



LICENSING ACT 2003

Temporary Event Notice Decision Record

APPLICANT:	Puran Giri
PREMISES:	Empire Banqueting and Hall, High Street, Aldershot
DATE OF HEARING:	13th December, 2021
MEMBERS SITTING:	Cllrs P.J. Cullum, Christine Guinness and Jacqui Vosper (Chairman)

DECISION

To give a counter notice (effectively stopping the proposed event) and reasons for its decision.

The Sub-Committee considered on the balance of probabilities that it was appropriate for the promotion of the licensing objectives, namely the prevention of crime and disorder and public safety, to issue a counter notice.

REASONS

The Sub-Committee considered a Temporary Event Notice (TEN) served in accordance with section 100 of the Licensing Act 2003 of Mr Giri's intention to carry out a temporary activity at the Empire Banqueting and Hall, High Street, Aldershot.

The notice concerned the sale and supply of alcohol for consumption on the premises, the provision of regulated entertainment and the provision of late-night refreshment between 23:00 hours on 17th December, 2021 and 03:00 hours the following day.

Hampshire Constabulary served an objection notice on the basis that allowing the premises to be used for these purposes would undermine three of the licensing objectives, namely the prevention of crime and disorder, public safety and the prevention of public nuisance.

In coming to its decision, the Sub-Committee has taken into account:

- The Licensing Act 2003, section 105, which states that having regard to the objection notice, it must decide whether it is appropriate for the promotion of a licensing objectives to issue a counter notice;
- The Secretary of State's Guidance issued under section 182 of the Licensing Act 2003, particularly
 - Paragraph 1.17 which advises that each application must be considered on its own merits and in accordance with the licensing authority's statement of licensing policy;
 - Paragraph 7 which outlines the TENs notice procedure and, in particular, paragraph 7.28 which outlines the actions a licensing authority must take when it receives an objection from the police or environmental health authority and the options available when making a determination;
 - Paragraphs 9.37-9.40 which states that applicants should be encouraged to contact responsible authorities and

others who may be affected by the application. It also states that the licensing authority must give appropriate weight to the steps that are appropriate to promote the licensing objectives, the representations and supporting information made by all parties, the Guidance of the Secretary of State and its own statement of licensing policy. Also that the licensing authority may refuse an application on the grounds that this is appropriate for the promotion of the licensing objectives;

- Paragraphs 9.42–9.44 which states that all licensing decisions should be considered on a case by case basis and should take into account any representations or objections which have been received, and any representations made by the applicant;
- The Council's Statement of Licensing Policy version 2 2018, particularly
 - The General Licensing Principles, in particular paragraph 3.12, which states that the licensing authority will be objective in its determination, consider the promotion of the licensing objectives and focus on matters that are within the control of individual applicants, the premises where licensable activities are to be provided and the area in the vicinity of the premises concerned;
 - Paragraphs 16.1–16.51 regarding temporary event notices, including objection notices;
 - Paragraphs 18.45–18.48 which cover the weight attached to relevant representations; and
- The written and oral evidence presented to the hearing.

The Sub-Committee heard from the Licensing Officer who presented the report. Representations were made by a Police officer speaking on behalf of Hampshire Constabulary. The premises user, who served the Temporary Event Notice (TEN), was not present at the hearing however the Sub-Committee considered the form prepared by him together with an email dated 13 December 2021 sent to the Licensing Officer, which was read out at the hearing by the Licensing Officer with the consent of all parties. A copy was also provided to the Sub-Committee to consider during their deliberations.

All of the parties present and the Sub-Committee had the opportunity to ask questions of all other parties.

The Legal Officer reminded the Sub-Committee that each case must be determined on a case-by-case basis and the application should be treated on its merits. Also that the Sub-Committee can only take into account the evidence and representations made in writing or given at the hearing that day. This was also re-iterated by the Legal Officer

during deliberations.

The Sub-Committee considered that the licensing objectives of the prevention of crime and disorder and public safety were engaged.

The Sub-Committee heard evidence from the police officer that the premises had had issues with dispersal from the premises, in particular in relation to an event on 18th September, 2021 which was similar to the event proposed, in that it was a celebration event where a TEN had been served. After the event, the roads nearby were blocked by people leaving the venue and the police had to assist with dispersal. The police officer also raised concerns about the security company used by the premises user on that occasion and stated that due to a lack of information and engagement by the premises user he was unsure whether the intention was to use the same company again or not. Concerns were also raised about bulk alcohol sales at the event in September 2021, which resulted in individuals consuming excessive amounts of alcohol and a number of people being ejected from the premises. Some arrests followed. Also concerns were raised about management and procedure at the premises.

The police officer felt that the information provided by the premises user lacked detail and did not allay the police concerns about this proposed event. He advised the Sub-Committee that he had spoken to the event organiser and that the event had been planned for months and was sold out, yet a TEN had only recently been provided by the premises user. The Licensing Officer did make the Sub-Committee aware that there may have been misunderstanding on the part of the premises user about the available time frame to serve temporary event notices, which the Sub-Committee accepted.

The Sub-Committee noted the explanation provided by the premises user regarding the timings for submitting the TEN. They were concerned about the lack of contact made with the police by the premises user to discuss the proposed event. The Sub-Committee was encouraged that the premises user wanted to hold the event safely however did not have sufficient information from the premises user regarding how he proposed to do this. The Sub-Committee noted that the premises user had offered to put an ID scanner in place which they found encouraging however nothing further had been proposed or submitted in order to ensure that the event would go ahead safely and that the licensing objectives would be promoted.

The Sub-Committee further noted that despite being aware of the objections made by the police, the premises user had only provided a limited response and had not addressed the main concerns. The TEN itself was lacking in detail and there were various issues upon which the Sub-Committee would have liked to explore with the premises user but were unable to as he was not present.

The Sub-Committee accepted evidence that the most recent TEN event had not been managed properly and felt that the premises user has not provided enough detail to assure the Sub-Committee that he would put the necessary measures in place to ensure that these

issues do not reoccur and that the licensing objectives would be promoted.

The Sub-Committee considered the alternative courses of action open to it in order to promote the licensing objectives:

- Firstly the option not to issue a counter notice - this would not promote the licensing objectives given the objections raised by the police officer and the evidence of the poorly managed event in September, 2021. There was a lack of detail from the premises user to seek to address these concerns.
- Secondly whether it would be appropriate not to issue a counter notice, but to impose on the temporary event notice, one or more of the conditions currently imposed on the existing premises licence, that are not inconsistent with the carrying out of the temporary activities. Given the concerns raised, this would entail the Sub-Committee imposing the bulk of the licensing conditions already on the Premises Licence and therefore would obviate the need for a TEN. Furthermore, without further information from the premises user, the Sub-Committee was not content to extend the operating hours or to increase the number of people attending the venue by up to 199 people.
- Finally the Sub-Committee considered whether it would be appropriate to give the premises user a counter notice.

For the reasons explained above, on the balance of probabilities, the Sub-Committee felt that it was appropriate for the promotion of the licensing objectives of the prevention of crime and disorder and public safety, to serve the premises user with a counter notice.

In coming to its decision, the Sub Committee has NOT taken into account:

- The drink-driving offence outlined by the police, which the Sub-Committee felt was beyond the direct control of the premises user
- The incident involving a cardiac arrest of a patron, which the Sub-Committee felt was beyond the direct control of the premises user

The premises user is reminded that failure to comply with a condition and/or carrying on a licensable activity without authorisation is a criminal offence.

Finally, the decision can be appealed to the Magistrates' Court however this must be submitted within 21 days of notification of the decision and appeals may not be brought later than 5 working days before the day on which the event period specified in the temporary event notice begins.

