

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

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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 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.

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