

Licensing Sub-Committee

18 October 2016

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| Report Title | Licensing Act 2003 – Temporary Event Notice in respect of The Old School 73 Dudley Road, Blakenhall, Wolverhampton, WV2 3BY. | |
| Wards Affected | Blakenhall | |
| Accountable director | Kevin O’Keefe – Director of Governance | |
| Originating service | Licensing Services | |
| Accountable employee(s) | Jo Till Tel Email | Section Leader (Licensing) 01902 550189 joanne.till@wolverhampton.gov.uk |

Recommendation for action or decision:

The Sub-Committee is requested to consider the Objection Notice in relation to a Temporary Event Notice received by the Licensing Authority in respect of The Old School.

1.0 Purpose of Report

- 1.1 To submit for consideration by the Sub-Committee an Objection Notice given by the Chief Officer of Police in respect of a Temporary Event Notice received by the Licensing Authority.

2.0 The Premises User and Permitted Temporary Activities

- 2.1 The Temporary Event Notice has been submitted for The Old School, 73 Dudley Road, Blakenhall, Wolverhampton, WV2 3BY
- 2.2 The Temporary Event Notice has been submitted by Miss Marcela Cinova.
- 2.3 The premises user proposes to carry on temporary licensable activities at the above named premises. A copy of the Temporary Event Notice is attached at Appendix 1 and the temporary licensable activities are detailed within the notice.
- 2.4 The premises user has served the Temporary Event Notice on the Licensing Authority for an event to be held during the period 22-23 October 2016 as detailed in Appendix 1. The premises are situated within Blakenhall ward, and a location plan is attached at Appendix 2
- 2.5 Following receipt of a copy of the Temporary Event Notice, Environmental Health have submitted an Objection Notice advising that they are satisfied that allowing the premises to be used in accordance with the Temporary Event Notice would undermine the prevention of public nuisance licensing objectives. A copy of the Objection Notice is attached at Appendix 3.
- 2.6 A copy of the premises licence is attached at Appendix 4

3.0 Legal Implications

- 3.1 Part 5 of the Licensing Act 2003 entitled 'permitted temporary activities' details the statutory powers available to a Licensing Authority when processing a Temporary Event Notice.
- 3.2 Provisions within Part 5 allow the temporary carrying on of licensed activities at premises which are not authorised by a premises licence or club premises certificate.
- 3.3 A Temporary Event Notice is given by an individual 'premises user' indicating the intention of the premises user to conduct one or more licensable activity at the premises for no more than 168 hours. A temporary event is subject to certain restrictions to include the requirement that there should be a minimum of 24 hours between events.
- 3.4 The premises user must give the Temporary Event Notice to the Licensing Authority and submit a duplicate to the Chief Officer of Police and Environmental Health (for the area in which the premises is situated). This must be done at least 10 working days (not including the day it is served or the day of the event) before the start of the event period.

- 3.5 The Chief Officer of Police or Environmental Health may object to the holding of the temporary event on the grounds that they are satisfied that allowing the premises to be used in accordance with the notice would undermine the licensing objectives and they must issue an Objection Notice to the Licensing Authority, the premises user and any other relevant person explaining the reasons why. When an Objection Notice is received the Licensing Authority must hold a hearing.
- 3.6 At the hearing, the Licensing Authority must, having regard to the Objection Notice, give the premises user a Counter Notice if it considers it necessary for the promotion of the licensing objectives. By issuing a Counter Notice the Licensing Authority stop the temporary event from occurring.
- 3.7 At any time before a hearing is held, a temporary event notice may be modified to address concerns of the responsible authorities. Once the Temporary Event Notice has been modified, the Licensing Authority must send a copy of the modified notice to all parties.
- 3.8 If Police or Environmental Health objections are not received or are withdrawn, the Licensing Authority has no power under the Licensing Act to prevent permitted temporary events.
- 3.9 When considering what action to take with regard to the Temporary Event Notice the Licensing Committee must have regarded to:
- the Objection Notice;
 - the four licensing objectives;
 - the Licensing Act 2003
 - the statutory guidance issued by the Secretary of State in accordance with Section 182 of the Act [amended]; and
 - Wolverhampton City Council's Statement of Licensing Policy.
- 3.10 Premises users are not required to be on the premises for the duration of the event, but at all times, remains liable to prosecution should they cause or allow any provisions of general law to be breached. For example laws governing sales of alcohol to persons under 18 years. [SH/07102016/G]

4.0 Human Rights and Equalities Implications

- 4.1 This report has human rights implications for both the premises user and the residents from the local neighbourhood. Refusal of a Temporary Event Notice may have financial implications for a premises user's business and livelihood whereas authorising a Temporary Event Notice may have impact upon the day to day lives of residents living in close proximity to the premises. This report does not have any equality implications.
- 4.2 Article 8(i) of the European Convention of Human Rights provides that everyone has the right to respect for his/her private and family life and his/her home (which includes business premises). This right may be interfered with by the Council on a number of grounds including the protection of rights and freedoms of others. The First Protocol –

Article 1 – also provides that every person is entitled to the peaceful enjoyment of his possessions and shall not be deprived of his possessions except in the public interest and conditions provided for by law. Councillors must accordingly make a decision which is proportionate to the hearing and endeavour to find a balance between the rights of the applicant, residents and the community as a whole.

5.0 Financial Implications

5.1 The Licensing Committee agreed fees and charges for this function on 20th January 2016. The fees are based on a cost recovery basis. The fee for the application of a Temporary Event Notice is £21.00 and is non-refundable. [TK/03022016/N]

6.0 Environmental Implications

6.1 This report has environmental implications, from patrons leaving the premises at a late hour.