

**Classification:** Public

**Key Decision:** No

### Gravesham Borough Council

**Report to:** Licensing Panel

**Date:** 7<sup>th</sup> October 2022

**Reporting officer:** Helen Buddin, Licensing Officer

**Subject:** CONSIDERATION OF TEMPORARY EVENT NOTICE UNDER PART 5 OF THE LICENSING ACT 2003

#### **Purpose and summary of report:**

Mr Mandeep Manick, the licensee for the Cricketers, 47 Arthur Street, Gravesend, Kent DA11 0PR has served a Temporary Event Notice on Gravesham Borough Council, Environmental Health, and the Police in accordance with the Licensing Act 2003.

Event details: Halloween Party, the sale by retail of alcohol and provision of regulated entertainment.

Objections have been received from Environmental Protection and to date no agreement has been reached. No objection was received from Kent Police.

#### **Recommendations:**

1. That Members determine a Temporary Event Notice (TEN), issued under s.100 of the Licensing Act 2003.

<b>Key Implications:</b>	
<b>Item</b>	<b>Implications</b>
<b>Legal</b>	The Licensing Panel is obliged to determine this application with a view to promoting the four licensing objectives. In making its decision, the Licensing Panel is also obliged to have regards to the Secretary of State's Guidance and the Council's adopted Licensing Policy. The Licensing Panel must also have regard to all representations made and the evidence it hears and must take either of following steps as it considers necessary for the promotion of the licensing objectives: • Approve the event • Refuse the event The Licensing Panel may only impose conditions on the TEN if the conditions are also imposed on a premises licence or club premises certificate that has effect in respect of the same premises. As the TEN does not relate to the licenced premises, but only to an adjacent piece of land, it is considered that the imposition of such conditions is not possible in this case.
<b>Finance and Value for Money</b>	None unless there is an appeal about the Panel decision to Magistrates' Court which proves to be successful, and which could therefore result in costs being awarded against the Council.

<b>Corporate Plan</b>	There are direct links to Corporate Objective 1 – Safer Gravesham There are indirect links to Corporate Objective 2 – Stronger Gravesham, and Objective 3 – Sustainable Gravesham.
<b>Climate Change</b>	None

## 1. Introduction

- 1.1 The Licensing Panel is asked to determine a Temporary Event Notice (TEN), issued under s.100 of the Licensing Act 2003, relating to a Halloween party, the sale by retail of alcohol, and provision of regulated entertainment at the Cricketers, 47 Arthur Street, A copy of the Temporary Event Notice is attached at Appendix A.
- 1.2 In general terms, Temporary Event Notices are for one or more licensable activities on a temporary basis. These are dealt with in Part 5 of the Licensing Act 2003. Each respective Temporary Event cannot exceed 168 hours as they are designed for “light touch” licensing for events such as garden parties, fetes, fairs etc. The maximum number of persons attending is 499 and only 15 Temporary Event Notices can be given for a premises in the same year. There must be a minimum of 24 hours between each event.
- 1.3 The Police and Environmental Protection can object to a Temporary Event Notice under Section 104 Licensing Act 2003 on the basis they are satisfied that allowing the premises to be used in accordance with the notice would undermine a licensing objective.
- 1.4 The Licensing Act 2003 (the 2003 Act) requires the Council (as licensing authority) to carry out its various functions so as to promote the following four licensing objectives:
  - the prevention of crime and disorder
  - the protection of public safety
  - the prevention of public nuisance
  - the protection of children from harm
- 1.5 The 2003 Act requires the council to publish a ‘Statement of Licensing Policy’ that sets out the policies the council will generally apply to promote the licensing objectives when making decisions on applications made under the Act. The council adopted its Statement of Licensing Policy on 20 December 2004. As required by section 5 of the Act this policy has been subject to periodic revisions with the current policy set to expire on 15 April 2024. The Policy will be available at the meeting for reference purposes.
- 1.6 Under the 2003 Act, licensing authorities, in carrying out their functions, must have regard to guidance issued by the Secretary of State under section 182. The Guidance cannot anticipate every possible scenario or set of circumstances that may arise. Provided that the licensing authority has properly understood and considered the Guidance, it may depart from it when it has reason to do so. However, as the licensing authority is under a duty to have regard to the Guidance, it will need to give full reasons for any departure from it. This would be a key consideration for the courts should departure from the Guidance result in a determination which gives rise to an appeal or judicial review. The Guidance will be available at the meeting for reference purposes.

- 1.7 A copy of the council's approved procedure for hearings of the Panel in relation to an application, along with a copy of the Hearing regulations has been circulated to all parties prior to the meeting.

## **2. Background**

- 2.1 Temporary Event Notices are given for premises venues that wish to engage in licensable activities where no authorisation is in place. In this instance a Premises Licence does exist, see Appendix B. The authorisation of Regulated Entertainment between the hours of 8.00 to 23.00 has been removed following a Premises Licence Review which took place on 06 January 2022.
- 2.2 The licensing authority has received an objection to a Temporary Event Notice in respect of the Cricketers, 47 Arthur Street, Gravesend, Kent DA11 0PR for a Halloween party, the sale by retail of alcohol and the provision of regulated entertainment. Pursuant to section 105, the Licensing Authority must hold a hearing to consider the objection notice.

## **3. The Temporary Event Notice (TEN)**

- 3.1 Mr Mandeep Manik, the licensee for the Cricketers, 47 Arthur Street, Gravesend, Kent DA11 0PR has served a Temporary Event Notice on Gravesham Borough Council, Environmental Health, and the Police in accordance with the Licensing Act 2003. A copy of the Notice is attached at Appendix A.
- 3.2 Event Details: Halloween party, the sale by retail of alcohol and provision of regulated entertainment.
- 3.3 Confirmation received from Mr Mandeep Malik that regulated entertainment is required on TEN is attached as Appendix C
- 3.4 An objection was received from Environmental Protection on 27 September 2022. A copy of the objection is attached as Appendix D

## **4. Appendices**

- 4.1 The following documents are to be published with the report:

Appendix A TEN Application

Appendix B Premises Licence

Appendix C Confirmation of Regulated Entertainment

Appendix D Objection from Environmental Protection

## **5. Background Documents**

- 5.1 There are no background documents.

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<b>Secondary Implications</b>	
<b>Risk Assessment</b>	Departure from the Guidance and Policy could lead to an increased risk of appeal. Similarly if any decision made is not evidence based and proportionate
<b>Data Protection Impact Assessment</b>	<i>A data protection impact assessment (DPIA) should be carried out at the start of any major project involving the use of personal data or if you are making a significant change to an existing process.</i>
	a. Does the project/change being recommended through this paper involve the processing of <a href="#">personal data</a> or <a href="#">special category data</a> or <a href="#">criminal offence data</a> ?  A definition of each type of data can be found on the Information Commissioner's Office website via the above links.  No
	b. If yes to question a, have you completed and attached a DPIA including Data Protection Officer advice?  N/A
	c. If no to question b, please seek advice from your nominated DPIA assessor or the Information Governance Team at <a href="mailto:gdpr@medway.gov.uk">gdpr@medway.gov.uk</a> .  N/A
<b>Equality Impact Assessment</b>	a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community? If yes, please explain answer.  No - the panel decision will be made in accordance with legislation and hearing objectives
	b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality? If yes, please explain answer.  No
	<i>In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above</i>
<b>Crime and Disorder</b>	There are obvious links to community safety and the perception of crime and disorder if licensed premises are not adequately enforced. The licensing section will continue to work pro-actively with its partner agencies to protect the health and wellbeing of the residents of the Borough.
<b>Digital and website implications</b>	None
<b>Safeguarding children and vulnerable adults</b>	The effective regulation of licensable activities and of premises at which licensable activities take place can assist in the safeguarding children and vulnerable adults.