

LICENSING SUB – COMMITTEE

Thursday 17 June 2021, 11:30 via MS Teams

Report of the Service Lead for Public Protection

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Application: Temporary Event Notice

Premises: Bars 2 and 3, Matterley Basin, Winchester, SO21 1HW

Part A. Report

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Part A.

1. Application

Applicant: Mr Steve Dixon

Premises: Bars 2 and 3, Matterley Basin, Winchester, SO21 1HW

- 1.1 This is an application to hold an event under a Temporary Event Notice (“TEN”) pursuant to section 100 of the Licensing Act 2003, outlining the proposal for an event to take place at Matterley Basin, Winchester, SO21 1HW for a Motocross event.
- 1.2 The above premises already has two premises licences in effect for the same Motocross event, which can be seen at appendices 3 and 4.
- 1.3 Licensable activities are proposed to take place on Saturday 26 June 2021 09:00 to 18:00; and Sunday 27 June 2021 09:00 to 18:00.
- 1.4 The notice specifies that the event’s location is the ‘Bar 2 and Bar 3, open air takeaway service.’ No plan was submitted with the notice to demonstrate this location.
- 1.5 The notice specifies the sale by retail of alcohol (for consumption on the premises only) as a licensable activity. Following submission of the notice, the applicant requested that this was amended to include alcohol for consumption off the premises too. This correspondence can be seen in Appendix 1.
- 1.6 The notice states that no more than 499 people will be on the premises at any one time whilst licensable activities are taking place. This includes any staff, organisers or performers.
- 1.7 The notice was received by the licensing authority on 2 June 2021, which is within the required time limits as outlined in section 100(7) of the Licensing Act 2003; that is, notice must be given to the licensing authority no later than ten working days before the day on which the event period begins.
- 1.8 The Temporary Event Notice, as shown in Appendix 1, details the proposed dates, times and licensable activities.
- 1.9 Temporary Event Notices must be served on both Environmental Health and the Police, as Relevant Persons, for consideration. This notice was served on both Relevant Persons on 3 June 2021 by the licensing authority.
- 1.10 Hampshire Constabulary made an objection to this Temporary Event Notice with regard to the following licensing objectives; the prevention of crime and disorder, public safety, and the protection of children from

harm. The objection was received on 7 June 2021, which was within the time limits outlined in section 104(3) of the Licensing Act 2003; that is, no later than the end of the third working day after the police is given a copy of the notice. The objection can be seen in Appendix 2.

1.11 Environmental Health made no objection to this notice.

1.12 Notices of the Hearing were sent to all Parties on 9 June 2021.

Objections

2. Relevant Persons

Both the Police (Hampshire Constabulary) and Environmental Health, being the “Relevant Persons” for TEN applications, were served with a copy of the notice on 3 June 2021. No other Responsible Authorities are required to be notified of applications under a TEN. The objections received are as follows:

Environmental Health

No objection received.

Hampshire Constabulary

Objection was made by PC Brian Swallow of Hampshire Constabulary, who has the delegated authority of the Chief Officer of Police in respect of his responsibilities under the Licensing Act 2003. The objection has been made with regard to the following licensing objectives: the prevention of crime and disorder, public safety, and the protection of children from harm. The full objection can be seen in Appendix 2.

3. Observations

The Sub-Committee is obliged to determine this application for an event under a Temporary Event Notice with a view to promoting the Licensing Objectives:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

In making its decision, the Sub-Committee is also obliged to have regard to the National Guidance and the Council's Licensing Policy.

The Sub-Committee must have regard to all of the objections.

The Sub-Committee must take such of the following steps it considers appropriate to promote the Licensing Objectives:

1. Acknowledge the Temporary Event Notice in accordance with the application;
2. Impose one or more conditions to promote the relevant licensing objective(s), where those conditions are also imposed on a premises licence that has effect in respect of the same premises as the Temporary Event Notice; or
3. Issue a counter notice, which would prevent the event from going ahead under the Temporary Event Notice.

The Sub-Committee must have regard to the South Downs National Park purposes when considering applications to ensure they are respected. The purposes are:-

- (a) Purpose 1 – to conserve and enhance the natural beauty, wildlife and cultural heritage of the area.
- (b) Purpose 2 – to promote opportunities for the understanding and enjoyment of the special qualities of the National Park by the public.

Terminal hours

The Sub-Committee should take account of the National Guidance and the Council's Licensing Policy with regard to terminal hours and take such steps as it considers appropriate to promote the Licensing Objectives.

(Licensing Policy Part 4, A8)

Licensing Objectives

Crime and Disorder

The Sub-Committee should consider the potential for crime and public disorder relating to the premises having regard to the notice and the objections.

(Licensing Policy 1.9, 2.11, 2.17 and Part 4 Section A)

Public Safety

The Sub-Committee should consider any concerns over public safety relating to the premises having regard to the notice and the objections.

(Licensing Policy Part 4, B2, B3)

Public Nuisance

The Sub-Committee should consider the potential for public nuisance caused by noise pollution from the premises having regard to the notice and the objections.

(Licensing Policy Part 4, Section C)

Protection of Children

The Sub-Committee should consider any concerns relating to the protection of children on the premises having regard to the notice and the objections.

(Licensing Policy Part 4, D6, D7)

Human Rights

It is considered that Articles 6 (right to a fair trial) 8 (right to respect for private and family life) and Article 1 of the First Protocol (right to peaceable enjoyment of possessions) may be relevant. As there is a right of appeal to the Magistrates' Court, it is considered that there would be no infringement of Article 6. Article 8 is relevant, insofar as the nearby residents could claim that this right would be infringed by disturbance from customers. This should be balanced against the applicants' right to use of their premises under Article 1 of the First Protocol. Interference with these rights is permitted, where this interference is lawful, appropriate in a democratic society, and proportionate. Likewise, the residents may argue that their rights under Article 1 of the First Protocol would be infringed. To the extent that any interference may occur, it would be justifiable in a democratic society, and proportionate.

Public Sector Equality Duty

The Public Sector equality duty must be taken in to consideration with all decision making. The duty is stated in section 149 of The Equality Act 2010. This application raises no considerations under the Act.

4. Conditions

The Licensing Act 2003 at section 106A provides that only the licensing authority can impose conditions on a Temporary Event Notice from the existing conditions on a premises licence or club premises certificate in effect at the same premises. The licensing authority can only do so:

- if the Police or Environmental Health 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.

Matterley Basin currently has two premises licences in effect in relation to Motocross events, which can be seen at appendices 3 and 4.

5. Other Considerations

Council Strategy Outcome (Relevance To:)

This report relates to the fourth Strategic Outcome; 'Improving the quality of the District's environment' by working with partners and using powers available to us to make Winchester a safe and pleasant place to live, work and visit.

Resource Implications

A statutory fee of £21.00 has been received. It is anticipated that an appropriate level of officer attendance will be provided within the existing budget.

Appendices

1. Temporary Event Notice given by Mr Steve Dixon
2. Objection by Relevant Person(s)
3. Premises Licence Ref: PREM 745
4. Premises Licence Ref: PREM 746