

WELWYN HATFIELD COUNCIL
LICENSING COMMITTEE / SUB COMMITTEE – 13 SEPTEMBER 2019
REPORT OF THE LICENSING OFFICER

Northaw Ward

REPORT TO LICENSING SUB COMMITTEE

1 **Summary of Temporary Event Notice**

Applicant(s)
Mr Ricardo Almeida
Address of Premises
Judge's, 1 Judges Hill, Northaw, Potters Bar, Herts, EN6 4NL

The above premises user has served a notice for a Temporary Event (TEN) to take place on 16/17th November 2019 (Appendix C);

See Appendix "C" for the Temporary Event Notice.

2 **Summary of Environmental Health Officers Objection**

The Environmental Health Officer's objections have been made with reference to noise nuisance to adjacent premises. (See Appendix "A").

3 **Background**

The TEN is to permit the sale of alcohol to be extended until 03:00 hours on the Sunday morning of this weekend and for live/recorded music to be played in the premises, which includes their garden (which adjoins the neighbouring property); This is to allow for sale of alcohol & regulated entertainment in the form of a disco and live music for a birthday party. The committee is therefore asked to determine whether or not to uphold the Environmental Health Officer's objections.

4 **Explanation**

The committee is obliged to determine this application in light of an objection from the Environmental Health Officer (appendix "A") with a view to promoting the Prevention of Public Nuisance Licensing Objective. The committee may not uphold the Environmental Health Officers objection to the TEN's on the grounds of any other Licensing Objective.

In making its decision, the committee is also obliged to have regard to the National Guidance and the Councils own Licensing Policy in that it can only: -

- a) Prevent the TEN from going ahead by upholding the Environmental Health Officer's objection, or
- b) Add conditions to the TEN that are already on the premises licence conditions. The committee may not add to or amend these conditions.

5 Revised Guidance Issued Under Section 182 of the Licensing Act 2003

- 7.6 - The police or EHA (“relevant persons” for the purposes of TENs) may intervene to prevent such an event taking place by sending an objection to the licensing authority, which the licensing authority must consider on the basis of the statutory licensing objectives and decide whether the event should go ahead. A relevant person may also intervene by agreeing a modification of the proposed arrangements directly with the TENs user. If a relevant person sends an objection, this may result in the licensing authority imposing conditions on a TEN but only where the venue at which the event is to be held has an existing premises licence or club premises certificate. When giving a TEN, the premises user should consider the promotion of the four licensing objectives. The licensing authority may only otherwise intervene if the statutory permitted limits on TENs would be exceeded.
- 7.10 - The police and EHA have a period of three working days from when they are given the notice to object to it on the basis of any of the four licensing objectives.
- 7.20 – Tens may be given in respect of premises which already have a premises licence or club premises certificate to cover licensable activities not permitted by the existing authorisation.
- 7.27 - Where the TEN is in order, the relevant fee paid and the event falls within the prescribed limits, the licensing authority will record the notice in its register and send an acknowledgement to the premises user (which may be given electronically). The licensing authority must do so, no later than the end of the second working day if it was received on a non-working day), unless an objection notice is received beforehand from the police or EHA on the basis of any of the four licensing objectives
- 7.28 - If the licensing authority receives an objection notice from the police or EHA that is not withdrawn, it must (in the case of a standard TEN only) hold a hearing to consider the objection (unless all parties agree that this is unnecessary). The licensing committee may decide to allow the licensable activities to go ahead as stated in the notice. If the notice is in connection with licensable activities at licensed premises, the licensing authority may also impose one or more of the existing licence conditions on the TEN (insofar as such conditions are not inconsistent with the event) if it considers that this is appropriate for the promotion of the licensing objectives. If the authority decides to impose conditions, it must give notice to the premises user which includes a statement of conditions (a “notice (statement of conditions)”) and provide a copy to each relevant party. Alternatively, it can decide that the event would undermine the licensing objectives and should not take place. In this case, the licensing authority must give a counter notice.
- 7.33 - If the police or EHA believe that allowing the premises to be used in accordance with the TEN will undermine the licensing objectives, they must give the premises user and the licensing authority an objection notice. The objection notice must be given within the period of three working days following the day on which they received the TEN.

- 7.34 - 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 impose conditions to which already apply to an existing premises licence or club premises certificate at the venue, or issue a counter notice to prevent the event going ahead. As noted above, there is no scope for hearings in respect of late TENs and if objections are raised by the police or EHA in relation to a late TEN, the notice will be invalid and the event will not go ahead.
- 7.35 - Such cases might arise because of concerns about the scale, location, timing of the event or concerns about public nuisance even where the statutory limits on numbers are being observed. The premises user who signs the form is legally responsible for ensuring that the numbers present do not exceed the permitted limit at any one time. In cases where there is reason to doubt that the numbers will remain within the permitted limit the premises user should make clear what the nature of the event(s) is and how they will ensure that the permitted persons limit will not be exceeded. For example, where notices are being given for TENs simultaneously on adjacent plots of land it may be appropriate for door staff to be employed with counters. In each case it is important that licensing authorities and relevant persons can consider whether they believe that the premises user intends to exceed the 499 person limit, or will be unable to control or know whether the limit will be exceeded. Where the planned activities are likely to breach the statutory limits or undermine the licensing objectives, it is likely to be appropriate for the police or EHA to raise objections.
- 7.36 However, in most cases, where for example, alcohol is supplied away from licensed premises at a temporary bar under the control of a personal licence holder, (such as at weddings with a cash bar or small social or sporting events) this should not usually give rise to the use of these powers.
- 7.37 - As noted above, the police or EHA (as “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. There is no scope under the 2003 Act for the modification of a late TEN.
- 7.38 - The 2003 Act provides that only the licensing authority can impose conditions to a TEN from the existing conditions on the premises licence or club premises certificate at the venue. The licensing authority can only do so:
- if the police or the EHA have objected to the TEN;
 - if that objection has not been withdrawn;
 - if there is a licence or certificate in relation to at least a part of the premises in respect of which the TEN is given;
 - and if the licensing authority considers it appropriate for the promotion of the licensing objectives to impose one or more conditions.
- 7.39 - This decision is one for the licensing authority alone, regardless of the premises user’s views or willingness to accept conditions. The conditions must be notified to the premises user on the form prescribed by regulations

6 Welwyn Hatfield Borough Licensing Policy

23.2 - T.E.Ns. are often given for premises not currently covered by a premises licence or club premises certificate. They can also be used to extend the hours of premises or clubs that currently have permissions. TEN's can be used by individuals to authorise relatively small-scale ad hoc events held in or on any premises involving no more than 499 people at any one time, including any staff, organisers or performers and lasting for no more than 168 hours (7 days)

23.4 The most important aspect of the system of permitted temporary activities is that no authorisation as such is required for these events from the Licensing Authority. The process involves notification of an event to the Licensing Authority, the police and the environmental health authority. Only the police and environmental health may intervene to prevent such an event from taking place.

23.7 Where the Police or Environmental Health object they will serve an objection notice on you. You can then discuss the event and agree modifications to address their concerns. If no agreement is reached, we will hold a hearing to consider the objection.

23.8 If the TEN is in connection with licensed premises, the Licensing Sub Committee may impose one or more of the existing licence conditions. Conditions can only be imposed on the T.E.N. where they already exist on the premises licence or the club premises certificate. The Act requires the conditions to be appropriate for the promotion of the licensing objectives **and** not inconsistent with the carrying out of the licensable activities.

7 Recommendation

The committee is asked to determine the application in one of the following ways, having regard to the promotion of the Licensing Objectives.

- a) Uphold the Environmental Health Officer's objections and to refuse the event going ahead.
- b) Permit the event to go ahead as specified in the notices in appendix "C".
- c) Permit the event to go ahead with conditions

8 Appendices

- a. Temporary Event Notices (C).
- b. Representation from the Environmental Health Officer (A)
- c. Premises Licence Conditions & Summary Hours Sheet (B)

Dennis Pennyfather, Licensing Enforcement Technical Officer
4th September 2019