, take such steps as it thinks fit to cure that irregularity before it makes its determination. However, any irregularity from a failure to follow this procedure shall not of itself render the proceedings void and any clerical errors may be corrected.



Objection notice received in respect of a standard Temporary Event Notice for outside Boots the Chemist, Fore Street, Castle Cary, Somerset, BA7 7BG

Strategic Director: Kirsty Larkins – Service Delivery
Report Author: Rachel Lloyd – Specialist Licensing
Contact Details: rachel.lloyd@southsomerset.gov.uk or 01935 462134

Purpose of the Report

To inform members that a standard temporary event notice has been received under the Licensing Act 2003 from Mrs Sarah Milner Simonds for two pitches immediately outside Boots the Chemist, Fore Street, Castle Cary. It relates to an event on 01 May 2021. An Objection notice has been duly served by Nicola King on behalf of the Chief of Police for Avon and Somerset Constabulary for this temporary event notice.

Recommendation

To consider the objection notice 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

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



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- 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.

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
01/05/21	09:00	18:00	499	The sale by retail of alcohol	food and drink market

Relevant Observations

Should the temporary event proceed; the premises user will be responsible for ensuring that there are no more than 499 persons at the premises defined by the Notice. Should there be 500 or more persons in that area, at any one time, it will mean that particular temporary event is unlicensed.

In the section of the form which asks “if you intend to use only part of the premises at this address or intend to restrict the area to which this notice applies, please give a description and details” the premises user has answered “two pitches immediately outside Boots the Chemist”. The premises user has provided a plan of the area they propose to use, however, one of the issues raised on the Police objection is that it is not detailed enough to be able to determine the licensed area.

Further Information

The premises user has requested sales of alcohol for consumption on and off the premises. One of the questions raised in the Police objection was about the provision and location of tables and chairs for consumption of alcohol. The premises user replied that they do not intend to provide any tables and chairs and that they organised a similar event in a different Local Authority area where stall holders were allowed to sell pints etc. and customers were permitted to consume the alcohol in the vicinity of the stall.

Coronavirus (Covid-19): Organised events guidance for local authorities lists examples of events, which can take place from 12 April. This includes food and drink festivals and there is a footnote for this activity which states “Where the festival resembles an



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outdoor food market or outdoor hospitality venue, but if people are consuming food and drink at the venue, the table service rule would apply”

Contact has been made with the Local Authority, where the recent event took place, however, at the time of writing the report no further detail of the arrangements for alcohol sales and consumption was available.

The event has been discussed at a Safety Advisory Group (this group consists of representatives from Police, Fire & Rescue service, Environmental Health, Highways, Trading Standards, Licensing and South Western Ambulance Service) meeting and an Event Management Plan and Covid Risk Assessment have been provided.

The Covid Risk assessment has been provided to the Environmental Health Officer, however, no comment has been received from them at the time of writing the report.

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

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

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.

However the defined venue is not subject to a premises licence so conditions cannot be attached to this 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

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted



Objection notice received in respect of a standard Temporary Event Notice for outside Lion House, High Street, Castle Cary, Somerset, BA7 7AN

Strategic Director: Kirsty Larkins – Service Delivery
Report Author: Rachel Lloyd – Specialist Licensing
Contact Details: rachel.lloyd@southsomerset.gov.uk or 01935 462134

Purpose of the Report

To inform members that a standard temporary event notice has been received under the Licensing Act 2003 from Mrs Sarah Milner Simonds for one pitch on the pavement outside Lion House. It relates to an event on 01 May 2021. An Objection notice has been duly served by Nicola King on behalf of the Chief of Police for Avon and Somerset Constabulary for this temporary event notice.

Recommendation

To consider the objection notice 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

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



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- 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.

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
01/05/21	09:00	18:00	499	The sale by retail of alcohol	food and drink market

Relevant Observations

Should the temporary event proceed; the premises user will be responsible for ensuring that there are no more than 499 persons at the premises defined by the Notice. Should there be 500 or more persons in that area, at any one time, it will mean that particular temporary event is unlicensed.

In the section of the form which asks “if you intend to use only part of the premises at this address or intend to restrict the area to which this notice applies, please give a description and details” the premises user has answered “Pavement outside Lion House for 1 x pitch”. The premises user has provided a plan of the area they propose to use, however, one of the issues raised on the Police objection is that it is not detailed enough to be able to determine the licensed area.

Further Information

The premises user has requested sales of alcohol for consumption on and off the premises. One of the questions raised in the Police objection was about the provision and location of tables and chairs for consumption of alcohol. The premises user replied that they do not intend to provide any tables and chairs and that they organised a similar event in a different Local Authority area where stall holders were allowed to sell pints etc. and customers were permitted to consume the alcohol in the vicinity of the stall.

Coronavirus (Covid-19): Organised events guidance for local authorities lists examples of events, which can take place from 12 April. This includes food and drink festivals and there is a footnote for this activity which states “Where the festival resembles an



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outdoor food market or outdoor hospitality venue, but if people are consuming food and drink at the venue, the table service rule would apply”

Contact has been made with the Local Authority, where the recent event took place, however, at the time of writing the report no further detail of the arrangements for alcohol sales and consumption was available.

The event has been discussed at a Safety Advisory Group (this group consists of representatives from Police, Fire & Rescue service, Environmental Health, Highways, Trading Standards, Licensing and South Western Ambulance Service) meeting and an Event Management Plan and Covid Risk Assessment have been provided.

The Covid Risk assessment has been provided to the Environmental Health Officer, however, no comment has been received from them at the time of writing the report.

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

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

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.

The defined venue is not subject to a premises licence so conditions cannot be attached to this 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.

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Objection notice received in respect of a standard Temporary Event Notice for Pavement between Leyton and Francis House, Fore Street, Castle Cary, Somerset, BA7 7BG

Strategic Director: Kirsty Larkins – Service Delivery
Report Author: Rachel Lloyd – Specialist Licensing
Contact Details: rachel.lloyd@southsomerset.gov.uk or 01935 462134

Purpose of the Report

To inform members that a standard temporary event notice has been received under the Licensing Act 2003 from Mrs Sarah Milner Simonds for two pitches on the pavement between Leyton House and Francis House. It relates to an event on 01 May 2021. An Objection notice has been duly served by Nicola King on behalf of the Chief of Police for Avon and Somerset Constabulary for this temporary event notice.

Recommendation

To consider the objection notice 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

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



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- Public safety
- Prevention of public nuisance
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The licensing objectives are to be considered paramount and the Council has a duty to promote them in its decision making process.

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Relevant Observations

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Further Information

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Consideration

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- 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

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

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.

The defined venue is not subject to a premises licence so conditions cannot be attached to this 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

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
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Objection notice received in respect of a standard Temporary Event Notice for Bailey Hill, Castle Cary, Somerset, BA7 7AA

Strategic Director: Kirsty Larkins – Service Delivery
Report Author: Rachel Lloyd – Specialist Licensing
Contact Details: rachel.lloyd@southsomerset.gov.uk or 01935 462134

Purpose of the Report

To inform members that a standard temporary event notice has been received under the Licensing Act 2003 from Mrs Sarah Milner Simonds for 3 pitches at the far eastern corner of Bailey Hill. It relates to an event on 01 May 2021. An Objection notice has been duly served by Nicola King on behalf of the Chief of Police for Avon and Somerset Constabulary for this temporary event notice.

Recommendation

To consider the objection notice 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

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



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- 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.

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
01/05/21	09:00	18:00	499	The sale by retail of alcohol	food and drink market

Relevant Observations

Should the temporary event proceed; the premises user will be responsible for ensuring that there are no more than 499 persons at the premises defined by the Notice. Should there be 500 or more persons in that area, at any one time, it will mean that particular temporary event is unlicensed.

In the section of the form which asks “if you intend to use only part of the premises at this address or intend to restrict the area to which this notice applies, please give a description and details” the premises user has answered “3 pitches at the far eastern corner of Bailey Hill.”. The premises user has provided a plan of the area they propose to use, however, one of the issues raised on the Police objection is that it is not detailed enough to be able to determine the licensed area.

Further Information

The premises user has requested sales of alcohol for consumption on and off the premises. One of the questions raised in the Police objection was about the provision and location of tables and chairs for consumption of alcohol. The premises user replied that they do not intend to provide any tables and chairs and that they organised a similar event in a different Local Authority area where stall holders were allowed to sell pints etc. and customers were permitted to consume the alcohol in the vicinity of the stall.

Coronavirus (Covid-19): Organised events guidance for local authorities lists examples of events, which can take place from 12 April. This includes food and drink festivals and there is a footnote for this activity which states “Where the festival resembles an



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outdoor food market or outdoor hospitality venue, but if people are consuming food and drink at the venue, the table service rule would apply”

Contact has been made with the Local Authority, where the recent event took place, however, at the time of writing the report no further detail of the arrangements for alcohol sales and consumption was available.

The event has been discussed at a Safety Advisory Group (this group consists of representatives from Police, Fire & Rescue service, Environmental Health, Highways, Trading Standards, Licensing and South Western Ambulance Service) meeting and an Event Management Plan and Covid Risk Assessment have been provided.

The Covid Risk assessment has been provided to the Environmental Health Officer, however, no comment has been received from them at the time of writing the report.

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

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

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
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- c) the conditions would not be inconsistent with the carrying out of the licensable activities under the temporary event notice.

The defined venue is not subject to a premises licence so conditions cannot be attached to this temporary event notice.

Right of Appeal

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