

# DETERMINATION OF OBJECTION TO A TEMPORARY EVENT NOTICE UNDER THE LICENSING ACT 2003



Date:	27 April 2023
Agenda Item:	3
Contact Officer:	Tracy Caddy
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Key Decision?	NO
Local Ward	Alrewas & Fradley
Members	Cllr D Cross, Cllr M Wilcox, Cllr S Wilcox

## LICENSING AND CONSENTS APPEALS COMMITTEE

### 1. Executive Summary

- 1.1 A Temporary Event Notice (TEN) was submitted in relation to a festival to be held at Fradley Woods Gorse Lane, Fradley 27-30 July 2023 between 12:00hrs – 04:00 hrs. The licensing team has received an objection from Environmental Health.
- 1.2 The objection relates to the prevention of public nuisance licensing objective.

### 2. Recommendations

- 2.1 Members are asked to determine the objection to the Temporary Event Notice, under Section 105 section (2) Licensing Act 2003, having due regard to the Council's Licensing Policy and the guidance issued by the Secretary of State under section 182 of the Licensing Act 2003

### 3. Background

- 3.1 Section 104 (2) Licensing Act 2003, allows the Police or Environmental Health to object to a Temporary Event Notice if they believe that allowing the premises to be used in accordance with a Temporary Event Notice will undermine one or more of the licensing objectives.
- 3.2 The licensing objectives are:
  - The prevention of crime and disorder
  - Public safety
  - The prevention of public nuisance
  - The protection of children from harm
- 3.3 The Licensing Team received a Temporary Event Notice on 13 April 2023 from Bertie Benson for a festival to be held at Fradley Woods off Gorse Lane Fradley 27-30 July 2023 between 12:00hrs – 04:00 hrs. The TEN is for a maximum of 499 persons (including staff, organisers and performers). It is for the sale by retail of alcohol, the provision of regulated entertainment and the provision of late night refreshment. A copy of the TEN is attached at **Appendix A**
- 3.4 A letter of acknowledgment of the TEN was sent via email 14 April 2023. A copy is attached at **Appendix B**.

- 3.5 On 19 April 2023 an objection was received from Environmental Health on the grounds that allowing the premises to be used in accordance with the Notice would undermine the prevention of public nuisance objective. There were noise issue experienced by residents during this festival in 2021 & 2022. Objection is attached at **Appendix C**.
- 3.6 On 19 April 2023 an email was received from the premises user suggesting a meeting to discuss. A response was sent 19 April after liaising with Environmental Health advising that there concerns could not be addressed and the matter would be determined at a Hearing. Copy attached at **Appendix D**

Alternative Options	<ol style="list-style-type: none"> <li>1. Members decision is whether or not to issue a Counter Notice. If a Counter Notice is issued this means the event cannot take place. A notice with reasons for the decision must also be given.</li> <li>2. If members decide not to issue a Counter Notice and allow the event to go ahead the premises user and the relevant persons must be given notice of that decision.</li> <li>3. It should be noted that no conditions can be attached to the TEN.</li> <li>4. The TEN can be modified, but only with the agreement of all relevant parties.</li> </ol>
Consultation	<ol style="list-style-type: none"> <li>1. A copy of the Notice was served on both Staffordshire Police &amp; Environmental Health</li> <li>2. The objection was sent to the premises user and Staffordshire Police</li> </ol>
Financial Implications	<ol style="list-style-type: none"> <li>1. The fees for a TEN are payable on submission. They are not refundable.</li> <li>2. If the application is refused, or granted with conditions, the applicant has the right of appeal to the Magistrates Court against the decision.</li> <li>3. Similarly, a person who made relevant representations has a right of appeal against a decision to grant a licence, or the conditions imposed upon it.</li> </ol>
Approved by Section 151 Officer	Yes/no*
Legal Implications	<ol style="list-style-type: none"> <li>1. If the application is refused, or granted with conditions, the applicant has the right of appeal to the Magistrates Court against the decision.</li> <li>2. Similarly, a person who made relevant representations has a right of appeal against a decision to grant a licence, or the conditions imposed upon it.</li> <li>3. The committee will have legal advice at the meeting.</li> </ol>
Approved by Monitoring Officer	Yes/no*
Contribution to the Delivery of the Strategic Plan	<ol style="list-style-type: none"> <li>1. Licensing contributes to enabling people, shaping place and developing prosperity.</li> </ol>

<b>Equality, Diversity and Human Rights Implications</b>	<ol style="list-style-type: none"> <li>Article 6 of the Human Rights Act 1998, states that in determination of a person's 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.</li> <li>Article 8 states that everyone has the right to respect for his private and family life, his home and his correspondence.</li> <li>Part II, Article 1 states that 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 conditions provided for by law and by the general principles on international law.</li> </ol>
EIA logged by Equalities Officer	Yes/no* Equalities Officer confirmed not required.
<b>Crime &amp; Safety Issues</b>	<ol style="list-style-type: none"> <li>Staffordshire Police are a statutory consultee in relation to Licensing Act 2003 applications.</li> <li>Under the Crime and Disorder Act 1998, particularly Section 17, local authorities must have regard to the likely effect of the exercise of their functions and do all they can to prevent crime and disorder in their area. The Licensing Authority will have regard to the likely impact of licensing on related crime and disorder in the District, particularly when considering the location, impact, operation and management of licensable activities</li> </ol>
<b>Environmental Impact (including Climate Change and Biodiversity).</b>	<ol style="list-style-type: none"> <li>Potential from noise and light pollution can be considered as part of this process.</li> </ol>
<b>GDPR / Privacy Impact Assessment</b>	<ol style="list-style-type: none"> <li>Disclosure of personal details making can be done where the circumstances justify such action</li> </ol>

	Risk Description & Risk Owner	Original Score (RYG)	How We Manage It	Current Score (RYG)
A	Legal challenge	Impact – Yellow Likelihood – Yellow Risk - Yellow	Committee Members are trained in how to conduct a hearing appropriately. Legal advice is provided through a qualified legal officer to advise their decision making	Impact – Yellow Likelihood – Yellow Risk - Yellow
B	Reputation	Impact – Green Likelihood – Green Risk - Green	Committee Members are trained in how to conduct a hearing appropriately. Legal advice is provided through a qualified legal officer to advise their decision making	Impact – Green Likelihood – Green Risk - Green
C				
D				
E				
	Background documents			

### Relevant web links

[Revised guidance under section 182 of the Licensing Act 2003](#)

<https://www.lichfielddc.gov.uk/downloads/file/1779/statement-of-licensing-policy-2021-2026>

<http://www.legislation.gov.uk/ukpga/2003/17/contents>