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Tuesday, 20 December 2022

To All Councillors:

As a Member or Substitute of the **Licensing & Appeals Sub-Committee**, please treat this as your summons to attend a meeting on **Friday, 23 December 2022 at 10.30 am** in the **Committee Room, Town Hall, Matlock DE4 3NN**.

Yours sincerely,

James McLaughlin
Director of Corporate and Customer Services

This information is available free of charge in electronic, audio, Braille and large print versions, on request.

For assistance in understanding or reading this document or specific information about this Agenda or on the “Public Participation” initiative please call the Committee Team on 01629 761133 or email committee@derbyshiredales.gov.uk

AGENDA

1. APOLOGIES FOR ABSENCE

Please advise the Democratic Services Team on 01629 761133 or email committee@derbyshiredales.gov.uk of any apologies for absence.

2. ELECTION OF A CHAIRMAN

Proposal that a Member of the Sub-Committee be elected Chairman.

3. INTERESTS

Members are required to declare the existence and nature of any interests they may have in subsequent agenda items in accordance with the District Council’s Code of Conduct.

Those interests are matters that relate to money or that which can be valued in money, affecting the Member, her/his partner, extended family and close friends. Interests that become apparent at a later stage in the proceedings may be declared at the time.

4. EXCLUSION OF PUBLIC AND PRESS

At this point the Committee will consider excluding the public and press in order to At this point the Committee will consider excluding the public and press in order to consider its decision in private in accordance with the Hearing procedure.

5. LICENSING ACT 2003: OBJECTION TO A TEMPORARY EVENT NOTICE (TEN) - NEW YEAR'S EVE EVENT IN MARQUEE ON CAR PARK AT BARLEY MOW, PUBLIC HOUSE, BONSCALL, DE4 2AY. (Pages 3 - 28)

To consider an application made under the Licensing Act 2003, for a Temporary Event Notice for a New Year's Eve Event to take place in a Marquee on Car Park at Barley Mow, Public House, Bonsall, DE4 2AY.

Members of the Committee Nominated to hear this Appeal:

Councillors Graham Elliott, Dawn Greatorex and Stuart Lees

Nominated Substitute –To be confirmed

NOTE

For further information about this Agenda or on "Public Participation" call 01629 761133 or email committee@derbyshiredales.gov.uk

**LICENSING ACT 2003
OBJECTION TO A TEMPORARY EVENT NOTICE (TEN)
NEW YEAR'S EVE EVENT IN MARQUEE ON CAR PARK AT BARLEY MOW, PUBLIC
HOUSE, BONSALE, DE4 2AY**

PURPOSE OF REPORT

This report informs the Committee of an objection received to a Temporary Event Notice (TEN) given to the Licensing Authority under the provisions of the Licensing Act 2003. The TEN seeks authorisation of music, dancing and the sale of alcohol in a marquee on New Year's Day/New Year's Eve, on the car park at the Barley Mow public house in Bonsall.

When a Licensing Authority receives a TEN it has to be served on the same day on the Police Authority and the Environmental Health (Pollution Control) Authority. These authorities have 3 working days in which to respond to the Licensing Authority. Neither the Licensing Authority nor the Event Organiser are required to advertise the TEN to the general public, as only these two authorities can comment.

The Committee is informed of an objection made by Environmental Health, on the grounds that the prevention of the public nuisance licensing objective would be undermined if the event was to go ahead in a marquee, as planned.

The Committee is asked to consider whether or not the Objection Notice from environmental Health should be upheld and as a consequence whether a Counter-Notice must be issued to prevent the event going ahead.

RECOMMENDATION(S):

1. That the Committee determines whether or not to accept the Objection Notice from Environmental Health.
2. If the Committee accepts the Objection Notice, the Authority must give the premises user a Counter-Notice, if it considers it necessary for the promotion of a licensing objective.

WARD(S) AFFECTED

Masson

1 Background

1.1 Temporary Event Notices (TEN)

There are 2 types of Temporary Event Notice (TEN) that can be given to the Licensing Authority:

The first is a Standard TEN – this must be given to the Licensing Authority no later than 10 clear working days before the event. The day that the TEN is given and the day of the event cannot be counted. Bank Holidays/Public Holidays cannot count towards the 10 clear working days.

If an objection is received to a Standard TEN and the matter cannot be resolved by the Event Organiser and the objector(s), then the matter would be referred to a meeting of the Licensing and Appeals Sub-Committee.

The second type of TEN is a Late TEN – this can be given at least 5 days before and no earlier than 9 days before the event.

If an objection is received to a Late TEN there are no provisions to refer it to a Hearing and the TEN must be rejected.

1.2 Temporary Event Notice (TEN) given for use of marquee at the Barley Mow

On 13 December 2022, a **Standard** Temporary Event Notice (TEN) was given to the Licensing Authority by Colette Boam, the Premises Licence-holder for the Barley Mow Public House, The Dale, Bonsall, DE4 2AY.

1.3 The TEN was given to authorise the sale of alcohol and the provision of live and recorded music in a marquee in the car park at the premises on New Year's Eve/New Year's Day 2022/23.

A copy of the Temporary Event Notice form is included at **Appendix 1**.

1.4 The applicant is required to serve the TEN on the Licensing Authority at least 10 clear working days before the event. A copy must also be served on the Police and Environmental Health Authorities on the same day.

1.5 The TEN is not a form of authorisation requiring permission from the Licensing Authority, but is one where the Event Organiser/Premises User gives notice of the event to the authority. The Notice is given by an individual, and not in a company name.

1.6 The TEN received from Mrs Boam notified the authorities of an event she is planning to hold on New Years' Eve, 31st December 2022, from 7pm until 1am on New Years' Day.

1.7 A TEN has to be acknowledged by the Licensing Authority no later than the day after the TEN has been accepted as complete. A copy of the Acknowledgement Letter sent out for this event is produced in **Appendix 2**. The notes accompanying the TEN acknowledgement explain the process for giving a TEN and the rules under which the authorisation can be used. The Event Organiser is also informed that if the Police or Environmental Health make representation objecting to the Ten that matter will be referred to a Hearing.

1.8 In organising an event, the Event Organiser must be able to demonstrate how the four licensing objectives around which the legislation revolves, will not be undermined if the event is held.

The four licensing objectives are:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance; and
- the protection of children from harm.

1.9 Representations

When a Licensing Authority receives a TEN it has to be served on the Police Authority and the Environmental Health Authority on the same day for comment. These 2 authorities have 3 working days in which to respond.

It should be noted that the Event Organiser and the Council are not required to advertise the TEN, in the way they would if it was an application for a premises licence. There are no provisions in the legislation for anyone other than the Police or Environmental Health to make comment; this includes any of the other Responsible Authorities and local residents and/or businesses.

1.10 When the Licensing Act 2003 introduced the Temporary Event Notice regime, it was expected to be light-touch bureaucracy and intended mainly to cover one-off community type events such as school, church and village fetes (and similar); also one-off extensions of hours for a licensed premises wanting to accommodate private events such as weddings, birthday parties etc to a later finish time.

1.11 In reality, a TEN can be given for any type of event, but only provided that the event does not exceed 168 consecutive hours (7 days), has an attendance of no more than 499 people at any one time, and provided that the number of these events allowed at the same premises during the same calendar year has not been exceeded.

1.12 The TEN for this event was accepted as complete on Tuesday 13th December, and the Police and Environmental Health Authorities had from Wednesday 14th to Friday 16th December to make comment.

1.13 The Police Authority did raise any objections to this TEN.

1.14 Environmental Health (Pollution Control Authority) did submit an Objection Notice to the Licensing Manager, on the grounds that the Prevention of Public Nuisance licensing objective would be undermined if the event was to go ahead, as planned.

1.15 The Objection Notice from Environmental Health is reproduced in **Appendix 3** and the objection can be summarised as follows:

“...Environmental Health are of the opinion that any form of amplified music, recorded or live, played in the marquee would be at such a volume to cause unreasonable disturbance as the marquee is not capable of containing noise and is situated in very close proximity to neighbouring properties...”.

1.16 When a licensing authority receives an objection notice to a TEN from a relevant person, it must hold a Hearing within 7 working days beginning with the day after the end of the period within which representations can be made.

2 **The Hearing**

2.1 The Sub-Committee consists of 3 Members drawn from the full Licensing & Appeals Committee. The Members are Councillors Stuart Lees, Graham Elliott and Dawn Greatorex.

2.2 The Sub-Committee will be advised by Kerry France, Legal Services Manager, and the report will be introduced by Eileen Tierney, Licensing Manager.

- 2.3 A copy of the procedure to be followed by the Sub-Committee is set out in **Appendix 4**, for information.
- 2.4 In making its decision the Sub-Committee must have regard to the legislation, the regulations and the statutory Guidance to Licensing Authorities issued under section 182 of the Licensing Act 2003.

The latest version of the Guidance, issued in April 2018 states in paras 7.33 + 7.34 -

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, environmental health authority, and the premises user may make representations to the licensing authority.

Following the hearing, the licensing authority may decide to impose conditions 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...

- 2.5 In considering the Objection Notice, the Sub-Committee will need to decide whether or not to accept the Objection Notice.

If the Committee accepts the Objection Notice, the Licensing Authority must give the premises user a counter-notice, if it considers it necessary for the promotion of a licensing objective.

- 2.6 The Committee will take into account any measures proposed by the Event Organiser to promote the 4 licensing objectives, the detail of the Objection Notice, the provisions of the 2003 Act, and the most current Statutory Guidance issued to Licensing Authorities under section 182 of the Act (April 2018).
- 2.7 The Committee will also have regard to the District Council's Licensing Policy Statement republished under section 5 of the 2003 Act, on 1st July 2021.

In making its decision the Licensing Sub-Committee has powers to:

- accept the Objection Notice and issue a Counter-Notice accompanied by a notice stating the reasons for the decision;
- decide not to accept the Objection Notice and issue a notice stating the reasons for the decision.

- 2.8 If any party is dissatisfied with the decision of the Licensing Authority, there is a right of Appeal to the Magistrates' Court.

3 CONTACT INFORMATION:

Eileen Tierney - Licensing Manager

Tel 01629 761374

Email: eileen.tierney@derbyshiredales.gov.uk

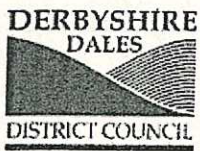
4 BACKGROUND PAPERS

None

5 ATTACHMENTS

Date	Description	Reference
13 th December 2022	TEN Form	Appendix 1
13 th December 2022	TEN Acknowledgement	Appendix 2
16 th December 2022	Objection Notice - Environmental Health Officer	Appendix 3
-	Licensing Hearings Procedure	Appendix 4

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Derbyshire Dales
Temporary Event Notice
Licensing Act 2003

For help contact
licensing@derbyshiredales.gov.uk
Telephone: 01629 761313

* required information

Section 1 of 9

You can save the form at any time and resume it later. You do not need to be logged in when you resume.

System reference This is the unique reference for this application generated by the system.

Your reference You can put what you want here to help you track applications if you make lots of them. It is passed to the authority.

Are you an agent acting on behalf of the applicant?
 Yes No

Put "no" if you are applying on your own behalf or on behalf of a business you own or work for.

Applicant Details

First name

Family name

E-mail address

Main telephone number

Other telephone number

Include country code.

Indicate here if you would prefer not to be contacted by telephone

Are you:

- Applying as a business or organisation, including as a sole trader
- Applying as an individual

A sole trader is a business owned by one person without any special legal structure. Applying as an individual means you are applying so you can be employed, or for some other personal reason, such as following a hobby.

Applicant Business

Is your business registered in the UK with Companies House? Yes No

Note: completing the Applicant Business section is optional in this form.

Registration number

Business name

VAT number

Legal status

If your business is registered, use its registered name.

Put "none" if you are not registered for VAT.

Continued from previous page...

Your position in the business

Home country

The country where the headquarters of your business is located.

Registered Address

Address registered with Companies House.

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Section 2 of 9

APPLICATION DETAILS (See also guidance on completing the form, general notes and note 1)

Have you had any previous or maiden names?

Yes

No

Enter details of any previous names or maiden names

First name

Family name

First name

Family name

Your date of birth

Applicant must be 18 years of age or older

National Insurance number

This box need not be completed if you are an individual not liable to pay UK national insurance.

Place of birth

Continued from previous page...

Correspondence Address

Is the address the same as (or similar to) the address given in section one?

- Yes No

If "Yes" is selected you can re-use the details from section one, or amend them as required. Select "No" to enter a completely new set of details.

Building number or name	The Barley Mow
Street	The Dale
District	Bonsall
City or town	Matlock
County or administrative area	Derbyshire
Postcode	DE4 2AY
Country	United Kingdom

Additional Contact Details

Are the contact details the same as (or similar to) those given in section one?

- Yes No

If "Yes" is selected you can re-use the details from section one, or amend them as required. Select "No" to enter a completely new set of details.

E-mail	
Telephone number	
Other telephone number	

Section 3 of 9

THE PREMISES

I, the proposed user, hereby give notice under section 100 of the Licensing Act 2003 of my proposal to carry out a temporary activity at the premises described below.

Give the address of the premises where you intend to carry on the licensable activities or if it has no address give a detailed description (including the Ordnance Survey references). (See also guidance on completing the form, note 2)

Does the premises have an address?

- Yes No

Continued from previous page...

Address

Is the address the same as (or similar to) the address given in section one?

If "Yes" is selected you can re-use the details from section one, or amend them as required. Select "No" to enter a completely new set of details.

- Yes No

Building number or name	The Barley Mow
Street	The Dale
District	Bonsall
City or town	Matlock
County or administrative area	Derbyshire
Postcode	DE4 2AY
Country	United Kingdom

Does a premises licence or club premises certificate have effect in relation to the premises (or any part of the premises)?

- Neither Premises licence Club premises certificate

Premises licence number

Location Details

Provide further details about the location of the event

In pub car park, which is opposite to the pub and is covered in the premises license.

If you intend to use only part of the premises at this address or intend to restrict the area to which this notice applies, give a description and details below (see also guidance on completing the form, note 3)

Describe the nature of the premises below (see also guidance on completing the form, note 4)

Public House

Describe the nature of the event below (see also guidance on completing the form, note 5)

New Year Eve party. Events starts at 8pm, with recorded music (amplified) Live band from 10pm. Pay bar in marquee. All the local residents to the pub also invited. Premises license already allows for live music until 11pm outside, we would like this extending to 01.00 am please, given the special occasion, although the live band will finish no later than 12.30am. We are very strict on abiding to the premise license, and enforce a strict 11pm finish.

Continued from previous page...

Section 4 of 9

LICENSABLE ACTIVITIES

State the licensable activities that you intend to carry on at the premises (see also guidance on completing the form, note 6):

- The sale by retail of alcohol
- The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club
- The provision of regulated entertainment
- The provision of late night refreshment
- The giving of a late temporary event notice

Late notices can be given no later than 5 working days but no earlier than 9 working days before the event.

(See also guidance on completing the form, note 7).

Event Dates

There must be a period of at least 10 working days between the date you submit this form and the date of the earliest event when you will be using these premises for licensable activities.

State the dates on which you intend to use these premises for licensable activities

(see also guidance on completing the form, note 8)

Event start date

31 / 12 / 2022
dd mm yyyy

The maximum period for using premises for licensable activities under the authority of a temporary event notice is 168 hours or seven days.

Event end date

01 / 01 / 2023
dd mm yyyy

State the times during the event period that you propose to carry on licensable activities

(give times in 24 hour clock)

20.00 - 01.00

(see also guidance on completing the form, note 9)

State the maximum number of people at any one time that you intend to allow to be present at the premises during the times when you intend to carry on licensable activities, including any staff, organisers or performers

100

Note that the maximum number of people cannot exceed 499.

(see also guidance on completing the form, note 10)

Continued from previous page...

If the licensable activities will include the supply of alcohol, state whether the supplies will be for consumption on or off the premises, or both (see also guidance on completing the form, note 11):

- On the premises only
- Off the premises only
- Both

Section 5 of 9

RELEVANT ENTERTAINMENT (See also guidance on completing the form, note 12)

State if the licensable activities will include the provision of relevant entertainment. If so, state the times during the event period that you propose to provide relevant entertainment

The sale of alcohol via a pay bar - from 20.00 - 01.00
Live music / Recorded music / dancing between the hours of 19.00 - 00.30
NB: The premises license (seasonal variation) allows the sale of alcohol beyond these hours, the event notice is for the extension of the live music.

Section 6 of 9

PERSONAL LICENCE HOLDERS (See also guidance on completing the form, note 13)

Do you currently hold a valid personal licence? Yes No

Provide the details of your personal licence below.

Issuing licensing authority	<input type="text" value="Derbyshire Dales District Council"/>
Licence number	<input type="text" value="DDPA0746"/>
Date of issue	<input type="text" value="23"/> / <input type="text" value="08"/> / <input type="text" value="2009"/> dd mm yyyy
Date of expiry	<input type="text" value="23"/> / <input type="text" value="08"/> / <input type="text" value="2022"/> dd mm yyyy

Any further relevant details

I have mislaid my purse (yesterday) but have not given up hope of finding it yet! Unfortunately, my new personal license is in there! It has my married name on of Boam and is in date etc, I will call the team tomorrow, but wanted to submit the form asap.

Section 7 of 9

PREVIOUS TEMPORARY EVENT NOTICES (See also guidance on completing the form, note 14)

Continued from previous page...

Have you previously given a temporary event notice in respect of any premises for events falling in the same calendar year as the event for which you are now giving this temporary event notice?

Yes No

Have you already given a temporary event notice for the same premises in which the event period:

- a) Ends 24 hours or less before; or Yes No
- b) Begins 24 hours or less after the event period proposed in this notice?

Section 8 of 9

ASSOCIATES AND BUSINESS COLLEAGUES (See also guidance on completing the form, note 15)

Has any associate of yours given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice?

Yes No

Has any associate of yours already given a temporary event notice for the same premises in which the event period:

- a) Ends 24 hours or less before; or Yes No
- b) Begins 24 hours or less after the event period proposed in this notice?

Has any person with whom you are in business carrying on licensable activities given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice?

Yes No

Continued from previous page...

Has any person with whom you are in business carrying on licensable activities already given a temporary event notice for the same premises in which the event period:

Yes No

- a) Ends 24 hours or less before; or
- b) Begins 24 hours or less after the event period proposed in this notice?

Section 9 of 9

CONDITION (See also guidance on completing the form, note 17)

It is a condition of this temporary event notice that where the relevant licensable activities described in Sections 4 and 5 above include the supply of alcohol that all such supplies are made by or under the authority of the premises user.

PAYMENT DETAILS

This fee must be paid to the authority. If you complete the application online, you must pay it by debit or credit card.

This formality requires a fixed fee of £21

DECLARATION (See also guidance on completing the form, note 18)

* The information contained in this form is correct to the best of my knowledge and belief.

* I understand that it is an offence:

- * (i) to knowingly or recklessly make a false statement in connection with this temporary event notice and that a person is liable on conviction for such an offence to a fine up to level 5 on the standard scale; and
- * (ii) to permit an unauthorised licensable activity to be carried on at any place and that a person is liable on conviction for any such offence to a fine not exceeding £20,000, or to imprisonment for a term not exceeding six months, or to both.

Ticking this box indicates you have read and understood the above declaration

This section should be completed by the applicant, unless you answered "Yes" to the question "Are you an agent acting on behalf of the applicant?"

Full name

Capacity

Date / /
dd mm yyyy

Once you're finished you need to do the following:

1. Save this form to your computer by clicking file/save as...
2. Go back to <https://www.gov.uk/apply-for-a-licence/temporary-event-notice/derbyshire-daales/apply-1> to upload this file and continue with your application.

Don't forget to make sure you have all your supporting documentation to hand.

Ms C Boam
Barley Mow
The Dale
Bonsall
Derbyshire
DE4 2AY

Please Ask For: Licensing
Direct Dial No: 01629 761313
Your Ref:
My Ref: RS/WK/202206140
Email: licensing@derbyshiredales.gov.uk

20 December 2022

Dear Ms Boam

**LICENSING ACT 2003 - TEMPORARY EVENT NOTICE
BARLEY MOW, THE DALE, BONSALE, DERBYSHIRE, DE4 2AY**

Commences: 31/12/2022		Expires: 01/01/2023	
Maximum number permitted: 100			
Area of Premises / Site: Marquee in Pub Car Park			
Type of Event: New Year Eve Party			
Licensable Activities	Day	Time From	Time To
<ul style="list-style-type: none"> - Sale by Retail of Alcohol [On] - Regulated Entertainment - Late Night Refreshment (from 23:00 hours) ** (Revised to include LNR omitted from original Acknowledgement) 	Monday		
	Tuesday		
	Wednesday		
	Thursday		
	Friday		
	Saturday	19:00	Midnight
	Sunday	midnight	01:00

I acknowledge receipt of your Temporary Event Notice given in respect of the above premises. Please check that the details are correct and contact the Licensing Team immediately if you think there are any errors.

As the proposed premises user, you must ensure that:

- This endorsed acknowledgement of the temporary event notice is prominently displayed at the premises; or that
- This endorsed acknowledgement of the temporary event notice is kept at the premises either in your own custody or in the custody of a person present and working at the premises and who you have nominated for that purpose.

**Paul Wilson MCD, Dip TP, Dip Mgmt, MRTPI.
Chief Executive**

Town Hall, Bank Road, MATLOCK, Derbyshire. DE4 3NN

For general enquiries telephone 01629 761100 or visit www.derbyshiredales.gov.uk

- Where the temporary event notice is in the custody of a nominated person, a notice specifying that fact and the position held by that person must be displayed prominently at the premises.

Your attention is drawn to the enclosed guidance notes, and in particular to the offences that may normally be committed under the Licensing Act 2003; and to Note 10 in particular which highlights the need to restrict the number of persons present on the “premises” at any one time.

I must inform you that if the Police Authority or Environmental Health Authority wish to object to your proposals they are required to serve an objection notice within 3 working days of receiving a copy of the TEN. If you have given a standard TEN and the objection cannot be resolved then a Hearing of the Council’s Licensing & Appeals Sub-Committee will have to be arranged.

If the Licensing Authority upholds the Police or Environmental Health objection then a Counter-Notice will be served on you no later than 24 hours before the event is proposed to commence.

If you have given a Late Temporary Event Notice and the Police Authority or Environmental Health Authority objects to it, the Licensing Authority will issue you a counter notice. Please note that this will make the Late temporary event notice ineffective, (without a right to a hearing and onward appeal).

If a counter notice is issued, the event to which it relates cannot lawfully take place. In this case, I must inform you that it is an offence under Section 136 of the Licensing Act 2003 to carry out unauthorised licensable activity, which on conviction would be punishable by a fine or up to six months imprisonment or both.

If you have to withdraw the Notice you must do so at least 24 hours before the event. If you postpone the event you will have to withdraw the Notice, and give another one for the revised date - the fee of £21 will have to be applied for the 2nd Notice given. Whilst the above legislation provides for the withdrawal of the notice and the deduction of it from the overall total number of TENs given in respect of the same premises for a particular year, it does not give the District Council any discretion to refund the fee because the TEN was withdrawn.

If you have any queries regarding this information please contact a member of the Licensing Team on the telephone number shown above.

Yours sincerely



**EILEEN TIERNEY
LICENSING MANAGER**

Guidance Notes – TEMPORARY EVENT NOTICES

General

The police and local authority exercising environmental health functions may intervene on the grounds of any of the four licensing objectives (the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm) to prevent the occurrence of an event at which permitted temporary activities are to take place or to agree a modification of the arrangements for such an event. However, the licensing authority will intervene of its own volition in the cases described below.

First, it will issue a counter notice if there is an objection to a late temporary event notice (see note 7 below).

Secondly, it may issue a notice in relation to its decision to impose conditions on a temporary event notice (see note 2 below).

Thirdly, it will issue a counter notice if the first, second and fourth of the limits set out below would be exceeded. If any of the limits below are breached or if a counter notice has been issued, any licensable activities taking place would be unauthorised and the premises user would be liable to prosecution. The limitations apply to:

- the number of times a person (the “premises user”) may give a temporary event notice (50 times per year for a personal licence holder and 5 times per year for other people);
- the number of times a person (the “premises user”) may give a late temporary event notice (10 times per year for a personal licence holder and 2 times per year for other people);
- the number of times a temporary event notice may be given in respect of any particular premises (20 times in a calendar year)
- the length of time a temporary event may last for these purposes (168 hours);
- the maximum aggregate duration of the periods covered by temporary event notices at any individual premises (26 days per calendar year); and
- the scale of the event in terms of the maximum number of people attending at any one time (a maximum of 499).

For the purposes of determining the overall limits of 50 temporary event notices per personal licence holder (in a calendar year) and of 5 for a non-personal licence holder (in a calendar year), temporary event notices given by an associate or a person who is in business with a premises user (and that business involves carrying on licensable activities) count towards those totals. The limits applying to late temporary event notices are included within the overall limits applying to the total number of temporary event notices. Note 14 below explains the definition of an “associate”.

When permitted temporary activities take place, a premises user must ensure that either:

a copy of the temporary event notice endorsed as acknowledged by the licensing authority is prominently displayed at the premises; or that

the temporary event notice is kept at the premises either in his own custody or in the custody of a person present and working at the premises and whom he has nominated for that purpose.

Where the temporary event notice is in the custody of a nominated person, a notice specifying that fact and the position held by that person must be displayed prominently at the premises.

Where the temporary event notice or a notice specifying the nominated person is displayed, a constable or an authorised person (for example, a licensing officer, fire officer or environmental health officer) may require the premises user to produce the temporary event notice for examination. Similarly, where the nominated person has the temporary event notice in his custody, a constable or authorised person may require that person to produce it for examination. Failure to produce the temporary event notice without reasonable excuse would be an offence.

It should also be noted that the following, among other things, are offences under the Licensing Act 2003:

- the sale or supply of alcohol to children under 18 years of age (maximum fine on conviction is a fine up to level 5 on the standard scale);
- allowing the sale of alcohol to children under 18 (maximum fine on conviction is a fine up to level 5 on the standard scale);
- knowingly allowing the consumption of alcohol on the premises by a person aged under 18 (maximum fine on conviction is a fine up to level 5 on the standard scale);
- allowing disorderly behaviour on the premises (maximum fine on conviction is a fine up to level 3 on the standard scale);
- the sale of alcohol to a person who is drunk (maximum fine on conviction is a fine up to level 3 on the standard scale);
- obtaining alcohol for a person who is drunk (maximum fine on conviction is a fine up to level 3 on the standard scale);
- knowingly allowing a person aged under 18 to make any sale or supply of alcohol unless the sale or supply has been specifically approved by the premises user or any individual aged 18 or over who has been authorised for this purpose by the premises user (maximum fine on conviction is a fine up to level 1 on the standard scale);and
- knowingly keeping or allowing to be kept on the premises any smuggled goods which have been imported without payment of duty or which have otherwise been unlawfully imported (maximum fine on conviction is a fine up to level 3 on the standard scale).

In addition, where the premises are to be used primarily or exclusively for the sale or supply of alcohol for consumption on the premises, it is an offence to allow children under 16 to be present when the premises are open for that purpose unless they are accompanied by an adult. In the case of any premises at which sales or supplies of alcohol are taking place at all, it is an offence for a child under 16 to be present there between the hours of midnight

and 5am unless accompanied by an adult. In both instances, the penalty on conviction is a fine not exceeding level 3 on the standard scale.

Note 1

A temporary event notice may only be given by an individual and not, for example, by an organisation or club or business. The individual giving the notice is the proposed “premises user”. Within businesses, clubs or organisations, one individual will therefore need to be identified as the proposed premises user.

If you include an e-mail address in section 1(7) or 1(9), the licensing authority may send to this the acknowledgement of receipt of your notice or any notice or counter notice it is required to give under sections 104A, 106A or 107 of the Licensing Act 2003.

Note 2

For the purposes of the Licensing Act 2003, “premises” means any place. Premises will therefore not always be a building with a formal address and postcode. Premises can include, for example, public parks, recreation grounds and private land.

If a premises licence or club premises certificate has effect in relation to the premises (or any part of the premises) which you want to use to carry on licensable activities, it is possible that any conditions which apply to the licence or certificate may be imposed on the temporary event notice if certain pre-conditions are met. These pre-conditions are that the police or the local authority exercising environmental health functions object to the notice and the licensing authority decides:

- not to give a counter notice under section 105 of the Licensing Act 2003;
- the conditions apply to the licence or certificate; and
- the imposition of the conditions on the notice would not be inconsistent with the carrying on of the licensable activities under the notice.

Note 3

A temporary event notice can be given for part of a building, such as a single room or a plot within a larger area of land. You should provide a clear description of the area in which you propose to carry on licensable activities. This is important as any licensable activities conducted outside the area of the premises protected by the authority of this temporary event notice would be unlawful and could lead to prosecution.

In addition, when holding the proposed event, the premises user would need to be able to restrict the number of people on the premises at any one time when licensable activities are taking place to less than 500. If more than 499 are on the premises when licensable activities are being carried on, the licensable activities would be unlawful and the premises user would be liable to prosecution. The maximum figure of 499 includes, for example, staff, organisers, stewards and performers.

Note 4

A description of the nature of the premises assists the chief officer of police and local authority exercising environmental health functions in deciding if any issues relating to the licensing objectives are likely to arise. You should state clearly that the premises to be used are, for example, a public house, a restaurant, an open field, a village hall or a beer tent.

Note 5

A description of the nature of the event similarly assists the chief officer of police and local authority exercising environmental health functions in making a decision as to whether or not to make an objection. You should state clearly that the event taking place at the

premises would be, for example, a wedding with a pay bar, the supply of beer at a particular farmers' market, a discotheque, the performance of a string quartet, a folk group or a rock band.

Note 6

The licensable activities are:

- the sale by retail of alcohol;
- the supply of alcohol by or on behalf of a club to, or to the order of, a member of a club;
- the provision of regulated entertainment; and
- the provision of late night refreshment.

Please refer to Schedules 1 and 2 to the Licensing Act 2003 for fuller details of the definitions and exemptions relating to regulated entertainment and late night refreshment.

Regulated entertainment, subject to specified conditions and exemptions, includes:

- (a) a performance of a play;
- (b) an exhibition of a film;
- (c) an indoor sporting event;
- (d) a boxing or wrestling entertainment;
- (e) a performance of live music;
- (f) any playing of recorded music;
- (g) a performance of dance;
- (h) entertainment of a similar description to that falling within (e), (f) or (g).

If you are uncertain whether or not the activities that you propose are licensable, you should contact your licensing authority for further advice.

Note 7

Late notices can be given no later than 5 working days but no earlier than 9 working days before the event in relation to which the notice is given. A late notice given later than 5 working days before the event to which it relates will be returned as void and the activities described in it will not be authorised.

The number of late notices that can be given in any one calendar year is limited to 5 for personal licence holders and 2 for non-personal licence holders. These count towards the total number of temporary event notices (i.e. 50 temporary event notices per year for personal licence holders and 5 temporary event notices for non-personal licence holders).

If there is an objection from either the police or local authority exercising environmental health functions, the event will not go ahead and a counter notice will be issued.

Note 8

The maximum period for using premises for licensable activities under the authority of a temporary event notice is 168 hours (seven days).

Note 9

You should state here the times during the event period, for example 48 hours, when you intend to carry on licensable activities. For example, you may not intend to carry on licensable activities throughout the entire 48 hour event period, and may intend to sell alcohol between 8.00 hrs and 23.00 hrs on each of the two days.

Note 10

No more than 499 may be on the premises for a temporary event at any one time when licensable activities are being carried on. If you intend to have more than 499 attending the event, you should obtain a premises licence for the event. Your licensing authority should be able to advise you. The maximum figure of 499 does not just include the audience,

spectators or consumers and includes, for example, staff, organisers, stewards and performers who will be present on the premises.

Note 11

If you indicate that alcohol will be supplied only for consumption on the premises, you would be required to ensure that no person leaves the premises with alcohol supplied there. If such a supply takes place, the premises user may be liable to prosecution for carrying on an unauthorised licensable activity. Similarly, if the premises user gives notice that only supplies of alcohol for consumption off the premises will take place, he/she must ensure that alcohol supplied is not consumed on the premises. The premises user is free to give notice that he/she intends to carry on both types of supplies. For this purpose the supply of alcohol includes both of the first two licensable activities listed in note 6 above.

Note 12

The holder of a valid personal licence issued under the Licensing Act 2003 may give up to 50 temporary event notices in any calendar year subject to the other limitations in the 2003 Act. A proposed premises user who holds such a licence should give the details requested.

Note 13

As stated under Note 12, a personal licence holder (issued under the Licensing Act 2003) may give up to 50 temporary event notices (including 5 late notices) in any calendar year. An individual who does not hold a personal licence may only give 5 temporary event notices (including 2 late notices) in England and Wales in any calendar year. A calendar year is the period between 1 January to 31 December inclusive in any year.

If an event straddles two calendar years, it will count against the limits on temporary event notices (20 for each premises, 26 days for each premises, 50 per personal licence holder and 5 for non-holders) for each year, however, only one notice needs to be given.

For the purposes of determining the overall limits of 50 temporary event notices per personal licence holder (in a calendar year) and of 5 for a non-personal licence holder (in a calendar year), temporary event notices given by an associate or a person who is in business with a premises user (and that business involves carrying on licensable activities) count towards those totals. Note 14 below sets out the definition of an “associate”.

If a temporary event notice has been given for the same premises, by the same premises user, and would have effect within 24 hours before the start of the event period under the current proposal or within 24 hours after the end of that period, the temporary event notice given would be void and any licensable activities carried on under it would therefore be unlicensed.

For the purposes of determining whether or not the required gap of 24 hours is upheld, temporary event notices given by an associate or a person who is in business with a premises user (and that business involves carrying on licensable activities) count as if they had been given by the premises user himself. Note 14 below sets out the definition of an “associate”.

Note 14

An “associate” of the proposed premises user is:

- a. the spouse of that person;
- b. a child, parent, grandchild, grandparent, brother or sister of that person;
- c. an agent or employee of that person; or
- d. the spouse of a person within (b) or (c).

For these purposes, a person living with another as that person’s husband or wife is to be treated as that person’s spouse.

Note 15

It is a requirement that you send at least one copy of the notice to the licensing authority at least ten working days (or five working days for a late notice) before the commencement of the proposed licensable activities. The authority will give you written acknowledgement of the receipt of the notice.

This will be important proof that you gave the notice and when you gave it for the purposes of the Act. Some premises may be situated in two licensing authority areas, for example, where a building or field straddles the local authority boundary. Where this is the case, at least one copy of the notice must be sent to each of the licensing authorities identified, together with the appropriate fee in each case. In such circumstances, you will receive acknowledgements from all the relevant licensing authorities.

One copy must be sent to each of the chief officer of police and the local authority exercising environmental health functions for the area in which the premises is situated at least ten working days for a standard notice (or five working days for a late notice) before the commencement of the proposed licensable activities. Where the premises are situated in two police areas or environmental health areas, a further copy will need to be sent to the second police force and local authority exercising environmental health functions.

Note 16

Under the Licensing Act 2003, all temporary event notices are given subject to a mandatory condition requiring that where the licensable activities involve the supply of alcohol, all such supplies must be made by or under the authority of the named premises user. If there is a breach of this condition, the premises user and the individual making the supply in question would be liable to prosecution. For this purpose the supply of alcohol includes both of the first two licensable activities listed in note 6 above.

Note 17

It is an offence knowingly or recklessly to make a false statement in, or in connection with, a temporary event notice. (A person is to be treated as making a false statement if he produces, furnishes, signs or otherwise makes use of a document that contains a false statement). To do so could result in prosecution and a fine not exceeding level 5 on the standard scale.

Note 18

You should not complete section 10 of the notice, which is for use by the licensing authority. It may complete this section as one means of giving you written acknowledgement of the receipt of the notice.

(Latest Version: Jan 2020)

Harrison, Lucy

From: Tierney, Eileen
Sent: 20 December 2022 11:04
To: Tierney, Eileen
Subject: FW: OBJECTION TO TEN : The Barley Mow NY Eve Party, The Dale, Bonsall, Derbyshire, DE4 2AY

Appendix 3

From: Salmon, Laura
Sent: 15 December 2022 12:07
To: Licensing Inbox <LicensingInbox@derbyshiredales.gov.uk>
Cc: Tierney, Eileen <eileen.tierney@derbyshiredales.gov.uk>; Goodwill, Amanda <Amanda.Goodwill@derbyshiredales.gov.uk>; Cowley, David <David.Cowley@derbyshiredales.gov.uk>
Subject: RE: [OFFICIAL (SENSITIVE)] TEN : The Barley Mow NY Eve Party, The Dale, Bonsall, Derbyshire, DE4 2AY

Dear Licensing,

Having reviewed the attached TEN for a New Year's Eve Party within a marquee in the Car Park of the Barley Mow, Bonsall, Environmental Health object to the notice on the following grounds:

- A noise abatement notice was served on the DPS, namely Mrs Colette Dewhurst/Baum, on 29th April 2022 following complaints and a subsequent investigation into noise nuisance arising from loud music emanating from the marquee in the car park. The investigation satisfied Environmental Health of the existence and likely recurrence of noise amounting to a statutory nuisance. The notice required/s the DPS, as the person responsible for the noise, to abate the said nuisance and PROHIBIT the recurrence of the same forthwith. The notice required/s the DPS to cease and cease to permit the playing of loud music outdoors in the marquee located in the car park at such a volume that would cause unreasonable disturbance to the occupiers of neighbouring properties. The notice was not appealed and is still in place.
- Environmental Health are of the opinion that any form of amplified music, recorded or live, played in the marquee would be at such a volume to cause unreasonable disturbance as the marquee is not capable of containing noise and is situated in very close proximity to neighbouring properties.
- The noise abatement notice, served in April 2022, was allegedly breached on 14th May 2022 with a live music event taking place in the marquee, just a few short weeks after the notice was served. A warning letter was subsequently sent to the DPS.
- A further breach of the notice took place on 21st May 2022, another live music event in the marquee, of which Environmental Health have evidence by means of noise recordings taken using our noise nuisance recorder placed inside a resident's property.
- The DPS contacted Environmental Health in June 2022 asking if she could hold a live music event for a 50th birthday Party in the marquee, she was advised against this as it would likely amount to another breach of the noise abatement notice as, in our opinion, would this New Year's Eve event.

Environmental Health have no objections to live or recorded amplified music being played inside of the pub itself, providing that doors and windows are kept closed in line with the premise licence conditions.

Kindest regards

Laura

Laura Salmon
Environmental Health Officer



Town Hall, Matlock, Derbyshire, DE4 3NN
Tel: (01629) 761144 | Mob: 07775931053
Email: laura.salmon@derbyshiredales.gov.uk

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LICENSING & APPEALS COMMITTEE PROCEDURE (Except Employment)

- (1) Introduction by the Chair explaining that the process is not an adversarial one and all comments should be directed through the Chair.
- (2) Report of the Licensing Manager.
- (3) Questions for the Licensing Manager from the Committee.
- (4) Any clarification required from the Licensing Manager from the Objectors.
- (5) Any questions for the Licensing Manager from the Applicant.
- (5) Statements from the Objectors.
- (6) The Committee, the Licensing Manager and the Applicant (through the Chair) will have an opportunity to ask questions of each speaker.
- (7) Statement from the Applicant, including any Witnesses.
- (8) Questions to the Applicant or his/her Witnesses by the Committee.
- (9) Questions to the Applicant or his/her Witnesses by the Licensing Manager.
- (10) The Chair will ask the Objectors whether they require any clarification of the Applicant's evidence.
- (11) Any further questions by the Committee, its Clerk, the Applicant or the Licensing Manager.
- (12) Summing up by the Licensing Manager.
- (13) Summing up by the Applicant.
- (14) The Chair will ask all parties whether they need clarification of any points.
- (15) The Committee will withdraw to make its decision.
- (16) The Committee will deliberate in private, only recalling the Council's Representative and the Applicant or their Representative to clarify evidence already given. If recall is necessary, both parties must be given the opportunity to return, even though only one party is concerned with the point giving rise to doubt.
- (17) The Advisor may be called upon during the private deliberation to advise the Appeals Committee Members.
- (18) At the end of the proceedings, the Chair of the Appeals Committee will inform the parties of the decision. This will be confirmed, in writing within seven days.

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