

To: All Members of the LICENSING SUB-COMMITTEE B  
(Other Members for Information)

When calling please ask for:

Ema Dearsley, Democratic Services officer  
**Policy and Governance**

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Direct line: 01483 523224

Calls may be recorded for training or monitoring

Date: 1 August 2018

### **Membership of the Licensing Sub-Committee B**

Cllr Michael Goodridge  
Cllr Robert Knowles

Cllr Bob Upton

Dear Councillors

A meeting of the LICENSING SUB-COMMITTEE B will be held as follows:

DATE: THURSDAY, 9 AUGUST 2018

TIME: 10.00 AM

PLACE: COUNCIL CHAMBER, COUNCIL OFFICES, THE BURYS,  
GODALMING

The Agenda for the meeting is set out below.

Yours sincerely

ROBIN TAYLOR

Head of Policy and Governance

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## NOTE FOR MEMBERS

Members are reminded that contact officers are shown at the end of each report and members are welcome to raise questions etc in advance of the meeting with the appropriate officer.

### AGENDA

1. ELECTION OF CHAIRMAN

To elect a Chairman for the Sub-Committee B meeting.

2. MINUTES

To agree the Minutes of the Meeting held on 8 May 2018 which had been laid on the table half an hour before the start of the meeting.

3. LICENSING ACT 2003 - TEMPORARY EVENT NOTICE WITH ENVIRONMENTAL HEALTH OBJECTION THE FOX, 21 FRENHAM ROAD, LOWER BOURNE, FARNHAM, SURREY, GU10 3PH (Pages 5 - 34)

The purpose of the report is to enable the Sub-Committee to consider a Temporary Event Notice (TEN) where an objection has been made by Environmental Health. Only the Police and Environmental Health may object to a TEN on the grounds that the TEN would undermine any of the four Licensing Objectives.

Recommendation

**It is recommended that the Temporary Event Notice for the The Fox, 21 Frensham Road, Lower Bourne, Farnham, Surrey GU10 3PH, be determined by the Sub-Committee in light of and having regard to the representation from Environmental Health after hearing from the parties involved, and provided that the objection is not withdrawn for any reason, or the matter resolved between the person giving the Notice (Mr Matthew Eaton) and Environmental Health before or during the meeting.**

4. EXCLUSION OF PRESS AND PUBLIC

To consider the following recommendation on the motion of the Chairman:-

Recommendation

That pursuant to Procedure Rule 20 and in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of the following items on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during the items, there would be disclosure to them of exempt information (as defined by Section 100I of the Act) of the description specified in paragraph 3 or the appropriate paragraph(s) of the revised Part 1 of Schedule 12A to the Act as follows:-

Information relating to the financial or business affairs of any particular person (including the authority holding that information) (paragraph 3)

5. LEGAL ADVICE

To consider any legal advice relating to any applications in the agenda.

[Note: Reports relating to confidential or exempt information may be excluded from those copies of the agenda provided for inspection by members of the public if they relate to matters during which the meeting is likely not to be open to the public.]

**For further information or assistance, please telephone  
Ema Dearsley, Democratic Services officer, on 01483 523224 or by  
email at [ema.dearsley@waverley.gov.uk](mailto:ema.dearsley@waverley.gov.uk)**

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## WAVERLEY BOROUGH COUNCIL

### LICENSING SUB-COMMITTEE B – 09 AUGUST 2018

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#### Title:

**LICENSING ACT 2003 - TEMPORARY EVENT NOTICE WITH  
ENVIRONMENTAL HEALTH OBJECTION  
THE FOX, 21 FRENHAM ROAD, LOWER BOURNE, FARNHAM, SURREY,  
GU10 3PH**

[Ward Affected: Farnham Wards]

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#### Summary and Purpose

The purpose of the report is to enable the Sub-Committee to consider a standard Temporary Event Notice (TEN) where an objection has been made by Environmental Health. Only the Police and Environmental Health may object to a TEN on the grounds that the TEN would undermine any of the four Licensing Objectives.

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#### Current Licensed activities

1. The Temporary Event Notice for the proposed event at the premises (The Fox) is shown at Annexe 1. The Fox has a Premises Licence, attached at Annexe 2, which permits:
  - Live Music (indoors)  
1900 to 2300 Monday to Saturday  
1900 to 2230 Sunday
  - Sale of Alcohol (on and off sales)  
1030 to 2300 Monday to Thursday  
1030 to 2330 Friday & Saturday  
1100 to 2230 Sunday
  - Opening Hours  
0830 to 2330 Monday to Thursday  
0830 to 0000 Friday & Saturday  
1100 to 2300 Sunday

#### Temporary Event Notice requested

2. The 'premises user' under the TEN, Mr Matthew Eaton is the current Designated Premises Supervisor of The Fox, seeks to have regulated entertainment and sale of alcohol for consumption on the premises only, from 1400 until 2300 hours on the 11 August 2018, for a weekend long beer and music festival in their expansive garden 'Fox Fest'.
3. The licensable activities intended to carry on at the premises at the event are:

- The sale by retail of alcohol (on sale)
  - The provision of regulated entertainment
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.
  5. 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
  6. Environmental Health have raised an objection to the Notice on the grounds of Prevention of Public Nuisance, and their representation is set out at Annexe 3 to this report. The Police have not raised any objections.
  7. Attached at Annexe 4 is a map showing the premises and surrounding area of Farnham Town Centre.

### **The Purpose of the Hearing**

8. The Sub-Committee must consider the Temporary Event Notice in conjunction with the comments from Environmental Health. The Sub-Committee is asked to hear the applicant and the Environmental Health representation. The notice must be considered on its own merits. It is open to the Sub-Committee to decide to:
  - permit the temporary event as applied for, giving its reasons for this decision. The Sub-Committee may impose one or more of the conditions stated in the premises licence 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; or
  - having regard to the objection raised, to give a Counter Notice to the premises user to prevent the event going ahead, if it is considered it is appropriate for the promotion of a licensing objective to do so. If this option is selected, the Sub-Committee will again have to give reasons for its decision.

### **Other Possible Outcomes**

9. At any time before the hearing is held or dispensed with, Environmental Health may, with the agreement of the premises user and the Police, modify the Temporary Event Notice by making changes to it, 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.
10. 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.
11. To assist the Sub-Committee in considering this matter, Part 7 of the Revised Guidance April 2018 to the Licensing Act 2003 on Temporary Event Notices, is attached at Annexe 5.

### **Human Rights considerations**

12. Under Article 8, European Convention on Human Rights, everyone has the right to respect for his private and family life, his home and his correspondence. 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. In Licensing Act 2003 cases this means that the Sub-Committee must have regard to the effect of its decisions on local residents, and balance their interests against those of the public at large (e.g. the customers of the premises under consideration) and the people operating the business from the premises.

The rights to a fair hearing and independent and impartial tribunal apply, and reasons must be given for the Sub-Committee's decision.

### **Subsequent Developments in this Procedure**

13. 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 Notice for the The Fox, 21 Frensham Road, Lower Bourne, Farnham, Surrey GU10 3PH, be determined by the Sub-Committee in light of and having regard to the representation 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 Matthew Eaton) and Environmental Health before or during the meeting.

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Background Papers

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

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**CONTACT OFFICER:**

**Name:** Paul Hughes

**Telephone:** 01483 523189

**E-mail:** [paul.hughes@waverley.gov.uk](mailto:paul.hughes@waverley.gov.uk)





Apply for a Temporary Event Notice

Reference: FS82981661

Are you a personal licence holder?: Yes

Have you already given a temporary event notice this calendar year?: No

Have you already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice? : No

Title: Mr

First name: Matthew

Surname: Eaton

Title :

First name:

Surname:

If you have had more than one additional name, click add. No Summary Data

Your date of birth: XXXXXXXXXX Over 18

Your place of birth: [REDACTED] UK

Your national insurance number (format AA999999A): [REDACTED] GIVEN

Premises user's address:

Postcode	Select address	House number / name	Street	Town	County	Postcode
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Daytime phone number: [REDACTED]

Email address: [REDACTED]

Confirm email address: [REDACTED]

The address is :

Licence number: LN/000005766

Issuing licence authority: Waverley Council

Date of issue: 01/07/2018

Any further relevant details:

Does the premises/site related to the application have a postal address?: Yes

Premises address:

Postcode	Select address	House number / name	Street	Town	County	Postcode
GU10 3PH	21 THE FOX, FRENSHAM ROAD	The Fox, 21 Frensham Road	Lower Bourne	Farnham	Surrey	GU10 3PH

**Does the premises have a premises licence or club premises certificate?:**Premises licence

**Premises licence number::** 000000200

**If you intend to use only part of the premises at this address or intend to restrict the area to which this notice applies, please give a description and details below: :**

**Please describe the premises below::** Public House

**Please describe the nature of the event below::** Extension to live music outdoors on Saturday 11th August

**Please confirm the licensable activities that you intend to carry on at the premises (you can select more than one)::** The sale by retail of alcohol,The provision of regulated entertainment

**Please select whether the sale or supply of alcohol will be for consumption on or off the premises, or both:** On the premises only

**Are you giving a late temporary event notice?:**No

**The earliest date your event can start is:** 11/08/2018

**Event start date::** 11/08/2018

**Event finish date::** 11/08/2018

**Number of days:** 1

**Event starts at::** 14:00

**Event finishes at::** 23:00

**Please state the maximum number of people at any one time that you intend to allow to be present at the premises during the times when you intend to carry on licensable activities, including any staff, organisers or performers::** 400

**Start time:** 14:00

**End time:** 23:00

**Has any associate of yours given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice?:** No

**Has any associate of yours already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice?:** No

**Has any person with whom you are in business conducting licensable activities given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice? :** No

**Has any person with whom you are in business conducting licensable activities already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice?:** No

**Please confirm::** I have read and understood the checklist

**I declare that the information given on this form is correct to the best of my knowledge.**The

I declare that the information given on this form is correct to the best of my knowledge. The information contained in this form is correct to the best of my knowledge and belief.

**checkbox 1:** I consent to the council's officers making any enquiries necessary to verify and process the information provided, including reference to relevant records.

**Signature (please type your name)::** Matthew Eaton

**Date::** 27/07/2018



Licensing Act 2003  
 Premises Licence - Summary

<b>The Fox</b> 21 Frensham Road Lower Bourne Farnham Surrey GU10 3PH	<b>Licence number:</b>	<b>LN/00000200</b>	
	<b>Valid from:</b>	<b>25th May 2018</b>	
	<b>Valid until:</b>		
	<b>Telephone:</b>	<b>01252 716395</b>	
<b>Licensable Activities Authorised by the Licence and times these activities may be carried on</b>			
<b>Activity (and area if applicable)</b>	<b>Description</b>	<b>Time From:</b>	<b>Time To:</b>
<b>Provision of regulated entertainment:-</b>			
<b>Live Music</b>	<b>Monday - Saturday</b> <b>Sunday</b>	<b>19:00</b> <b>19:00</b>	<b>23:00</b> <b>22:30</b>
<b>Sale by Retail of Alcohol</b>	<b>Monday - Thursday</b> <b>Friday and Saturday</b> <b>Sunday</b>	<b>10:30</b> <b>10:30</b> <b>11:00</b>	<b>23:00</b> <b>23:30</b> <b>22:30</b>
<b>Non-standard Timings:</b>	The Sunday preceding Bank Holiday Monday; Christmas Eve and Boxing Day (where these days fall on Sunday) 08:30 until 23:30 for licensable activities with 30 minutes thereafter for closing. New Year's Eve from the terminal hour until 02:00 on New Year's Day.		

**The opening hours of the premises:** 08:30-23:30 Monday to Thursday  
 08:30-00:00 Friday and Saturday  
 11:00-23:00 Sunday

**Where the licence authorises supplies of alcohol, whether this alcohol is to be consumed on and/ or off the premises:** On and off the premises

**Name & (registered) address of holder of premises licence:** Greene King Retailing Ltd  
 Westgate Brewery  
 Bury St Edmunds  
 Suffolk  
 IP33 1QT

**Registered number of holder, for example company number, charity number (where applicable):** 5265451

**Name of designated premises supervisor where the premises licence authorises the supply of alcohol:** Mr Matthew James Eaton

**Whether access to the premises by children is restricted or prohibited:** All persons under the age of 16 years must be accompanied by an adult

Licensing Act 2003  
Premises Licence - Detail

<b>The Fox</b> 21 Frensham Road Lower Bourne Farnham Surrey GU10 3PH	<b>Licence number:</b>	<b>LN/00000200</b>	
	<b>Valid from:</b>	<b>25th May 2018</b>	
	<b>Valid until:</b>		
	<b>Telephone:</b>	<b>01252 716395</b>	
<b>Licensable Activities Authorised by the Licence and times these activities may be carried on</b>			
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<b>Sale by Retail of Alcohol</b>	<b>Monday - Thursday</b> <b>Friday and Saturday</b> <b>Sunday</b>	<b>10:30</b> <b>10:30</b> <b>11:00</b>	<b>23:00</b> <b>23:30</b> <b>22:30</b>
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08:30-00:00 Friday and Saturday  
11:00-23:00 Sunday

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**Name & (registered) address of holder of premises licence:** Greene King Retailing Ltd  
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**Registered number of holder, for example company number, charity number (where applicable):** 5265451

**Name of designated premises supervisor where the premises licence authorises the supply of alcohol:** Mr Matthew James Eaton

**Whether access to the premises by children is restricted or prohibited:** All persons under the age of 16 years must be accompanied by an adult



# Annexe 1 – Mandatory Conditions

## Alcohol

No supply of alcohol may be made under the premises licence:

- At a time when there is no designated premises supervisor in respect of the premises licence.
- At a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

- (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
  - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
    - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—
      - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
      - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
    - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
    - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
    - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
    - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
2. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
3.
  - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
  - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
  - (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
    - (a) a holographic mark, or
    - (b) an ultraviolet feature.
4. The responsible person must ensure that—
  - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
    - (i) beer or cider: ½ pint;
    - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

- (iii) still wine in a glass: 125 ml;
  - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
  - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.”
5. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
6. For the purposes of the condition set out in paragraph 5—
- (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
  - (b) “permitted price” is the price found by applying the formula—
 
$$P = D + (D \times V)$$
 where—
    - (i) P is the permitted price,
    - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
    - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
  - (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence—
    - (i) the holder of the premises licence,
    - (ii) the designated premises supervisor (if any) in respect of such a licence, or
    - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
  - (d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
  - (e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.
7. Where the permitted price given by Paragraph (b) of paragraph 6 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
8. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 6 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

## Annexe 2 – Conditions consistent with the operating schedule

<b>Live Music</b>	<b>Monday</b>	19:00 hours to 23:00 hours
	<b>Tuesday</b>	19:00 hours to 23:00 hours
	<b>Wednesday</b>	19:00 hours to 23:00 hours
	<b>Thursday</b>	19:00 hours to 23:00 hours
	<b>Friday</b>	19:00 hours to 23:00 hours
	<b>Saturday</b>	19:00 hours to 23:00 hours
	<b>Sunday</b>	19:00 hours to 22:30 hours

### Further Detail

N/A

### Non-Standard Timing

From the end of hours on New Year's Eve until 02:00 on New Year's Day

Location of activity : Indoors

<b>Alcohol BOTH ON/OFF premises</b>	<b>Monday</b>	10:30 hours to 23:00 hours
	<b>Tuesday</b>	10:30 hours to 23:00 hours
	<b>Wednesday</b>	10:30 hours to 23:00 hours
	<b>Thursday</b>	10:30 hours to 23:00 hours
	<b>Friday</b>	10:30 hours to 23:30 hours
	<b>Saturday</b>	10:30 hours to 23:30 hours
	<b>Sunday</b>	11:00 hours to 22:30 hours

### Further Detail

N/A

### Non-Standard Timing

The Sunday preceding Bank Holiday Monday; Christmas Eve and Boxing Day (where these days fall on Sunday) 08:30 until 23:30 for licensable activities with 30 minutes thereafter for closing.  
New Year's Eve from the terminal hour until 02:00 on New Year's Day.

Sale of alcohol to be for consumption : On and off the premises

### Designated Premises Supervisor

**Name:** Mr Matthew James Eaton

**Address:** Blakes Cottage  
Sandy Lane  
Haslemere  
Surrey  
GU27 1QE

**Personal Licence Number (If known):** LN/000005766

**Issuing Licence authority (If known):** Waverley Borough Council

<b>Opening Hours</b>	<b>Monday</b>	08:30 hours to 23:30 hours
	<b>Tuesday</b>	08:30 hours to 23:30 hours
	<b>Wednesday</b>	08:30 hours to 23:30 hours
	<b>Thursday</b>	08:30 hours to 23:30 hours
	<b>Friday</b>	08:30 hours to 00:00 hours
	<b>Saturday</b>	08:30 hours to 00:00 hours
	<b>Sunday</b>	11:00 hours to 23:00 hours

### Further Detail

N/A

### Non-Standard Timing

The Sunday preceding Bank Holiday Monday; Christmas Eve and Boxing Day (where these days fall on Sunday) 08:30 until 00:00.  
New Year's Eve from the terminal hour until 02:30 on New Year's Day.

**Any adult entertainment or services, activities, other entertainments or matters ancillary to the use of premises that may give rise to concern in respect of children**

Hot food, supply of alcohol, open fires and cigarette vending machine.

**ELEMENTS OF OPERATING SCHEDULE TO ADDRESS LICENSING OBJECTIVES:**

**a) General - all four licensing objectives (b,c,d,e)**

Please see below.

**b) The prevention of crime and disorder**

Appropriate digital CCTV equipment and a sufficient number of cameras shall be installed and maintained at the premises.

The cameras shall record at all times customers are on the premises.

The cameras shall record colour images that are clear enough to allow the Police to use them to investigate any crimes that are committed on the premises.

The areas covered by the cameras shall be all areas and corridors within the premises that are open to the public, not including the toilets.

A camera shall be positioned to obtain images of persons entering the building by the main entrance.

Cameras shall also be installed in the garden area to cover all of the garden where the public have access.

No persons other than the Police, the Licensing Authority, the Premises Licence Holder or Designated Premises Supervisor ("DPS") shall have access to the CCTV recording equipment or the recordings made from such equipment.

Recordings made on the CCTV system shall be retained for a period of at least 30 days of recording.

A minimum of two notices stating that CCTV is in operation shall be displayed throughout the premises where the public have access.

The notices shall be at least A4 size.

**c) Public Safety**

The premises shall not sell alcoholic beverages under any circumstances to any person who appears to have consumed an excess of alcohol or appears to be under the influence of drugs.

The Police shall be informed if any person is doing, using, carrying or supplying controlled substances, i.e. drugs, whilst at the premises.

**d) The prevention of public nuisance**

A written garden and terrace management policy ("the Policy") shall be drawn up and implemented by the DPS.

The Policy shall refer to any conditions on the premises licence relevant to the Policy and ensure that such conditions are complied with.

The Policy shall also set minimum levels for staff checks during the hours of operation of both the garden and terrace to ensure as far as practicable, customers do not cause a public nuisance.

The Policy shall make provision for dealing with customers where it has been determined by either the DPS or a designated member of the management team that they are acting in a manner likely to cause a public nuisance, including asking the customers responsible to vacate the area.

The Policy shall also specifically deal with ensuring the garden area and terraced area shall be closed to customers at 21:00 hours, save for access to and from the designated smoking area.

The designated smoking area shall be located in the bottom patio area.

The Policy shall be disseminated to all staff who have responsibility for implementing some or all of the Policy and shall be made available upon request of the Licensing Officer, a Police Officer or Environmental Protection Officer.

A written dispersal management plan ("the Management Plan") shall be drawn up and implemented by the DPS.

The Management Plan shall establish management procedures for ensuring as far as possible that customers leave the premises quickly and quietly at the end of the trading day.

The Management Plan shall make provision for taxis ordered by the staff of the premises on behalf of customers to text or call the premises when they arrive so that customers can be encouraged to wait inside for their taxis.

The Management Plan shall be disseminated to all staff who have responsibility for implementing some or all of the Management Plan and shall be made available upon request of the Licensing Officer, a Police Officer or Environmental Protection Officer.

At the start of regulated entertainment, the level of music emanating from the premises shall be monitored outside at the boundary of the premises to ensure, as far as practicable, that such entertainment is unlikely to cause a public nuisance to residents living in the immediate area.

A log shall be maintained of these checks and shall include the date and time the check was made, the member of staff who made the check and what their observations were.

For regulated entertainment that lasts for over 1 hour in duration, additional checks shall be undertaken hourly to ensure that music levels remain unlikely to cause a public nuisance.

Doors and windows shall be closed (except access and egress) during regulated entertainment.

The garden area and terraced area shall be closed to customers at 21:00 hours, save for access to and from the designated smoking area.

The designated smoking area shall be located in the bottom patio area.

All music in the garden area shall cease at 21:00 hours.

After 21:00 hours the gates to the garden shall be shut to prevent access by members of the public.

Signage shall be displayed at the exits and in the car park requesting members and guests to respect the needs of local residents by quietly leaving the premises and car park.

A written event management plan ("the EMP") shall be drawn up and implemented by the DPS in relation to any events held at the premises outside of the ordinary course of business.

Events are defined as:-

Any regular occurrence such as a weekly quiz, live music on a Sunday afternoon, burger and beer night would be considered as events in the normal course of business. Events outside the normal course of business would be one off, special occasions such as an annual charity event or events requiring a Temporary Event Notice.

Each EMP shall set out the following:-

- a. the nature of the event;
- b. the times the event shall be held (start and finish times);
- c. the expected numbers of attendees;
- d. any special provisions made for the event, such as parking marshals; and
- e. whether neighbours shall be notified prior to the event. If so, whether any concerns have been raised by residents prior to the event and actions taken thereafter.

The EMP shall be disseminated to all staff who have responsibility for implementing some or all of the EMP.

EMPs shall be kept on the premises for a minimum of 3 months after the event and shall be made available upon request of the Licensing Officer, a Police Officer or Environmental Protection Officer.

A complaints log ("the Log") shall be maintained and any complaints received by members of staff from residents living in the vicinity of the premises shall be recorded in the Log.

The Log shall record:-

- a. the date and time of the complaint;
- b. the name of the complainant;
- c. the nature of the complaint;
- d. the name of the person making the record; and
- e. any action taken to investigate and/o rectify the complaint.

Instructions on how to complete the Log shall be disseminated to all staff.

The Log shall be made available upon the request of the Licensing Officer, a Police Officer or Environmental Protection Officer.

A refusals log shall be kept and all refusals of alcohol shall be recorded therein.

No televisions or films shall be permitted in the garden or terrace.

A maximum of 15 events where regulated entertainment shall be provided shall be permitted outdoors in each calendar year.

A record of each of the 15 events shall be kept at the premises.

Litter bins shall be provided inside the boundary of the premises.

#### **e) The protection of children from harm**

All staff shall receive suitable training including refresher training twice a year, in relation to "Challenge 25" proof of age policy which shall be applied at the premises.

All staff training shall be recorded and signed by the member of staff completing the training.

The training record shall also be countersigned by the DPS.

All persons under the age of 16 years must be accompanied by an adult.

Any person who appears to look under 25 shall be challenged and must provide acceptable identification, otherwise service of alcohol shall be refused.

### **Annexe 3 – Conditions attached after a hearing on 20th November 2017 by the Licensing Authority**

1. A written Garden and Terrace Management Policy ("The Policy") shall be drawn up by the DPS and/or the Operator and agreed with the Environmental Health and Licensing Teams and implemented by the DPS by no later than 22nd December 2017.
2. A written Dispersal Management Plan ("The Management Plan") shall be drawn up by the DPS and/or the Operator and agreed with the Environmental Health and Licensing Teams and implemented by the DPS by no later than 22nd December 2017.
3. Only 6 additional events shall be permitted outside the premises (but in addition to the permissible TENS).
4. All doors and windows shall be shut after 23:00 (except for access and egress).
5. The designated smoking area shall be closed to customers carrying drinks after 23:00.
6. Licensable activities on the first floor shall not be permitted, but the consumption of alcohol and alcohol being served as ancillary to dining use shall be permitted.

### **Annexe 4 – Plans**

Attached



INTERNAL MEMORANDUM

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To: Licensing Section	Your Ref: The Fox
From: Ms G De Gennaro	My Ref: WK/201804353
Senior Environmental Health Officer - Environmental Protection	Date: 31st July 2018

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**Licensing Act 2003**

**DATE:** 31st July 2018  
**TO:** Licensing Authority, Waverley Borough Council.  
**FROM:** Ms G De Gennaro Environmental Health Officer  
**Telephone number:** 01483 523393

**Location:** The Fox, 21 Frensham Road, Lower Bourne, Farnham. GU10 3PH

This department wishes to make a representation with regard to the above application. We object to this TEN. The reasons are;

**Licensing Objective for the Prevention of Public Nuisance.**

The applicant (the DPS of The Fox public house) has asked to extend the use of the garden with an event on 11 August starting at 14:00 hours and finishing at 23:00 hours for the purposes of sale of alcohol and regulated entertainment.

The current Premises Licence restricts the use of the garden after 21:00 hours following a Hearing where concern of noise was affecting the local community.

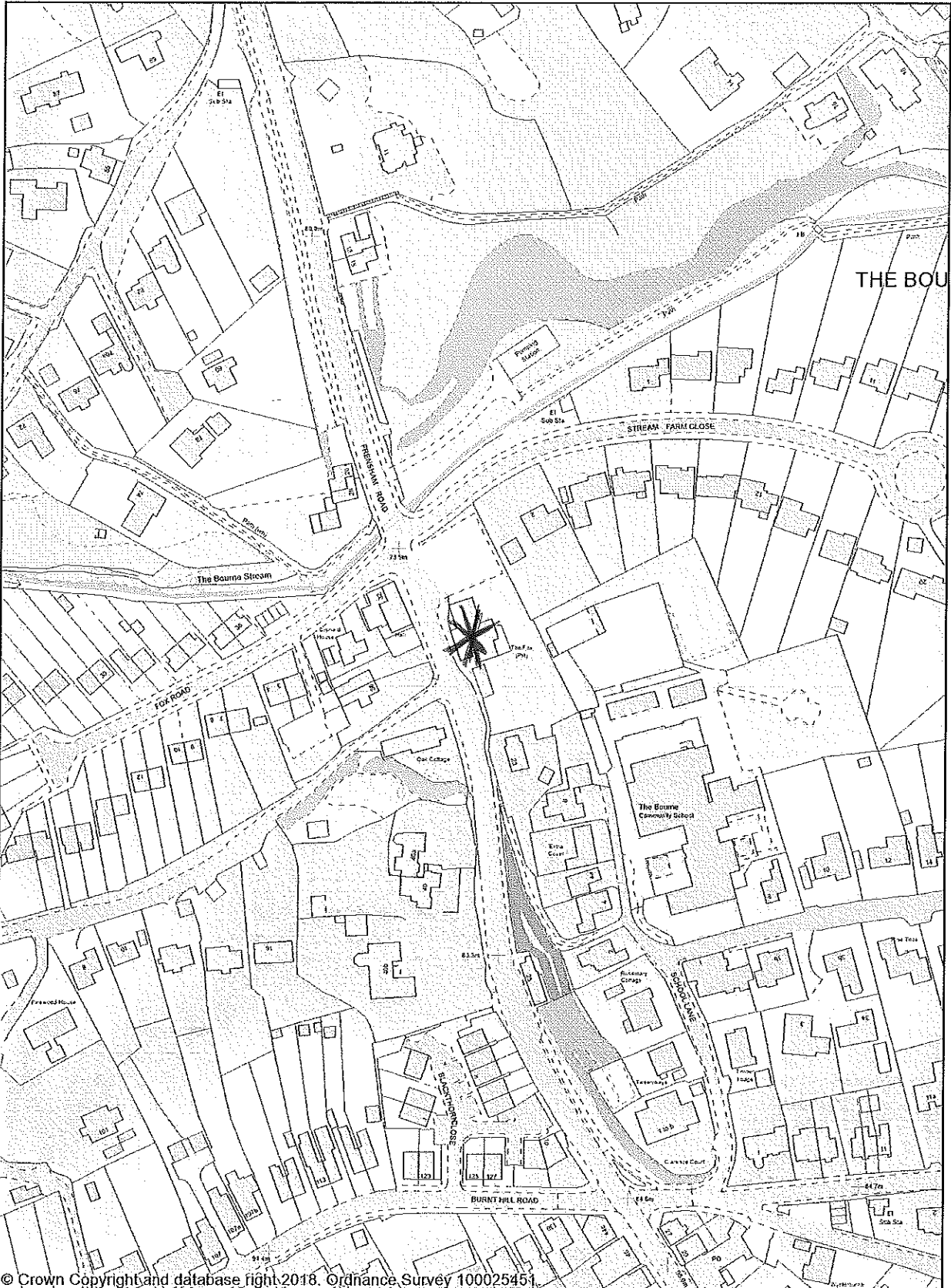
Use of the garden for live music and the sale of alcohol, for up to 400 people after 21:00 hours, has the potential to cause a public nuisance. The Fox Fest music is starting at 14:00 hours which will already mean up 7 hours of live music in a built up residential area.

There are already complaints on a weekly basis about noise from amplified music played inside The Fox and patrons using the outside area. We are investigating and enforcement action is being considered.

Please do not hesitate to contact me if you require further information or would like to discuss the above comments.

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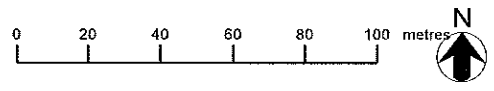




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## 7. Temporary Event Notices (TENs)

- 7.1 This Chapter covers the arrangements in Part 5 of the 2003 Act for the temporary carrying on of licensable activities which are not authorised by a premises licence or club premises certificate.

### General

- 7.2 The system of permitted temporary activities is intended as a light touch process, and as such, the carrying on of licensable activities does not have to be authorised by the licensing authority on an application. Instead, a person wishing to hold an event at which such activities are proposed to be carried on (the “premises user”) gives notice to the licensing authority of the event (a “temporary event notice” or “TEN”).
- 7.3 The TEN must be given to the licensing authority in the form prescribed in regulations made under the 2003 Act. The form requires the user to describe key aspects of the proposed event, including the general nature of the premises and the event, the licensable activities intended to be carried on at the proposed event, including whether they will include any relevant entertainment as defined in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (i.e. displays of nudity designed to sexually stimulate any member of the audience including, but not limited to, lap dancing and pole dancing). Under the 2003 Act ‘premises’ can mean any place. Events authorised under a TEN will therefore not always be in a building with a formal address and can take place, for example, in public parks and plots within larger areas of land. In all cases, the premises user should provide a clear description of the area in which they propose to carry on licensable activities, including whether the premises are, for example, an open field or a beer tent. Local authorities and “relevant persons” (see below) may wish to make enquiries where appropriate to satisfy themselves of the exact location for where a TEN is being given.
- 7.4 Unless it is sent electronically, it must be sent to the relevant licensing authority, to the police and “local authority exercising environmental health functions” (“EHA”) at least ten working days before the event. A premises user may also give a limited number of “late TENs” to the licensing authority less than 10 working days before the event to which they relate, although certain restrictions apply (see paragraphs 7.12-7.14). “Working day” under the 2003 Act means any day other than a Saturday, Sunday, Christmas Day, Good Friday or Bank Holiday. For limited purposes in relation to a TEN, the 2003 Act defines a “day” as a period of 24 hours beginning at midnight.
- 7.5 If a TEN is sent electronically via GOV.UK or the licensing authority’s own facility, the licensing authority must notify the police and EHA as soon as possible and no later than the first working day after the TEN is given.
- 7.6 The police or EHA (“relevant persons” for the purposes of TENs) may intervene to prevent such an event taking place by sending an objection to the licensing authority, which the licensing authority must consider on the basis of the statutory licensing objectives and decide whether the event should go ahead. A relevant person may also intervene by agreeing a modification of the proposed arrangements directly with the TENs user (see paragraph 7.36). If a relevant person sends an objection, this may

result in the licensing authority imposing conditions on a TEN but only where the venue at which the event is to be held has an existing premises licence or club premises certificate. When giving a TEN, the premises user should consider the promotion of the four licensing objectives. The licensing authority may only otherwise intervene if the statutory permitted limits on TENs would be exceeded (see paragraphs 7.15-7.22).

- 7.7 A TEN does not relieve the premises user from any requirements under planning law for appropriate planning permission where it is required.

## **Standard and late temporary event notices**

- 7.8 There are two types of TEN: a standard TEN and a late TEN. These are subject to different processes: a standard notice is given no later than ten working days before the event to which it relates; and a late notice is given not before nine and not later than five working days before the event.

### **Standard temporary event notices**

- 7.9 "Ten working days" (and other periods of days which apply to other requirements in relation to TENs) exclude the day the notice is received and the first day of the event.
- 7.10 The police and 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.
- 7.11 Although ten clear working days is the minimum possible notice that may be given, licensing authorities should publicise their preferences in terms of advance notice and encourage premises users to provide the earliest possible notice of events planned by them. Licensing authorities should also consider publicising a preferred maximum time in advance of an event by when TENs should ideally be given to them.

### **Late temporary event notices**

- 7.12 Late TENs are intended to assist premises users who are required for reasons outside their control to, for example, change the venue for an event at short notice. However, late TENs may, of course, be given in any circumstances providing the limits specified at paragraph 7.15 are not exceeded.
- 7.13 Late TENs can be given up to five working days but no earlier than nine working days before the event is due to take place and, unless given electronically to the licensing authority, must also be sent by the premises user to the police and EHA. A late TEN given less than five days before the event to which it relates will be returned as void and the activities to which it relates will not be authorised.
- 7.14 A key difference between standard and late TENs is the process following an objection notice from the police or EHA. Where an objection notice is received in relation to a standard TEN the licensing authority must hold a hearing to consider the objection, unless all parties agree that a hearing is unnecessary. If the police, EHA or both give an objection to a late TEN, the notice will not be valid and the event will not go ahead as there is no scope for a hearing or the application of any existing licence conditions.

## **Limitations**

- 7.15 A number of limitations are imposed on the use of TENs by the 2003 Act:
- the number of times a premises user may give a TEN is 50 times in a calendar year

for a personal licence holder and five times in a calendar year for other people;

- the number of times a premises user may give a late TEN is limited to 10 times in a calendar year for a personal licence holder and twice for other people. Late TENS count towards the total number of permitted TENS (i.e. the limit of five TENS a year for non-personal licence holders and 50 TENS for personal licence holders). A notice that is given less than ten working days before the event to which it relates, when the premises user has already given the permitted number of late TENS in that calendar year, will be returned as void and the activities described in it will not be authorised.
- the number of times a TEN may be given for any particular premises is 15 times in a calendar year;
- the maximum duration of an event authorised by a TEN is 168 hours (seven days);
- the maximum total duration of the events authorised by TENS in relation to individual premises is 21 days in a calendar year;
- the maximum number of people attending at any one time is 499; and
- the minimum period between events authorised under separate TENS in relation to the same premises (not including withdrawn TENS) by the same premises user is 24 hours.

7.16 Any associate, relative or business partner of the premises user is considered to be the same premises user in relation to these restrictions. The 2003 Act defines an associate, in relation to the premises user, as being:

- the spouse or civil partner of that person;
- a child, parent, grandchild, grandparent, brother or sister of that person;
- an agent or employee of that person; or
- the spouse or civil partner of a person listed in either of the two preceding bullet points.

7.17 A person living with another person as their husband or wife, is treated for these purposes as their spouse. 'Civil partner' has its meaning in the Civil Partnership Act 2004.

7.18 A TEN that is given may be subsequently withdrawn by the TEN user by giving the licensing authority a notice to that effect no later than 24 hours before the beginning of the event period specified in the TEN. Otherwise, the TEN will be included within the limits of TENS allowed in a given calendar year, even if the event does not go ahead.

7.19 Once these limits have been reached, the licensing authority should issue a counter notice (permitted limits) if any more are given. Proposed activities that exceed these limits will require a premises licence or club premises certificate.

7.20 TENS may be given in respect of premises which already have a premises licence or club premises certificate to cover licensable activities not permitted by the existing authorisation.

7.21 In determining whether the maximum total duration of the periods covered by TENS at any individual premises has exceeded 21 days, an event beginning before midnight and continuing into the next day would count as two days towards the 21-day limitation.

7.22 There is nothing in the 2003 Act to prevent notification of multiple events at the same time, provided the first event is at least ten working days away (or five working days

away in the case of a late TEN). For example, an individual personal licence holder wishing to exhibit and sell beer at a series of farmers' markets may wish to give several notices simultaneously. However, this would only be possible where the limits are not exceeded in the case of each notice. Where the events are due to take place in different licensing authority (and police) areas, the respective licensing authorities and relevant persons would each need to be notified accordingly.

## **Who can give a temporary event notice?**

### **Personal licence holders**

7.23 A personal licence holder can give a TEN at any premises on up to 50 occasions in a calendar year. This limit is inclusive of any late TENs given in the same year. The use of each TEN must of course observe the limits described above, including the limit of 15 TENs in respect of each premises in a calendar year.

### **Non-personal licence holders**

7.24 The 2003 Act provides that any individual aged 18 or over may give a TEN to authorise the carrying on of all licensable activities under the Licensing Act 2003, whether or not that individual holds a personal licence. Such an individual will not, therefore, have met the requirements that apply to a personal licence holder under Part 6 of the 2003 Act. Where alcohol is not intended to be sold, this should not matter. However, many events will involve a combination of licensable activities and the 2003 Act limits the number of notices that may be given by any non-personal licence holder to five occasions in a calendar year (inclusive of any late TENs in the same year). In every other respect, the Guidance and information set out in the paragraphs above applies.

## **Role of the licensing authority**

7.25 The licensing authority must check that the limitations set down in Part 5 of the 2003 Act are being observed and intervene if they are not (see paragraph 7.15). For example, a TEN would be void unless there is a minimum of 24 hours between events notified by the same premises user, or an associate or someone who is in business with the relevant premises user in respect of the same premises. This is to prevent evasion of the seven day (or 168 hour) limit on such events and the need to obtain a full premises licence or club premises certificate for more major or permanent events. In addition, for these purposes, a TEN is treated as being from the same premises user if it is given by an associate.

7.26 Where the application is not within the statutory parameters described earlier, the licensing authority will issue a counter notice to the premises user.

7.27 Where the TEN is in order, the relevant fee paid and the event falls within the prescribed limits, the licensing authority will record the notice in its register and send an acknowledgement to the premises user (which may be given electronically). The licensing authority must do so, no later than the end of the first working day following the day on which it was received (or by the end of the second working day if it was received on a non-working day), unless an objection notice is received beforehand from the police or EHA on the basis of any of the four licensing objectives (see paragraphs below).

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.

- 7.29 Premises users are not required to be on the premises during the event authorised by the TEN, but they will remain liable to prosecution for certain offences that may be committed at the premises during the period covered by it. These include, for example, the offences of the sale of alcohol to a person who is drunk; persistently selling alcohol to children and allowing disorderly conduct on licensed premises.
- 7.30 In the case of an event authorised by a TEN, failure to adhere to the requirements of the 2003 Act, such as the limitation of no more than 499 being present at any one time, would mean that the event was unauthorised. In such circumstances, the premises user would be liable to prosecution.
- 7.31 Section 8 of the 2003 Act requires licensing authorities to keep a register containing certain matters, including a record of TENs received. Under Schedule 3 of the 2003 Act, the licensing authority must also keep a record of such matters including any notice of withdrawal of a TEN, any counter notice to a TEN given following an objection by a relevant person and any TEN received following modification. If requested to do so, a licensing authority must supply a person with a copy of the information contained in any entry in its register. Each licensing authority must also provide facilities for making the information contained in the entries in its register available for inspection by any person during office hours and without payment. Licensing authorities may wish to consider bringing TENs to the attention of local councillors and residents by making their register available online or including relevant details of a TEN when it is received, along with notice of licence applications on the authority's website. There is no requirement to record all the personal information given on a TEN.

## **Police and environmental health intervention**

- 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.

- 7.35 Such cases might arise because of concerns about the scale, location, timing of the event or concerns about public nuisance – even where the statutory limits on numbers are being observed. The premises user who signs the form is legally responsible for ensuring that the numbers present do not exceed the permitted limit at any one time. In cases where there is reason to doubt that the numbers will remain within the permitted limit the premises user should make clear what the nature of the event(s) is and how they will ensure that the permitted persons limit will not be exceeded. For example, where notices are being given for TENs simultaneously on adjacent plots of land it may be appropriate for door staff to be employed with counters. In each case it is important that licensing authorities and relevant persons can consider whether they believe that the premises user intends to exceed the 499 person limit, or will be unable to control or know whether the limit will be exceeded. Where the planned activities are likely to breach the statutory limits or undermine the licensing objectives, it is likely to be appropriate for the police or EHA to raise objections.
- 7.36 However, in most cases, where for example, alcohol is supplied away from licensed premises at a temporary bar under the control of a personal licence holder, (such as at weddings with a cash bar or small social or sporting events) this should not usually give rise to the use of these powers.

## **Modification**

- 7.37 As noted above, the police or EHA (as “relevant persons”) may contact the premises user to discuss their objections and try to come to an agreement which will allow the proposed licensable activities to proceed. The TEN can be modified (for example, by changing the details of the parts of the premises that are to be used for the event, the description of the nature of the intended activities or their duration). The other relevant person has to agree for the modification to be made. There is no scope under the 2003 Act for the modification of a late TEN.

## **Applying conditions to a TEN**

- 7.38 The 2003 Act provides that only the licensing authority can impose conditions to a TEN from the existing conditions on the premises licence or club premises certificate at the venue. The licensing authority can only do so:
- if the police or the EHA 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.
- 7.39 This decision is one for the licensing authority alone, regardless of the premises user’s



views or willingness to accept conditions. The conditions must be notified to the premises user on the form prescribed by regulations.

## **Duty of premises users to keep and produce TENs**

- 7.40 Where a TEN is not prominently displayed at the premises, the police and licensing officers have the right under sections 109(5) and (6) of the 2003 Act to request the premises user (or relevant nominated person who has the TEN in their custody) to produce the TEN for examination. If the police do not intervene when a TEN is given, they will still be able to rely on their powers of closure under the Anti-social Behaviour, Crime and Policing Act 2014<sup>3</sup>.

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<sup>3</sup> For further guidance on the closure power under the 2014 Act, please refer to:  
[www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/352562/ASB\\_Guidance\\_v8\\_July2014\\_final\\_\\_2\\_.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/352562/ASB_Guidance_v8_July2014_final__2_.pdf)

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