

WAVERLEY BOROUGH COUNCIL

LICENSING SUB-COMMITTEE 'C' - 1 APRIL 2011

Title:

**LICENSING ACT 2003 - TEMPORARY EVENT NOTICES WITH
POLICE OBJECTIONS -
LOUNGE BAR AND GRILL, 1 HIGH STREET, GODALMING, SURREY, GU7 1AZ**
[Ward Affected: Godalming Central and Ockford]

Summary and Purpose

1. The purpose of the report is to enable the Sub-Committee to consider Temporary Event Notices (TEN) where objections have been made. Only the Police may object to a TEN, and then only on grounds that the TEN would undermine the crime prevention objective.

Current Licensed activities

2. The four Temporary Event Notices for the proposed events at the premises are shown at Annexes 1a – 1d.

The Lounge Bar and Grill has a Premises Licence, attached at Annexe2, which permits;

- Live Music & Performance of Dance
1200 to 0000 Thursday
1200 to 0200 Friday & Saturday
1200 to 2300 Sunday
- Recorded Music
1100 to 2300 Monday to Wednesday
1100 to 0000 Thursday
1100 to 0200 Friday & Saturday
1200 to 2300 Sunday
- Late Night Refreshment
2300 to 0000 Monday to Thursday
2300 to 0200 Friday & Saturday
2300 to 2330 Sunday
- Sale of Alcohol
1100 to 0000 Monday to Thursday
1100 to 0200 Friday & Saturday
1200 to 2330 Sunday

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

Temporary Event Notices requested

3. The 'premises user' under the TENs is the current Designated Premises Supervisor, Kelvin Kaliyati who seeks to hold four events using Temporary Event Notices;

- Notice One
'Cayote Ugly' themed special night on Friday 22 April 2011 between 1200 and 0200.
- Notice Two
Easter Monday Celebrations on Monday 25 April 2011 between 0100 and 0200
- Notice Three
Royal Wedding Celebrations on Friday 29 April between 1200 and 0230
- Notice Four
May Bank Holiday Party with DJ on Monday 02 May 2011 between 0100 and 0200

The licensable activities intended to carry on at the premises at all 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 no other authority or person, to object to a Temporary Event Notice. The Police have raised an objections to the Notices on the grounds of Prevention of Crime and Disorder (licensing objective 1), and their representation is set out at Annexe 3 to this report.
5. Attached at Annexe 4 is a map showing the premises and surrounding area of Godalming Town Centre.

The Purpose of the Hearing

6. The Sub-Committee must consider each of the Temporary Event Notices individually in conjunction with the Police comments. The Sub-Committee is asked to hear the applicant and the Police 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 Crime and Disorder 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, the Police 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 the Police 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. Attention is drawn to Paragraphs 7.23 (no terms, limitations or restrictions may be added) and 7.26 - 7.30 (guidance where objections have been made). The Sub-Committee will note that its consideration of the Notices is confined to the crime prevention objective.

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 mediation between the Police 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 'Lounge Bar and Grill', 1 High Street, Godalming, Surrey GU7 1AZ be determined by the Sub-Committee in light of and having regard to the representations from Surrey Police, 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 Kelvin Kaliyati) and the Police 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 'Lounge Bar and Grill'

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