

Determination of Objection Notice to Temporary Event Notice

REPORT OF: Tom Clark, Head of Regulatory Services

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Wards Affected: Crawley Down

Key Decision No

Purpose of Report

1. To provide information in order that the Licensing Committee can determine an objection to a Temporary Event Notification (TEN).

Summary

2. A Temporary Event Notification (TEN) has been sent to the Licensing Authority for Mid Sussex District Council in accordance with Section 100 Licensing Act 2003 by Mr Charles Sydenham. Mid Sussex District Council Environmental Protection Team have submitted an objection notice citing the grounds of the prevention of a public nuisance.
3. The Committee is asked to determine the matter in accordance with the Licensing Act 2003, MSDC Licensing Policy and the Home Office Guidance issued under Section 182 Licensing Act 2003, having due regard to the applicant's submissions and objections by the statutory body.

Background

4. When carrying out its functions the licensing authority must have regard to the four licensing objectives. The objectives are:
 - The prevention of crime and disorder
 - Public Safety
 - The prevention of public nuisance
 - The protection of children from harm
5. The system of permitted temporary activities is intended as a light touch process designed to allow low risk events to take place without the requirement of a full premises licence. As such the process relies on the openness and clarity in the description of the event in the notice to enable the relevant Responsible Authorities to determine whether the event going ahead would pose any risk to the licensing objectives
6. Mr Sydenham (referred to in the Licensing Act as the 'premises user') has submitted a Temporary Event Notification to cover the supply of alcohol and the provision of regulated entertainment between 12:00 hours to 03:00 hours on Friday 16th September 2022, from 12:00 hours to 03:00 hours on Saturday 17th September 2022 and from 12:00 hours to 23:00 hours on Sunday 18th September 2022.

7. The address of the event is Floran Farm, Hophurst Hill, Crawley Down RH10 4LP. This location is not licensed. The location in the Notice is described as 'We will only be using the event space on Floran Farm which sits at the back of the estate' and 'The premises is a flat field at the back of the farm which has previously been used for weddings, parties etc.'

Mr Sydenham has supplied a plan area proposed to be covered by the temporary Event Notice.

8. The notification states the nature of the event as '*I'm running a party to help raise funds for a charity that I hold very close to my heart. My father passed away a few year's ago so we put on a party to help raise funds for the hospice he passed at, whilst also getting our friends and family together. There will be amplified music and the sale of alcohol across the weekend so I know I need to apply for a TEN.*'. The notice states that the maximum number of people at the event will be 499. The licensable activities applied for are for the supply of alcohol, the provision of Late Night Refreshment and the Provision of Regulated Entertainment.

9. Mid Sussex District Council Environmental Protection Team (referred to in the Licensing Act as 'a relevant person') has submitted an objection notice under section 104(2) of the Licensing Act 2003, to the notification on the grounds of the prevention of a public nuisance. They have stated:

The Temporary Event Notice by the applicant is giving notice that the event will take place on Friday 16 September 2022 from 1200 midday to 0300 the following morning; continuing on Saturday 17 September 2022 from 1200 midday to 0300 the following morning; and continuing on Sunday 18 September 2022 from 1200 midday to 2300.

To allow this would give permission for nearby residents to be exposed to 41 hours of music over one weekend not only during the day but also extending deep into the night period. Not only would the evening period be hugely impacted but a total of 8 hours of music in the night-time period is being requested. Sleep disturbance is likely and for prolonged periods over consecutive nights on one weekend.

Noise and disturbance from recorded and/or live amplified music; people talking, shouting and singing; vehicles and attendees arriving and leaving the site, particularly late at night; and clearing up, bottling out and preparing the area for the next day; are all likely to have an impact on nearby residents. The drinking time proposed amounts to 15 hours on the Friday, 15 hours on Saturday and 11 hours on Sunday. Controlling noise emissions from music and people becomes increasingly difficult with increased alcohol consumption.

10. Mr Sydenham has provided further information regarding the event to the Environmental Protection Team outlining the location plan for the event together with measures that are proposed to mitigate the potential for noise and disturbance from amplified music and event noise
11. The notification was submitted electronically to the Licensing Authority on 24th February 2022. Sussex Police and Environmental Health were informed on the same day. The objection was received on 24th February 2022
12. This hearing must therefore consider the points raised in the Objection Notices and make a determination on the Temporary Event Notice.

Policy Context

13. The Committee should be aware that a Temporary Event Notice is not an application for the purposes of the Licensing Act 2003. It is a notification that licensable activities are going to take place at a certain venue and at notified times. The limit on numbers at such an event, including audience, staff and performers is 499. The Police and Environmental Health have the right to object if, they are of the opinion that allowing the event to take place would undermine any of the licensing objectives.
14. The Committee's decision is whether or not to issue a counter notice. If a counter notice is issued this means the event cannot take place. A notice with reasons for the decision must also be given.
15. If the Committee decide not to issue a counter notice and allow the event to go ahead the premises user and the relevant persons must be given a notice of that decision.
16. If the Committee decide not to issue a counter notice and allow the event to go ahead it must be noted no conditions can be added to the Notice.
17. The TEN can be modified (times, layout of venue, licensable activities) but only with the agreement of the premises user and all relevant persons.
18. The Committee must determine the matter in accordance with Section 105 Licensing Act 2003.
19. Section 105 Licensing Act 2003 Section (2) states:

The Licensing Authority must –

 - a) Hold a hearing to consider the objection notice, unless the premises user (Mr Sydenham), the relevant person (Mid Sussex District Council Environmental Protection Team) who gave the objection notice and the authority agree that a hearing is unnecessary.
 - b) Having regard to the objection notice, give the premises user a counter notice under this section if it considers it appropriate for the promotion of the licensing objectives to do so.
20. Section 105 Licensing Act 2003 Section (3) states:

The Licensing Authority must –

 - a) In a case where it decides not to issue a counter notice under this section, give the premises user and each relevant person a notice of the decision.
 - b) In any other case –
 - i. Give the premises user the counter notice and a notice stating the reasons for its decision and,
 - ii. Give each relevant person a copy of both of those notices.

Section (4) further states:

A decision must be made under subsection (2)(b), and the requirements of subsection (3) must be met, at least 24 hours before the beginning of the event period specified in the temporary event notice.

21. Section 106(A) of the Act states in respect of attaching conditions on a standard temporary event notice following objection
- (1) This section applies where—
- (a) a relevant person has given an objection notice under section 104(2) in respect of a standard temporary event notice,
- (b) the objection notice has not been withdrawn, and
- (c) the relevant licensing authority has decided under section 105 not to give a counter notice under that section.
- (2) The relevant licensing authority may impose one or more conditions on the 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 club premises certificate that has effect in respect of the same premises, or any part of the same 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.
- (3) Where the authority decides to impose one or more conditions under subsection (2)—
- (a) the authority must give the premises user notice of the decision,
- (b) the notice must be accompanied by a separate statement (the “statement of conditions”) which sets out the conditions that have been imposed on the temporary event notice, and
- (c) a copy of the notice and statement of conditions must be given to each relevant party.
- (4) The notice and statement of conditions under subsection (3) must—
- (a) be in the prescribed form,
- (b) be given to the premises user in the prescribed manner, and
- (c) be given no later than 24 hours before the beginning of the event period specified in the temporary event notice

Financial Implications

22. A decision made by the Committee is subject to appeal at the Magistrates Court by the premises user or a relevant person.

Risk Management Implications

23. None

Equality and customer service implications

24. None.

Other Material Implications

25. None

Sustainability Implications

26. None

Background Papers

Appendix 1 – Temporary Event Notification

Appendix 2 – Copy of Email from Applicant providing further details of the application and site plans.

Notices of Objection

Appendix 3 – Environmental Protection Team