

Licensing Act Sub Committee

Date of Meeting: 21 June 2018

Report Title: Determination of a Temporary Event where an objection notice has been received

Senior Officer: Frank Jordan - Executive Director Places

1. Report Summary

1.1. The report provides details of a temporary event notice submitted by John Berry which has been served in respect of:

Alderley Edge Cricket Club
Moss Lane
Alderley Edge
Cheshire
SK9 7HN

1.2. The notice requests authorisation for the following licensable activities to take place between 18:00 hours on 27th June 2018 to 18:00 hours on the 1st July 2018

1.2.1. The sale by retail of alcohol (for consumption on and off the premises)

1.2.2. The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club

1.2.3. The provision of regulated entertainment

1.3. A maximum of 220 people can attend the event.

2. Recommendation/s

2.1. The Licensing Act Sub-Committee is requested to consider the temporary event notice served, the objection received and determine whether to give a

Counter Notice under section 105 of the Licensing Act 2003. A Counter Notice will render any licensable activities provided unlawful.

2.2. Members of the Licensing Sub-Committee are reminded that they may not exercise discretion in any case, merely because it considers it desirable to do so. Careful consideration should be given to the notice and objection.

2.3. The Sub-Committee in respect of this application must have regard to the Guidance issued under Section 182 of the Licensing Act 2003 and the Council's Statement of Licensing Policy.

2.4. Finally, Members are also reminded that in determining the application in accordance with the Licensing Act 2003, Members must also have regard to:

1. The rules of natural justice
2. The provisions of the Human Rights Act 1998

3. Reasons for Recommendation/s

3.1. The Licensing Act Sub-Committee has the power to determine this application in accordance with the provisions of the Licensing Act 2003 and the Council's Constitution.

4. Other Options Considered

4.1. No other options have been considered. This matter must be determined by the Sub-Committee in line with statutory requirements and the Council's Constitution.

5. Background

5.1. On 12th June 2018 the Licensing Authority received a Temporary Event Notice in respect of an event to be held at Alderley Edge Cricket Club. A copy of the notice is attached at appendix 1. A summary of the licensable activities is provided in paragraphs 1.2 and 1.3 (above).

5.2. The application was originally submitted in person with a cheque attached, the licensing team notified the notice giver the following day to advise no payment had been received. The notice giver subsequently contacted the Council's Customer Service Team to make payment the following day. Due to the number of days notice given the TEN was originally considered to be a late TEN. However, the notice giver has provided evidence to satisfy the licensing team that the notice should be considered a standard rather than a late TEN.

5.3. The Council's Environmental Health Team has submitted an objection notice in respect of this temporary event notice. A copy of the objection notice is attached as Appendix 3.

5.4. The Cheshire Constabulary has not submitted an objection notice in respect of the temporary event notice.

6. Implications of the Recommendations

6.1. Legal Implications

6.1.1. Section 104 of the Licensing Act 2003 provides that where a 'relevant person' (i.e. the Chief Officer of Police or the Environmental Health Service) are satisfied that allowing a premises to be used in accordance with a temporary event notice would undermine a licensing objective, that 'relevant person' is required to give a notice ("an objection notice") stating the reasons for being so satisfied.

6.1.2. Where a licensing authority receives an objection notice it is required, by section 105(2) of the Licensing Act 2003 to:

6.1.3. hold a hearing to consider the objection notice, unless the premises user, the relevant person who gave the notice and the licensing authority agree that a hearing is unnecessary; and

6.1.4. having regard to the objection notice, give the premises user a counter notice if it considers it appropriate for the promotion of a licensing objective to do so.

6.1.5. In circumstances where an objection notice has been given (and not withdrawn) and the licensing authority has determined not to give a counter notice under section 105, the 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) if the conditions are already imposed on the premises licence that has effect in respect of the premises; and (c) the conditions would not be inconsistent with the carrying out of the licensable activities under the temporary event notice.

6.2. Finance Implications

6.2.1. There are no financial implications

6.3. Policy Implications

6.3.1. The Licensing Authority has adopted a Statement of Licensing Policy in accordance with section 5 of the Licensing Act 2003.

6.3.2. The Licensing Authority must also have due regard to the guidance issued under section 182 of the Licensing Act 2003.

6.3.3. Members should provide reason(s) for any decision taken and should set out the reasoning where they determine to depart in any way from the Policy or Guidance.

6.4. Equality Implications

6.4.1. There are no direct equality implications

6.5. Human Resources Implications

6.5.1. There are no human resources implications

6.6. Risk Management Implications

6.6.1. The Licensing Sub-Committee will hear representations made on behalf of both the premises user and the 'relevant person' who has submitted the objection notice and will make a decision on the basis of the evidence presented to it. Section 181 and Schedule 5 (part 3) of the Licensing Act 2003 make provision for appeal to the Magistrates' Court of any decision made by the Licensing Authority.

6.7. Rural Communities Implications

6.7.1. There are no direct implications for rural communities.

6.8. Implications for Children & Young People

6.8.1. There are no direct implications for children and young people.

6.9. Public Health Implications

6.9.1. There are no direct implications for public health.

7. Ward Members Affected

7.1. Alderley Edge - Councillor Craig Browne

8. Consultation & Engagement

8.1. Consultation in respect of the giving of a temporary event notice is prescribed in the Licensing Act 2003 and has been fully complied with.

9. Access to Information

- 9.1. The background papers relating to this report can be made available by contacting the report writer.

10. Contact Information

- 10.1. Any questions relating to this report should be directed to the following officer:

Name: Jennifer Knight

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APPENDICES

Appendix 1 – Temporary Event Notice

Appendix 2 – Plan

Appendix 3 – Objection Notice