

LICENSING PANEL
6 JULY 2016

REPORT ON TEMPORARY EVENT NOTICE FOR VARKALA FESTIVAL
(Chief Officer: Environment and Public Protection)

1. INTRODUCTION

- 1.1 The Licensing Act 2003 (“the 2003 Act”) allows a person (“premises user”) wishing to hold an event at which licensable activities are carried on, to give notice to the Council of the event, known as a temporary event notice (“TEN”).
- 1.2 The TEN, in effect, exempts the premises user from the need for a licence, in order that licensable activities can take place.
- 1.3 The premises user must, in addition to the Council, serve copies of the notice on Thames Valley Police and the Council’s Environmental Health Department responsible for noise nuisance. Both of these as “relevant persons”, have the right to object to the TEN should they feel the activities proposed will undermine the licensing objectives.
- 1.4 On this occasion, an objection notice has been received from the Council’s Environmental Health Department. The objection relates to the prevention of public nuisance licensing objective.
- 1.5 The panel is asked to consider the objection notice in relation to the TEN and decide whether to serve a counter notice to the TEN.

2. APPLICATION

- 2.1 A TEN was served on 23 June 2016. A copy of the notice is attached at **Annex A**.
- 2.2 The TEN was served by Mr James Bowkett for the following activities:
- (i) The sale by retail of alcohol
 - (ii) The provision of regulated entertainment
 - (iii) The provision of late night refreshment
- 2.3 The event is proposed to take place at Park View Park, off Old Wokingham Road, at the following dates and times
- | | |
|----------|--|
| Friday | 12/08/2016 18:00 - 00:00 |
| Saturday | 13/08/2016 00:00 - 02:00 and 12:00 - 00:00 |
| Sunday | 14/08/2016 00:00 - 02:00 and 12:00 - 00:00 |
- 2.4 The event is described as an over 18s festival with music and camping. A map showing the location of the proposed event is attached at **Annex B**.

3. OBJECTION RECEIVED

- 3.1 Section 104 of the 2003 Act (as amended by section 112 of the Police Reform and Social Responsibility Act 2011) permits both the Chief Officer of Police and the Council’s Environmental Health team to serve an objection notice to a TEN on the basis of any of the licensing objectives.

3.2 On 23 June 2016, the Council's Environmental Health Department made an objection to the TEN, as they are of the view that its grant would undermine the prevention of public nuisance licensing objective. The objection relates to the likelihood of noise nuisance to nearby residential properties from both music and festival attendees. This objection is attached at **Annex C**.

4. FURTHER INFORMATION

4.1 A copy of the TEN form was received by email on Tuesday 21 June 2016, and payment was subsequently received to validate the TEN on Thursday 23 June.

4.2 The Environmental Health Officer sent an email to the premises user on 21 June requesting additional information to assist in considering the TEN. The information provided by the premises user along with a site plan is available at **Annex D**.

5. RELEVANT GUIDANCE

5.1 Statutory guidance has been issued under Section 182 of the 2003 Act. The panel must have regard to this guidance when determining this application, below are some relevant extracts.

5.2 The 2003 Act provides four objectives which must be promoted when licensing functions are carried out:

- (i) The prevention of crime and disorder;
- (ii) Public safety;
- (iii) The prevention of public nuisance; and
- (iv) The protection of children from harm.

5.3 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter. (2.14 of Section 182 Guidance)

5.4 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It is important to remember that the prevention of public nuisance could therefore include low-level nuisance, perhaps affecting a few people living locally, as well as major disturbance affecting the whole community. It may also include, in appropriate circumstances, the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health. (2.15 of Section 182 Guidance)

5.5 Where a standard TEN was given, the licensing authority must consider the objection at a hearing before a counter notice can be issued. At the hearing, the police, EHA and the premises user may make representations to the licensing authority. Following the hearing, the licensing authority may decide to issue a counter notice to prevent

the event going ahead. (7.34 of Section 182 Guidance)

- 5.6 “Relevant persons” may contact the premises user to discuss their objections and try to come to an agreement which will allow the proposed licensable activities to proceed. The TEN can be modified (for example, by changing the details of the parts of the premises that are to be used for the event, the description of the nature of the intended activities or their duration). The other relevant person has to agree for the modification to be made. (7.36 of Section 182 Guidance)

6. PANEL OPTIONS

- 6.1 The panel must, having regard to the representation, take such steps as it considers necessary for the promotion of the licensing objectives, either:
- (i) Serving a counter-notice if satisfied that the promotion of the licensing objectives will adversely be affected by the TEN; or
 - (ii) Do nothing if they do not accept the objection notice submitted.
- 6.2 Should the premises user or either of the relevant persons feel aggrieved at the decision, they may appeal to the Magistrates’ Court.

Background Papers

The Licensing Act 2003

Guidance issued under section 182 of the Licensing Act 2003

Contact for further information

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