

WAVERLEY BOROUGH COUNCIL

LICENSING SUB-COMMITTEE B - 10 SEPTEMBER 2012

Title:

**LICENSING ACT 2003 - TEMPORARY EVENT NOTICES WITH
ENVIRONMENTAL HEALTH OBJECTIONS -
THE CROWN INN, PINE VIEW CLOSE, BADSHOT LEA, FARNHAM, SURREY
GU9 9JS**

[Ward Affected: Farnham Wards]

Summary and Purpose

1. The purpose of the report is to enable the Sub-Committee to consider two Temporary Event Notices (TEN's) where objections have been made by Environmental Health. Only the Police and Environmental Health may object to a TEN on grounds that the TEN would undermine any of the four Licensing Objectives.

Current Licensed activities

2. The Temporary Event Notices for the proposed events at the premises are shown at Annexe 1a and 1b.

The Crown Inn has a Premises Licence, attached at Annexe2, which permits;

- Live Music, Indoor Sports Events, Making Music & Facilities for dancing
1000 to 2230 Monday to Thursday
1900 to 2330 Friday & Saturday
1100 to 2230 Sunday
- Late Night Refreshment
2300 to 2330 Friday & Saturday
- Sale of Alcohol
1000 to 2300 Monday to Thursday
1000 to 0000 Friday & Saturday
1100 to 2300 Sunday

Opening hours are as per the sale of alcohol, closing 30 minutes after the sale of alcohol ceases.

Temporary Event Notices requested

2. The 'premises user' under the TENs is the current Designated Premises Supervisor, Mr Duncan Coles who seeks to hold two events using Temporary Event Notices;

- Notice One
 Birthday Party with recorded music, alcohol and food on Saturday 15 September 2012, from (end of licensed hours) 23.30 until 01.30 for Licensable activity, closing at 02.30 Sunday 16 September 2012.
- Notice Two
 Private party with sale of alcohol and regulated entertainment on Friday 19 October 2012 from 20.30 until 01.30 for Licensable activity closing at 02.30 Saturday 20 October 2012.

The licensable activities intended to carry on at the premises at both events are;

- The sale by retail of alcohol
 - The provision of regulated entertainment
 - The provision of late night refreshment
4. The Licensing Act 2003 permits only the Police and Environmental Health to object to a Temporary Event Notice, no other authority or person. Objections can be raised on any of the four Licensing Objectives.

The four Licensing Objectives of the Licensing Act 2003 are set out below.

1. Prevention of Crime and Disorder
2. Public Safety
3. Prevention of Public Nuisance
4. Protection of Children from Harm

Environmental Health have raised objections to the Notices on the grounds of Prevention of Public Nuisance (licensing objective 3), and their representation is set out at Annexe 3 to this report.

The Police have not raised any objections.

5. Attached at Annexe 4 is a map showing the premises and surrounding area of Farnham Town Centre.

The Purpose of the Hearing

6. The Sub-Committee must consider each of the Temporary Event Notices individually in conjunction with the comments from Environmental Health. The Sub-Committee is asked to hear the applicant and Environmental Health and to consider the objections made. Each Notice must be considered individually and on its own merits. It is open to the Sub-Committee to decide to:
- permit each temporary event as applied for, giving its reasons for each decision; or
 - having regard to each objection raised, to give a Counter Notice to the premises user, if it is considered necessary for the promotion of the Prevention of Public Nuisance objective to do so. If this option is

selected, the Sub-Committee will again have to give reasons for each decision.

Other Possible Outcomes

6. At any time before the hearing is held or dispensed with, Environmental Health may, with the agreement of the premises user, modify the Temporary Event Notices by making changes to the Notices which the Premises User holds, acknowledged by the Council. If this happens, the objection notice will then be regarded as withdrawn and the effect will be that a modified Temporary Event Notice will then be effective.
7. The Sub Committee has been convened and report prepared so that the matter may be considered within the timescale laid down in the legislation, if required. It may be that the premises user and Environmental Health will resolve the issues raised before the meeting. In such a situation, the meeting would be cancelled as there will be no issue for consideration.
8. To assist the Sub-Committee in considering this matter, Part 7 of the Revised Guidance to the Licensing Act 2003 on Temporary Event Notices, is attached at Annexe 5.

Human Rights considerations

9. The Human Rights Act 1998 makes it unlawful for a local authority to act in a way that is incompatible with the European Convention on Human Rights. The Council will have particular regard to the following Convention rights:

Article 6 - Right to a Fair Trial/Hearing

In the determination of civil rights and obligations, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

Article 8 - Right to Respect for Private and Family Life

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others.

Article 1 of the First Protocol - Protection of Property

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No-one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

Subsequent Developments in this Procedure

10. Any subsequent developments in the discussion between Environmental Health and the premises user will be reported at the meeting, if appropriate. If the matter is resolved before the meeting is convened, the Sub-Committee members will be advised immediately.

Recommendation

It is recommended that the Temporary Event Notices for 'The Crown Inn', Pine View Close, Badshot Lea, Farnham, Surrey GU9 9JS be determined by the Sub-Committee in light of and having regard to the representations from Environmental Health, after hearing from the parties involved, and provided that the objection is not withdrawn for any reason, or the matter resolved between the person giving the Notice (Mr Duncan Coles) and Environmental health before or during the meeting.

The Sub-Committee must make a separate decision and give separate reasons for each individual Notice.

Background Papers

Applications referred to above, representation referred to above and current premises licence for the 'The Crown Inn'

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