

**NOT CONFIDENTIAL** – For public release

Licensing & Appeals Sub-Committee  
23<sup>rd</sup> December 2022

Report of the Director of Regulatory Services

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**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**

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**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, 31<sup>st</sup> 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 13<sup>th</sup> December, and the Police and Environmental Health Authorities had from Wednesday 14<sup>th</sup> to Friday 16<sup>th</sup> 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 1<sup>st</sup> 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:

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### 4 BACKGROUND PAPERS

None

### 5 ATTACHMENTS

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