

WAVERLEY BOROUGH COUNCIL

LICENSING SUB-COMMITTEE B – 09 AUGUST 2018

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]

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.

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.

Background Papers

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

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