

<b>7<sup>th</sup> October 2022</b>		<b>ITEM: 3</b>
<b>Licensing Sub-Committee</b>		
<b>DETERMINATION OF OBJECTION TO TEMPORARY EVENT NOTICES.</b>		
<b>Report of:</b> Maria Moses, Licensing Officer		
<b>Wards and communities affected:</b> Brentwood North	<b>Key Decision:</b> Non-key	
<b>This report is public</b>		
<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exempt by reference to the descriptions in Schedule 12A of the Local Government Act 1972, it is hereby marked as being not for publication.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>		
<b>Date of notice given of exempt or confidential report:</b> not applicable		
<b>Purpose of Report:</b> To determine objection from Essex Police (Licensing) against four Temporary Event Notices.		

### **EXECUTIVE SUMMARY**

The Licensing Office has received an objection from Essex Police, Mr Simon Barnes, with regards to four Temporary Event Notices (TENs) submitted in relation to extension of hours on Sunday 9<sup>th</sup> October 2022, Sunday 16<sup>th</sup> October 2022, Sunday 23<sup>rd</sup> October 2022 and Sunday 30<sup>th</sup> October 2022 to be held at **The Vine, 104 High Street, Brentwood CM14 4RX**. All four events request a one-hour extension to the hours for the provision of the Sale by retail of alcohol, The provision of regulated entertainment and The provision of late night refreshment from 0200hrs-0300hrs. The objections relate to the prevention of crime & disorder.

## 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 23 September 2022 the Licensing Department received four separate Temporary Event Notices from Matthew Bell on behalf of Andreas Artemi to provide the Sale of Alcohol, Regulated Entertainment and Late-night Refreshment on the premises as the operators perceive a significant change in market habits and wish to explore these changes, these TENS are to explore options and may lead to a formal change to the premises licence this will be on four consecutive Sundays on Sunday 9<sup>th</sup> October 2022, Sunday 16<sup>th</sup> October 2022, Sunday 23<sup>rd</sup> October 2022 and Sunday 30<sup>th</sup> October 2022. Copies of all four TENS are attached at **Appendix A**.

2.4 Letters of acknowledgement for all four of the TENS were sent on 23<sup>rd</sup> September 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 22<sup>nd</sup> February 2022, together with an OS Street Map to better identify the location, is attached at **Appendix C**.

2.6 On 26<sup>th</sup> September 2022 the Licensing Department received objection notices against all four 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 objective. Mr Barnes states that 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 Barnes' objection is made with a view as a minimum 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 Barnes letter of objection is attached at **Appendix D.**

### **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 23 September 2022

**Appendix B** - Letters of Acknowledgement sent 6 July 2022

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

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

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