

**NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL**

**LICENSING SUB COMMITTEE – TUESDAY 20 NOVEMBER 2012**

Title of report	<b>OBJECTION IN RELATION TO 8 TEMPORARY EVENT NOTICES</b>
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Purpose of report	<p>To consider an objection notice made by the Chief Officer of Police in response to 8 Temporary Event Notices (TEN's) in respect of premises trading as Ashby Grill, located at 78 Market Street, Ashby de la Zouch, Leicestershire, LE65 1AP This report outlines the TEN and summarises the representation received. It also highlights the licensing objectives, the relevant parts of Government guidance and the pertinent sections of the Licensing Authority's Licensing Policy.</p>
Council Priorities	Safer and Healthier District
<p>Implications:</p> <p>Financial/Staff</p> <p>Link to relevant CAT</p> <p>Risk Management</p> <p>Equalities Impact Assessment</p> <p>Human Rights</p>	<p>Implications arising from an appeal made to the Magistrates Court by anyone aggrieved by the decision of the Sub-Committee.</p> <p>Business CAT.</p> <p>The usual risks of cost involved if the applicant appeals against the decision of the Committee. In any event and in order to mitigate these risks, the Committee should give clear reasons for its decisions and any such reasons would need to be substantiated in Court.</p> <p>Equality Impact Assessment already undertaken, issues identified actioned.</p> <p>Article 1 of Protocol 1 of the European Convention of Human Rights provides that everyone is entitled to the peaceful enjoyment</p>

	of his possessions, except in the public interest and subject to the conditions provided for by law.
Transformational Government	Not applicable.
Consultees	Leicestershire Constabulary, Environmental Health (Environmental Protection – Street Action Team)
Background papers	Guidance issued under Section 182 of the Licensing Act 2003 - available for reference at <a href="http://www.culture.gov.uk">www.culture.gov.uk</a> and Statement of Licensing Policy -available for reference at <a href="http://www.nwleics.gov.uk/licensing">www.nwleics.gov.uk/licensing</a>
Recommendations	<b>THAT THE SUB-COMMITTEE CONSIDER THE POLICE OBJECTION NOTICE AND DETERMINE WHETHER OR NOT TO ISSUE A COUNTER NOTICE.</b>

## 1. Background

1.1 The premises are a town centre take-away facility located at 78 Market Street, Ashby De La Zouch, LE65 1AP and currently hold a premises licence issued under the Licensing Act 2003. A copy of the premises licence is attached as **appendix 1**.

1.2 On 9th November 2012, 8 temporary event notices were received from Mr Tosun regarding the intended use of the premises for the provision of late night refreshment. The requested dates and times following amendment by the notice giver are as follows:

- Sunday 25<sup>th</sup> November 2012 02:30hrs until 03:30hrs
- Sunday 2<sup>nd</sup> December 2012 02:30hrs until 03:30hrs
- Sunday 9<sup>th</sup> December 2012 02:30hrs until 03:30hrs
- Sunday 16<sup>th</sup> December 2012 02:30hrs until 03:30hrs
- Saturday 22<sup>nd</sup> & Sunday 23<sup>rd</sup> December 2012 02:30hrs until 03:30hrs
- Tuesday 25<sup>th</sup> December 2012 02:30hrs until 05:00hrs
- Saturday 29<sup>th</sup> & Sunday 30<sup>th</sup> December 2012 02:30hrs until 03:30hrs
- Tuesday 1<sup>st</sup> January 2013 02:30hrs until 05:00hrs

Copies of the TEN's are attached as **appendices 2 to 9**.

A Copy of the amended dates is attached as **appendix 10**.

1.3 A map showing the location of the premises is attached as **appendix 11**.

1.4 A permitted temporary activity is a licensable activity that is carried on in accordance with a temporary event notice under section 100 and in compliance with the provisions of Part 5 of the Licensing Act 2003.

- 1.5 Temporary event notices are subject to various restrictions and limits. Where the requirements for obtaining a temporary event notice cannot be met, the licensable activity can only be authorised by way of a premises licence.
- 1.6 Officers are satisfied that these temporary event notices have been properly served and the criteria in respect of temporary event notices have been met.

## **2.0 Representations**

- 2.1 In respect of a temporary event notice, the applicant is responsible for submitting a copy of the notice to the Chief Officer of Police and the Environmental Health Section no later than 10 working days before the day on which the event begins or 5 working days before the event if a late application. If the Chief Officer of Police or Environmental Health Section is satisfied that allowing the premises to be used in accordance with the notice would undermine any of the licensing objectives, he must give a notice to the Licensing Authority and premises licence user detailing the reasons for the decision.
- 2.2 The applicant provided a copy of the temporary event notices to the Chief Officer of Police and Environmental Health Section as required and an objection notice was received from the Police on 13<sup>th</sup> November 2012 on the grounds of crime and disorder, public safety and public nuisance. The notice was also served upon the premises user. A copy of the objection notice is attached as **appendix 12**. Supporting documentation is attached as **appendices 13, 14 & 15**.
- 2.3 No representation has been received from the Environmental Health Section. (Environmental Protection – Street Action Team)

## **3.0 Statutory Guidance**

- 3.1 In making its decision, the Sub-Committee is obliged to have regard to Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003. All Licensing Committee members have been provided with a full copy of the guidance document. Officers consider that paragraphs 7.1 to 7.39 may have a bearing upon the application.

## **4.0 Statement of Licensing Policy**

- 4.1 The Sub-Committee is also obliged to have regard to its own Statement of Licensing Policy. Officers consider that paragraphs 16.1 to 16.3 may have a bearing upon the application. The provisions of the Saturation Policy do not apply to TEN applications.

## **5.0 Observations**

- 5.1 The Committee is obliged to determine this application with a view to promoting the licensing objectives which are;
- the prevention of crime and disorder;
  - the prevention of public nuisance;
  - public safety;
  - The protection of children from harm.

- 5.2 If the TEN is in connection with licensable activities at a licensed premises, the Licensing Authority may also impose one or more of the existing licence conditions of the TEN (insofar as such conditions are not inconsistent with the event) if it considers that it is appropriate for the promotion of the licensing objectives.
- 5.3 If having regard to the objection notice, the Licensing Authority is satisfied that it is necessary for the promotion of the licensing objectives it must give a counter notice detailing the reasons for the decision to the premises user in which case the event cannot proceed.
- 5.4 If the Licensing Authority determines not to give a counter notice, it must give the notice of its decision to the premises user and the Police. The decision whether to issue a counter notice or not must be made and notices issued at least 24 hours before the event is due to begin.
- 5.5 There is a right of appeal to the Magistrates Court against the decision of the Sub-Committee by the premises user if a Counter Notice is issued, or the Police if no Counter Notice is issued. Notwithstanding this, no appeal may be brought later than 5 working days before the day on which the temporary event begins.