

1 July 2022	
Licensing Sub-Committee	
DETERMINATION OF OBJECTION TO TEMPORARY EVENT NOTICES.	
Report of: Dave Leonard, Licensing Officer	
Wards and communities affected: Brentwood North	Key Decision: Non-key
This report is public	
<i>If the report, or a part of this, has been classified as being either confidential or exempt by reference to the descriptions in Schedule 12A of the Local Government Act 1972, it is hereby marked as being not for publication. The press and public are likely to be excluded from the meeting during consideration of any confidential or exempt items of business to which the report relates.</i>	
Date of notice given of exempt or confidential report: not applicable	
Purpose of Report: To determine an objection from Essex Police against two Temporary Event Notices.	

EXECUTIVE SUMMARY

The Licensing Office has received an objection from both the Essex Police Licensing Officer, Mr Simon Barnes, and the Brentwood Borough Council Environmental Health Manager, Mr David Carter, with regards to two Temporary Event Notices (TENs) submitted in relation to a pilot scheme to provide late night refreshment on Sunday 17 July 2022 and the August Bank Holiday weekend extension 27-29 August 2022 to be held at **The Merchant, 125-127 High Street, Brentwood CM14 4RX**. Both events request a one-hour extension to the hours of licensable activity from 0200hrs-0300hrs and 0000hrs-0100hrs (Monday 29 August). The objections relate to the prevention of crime & disorder and public nuisance licensing objectives.

1. RECOMMENDATIONS:

1.1 That the Sub-Committee

a) Considers this report and appendices together with any oral submissions at the hearing and determines the application for the objection of a Temporary Event Notice.

2. INTRODUCTION AND BACKGROUND:

2.1 Section 104 (2) Licensing Act 2003, allows the Police or Environmental Health to object to a Temporary Event Notice if they believe that allowing the premises to be used in accordance with a Temporary Event Notice will undermine one or more of the licensing objectives.

2.2 The licensing objectives are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm.

2.3 On 22 June 2022 the Licensing Department received a Temporary Event Notice from Alison Bracken of the Stonegate Group on behalf of Skotty Winwood to provide late night refreshment on the premises with the aim of assisting with the gradual dispersal of customers from licensed premises in the town centre at The Merchant, 125-127 High Street, Brentwood CM14 4RX on Sunday 17 July 2022 from 0200hrs-0300hrs. A copy of the TEN is attached at **Appendix A**

2.4 A letter of acknowledgement of the TEN was sent on 22 June 2022 and a copy is attached at **Appendix B**.

2.5 On 22 June 2022 the Licensing Department received a Temporary Event Notice from Nita Hill of the Stonegate Group on behalf of Skotty Winwood for the sale of alcohol and the provision of regulated entertainment & late-night refreshment for one additional hour on the August Bank Holiday weekend at The Merchant, 125-127 High Street, Brentwood CM14 4RX on Saturday 27 August & Sunday 28 August 2022 from 0200hrs-0300hrs and on Monday 29 August 2022 from 0000hrs-0100hrs. A copy of the TEN is attached at **Appendix C**.

2.6 A letter of acknowledgement of the TEN was sent on 22 June 2022 and a copy is attached at **Appendix D**.

2.7 The TEN, in its current submission without any written undertakings attached, effectively removes the conditions attached to the premises licence. A copy of the current premises licence, issued on 2 May 2022, together with an OS Street Map and an image to better identify the location, is attached at **Appendix E**.

2.8 On 23 June 2022 the Licensing Department received an objection notice against both Temporary Event Notices from the Essex Police Licensing Officer, Mr Simon Barnes, being satisfied that the allowing of the premises to be used in accordance with the notices would undermine the prevention of crime & disorder and public nuisance licensing objectives. Mr Barnes states that a number of conditions have been agreed to assist with the prevention of crime and disorder and public nuisance at the premises. Allowing the event to take place under a TEN would essentially allow the premises to operate outside of the conditions on the premises licence. Mr Barnes' objection is made with a view to getting the conditions listed on the premises licence applied to the TEN for these events. In doing so, this would satisfy Essex Police that all measures that have been put in place will remain in effect for the entire period of the events. Mr Barnes' objection is attached at **Appendix F**.

2.9 On 24 June 2022 the Licensing Department received objection notices against both Temporary Event Notices from the Brentwood Borough Council Environmental Health Manager, Mr David Carter, being satisfied that the allowing of the premises to be used in accordance with the notices would undermine the public nuisance licensing objectives. As also identified by Essex Police, this objection is made with the view to getting the conditions listed on the premises licence applied to the TEN for the event and this would satisfy Environmental Health that all measures that have been put in place will remain in effect for the entire event. Mr Carter's objections are both attached at **Appendix G**.

3. ISSUES, OPTIONS AND ANALYSIS OF OPTIONS:

3.1 The committee, after considering the objection application, will need to consider what action, if any, to take in order to ensure that the licensing objectives are complied with.

3.2 The power to impose conditions on a TEN is conferred by s106 Licensing Act 2003. This is not a general power to impose conditions and can be exercised only where temporary events are held on premises, or parts of premises, for which a premises licence or Club Premises Certificate is in force and an objection notice is given.

3.3 The following options are available to the Licensing Sub-Committee:

- Allow each Temporary Event Notice being determined as applied for;
- To impose conditions on the TEN being determined as conferred by s106 Licensing Act 2003.
- To reject the Temporary Event Notice being determined as applied for and issue a Counter Notice, which will prevent the event from going ahead.

- 3.4 The decision made by the Committee will take immediate effect. There is a right of appeal for both the person who has given the TEN and for the relevant person that had submitted the objection notice. However, no appeal may be brought later than 5 working days before the day on which the event period specified in the TEN.
- 3.5 In determining this application for an objection of the Temporary Event Notice by Environmental Health, the Sub-Committee should have regard to the Council's Statement of Licensing Policy and to the guidance issued by the Secretary of State under s182 of the Licensing Act 2003.
- 3.6 The Sub-Committee are advised that the hearing is of a quasi-judicial nature and representations from all parties both written and verbal will form part of matters that are to be considered. Findings on issues of fact should be on the balance of probability.
- 3.7 The Sub-Committee are advised that the final decision should be based on the individual merits of the application and findings of fact made at the hearing

4. REASONS FOR RECOMMENDATION:

- 4.1 These are the options available to the Sub-Committee

5. CONSULTATION (including Overview and Scrutiny, if applicable)

- 5.1 Copies of both objections have been served on the premises user.

6. IMPACT ON CORPORATE POLICIES, PRIORITIES, PERFORMANCE AND COMMUNITY IMPACT

- 6.1 The Council has a duty under Section 17 of the Crime & Disorder Act 1998 to do all that it reasonably can to prevent:

- (a) crime and disorder in its area (including anti-social behaviour and other behaviour adversely affecting the local environment), and;
- (b) the misuse of drugs, alcohol and other substances in its areas.

In considering this duty the Sub-Committee should have due regard to the Licensing Act 2003, the Guidance issued by the Secretary of State under Section 182 of the Act and the Council's own Statement of Licensing Policy.

The Licensing Sub-Committee is of a quasi-judicial nature and whilst the Licensing Committee should ensure equality of treatment for all groups in the granting of licences, due regard should be given to its responsibility to promote the licensing objectives and its duties under Section 17 of the Crime and

Disorder Act 1998. This includes full consideration of the need to prevent crime and disorder, ensure public safety, the prevention of public nuisance and the protection of children from harm. Where it finds that the need to comply with those duties is reasonably inferred, it must determine the application appropriately.

BACKGROUND PAPERS USED IN PREPARING THIS REPORT (include their location and identify whether any are exempt or protected by copyright):

- The Licensing Act 2003
- The Secretary of State's Guidance issued under section 182 Licensing Act 2003
- Brentwood Borough Council's Statement of Licensing Policy

APPENDICES TO THIS REPORT:

Appendix A - Temporary Event Notification 17 July 2022 (received 22 June 2022)

Appendix B - Letter of Acknowledgement 22 June 2022

Appendix C - Temporary Event Notification 26-29 August 2022 (received 22 June)

Appendix D - Letter of Acknowledgement 22 June 2022)

Appendix E - Premises Licence, OS Map and Image

Appendix F - Notice of Objection from Mr Simon Barnes (Essex Police Licensing)

Appendix G - Notices of Objection from Mr David Carter (Environmental Health)

Report Author Contact Details:

Name: Dave Leonard

Telephone: 01277 312523

E-mail: dave.leonard@brentwood.gov.uk