

Minutes of Licensing Panel 3

Monday 21st May, 2012 at 10.00 am
In Annex 1 at Sandwell Council House, Oldbury

Members in attendance: Councillor Allen (Chair);
Councillors Piper and Tranter.

Matters Delegated to the Panel

1/12 **Minutes**

Resolved that the minutes of the meeting held on 19th December, 2011 be confirmed as a correct record.

2/12 **Police and Environmental Health objections to a Temporary Event Notice in respect of The Old Crown, Sandwell Road, West Bromwich, B70 8TG**

Present: Malcolm Strong (Licensing Officer);
David Elliot (Local Authority Solicitor);
PC J Potts (West Midlands Police);
Ian Grove (Environmental Health);
Mr McLeod (Designated Premises Supervisor (DPS));
Mrs J McLeod (Partner of DPS).

In accordance with the Council's agreed procedure, the Panel considered an objection to the grant of a Temporary Event Notice in respect of The Old Crown, Sandwell Road, West Bromwich, B70 8TG. Objections had been received from West Midlands Police and Environmental Health in relation to the application.

Members noted that the Temporary Event Notice was served on Sandwell MBC on 15th May, 2012 and that the current Premises Licence was valid for regulated entertainment and the sale of alcohol for consumption on and off the premises until 12.30 am Sunday

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through to Thursday and until 1.30 am on Friday and Saturday. Moreover, members noted that the Temporary Event Notice would effectively extend those licensed hours to 3.00 am on 1st, 2nd, 3rd and 4th June, 2012.

The Panel noted that the Premises Licence had previously been reviewed on 9th August, 2011, following a request for review submitted by West Midlands Police on the grounds of crime and disorder. On that occasion, the Panel took the decision to add conditions to the licence in order to ensure that the licensing objectives were upheld. Conditions imposed included a reduction in licensable hours and the instillation of a noise limiting device.

The decision of the Panel was appealed; the appeal was heard on 19th March, 2012, following which the licensable hours for the premises were set to those detailed above.

The representative from West Midlands Police advised the Panel that in the previous review of the Premises Licence much evidence had been put forward in relation to crime, anti social behaviour and noise nuisance, and that on that occasion the Panel had been minded to apply conditions to ensure that the licensing objectives were upheld. Whilst these had been amended by the Magistrates Court, there was still a reduction in hours for licensable activities. It was put forward that the application for a Temporary Event Notice would undermine the licensing objectives when both the Panel and a District Judge had seen fit to apply conditions, including a reduction in hours for licensable activities.

The Panel also noted that some conditions imposed by the District Judge had not yet been implemented and the Licence had yet to be surrendered to enable amendment. Furthermore, the District Judge had applied a 90 day period in which to put conditions in place, which included the installation of a noise limiting device. Given that the ruling was dated 19th March, 2012, it was calculated that conditions should be complied with by 12th June, 2012 at the latest.

The representative from Environment Health advised that an objection to the Temporary Event Notice had been submitted on the grounds of public nuisance, in particular loud base and the volume of music was a particular concern. In addition, patrons leaving the Premises were known to regularly disturb local residents in the early hours of the morning.

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Members noted that a recent noise complaint had been received in relation to the premises, but that officers had not yet had opportunity to further investigate this issue.

The Designated Premises Supervisor (DPS) advised that the Temporary Event Notice had been submitted with a view to the premises extending its hours in celebration of the Queen's Diamond Jubilee. In addition, the Panel were assured that the event would be solely inside the Premises with no outside activity.

Members were also advised that efforts were being made to source a noise limiting device within the Premises budget, and that it was hoped that this would be in place within the next two weeks.

The Panel queried what form the jubilee celebrations in the Premises would take. The DPS clarified that there would be a bouncing castle outside for the children and that inside the premises there would be music until 3 am but that it would just be 'normal pub entertainment'.

The Panel also noted that the Government had allowed special provision, in view of Jubilee celebrations, to extend licensable hours until 1am, with an added 30 minutes of drinking up time on 2nd and 3rd June, 2012.

The Panel took legal advice before adjourning to make a decision on the application.

On this occasion, the Panel decided to serve a Counter Notice to the application for a Temporary Event Notice in relation to the Old Crown, Sandwell Road, West Bromwich, B70 8TG. This decision was taken for the following reasons:-

- i) the Panel were satisfied that if the activities were to take place the prevention of public nuisance objective of the Licensing Act, 2003 would be undermined;
- ii) based on the history of the premises, and the nature and duration of the proposed event, there was in the Panel's view, a significant possibility of unregulated public/noise nuisance occurring on the premises on the 1st, 2nd, 3rd and 4th June 2012. This was supported by the concerns of District Judge Wheeler in his judgment from the review appeal dated 19th March

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2012. The Panel noted, as did he, that a noise limiting device had still not been installed at the premises.

- iii) Parliament had, by independent order, extended licensable activities on 2nd and 3rd June 2012 until 1.00am.

The Panel noted that, although it could attach conditions to a temporary event notice, those conditions had to be already attached to the premises licence. It was advised that as a matter of law the condition requiring the installation of a noise limiting device did not attach to the premises licence until 90 days from 19th March 2012. Therefore, the event could not be appropriately regulated.

The decision was taken in view of all written representations and in view of submissions made by all parties at the hearing.

In reaching its decision, the Panel had regard to the Licensing Act 2003, paragraph seven of the Section.182 guidance and Council Policy, together with representations made by Responsible Authorities.

Resolved that the Police and Environmental Health objections to a Temporary Event Notice in respect of The Old Crown, Sandwell Road, West Bromwich, B70 8TG, for 1st, 2nd, 3rd and 4th June, 2012 be upheld and that a counter notice be issued.

(Meeting End Time: 11.00 am)

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