

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

LICENSING SUB COMMITTEE – 3 DECEMBER 2012

Title of report	APPLICATION FOR 3 TEMPORARY EVENT NOTICES
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Purpose of report	<p>To consider an objection notice made by the Chief Officer of Police in response to Temporary Event Notices (TEN's) in respect of premises trading as Bunka located at 60a Market Street, Ashby de la Zouch, Leicestershire, LE65 1AN. 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 of his possessions, except in the public interest and subject to the conditions provided for by law.</p>

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 www.culture.gov.uk and Statement of Licensing Policy -available for reference at www.nwleics.gov.uk/licensing
Recommendations	THAT THE SUB-COMMITTEE CONSIDER THE POLICE OBJECTION NOTICE AND DETERMINE WHETHER OR NOT TO ISSUE A COUNTER NOTICE.

1. Background

- 1.1 The premises are a night club located at 60a Market Street, Ashby De La Zouch, LE65 1AN 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 21 November 2012, a temporary event notice was received from Mark Lewis regarding the intended use of the premises for the provision of regulated entertainment and the sale by retail of alcohol on the premises from 02:01am until 04:00am on Saturday 8 December 2012. A copy of the temporary event notice is attached as **appendix 2**.
- 1.3 On 26 November 2012, a further three temporary event notices were received from Mark Lewis regarding the intended use of the premises for the provision of regulated entertainment and the sale by retail of alcohol on the premises on the following days;
- 6 December 2012 from 21.00hrs until 02.00hrs (late TEN) – Counter notice issued following police objection attached as **appendix 3**.
 - 13 December 2012 from 21.00hrs until 02.00hrs attached as **appendix 4**.
 - 24 December 2012 from 23.01hrs until 03.00hrs attached as **appendix 5**.
- 1.4 A map showing the location of the premises is attached as **appendix 6**.
- 1.5 A permitted temporary activity is a licensable activity that is carried out in accordance with a temporary event notice under Section 100 and in compliance with the provisions of Part 5 of the Licensing Act 2003.
- 1.6 The temporary event notice is 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.
- 1.7 Officers are satisfied that the 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 Having been received electronically, the Licensing Authority provided a copy of the temporary event notices to the Chief Officer of Police as required. Objection notices were received from the Police on 26 November 2012 for all the temporary event notices on the grounds of prevention of crime and disorder, public safety and prevention of public nuisance. The notices were also served upon the premises user. A copy of the objection notices are attached as **appendix 7 & 8**.

2.3 Supporting information in relation to the police objection is attached as follows;

- Incidents in Market Street log - **Appendix 9**
- CCTV log - **Appendix 10.**
- Market Street incidents June 2012 - **Appendix 11.**
- Market Street incidents July 2012 - **Appendix 12.**
- Market Street incidents August 2012 - **Appendix 13.**
- Saturation zone incidents September 2012 - **Appendix 14.**
- Saturation zone incidents during temporary events - **Appendix 15.**
- Map of ambulance pick-ups - **Appendix 16.**
- Police file notes and report - **Appendix 17.**

2.4 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 appropriate 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 Authority 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.