

REPORT FOR DECISION

DECISION OF:	LICENSING HEARINGS PANEL
DATE:	25th May 2017
SUBJECT:	THIS REPORT RELATES TO AN OBJECTION NOTICE BEING RECEIVED FROM A RELEVANT PERSON 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 a relevant person pursuant to section 104(2) of the Licensing Act 2003, in respect of a proposed temporary event to be held at the Paddock, Sheep Hey Farm, Leaches Road, Ramsbottom, BL0 OND between the hours of 13:00 and 23.00 on the 28 th July 2017.
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 Licensing Objectives– (preventing the event from taking place). Not to give a counter notice and to provide the relevant person 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 of Resources:	The cost of the licensing function are funded 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:	Ramsbottom
Scrutiny Interest:	Overview and 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 BACKGROUND

- 2.1 The Temporary Event Notice has been given by Mrs Carol Rothwell. The date of the event that the Temporary Event Notice covers is the 28th July 2017 between the hours of 13:00 and 23:00 for the retail sale of alcohol and the provision of regulated entertainment.
- 2.2 The Health and Environmental Protection Team (relevant person) 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 relevant person is satisfied that allowing the premises to be used in accordance with the Temporary Event Notice would undermine a licensing objective, the relevant person must give a notice stating the reasons why he is so satisfied.

- (a) To the relevant licensing authority

- (b) To the premises , and
- (c) To every other relevant person.

2.4 Bury Council's Health and Environmental Protection Team have submitted an objection notice which states the following:-

Public Nuisance, namely noise nuisance caused by amplified music played at the event

Our first complaint regarding an event on this site was following a wedding on 18th July 2015. No Temporary event Notice had been given for this event. Mr & Mrs Rothwell were advised by the Licensing Service at that time that Temporary Event Notices (TEN's) would be required for any future events.

Events held in at The Paddock, on 31st December 2015 and on 23rd April 2016 resulted in several complaints being received from nearby residents relating to nuisance from loud music being played. Both these events had TEN's.

After the wedding on 31st December 2015 we received 4 complaints from neighbours of the Paddock. These complainants were contacted by Environmental Health. Each complainant provided a witness statement to Environmental Health.

A copy of each of these statements had been redacted and attached at Appendix 01

The statements relate to loud music being played at the wedding on 31st December from 4p.m. till 12.30a.m, they also commented on the loud music played from 4-6p.m. on 30th December, this could be due to the band practicing the day before the event.

Some of these statements did make reference to an event on 23rd December 2015 which also had a TEN but it finished early about 7 p.m. and caused little concern.

A letter was sent to Mr and Mrs Rothwell advising them that a number of complaints had been received. No response was received.

A copy of the letter is enclosed at Appendix 02

When an application for a further Temporary Event Notice was received for an event to be held at The Paddock on 23rd April 2016, it was agreed with the complainants that an Environmental Health Officer would attend to see if nuisance was created.

An Environmental Health Officer attended on 23rd April 2016 between 9.40p.m. and 10.15p.m. The evidence gained during the visit led to the conclusion that nuisance was being caused. Inside one of the complainants houses the Environmental Health Officer confirmed that the base beat of the music could be heard above the TV. When a window was opened the music could be heard word for word.

The officers statement is attached at Appendix 03

A further complaint was received following this event on 23rd April 2016.

A copy of this complaint is attached at Appendix 04

Two more Temporary Event Notice Applications were received for events on 24th June 2017 and 18th May 2018. Due to time constraints Environmental

Health did not make representations to these, however a letter was sent to Mr and Mrs Rothwell advising them that objections would be made to any future applications due to the number of complaints received by Environmental Health.

A copy of this letter is enclosed at Appendix 05.

On 1st March 2017 an Environmental Health Officer visited Kay's Cottage to meet with Mrs Rothwell to discuss the matter of noise management and possible future events.

Mrs Rothwell responded by submitting a Noise Management Plan. Consideration was given to the Noise Management Plan and it is not considered that the action proposed will sufficiently reduce the level of noise to prevent nuisance being caused. The plan attempts to reduce the noise of patrons attending the event outside the marquee/tipi and on leaving the event but does little to address the main issue of music being played.

A copy of the Noise Management Plan is attached at Appendix 06

The complainants were consulted on the Noise Management Plan.

Their responses have been attached at Appendix 07

Mrs Rothwell was advised that the Noise Management Plan failed to adequately address the issue of noise nuisance.

A copy of the email is attached at Appendix 08

A sixth complainant has contacted Environmental Health to complain about past events and wishing to object to future events on The Paddock.

This additional complaint is attached at Appendix 09

I have also enclosed a site map indicating the complainants at Appendix 10

Due to the close proximity of The Paddock to neighbouring properties it is envisaged that any amplified music played at an event in a marquee or tipi on this site will cause public nuisance from the noise which is expected to result in further complaints being received by the Environmental Health Section. A marquee or tipi by its very nature is not able to provide any level of sound proofing.

Mrs Rothwell has reported that the events so far have all been for family and friends. It should be noted however that Mrs Rothwell has a website advertising a bespoke wedding service and is obviously hopeful of extending this as a wedding business in the future.

A copy of the website is attached at Appendix 11

In light of the above information, Bury Council's Health and Environmental Protection Team request the members of the Licensing and Safety Panel issue a Counter Notice to stop this event going ahead.

3.0 GUIDANCE TO LICENSING AUTHORITY

3.1 The Secretary of State Guidance issued under section 182 of Licensing Act 2003 (April 2017) states as follows:

2.16 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad

common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.

- 7.10 The police and environmental health authority(EHA) 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.
- 7.28 If the licensing authority receives an objection notice from the police or EHA that is not withdrawn, it must (in the case of a standard TEN 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 TEN (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 (a "notice (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.
- 7.32 The system of permitted temporary activities gives police and EHAs the opportunity to consider whether they should object to a TEN on the basis of any of the licensing objectives.
- 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, EHA 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. As noted above, there is no scope for hearings in respect of late TENs and if objections are raised by the police or EHA in relation to a late TEN, the notice will be invalid and the event will not go ahead.

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
Relevant person Objection Notice

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

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