

28 November 2022		ITEM:
Licensing Sub-Committee		
DETERMINATION OF OBJECTION TO TEMPORARY EVENT NOTICES.		
Report of: Dave Leonard, Licensing Manager		
Wards and communities affected: Brentwood South, 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exempt by reference to the descriptions in Schedule 12A of the Local Government Act 1972, it is hereby marked as being not for publication.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 Environmental Health and Essex Police (Licensing) for a Temporary Event Notice.		

EXECUTIVE SUMMARY

The Licensing Office has received objections from both consulting responsible authorities - the Essex Police Licensing Officer, Mr Simon Barnes, and the Environmental Health Manager, Mr David Carter - with regards to a Temporary Event Notice (TEN) submitted in relation to Christmas party events to be held at Bloc 40, First Floor 40 High Street Brentwood CM14 4AJ on Saturday 3 December 2022 and Sunday 4 September 2022. The objections relate to the prevention of crime and disorder and the prevention of 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 The Licensing department received a Temporary Event Notice on 16 November 2022 from Dadds LLP on behalf of Leonora Dunne for christmas party events to be held on 3 & 4 December 2022. A copy of the TEN is attached at **Appendix A**

2.4 The TEN relates to christmas party events to be held at Bloc 40, First Floor, 40 High Street, Brentwood CM14 4AJ on Saturday 3 & Sunday 4 December 2022 from 0001hrs to 0200hrs for the purposes of the sale by retail of alcohol and the provision of regulated entertainment and late-night refreshment with a close of premises by 0230hrs. Ms Dunne is the current designated premises supervisor at Bloc 40.

2.5 A letter of acknowledgement of the TEN was sent on 16 November 2022 and a copy is attached at **Appendix B**.

2.6 On Monday 21 November 2022 the Licensing Department received an objection notice from Mr Simon Barnes, a Licensing Officer with Essex Police, outlining his objection that the Police are satisfied that allowing the premises to be used in accordance with the notice would undermine the prevention of crime and disorder licensing objective.

The reasons for being so satisfied are that, following a licensing review hearing last year, a number of conditions were agreed to assist with preventing crime and disorder 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. The Police objection is made with a view to getting the conditions listed on the premises licence applied to the TEN for the events. This would satisfy Essex Police that all of the measures

that have been put in place following the hearing will remain in effect for the entire event. Mr Barnes' objection notice is attached at **Appendix C**.

- 2.7 On Monday 21 November 2022 the Licensing Department received an objection notice from David Carter, Environmental Health Manager, with regard to the licensing objective of prevention of public nuisance. Mr Carter contends that the applicant has stated that the premises licence holder agrees to comply with the conditions of the premises licence for the duration of the TEN, however, despite several attempts to make arrangements with the premises, condition 18 of Annex 2 and conditions 4 and 16 of Annex 3 relating to prevention of public nuisance still remain to be agreed with Environmental Health and, therefore, currently the operation of the premises does not comply with the requirements of these conditions of the premises licence.

Therefore, Mr Carter states that he does not wish to agree to the TEN with the undertaking to comply with the conditions of the premises licence where these conditions are not being complied with at present. Mr Carter's objection notice is attached at **Appendix D**.

- 2.8 To assist the Sub-Committee, a copy of the current Bloc 40 premises licence, issued on 8 September 2021, and with the Annex conditions referred to in Mr Carter's objection highlighted, is attached at **Appendix E**.

3. ISSUES, OPTIONS AND ANALYSIS OF OPTIONS:

- 3.1 The committee, after considering the objection applications, 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 the 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.

- 3.6 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.
- 3.7 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.
- 3.8 The Sub-Committee are advised that the final decision should be based on the individual merits of the application & 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 s. 182 Licensing Act 2003
- Brentwood Borough Council's Statement of Licensing Policy

APPENDICES TO THIS REPORT:

Appendix A - Temporary Event Notice Application

Appendix B - Letter of Acknowledgement

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

Appendix D - Notice of Objection from David Carter (Environmental Health)

Appendix E - Bloc 40 premises licence issued 8 September 2021

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DETERMINATION OF OBJECTION TO TEMPORARY EVENT NOTICE

BLOC 40, FIRST FLOOR, 40 HIGH STREET, BRENTWOOD CM14 4AJ

Saturday 3 & Sunday 4 December 2022

APPENDICES

Appendix A - Temporary Event Notice Application

Appendix B - Letter of Acknowledgement

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

Appendix D - Notice of Objection from David Carter (Environmental Health)

Appendix E - Bloc 40 premises licence issued 8 September 2021