

CHESHIRE EAST COUNCIL

LICENSING ACT SUB-COMMITTEE

Date of meeting: Thursday 15th August 2013 at 2:00 p.m.
Committee Suite 3, Municipal Buildings, Crewe
Report of: Amanda Hinton, Licensing Administration Officer
Title: Notice of Temporary Event

1.0 Report Summary

- 1.1 The report provides details of a temporary event notice submitted by Mr Ben Johnson which has been served in respect of:

White Horse
22 Pillory Street
Nantwich
CW5 5BD

- 1.2 The notice requests authorisation for the following licensable activities to take place between 16.00 hours on 25th August 2013 to 00.30 hours on the 26th August 2013:

- i. the sale by retail of alcohol (for consumption on the premises)
- ii. the provision of regulated entertainment
- iii. late night refreshment

2.0 Recommendations

- 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 are also reminded that regard must be given to:

- The rules of natural justice
- The provisions of the Human Rights Act 1998

3.0 Reasons for Recommendations

- 3.1 The Licensing Act Sub-Committee has the delegated authority to consider this matter in accordance with the provision of the Licensing Act 2003 and the Council's Constitution.

4.0 Wards Affected

- 4.1 Nantwich South and Stapeley

5.0 Local Ward Members

- 5.1 Cllr Peter Groves
Cllr Andrew Martin

6.0 Policy Implications

- 6.1 The Council has adopted a Statement of Licensing Policy under the 2003 Act relating to its functions as a Licensing Authority.
- 6.2 The Licensing Authority must also have due regard to the guidance issued under section 182 of the Licensing Act 2003.
- 6.3 Members of the Licensing Sub-Committee are reminded that they should provide reason(s) for any decision taken, or where they might consider departing the Guidance or Policy.

7.0 Financial Implications (Authorised by the Director of Finance & Business Services)

- 7.1 None.

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 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.
- 8.2 Where a licensing authority receives an objection notice it is required, by section 105(2) of the Licensing Act 2003 to:
 - a) 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
 - b) 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.
- 8.3 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.

9.0 Risk Management

- 9.1 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. The Licensing Act 2003 provides a right of appeal to the Magistrates' Court against the decision of the Licensing Authority.

10.0 Background and Options

- 10.1 The premises which are the subject of the temporary event notice is a public house, which benefits from a Premises Licence (number 313). A copy of the Premises Licence is attached as **Appendix 1** and a location plan is also attached as **Appendix 2**.
- 10.2 The temporary event notice served in relation to 25th/26th August 2013 seeks to authorise: (i) the sale by retail of alcohol (for consumption on the premises); (ii) the provision of regulated entertainment and (iii) Late Night Refreshment between the hours of 16.00 and 00.30 hours, in a marquee in the beer garden/car park of the premises. The existing premises licence does not authorise the use of the outdoor area after 23:30 hours as in condition number 1 attached by Magistrates following appeal.
- 10.3 Objection from 'relevant person':
- 10.3.1 The Environmental Health Service has submitted an objection notice in respect of this temporary event notice. A copy of the objection notice is attached as **Appendix 3**.
- 10.3.2. The Police have not submitted an objection notice in respect of the temporary event notice.

11.0 Access to Information

There are no background papers associated with this report.

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Appendix 1 - Premises Licence number 313

Appendix 2 – Location Plan

Appendix 3 – Objection notice submitted by Environmental Health