

Objection Notice Received in Respect of Standard Temporary Event Notice for Kazbar, 7 South Western Terrace, Yeovil BA20 1NB

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Purpose of the Report

To inform members that a standard temporary event notice has been received under the Licensing Act 2003 from Mr Matthew Thackwell for Kazbar 7 South Western Terrace, Yeovil BA20 1NB and further that an objection notice has been duly served by Avon and Somerset Constabulary.

Recommendation

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

Background

A Temporary event notice is submitted to the Licensing Authority and copied to the Police and the Environmental Health Service by the premises user (an individual 18 years or over) 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 service or both, the Council is the authority responsible for determining the notice under section 105 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.

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.

Proposed Activities and Hours

SUPPLY OF ALCOHOL

'On' sales only

Day	Start Time	Finish Time
Tuesday 30 December 2014	17:00	00:00
Wednesday 31 December 2014	00:01	01:30

Maximum Number of persons at event at any one time

50

Nature of Event

"Birthday event".

Relevant Observations

A premises licence already exists for Kazbar for the following activities:

LIVE MUSIC

Monday - START: 12:00 FINISH: 00:00
 Tuesday - START: 12:00 FINISH: 00:00
 Wednesday - START: 12:00 FINISH: 00:00
 Thursday - START: 12:00 FINISH: 00:00
 Friday - START: 12:00 FINISH: 00:00
 Saturday - START: 12:00 FINISH: 01:00
 Sunday - START: 12:00 FINISH: 00:00

Location: Indoors

Further Details: Occasional acoustic music during the evening. The performance will be a single artist or duo. Music will be amplified.

Non Standard Timings: Live music will be performed until 01:00 on Christmas Eve, New Year's Eve and Bank Holidays.

RECORDED MUSIC

Monday - START: 12:00 FINISH: 00:00
 Tuesday - START: 12:00 FINISH: 00:00
 Wednesday - START: 12:00 FINISH: 00:00
 Thursday - START: 12:00 FINISH: 00:00
 Friday - START: 12:00 FINISH: 00:00
 Saturday - START: 12:00 FINISH: 01:00
 Sunday - START: 12:00 FINISH: 00:00

Location: Indoors

Further Details: Low level background music to be played throughout the day and evening.

Non Standard Timings: Recorded music will be played until 01:00 on Christmas Eve, New Year's Eve and Bank Holidays.

LATE NIGHT REFRESHMENT

Monday -	START: 23:00	FINISH: 00:00
Tuesday -	START: 23:00	FINISH: 00:00
Wednesday -	START: 23:00	FINISH: 00:00
Thursday -	START: 23:00	FINISH: 00:00
Friday -	START: 23:00	FINISH: 00:00
Saturday -	START: 23:00	FINISH: 01:00
Sunday -	START: 23:00	FINISH: 00:00

Location: Indoors

Further Details: Hot drinks until close.

Non Standard Timings: Late night refreshment to be available until 01:00 on Christmas Eve, New Year's Eve and Bank Holidays.

SUPPLY OF ALCOHOL

Monday -	START: 12:00	FINISH: 00:00
Tuesday -	START: 12:00	FINISH: 00:00
Wednesday -	START: 12:00	FINISH: 00:00
Thursday -	START: 12:00	FINISH: 00:00
Friday -	START: 12:00	FINISH: 00:00
Saturday -	START: 12:00	FINISH: 01:00
Sunday -	START: 12:00	FINISH: 00:00

Non Standard Timings: Alcohol to be supplied for consumption up to 01:00am on Christmas Eve, New Year's Eve & Bank Holidays.

The opening hours of the premises

Monday -	START: 12:00	FINISH: 00:30
Tuesday -	START: 12:00	FINISH: 00:30
Wednesday -	START: 12:00	FINISH: 00:30
Thursday -	START: 12:00	FINISH: 00:30
Friday -	START: 12:00	FINISH: 00:30
Saturday -	START: 12:00	FINISH: 01:30
Sunday -	START: 12:00	FINISH: 00:30

Non Standard Timings: Premises will be open to the public until 01.30 on Christmas Eve, New Year's Eve and Bank Holidays.

Where the licence authorises supplies of alcohol whether these are on and / or off supplies

On the Premises

Off the Premises

The conditions attached to the premises licence are as follows:

MANDATORY CONDITIONS

No supply of alcohol may be made under the premises licence –

- a) at a time when there is no designated premises supervisor in respect of the premises licence, or
- b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

1. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—

- (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—

- (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);

- (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;

- (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

- (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;

- (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

2. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

3. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—

- (a) a holographic mark, or
- (b) an ultraviolet feature.

4. The responsible person must ensure that—

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1—

(a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) “permitted price” is the price found by applying the formula—

$$P = D + (D \times V)$$

where—

- (i) P is the permitted price,
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence—

- (i) the holder of the premises licence,
- (ii) the designated premises supervisor (if any) in respect of such a licence, or
- (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE

Prevention of Crime & Disorder

1. CCTV cameras shall be installed and operated to be in line with the CCTV Policy document agreed between Avon & Somerset Police and South Somerset District Council.

2. The images recorded by the CCTV system shall be retained in unedited form for a period of no less than 31 days, and for longer, if requested by the Police.

3. All cash shall be stored in the wall mounted working safe overnight.

4. The Premises Licence Holder shall maintain an alarm system that is linked to the Police.

5. The Premises Licence Holder or person nominated by them shall actively participate and be a member of any Pub or Club Watch scheme that operates in the area.

6. No person who is the subject of any Court Banning Order or who is restricted access through a Pubwatch scheme will be allowed in the premises provided the details of such persons have been provided to the premises by Pubwatch/Police.

7. Any person who behaves inappropriately shall be barred from the premises and their details passed to any relevant Pubwatch scheme.

8. The Premises Licence Holder shall ensure that any bottles or glasses are removed from persons leaving the premises.

9. No customer carrying open or sealed alcoholic beverage containers shall be admitted to the premises at such time as they are open to the public.

10. Tables shall be cleared of all empty bottles and glasses on a regular basis.

11. The Challenge 25 (proof of age) Scheme shall be operated at the premises.

12. A refusals register shall be maintained at the premises, this document will be made available to Responsible Authorities upon request.

13. An incident book shall be kept at the premises in which will be recorded all incidents of crime and disorder. This book shall be reviewed by the Premises Licence Holder or a person appointed by them and made available to the Licensing Authority or Police Officer upon request.

14. All staff who work behind the bar shall be fully trained to ensure that no person who is knowingly drunk or disorderly or appears to be under the age of 18 years is served with intoxicating liquor. Training of all staff shall include the requirement for persons looking under the age of 25 to be asked for photographic evidence of age by way of passport or drivers licence. The training records should be made available to the Licensing Authority or Police Officers upon request.

15. The Premises Licence Holder shall provide contact details to Interested Parties and the Police and such details shall comprise of land line number(s) and mobile number(s) and such numbers shall be kept up to date at all times.

Public Safety

1. All exits and escape routes to those exits (including external escape routes) from the premises shall be maintained in good repair, correct working order and kept free from all obstructions when the public are on the premises.
2. All exit routes and doors on such routes shall be checked on every occasion before the premises is used for purposes of a licensable activity and at regular occasions when the premises are open to the public, ensure that they are free from defect, obstruction, trip hazards and the surfaces are not slippery.
3. The furniture or seating in the premises shall be arranged so that it does not obstruct any exit, route to any exit or to any facility within the premises.
6. No curtain, hanging or any other decoration shall be positioned so as to obstruct any exit, sign or fire fighting equipment.
7. Printed notices shall be displayed in the premises detailing the essential steps that must be taken if a fire alarm goes off or other emergency arises and how to call the fire service.
8. There shall be maintain on the premises at all times, an adequate and appropriate supply or first aid equipment and materials.
9. The premises shall be provided with adequate lavatory accommodation which shall at all times when the premises are in use be kept clear, ventilated, disinfected and supplied with hot and cold water, soap, toilet tissue, hand drying and sanitary towel disposal facilities as appropriate.
10. The fire alarm detection system will be tested in accordance with appropriate British Standards for Fire Detection and Fire Alarm systems for buildings. The results of the tests will be recorded in a log book. A satisfactory inspection report will be provided after each inspection to the Licensing Authority.
11. Fire fighting equipment shall be provided throughout the premises at suitable locations in accordance with the fire risk assessment.
12. Fire fighting equipment shall be examined by a competent person at intervals recommended by the local fire service where this is not statutory and maintained to be in good working order.
13. All senior staff shall be instructed and trained to ensure that they understand the fire precaution measures in the building and the procedure and action to be taken in the event of fire.

Prevention of Public Nuisance

1. There shall be containers for the storage and disposal of waste food and other refuse from the premises. The containers shall be constructed, maintained and located so that access to them by vermin or unauthorised person is prevented. Arrangements shall be made for the regular & legal disposal of their contents.

Protection of Children

1. No person under the age of 16 years, unless they are accompanied by a person over 18 years old, shall be permitted on the premises at any time.

Further Information

None

Considerations

In determining the 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)
- Latest 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
- 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

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.

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

Licensing Act 2003

Police Reform and Social Responsibility Act 2011

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

The Licensing Act 2003 (Permitted Temporary Activities) (Notices) (Amendment) Regulations
2012 No. 960
The Latest Guidance issued under section 182 of the Licensing Act 2003.
The Statement of Licensing Policy for South Somerset District Council
