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AGENDA FOR

LICENSING HEARING PANEL

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To: All Members of Licensing Hearing Panel

Councillors : D Cassidy, D Jones and B Vincent

Dear Member/Colleague

Licensing Hearing Panel

You are invited to attend a meeting of the Licensing Hearing Panel which will be held as follows:-

Date:	Wednesday, 5 March 2014
Place:	Lancashire Fusiliers Room, Town Hall, Bury
Time:	2.00 pm
Briefing Facilities:	If Opposition Members and Co-opted Members require briefing on any particular item on the Agenda, the appropriate Director/Senior Officer originating the related report should be contacted.
Notes:	

AGENDA

1 APOLOGIES FOR ABSENCE

2 DECLARATIONS OF INTEREST

Members of the Panel are asked to consider whether they have an interest in any of the matters on the agenda and, if so, to formally declare that interest.

3 OBJECTION NOTICE FROM GREATER MANCHESTER POLICE IN RESPECT OF A TEMPORARY EVENT NOTICE *(Pages 1 - 4)*

A report from the Assistant Director (Localities) is attached.

REPORT FOR DECISION

Agenda Item	
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DECISION OF:	LICENSING HEARINGS PANEL
DATE:	5th MARCH 2014
SUBJECT:	THIS REPORT RELATES TO AN OBJECTION NOTICE BEING RECEIVED FROM GREATER MANCHESTER POLICE IN RESPECT OF A TEMPORARY EVENT NOTICE.
REPORT FROM:	ASSISTANT DIRECTOR (LOCALITIES)
CONTACT OFFICER:	MR M BRIDGE
TYPE OF DECISION:	COUNCIL
FREEDOM OF INFORMATION/STATUS:	This paper is within the public domain
SUMMARY:	This report relates to an objection notice being given to the Licensing Authority, by Greater Manchester Police pursuant to section 104(2) of the Licensing Act 2003, in respect of a proposed temporary event to be held at the Top Shop, 20 Hurst Street, Bury, BL9 7ER between the hours of 8.00am to 23.00 on the 7 th March 2014 until 12 th March 2014 .
OPTIONS & RECOMMENDED OPTION	<ul style="list-style-type: none"> • To give a counter notice to the Temporary Event Notice giver pursuant to section 105(2)(b) of the Licensing Act 2003, if the Local Authority considers it necessary for the promotion of the crime prevention objective – (preventing the event from taking place). • Not to give a counter notice and to provide both the police and the notice giver with a copy of the decision and reasons.
IMPLICATIONS:	
Corporate Aims/Policy Framework:	Do the proposals accord with the Policy Framework? Yes No
Statement by the S151 Officer: Financial Implications and Risk Considerations:	There are no specific issues from the report other than potential costs/risks associated with legal appeals.
Statement by Executive Director	The cost of the licensing function are funded

of Resources:	through the fees and charges levied by the Council. There may be additional costs if appeals are lodged with the Magistrates and Crown Courts.
Equality/Diversity implications:	Yes No (see paragraph below)
Considered by Monitoring Officer:	Yes Under the legislation the Council is required to determine representations. The report is in accordance with the appropriate legislation.
Wards Affected:	EAST
Scrutiny Interest:	Internal Scrutiny Panel

TRACKING/PROCESS

DIRECTOR:

Chief Executive/ Strategic Leadership Team	Executive Member/Chair	Ward Members	Partners
Scrutiny Committee	Committee	Council	

1.0 BACKGROUND

- 1.1 The Licensing Act 2003 and the Licensing Act 2003 (Hearings) Regulations is the relevant legislation.
- 1.2 The Panel will make a decision on the day of the hearing and the parties will be notified subsequently of the decision and the reasons for it by letter from the Licensing Office.

2.0 ISSUES

- 2.1 The Temporary Event Notice has been given by Mr Mohammed Abobaker. The temporary event notice relates to Top Shop, 20 Hurst Street, Bury, which requests for the retail sale of alcohol, on 7th March until 12th March 2014 inclusive between the hours of 8:00am until 23:00.
- 2.2 Greater Manchester Police have complied with all the necessary procedural requirements laid down by the Act.
- 2.3 Under the provisions of section 104(2) of the Act, where the Chief Officer of Police is satisfied that allowing the premises to be used in accordance with the Temporary Event Notice would undermine the Crime Prevention Objective, he must give a notice stating the reasons why he is so satisfied.

- 2.4 Greater Manchester Police have concerns that the Temporary Event Notice would undermine the licensing objective of Prevention of Crime and Disorder.

Greater Manchester Police will shortly give their reason(s) for their representation in respect of this application which they request the Licensing Authority to refuse.

The premises has recently been issued with a Local Authority enforcement notice preventing the sale of alcohol at the premises, any sale of alcohol from the premises will undermine any future police investigation and the enforcement notice.

Greater Manchester Police are satisfied that these are exceptional circumstances and that the Temporary Event Notices should not be granted.

Greater Manchester Police endeavour to keep Bury a safe place for all members of the public but will have increased difficulty if licensing activities are temporarily granted for this event.

3.0 GUIDANCE TO LICENSING AUTHORITY

- 3.1 The Secretary of State Guidance issued under section 182 of Licensing Act 2003 (June 2013) states as follows:

7.19 The police and environmental health authority 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.

7.27 If the licensing authority receives an objection notice from the police or environmental health authority that is not withdrawn, it must (in the case of a standard temporary event notice 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 temporary event notice (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, 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.

7.35 Where a standard temporary event notice 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 where there is an existing premises licence or club premises certificate at the venue or issue a counter to prevent the event going ahead. If the police and/or the environmental health

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authority give an objection to a late notice, the temporary event notice will not be valid.

7.37 The 2003 Act provides that only the licensing authority can impose conditions (from the existing conditions on the premises licence or club premises certificate) to a temporary event notice. The licensing authority can only do so:

- If the police or the environmental health authority have objected to the temporary event notice;
- If that objection has not been withdrawn;
- There is a licence or certificate in relation to at least a part of the premises in respect of which a temporary event notice is given;
- and if the licensing authority considers it appropriate for the promotion of the licensing objectives to impose one or more of the conditions.

4.0 OBSERVATIONS

4.1 After hearing the evidence representation and evidence presented, Members are obliged to determine the application with a view to promoting the licensing objectives and having regard to the Authority's Licensing Policy and National Guidance.

List of Background Papers:-

Temporary Event Notice
Police Objection Notice

For further information on the details of this report, please contact:

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Bury
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