

Objection notice received in respect of a standard Temporary Event Notice for Bruton Unionist Club, Quaperlake Street, Bruton BA10 0HQ

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Purpose of the Report

To inform members that a standard temporary event notice been received under the Licensing Act 2003 from Mr Matthew Runacre for Bruton Unionist Club, Quaperlake Street, Bruton BA10 0HQ and further that an objection notice has been duly served by Ms Sally-Anne Webster on behalf of the Environmental Protection team of this Council.

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
- 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, March 2015

Proposed Activities and Hours

SALE BY RETAIL OF ALCOHOL

'On' the premises sales only

| Day | Start Time | Finish Time |
|-----------------|------------|-------------|
| 21 January 2017 | 20:00 | Midnight |

THE PROVISION OF REGULATED ENTERTAINMENT

| Day | Start Time | Finish Time |
|-----------------|------------|-------------|
| 21 January 2017 | 20:00 | Midnight |

Maximum Number of persons at event at any one time

200

Nature of Event

Live band, DJ and Singers

Relevant Observations

The venue is subject to a club premises certificate, which permits live and recorded music and the supply of alcohol from 11:00 to midnight on Saturdays; however this is only for its members and bone fide guests and does not include members of the public.

Further Information

The conditions attached to the club premises certificate are as follows:

Prevention of Crime & Disorder

1. All events must be closely supervised by club stewards.
2. Drinking out of bottles is prohibited.
3. Drinks for children must be served in shatterproof glasses.
4. All glasses in the function room must be shatterproof.

Public Safety

1. A first aid box must be available.
2. Glasses must be frequently collected by staff.
3. Maximum numbers permitted

The maximum number of persons to be allowed on the premises at any time during a performance,

- | | |
|---|--------------|
| (a) when used for a closely seated audience - | 200 persons |
| (b) when used for dancing - | 200 persons |
| (c) when seating is provided at tables - | 95 persons |
| (d) when used for dancing, and seating is also provided at tables - | 120 persons. |

Prevention of Public Nuisance

1. All doors and windows must be closed by 22:00 hrs.
2. Music must be kept to a reasonable level.

Protection of Children

1. Children under 16 are not allowed on the premises without parental supervision.
2. ID must be requested from those appearing to be under 18.

Members need to be aware that if they are mindful to impose any of the conditions set out as above on the Temporary Event Notice which relate to live or recorded music that they are suspended where the following conditions are met:

- at the time of the music entertainment, the premises are open for the purposes of being used for the sale or supply of alcohol for consumption on the premises;
- if the music is amplified, it takes place before an audience of no more than 200² people; and
- the music takes place between 08.00 and 23.00 on the same day.

this means that providing the above requirements are met, that the public nuisance conditions would only apply from 23:00 to midnight should the TEN be granted with one or both of these conditions. Any powers granted to the Council and delegated to Environmental Protection Officers under other legislation such as the Environmental Protection Act 1990 as amended are not affected.

Considerations

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:

² Amended from 500 to 200 as that is the maximum number of persons that the notice-giver has stated in the TEN that will attend the event at any one time; a higher number of attendees would be unauthorised; further the maximum number of persons that could be authorised by a TEN is 499.

- 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