

## NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

### LICENSING SUB COMMITTEE – 20 DECEMBER 2016

Title of report	<b>OBJECTION IN RELATION TO A TEMPORARY EVENT NOTICE</b>
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Purpose of report	<p>To consider an objection notice made by the Chief Officer of Police in response to a Temporary Event Notice (TEN) in respect of the premises trading as Favourite Chicken and Pizza located at 59 Market Street, Ashby de la Zouch, Leicestershire, LE65 1AH. 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	<p>Business and Jobs Homes and Communities</p>
Implications:	
Financial/Staff	<p>Implications arising from an appeal made to the Magistrates Court by anyone aggrieved by the decision of the Sub-Committee.</p>
Link to relevant CAT	<p>Business CAT.</p>
Risk Management	<p>The usual risks of cost involved if the notice giver appeals against the decision of the Sub-Committee. In any event and in order to mitigate these risks, the Sub-Committee should give clear reasons for its decisions and any such reasons would need to be substantiated in Court.</p>
Equalities Impact Screening	<p>Equality Impact Screening already undertaken, issues identified actioned.</p>

Human Rights	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.
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>

## 1.0 Background

- 1.1 The premises are a 'takeaway/restaurant' located at 59 Market Street, Ashby de la Zouch, Leicestershire, LE65 1AH 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 A map showing the location of the premises is attached as **appendix 2**.
- 1.3 On 9 December 2016, Three Temporary Event Notices (TENs) were received from Fida Hussain regarding the intended use of the premises for the provision of late night refreshment. The first late TEN was for the provision of late night refreshment from the end of permitted hours at 02:30am until 04:00am on Saturday, 17 and Sunday, 18 December 2016. A copy of the notice is attached as **appendix 3**.
- 1.4 The second late TEN was for the provision of late night refreshment from the end of permitted hours until 02:00am on Thursday, 22 and Friday, 23 December and until 04:00am on Saturday, 24 and Sunday, 25 December 2016. A copy of the notice is attached as **appendix 4**.
- 1.5 The third TEN was for the provision of late night refreshment from the end of permitted hours until 02:00am on Friday, 30 December and until 04:00am on Saturday, 31 December 2016 and Sunday, 1 January 2017. A copy of the notice is attached as **appendix 5**.
- 1.6 On Wednesday, 14 December, a representation was received from the Police for all three TENs. This representation is related to the prevention of crime and disorder, public safety and the prevention of Public nuisance. It states that the Police have evidence of breaches of conditions of their current licence on 12, 13 and 20 November 2016. A copy of the representation is attached as **appendix 6**.

- 1.7 As a consequence of the Police objection to the first late TEN on Saturday, 17 and Sunday, 18 December 2016, the event will not go ahead. A counter notice was issued on Wednesday, 14 December 2016 and is attached as **appendix 7**.
- 1.8 Similarly, as a consequence of the Police objection to the second late TEN on Thursday, 22 December to Sunday, 25 December 2016, the event will not go ahead. A counter notice was issued on Thursday, 15 December 2016 and is attached as **appendix 8**.
- 1.9 As a consequence of the Police representation to the third TEN from Friday, 30 December until Sunday, 1 January 2017, the Licensing Authority must hold a hearing to consider the objection notice unless the premise user, the Police and the Licensing Authority all agree that a hearing is not necessary.
- 1.10 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.
- 1.11 The TEN is subject to various restrictions and limits. Where the requirements for obtaining a TEN cannot be met, the licensable activity can only be authorised by way of a premises licence.
- 1.12 Officers are satisfied that the TENs have been properly served and the criteria in respect of TENs have been met.

## **2.0 Representations**

- 2.1 In respect of a TEN, the notice giver 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 notice. 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 A copy of the relevant notice was posted to the Chief Officer of Police as required. An objection notice was received from the Police on 14 December 2016 for the temporary event notice on the grounds of the prevention of crime and disorder, public safety and the prevention of public nuisance. The notices were also served to the notice giver and the premises.
- 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 decision of the Sub-Committee.

#### **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 decision of the Sub-Committee. The provisions of the Saturation Policy do not apply to TENS.

#### **5.0 Observations**

- 5.1 The Committee is obliged to make its determination 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.