

15 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exempt by reference to the descriptions in Schedule 12A of the Local Government Act 1972, it is hereby marked as being not for publication.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 objections from both Essex Police (Licensing) and Environmental Health against four Temporary Event Notices.	

EXECUTIVE SUMMARY

The Licensing Office has received an objection from both the Essex Police Senior Licensing Officer, Mr Gary Burke, and the Brentwood Borough Council Environmental Health Manager, Mr David Carter, with regards to four Temporary Event Notices (TENs) submitted in relation to a pilot scheme to provide late-night refreshment on Sunday 24 July 2022, Sunday 31 July 2022, Sunday 7th August 2022 and Sunday 14th August 2022 to be held at **The Merchant, 125-127 High Street, Brentwood CM14 4RX**. All four events request a one-hour extension to the hours for the provision of late-night refreshment only from 0200hrs-0300hrs. 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 6 July 2022 the Licensing Department received four separate Temporary Event Notices 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 four consecutive Sundays on 24 July, 31 July, 7 August & 14 August 2022 from 0200hrs-0300hrs. Copies of all four TENs are attached at **Appendix A**.

2.4 Letters of acknowledgement for all four of the TENs were sent on 6 July 2022 and copies are attached at **Appendix B**.

2.5 The TENs, in their current submission, despite written undertakings being attached, effectively remove 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 C**.

2.6 On 8 July 2022 the Licensing Department received objection notices against all four Temporary Event Notices from the Essex Police Senior Licensing Officer, Mr Gary Burke, 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 Burke 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 events to take place under a TEN would essentially allow the premises to operate outside of the conditions on the premises licence. Mr Burke's objection is made with a view to getting the conditions listed on the premises licence applied to each 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 Burke's four objections are attached at **Appendix D**.

- 2.7 On 8 July 2022 the Licensing Department received objection notices against all four 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, these objections are made with the view to getting the conditions listed on the premises licence applied to the TENs for the events and this would satisfy Environmental Health that all measures that have been put in place will remain in effect for the entire period of the events. Mr Carter's four objections are attached at **Appendix E**.

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 Notifications received 6 July 2022*
24 July 2022 / 31 July 2022 / 7 August 2022 / 14 August 2022

Appendix B - *Letters of Acknowledgement sent 6 July 2022*
24 July 2022 / 31 July 2022 / 7 August 2022 / 14 August 2022

Appendix C - *Premises Licence, OS Map and Image*

Appendix D - *Notices of Objection from Mr Gary Burke (Essex Police Licensing)*
24 July 2022 / 31 July 2022 / 7 August 2022 / 14 August 2022

Appendix E - *Notices of Objection from Mr David Carter (Environmental Health)*
24 July 2022 / 31 July 2022 / 7 August 2022 / 14 August 2022

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