



LICENSING SUB-COMMITTEE

Meeting: Wednesday, 21st September 2016 at 6.15 pm
in Civic Suite, North Warehouse, The Docks, Gloucester, GL1 2EP

ADDENDUM

The following item although provided for on the agenda front sheet was not available at the time of dispatch:

5.	OFFICER REPORT (PAGES 5 - 10) To receive the report of the Head of Public Protection
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Yours sincerely

Jon McGinty
Managing Director

NOTES

Disclosable Pecuniary Interests

The duties to register, disclose and not to participate in respect of any matter in which a member has a Disclosable Pecuniary Interest are set out in Chapter 7 of the Localism Act 2011.

Disclosable pecuniary interests are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 as follows –

<u>Interest</u>	<u>Prescribed description</u>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the Council) made or provided within the previous 12 months (up to and including the date of notification of the interest) in respect of any expenses incurred by you carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between you, your spouse or civil partner or person with whom you are living as a spouse or civil partner (or a body in which you or they have a beneficial interest) and the Council (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged
Land	Any beneficial interest in land which is within the Council's area. For this purpose "land" includes an easement, servitude, interest or right in or over land which does not carry with it a right for you, your spouse, civil partner or person with whom you are living as a spouse or civil partner (alone or jointly with another) to occupy the land or to receive income.
Licences	Any licence (alone or jointly with others) to occupy land in the Council's area for a month or longer.
Corporate tenancies	Any tenancy where (to your knowledge) – (a) the landlord is the Council; and (b) the tenant is a body in which you, your spouse or civil partner or a person you are living with as a spouse or civil partner has a beneficial interest
Securities	Any beneficial interest in securities of a body where – (a) that body (to your knowledge) has a place of business or land in the Council's area and

- (b) either –
- i. The total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
 - ii. If the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, your spouse or civil partner or person with whom you are living as a spouse or civil partner has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

For this purpose, “securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

NOTE: the requirements in respect of the registration and disclosure of Disclosable Pecuniary Interests and withdrawing from participating in respect of any matter where you have a Disclosable Pecuniary Interest apply to your interests and those of your spouse or civil partner or person with whom you are living as a spouse or civil partner where you are aware of their interest.

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Agendas and reports can be viewed on the Gloucester City Council website: www.gloucester.gov.uk and are available to view five working days prior to the meeting date.

For further details and enquiries about this meeting please contact Tanya Davies, 01452 396125, tanya.davies@gloucester.gov.uk.

For general enquiries about Gloucester City Council’s meetings please contact Democratic Services, 01452 396126, democratic.services@gloucester.gov.uk.

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If the fire alarm sounds continuously, or if you are instructed to do so, you must leave the building by the nearest available exit. You will be directed to the nearest exit by council staff. It is vital that you follow their instructions:

- You should proceed calmly; do not run and do not use the lifts;
- Do not stop to collect personal belongings;
- Once you are outside, please do not wait immediately next to the building; gather at the assembly point in the car park and await further instructions;
- Do not re-enter the building until told by a member of staff or the fire brigade that it is safe to do so.

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Meeting:	Licensing Sub-Committee	Date:	21 September 2016
Subject:	Notification of a Temporary Event Notice by Romell Eastwood on behalf of All Nations Community Centre		
Report Of:	Head of Public Protection		
Wards Affected:	Barnwood		
Contact Officer:	Rebecca Tuck – Licensing and Enforcement Officer		
	Email: Rebecca.Tuck@Gloucester.gov.uk	Tel: 396678	
Appendices:	1. Objection received from the Environmental Protection Team		

FOR GENERAL RELEASE

1.0 Introduction

- 1.1 The Licensing Act 2003 (“the 2003 Act”) allows a person (“premises user”) wishing to hold an event at which licensable activities are carried on, to give notice to the Council of the event known as a temporary event notice (“TEN”).
- 1.2 The TEN, in effect, exempts the premises user from the need for a licence, in order that licensable activities can take place.
- 1.3 The premises user must, in addition to the Council, also serve copies of the notice on Gloucestershire Constabulary and the Council’s Environmental Protection Team responsible for noise nuisance.
- 1.4 On this occasion, an objection has been received from the Council’s Environmental Protection Team shown as **Appendix 1** to this report.
- 1.5 The Sub-Committee is asked to consider the objection notice in relation to the TEN and decide what appropriate action to take.
- 1.6 The notification has been made by Rommel Eastwood for a TEN at the All Nations Community Centre, 63-64 Chase Lane, Eastern Avenue, Gloucester GL4 6PH on 24th September 2016 into 25th September 2016 between 21:00 and 05:00 under section 100 of the Licensing Act 2003. A copy of the notification is attached at **item 4** of this agenda.

2.0 Recommendation

- 1.5 The Sub-Committee having regard to the objection notice and the evidence it hears, must take such steps as it considers appropriate for the promotion of the licensing objectives which can include:
- a) Serving a counter-notice if the Sub-Committee is satisfied that the promotion of the licensing objectives will adversely be affected by the TEN; or
 - b) Do nothing if the Sub-Committee does not accept the objection notice submitted by Mr Mason of the Environmental Protection Team. The Sub-Committee does not have the power to modify a TEN. In relation to the ability of the objector to do so (in accordance with paragraph 4.5 below), Members are to note that the TEN in question has not been modified.

3.0 The Notification

- 3.1 A TEN may be served by any person for licensable activities which it is intended will take place other than under a licence issued. The person making that notice is the premises user. The notice has to be given to the licensing authority and other 'relevant persons' not less than ten working days before the event.
- 3.2 Only 'relevant persons' can object to a TEN. The following are 'relevant persons'.
- (a) The chief officer of police for any police area in which the premises are situated,
 - (b) The local authority by which statutory functions are exercisable in any area in which the premises are situated in relation to minimising or preventing the risk of pollution of the environment or of harm to human health.
- 3.3 Objection notices must be given before the end of the third working day following the day on which the relevant person is given a copy of the TEN.
- 3.4 On 6th September 2016 a TEN was received by Gloucester City Council's Licensing Team from Mr Rommel Eastwood the Designated Premises Supervisor at the All Nations Community Centre. The notice stated the event was for a private party on Saturday 24th into Sunday 25th September 2016 between 21:00 and 05:00.
- 3.5 The TEN is for the sale by retail of alcohol, the supply of alcohol by or on behalf of a club to, or to the order of, a member or a club, The provision of regulated entertainment and the provision of late night refreshment.
- 3.6 Mr Eastwood is a personal licence holder and his licence was issued by Solihull Metropolitan Borough Council on 16 November 2011.

4.0 Objections

- 4.1 Section 104 of the 2003 Act (as amended by section 112 of the Police Reform and Social Responsibility Act 2001) permits both the Chief Officer of the Police and the Council's Environmental Protection team to serve an objection notice to a TEN on the basis of any of the four licensing objectives.
- 4.2 On this occasion on the 9th September 2016 an objection notice was received from the Environmental Protection team for Gloucester City Council. The EP objection is made on the grounds of the Prevention of Public Nuisance. A copy of the objection notice can be found at **Appendix 1** of this report.
- 4.3 No objection notice was received from the Police within the statutory period prescribed by the Act.
- 4.4 Members are asked to consider this objection and what course of action should be taken in order to promote the licensing objectives. If the Sub-Committee decide to serve a counter notice then the effect of the counter notice would be that the licensable activities which are the subject of the TEN in question would NOT be permitted by that TEN.
- 4.3 At any time prior to the hearing, relevant persons may, with the agreement of the premises user, modify the TEN by making changes to the notice (for example, by changing the details of the parts of the premises that are to be used for the event, or, the description of the nature of the intended activities or their duration). EP and the Police must be in agreement for the modification to be made. The objection notice shall be treated as having been withdrawn from the time the temporary event notice is modified.
- 4.4 The Environmental Protection Team and the premises user have been invited to attend the hearing.

5.0 Financial Implications

- 5.1 The statutory fee of £21.00 has been paid. Should a counter notice be served there is a right of appeal to the Magistrates' Court. Should an appeal be successful the Magistrates' may make an order for costs.

6.0 Legal Implications

- 6.1 The Sub-Committee should have regard to the Home Office Guidance under section 182 of the Licensing Act 2003 and the Gloucester City Council's licensing policy statement.
- 6.2 The committee must determine this matter with a view to the promotion of the four licensing objectives which are:
- The Prevention of Crime and Disorder
 - Public Safety
 - The Prevention of Public Nuisance
 - The Protection of Children from Harm

- 6.3 Each objective is of equal importance. There are no other statutory licensing objectives, so the promotion of the four objectives is a paramount consideration at all times.
- 6.4 The Sub-Committee must also have regard to the objection notice and the evidence it hears.
- 6.5 The Sub-Committee must take such of the following steps as it considers appropriate for the promotion of the licensing objectives:
- (a) Decide to serve a counter notice
 - (b) Decide not to serve a counter notice
- 6.6 In accordance with the provisions of Part 3 of Schedule 5 of the Act, where the licensing authority gives a counter-notice under section 105, the premises user may appeal against the decision. Where the authority does not give a counter notice, the relevant person who gave the objection notice may appeal against the decision. In both cases, appeals must be made to a Magistrates' Court within 21 days of receiving notification of the decision; however, no appeal can be brought less than 5 working days prior to the proposed event day.

7.0 Risk & Opportunity Management Implications

- 7.1 There is a right of appeal to the Magistrates Court for both the premises user and the Chief of Police or Environmental Protection Team. Costs may be awarded against the Council on successful appeal if the Council has not acted reasonably.

8.0 People Impact Assessment (PIA):

- 8.1 The Screening Stage considered risks to 'premises users' in the areas of gender, disability, age, ethnicity, religion, sexual orientation or community cohesion.
- 8.2 The PIA Screening Stage was completed and did not identify any potential or actual negative impact, therefore a full PIA was not required.

9.0 Other Corporate Implications

Community Safety

- 9.1 None at this stage

Sustainability

- 9.2 None at this stage

Staffing & Trade Union

- 9.3 None.

Background Papers : Gloucester City Council Licensing Hearing Procedure
Published Papers : Licensing Act 2003
 Licensing Act 2003 (Hearings) Regulations 2005 Gloucester
 City Council Licensing Policy Statement Home Secretary
 (Home Office) Guidance issued under section 182 of the
 Licensing Act 2003 (March 2015)

From: Alex V. Mason
Sent: 09 September 2016 15:58
To: > EHLIC
Cc: Matt Cloke; Wayne Best
Subject: Objection to ANC TEN for 24th Sept 16

Good Afternoon Becky,

I am emailing you the below representation which forms the basis of my objection to the above Temporary Event Notice.

Recent Complaints:

- Saturday 20th August 2016 – Jamaican Independence Day – loud music audible in complainants home between 10:30hrs on the 20th until 04:00hrs on 21st - Roof can be heard vibrating – This was a TEN
- Saturday 27th August 2016 – loud music audible in complainants home until 04:00hrs on the 28th - This was a TEN.
- Monday 29th August 2016 – email received from complainant at 21:30hrs advising that loud music had been playing since early evening – continued until the early hours
- Saturday 3rd September 2016 – email received from complainant at 23:09 advising that loud music was clearly audible in their home – continued until the early hours.

Two different complainants provided the above information.

Previously approved TEN already scheduled for Saturday 17th September whilst an event is also being advertised for this Saturday the 10th September which given the above will likely indicate loud music and subsequent complaints. The EP Team will be trying to evidence how loud the music is at complainants properties during these two weekends.

Premises License permits music until 3am whilst the TEN's applied for allow music until 5am or later. Night time hours are generally accepted to start at 23:00hrs and so the club should be taking precautions to ensure that music is not audible at residential properties especially after this time although it must be mentioned that there is no acceptable time to cause a noise nuisance.

Events are becoming increasingly popular at the ANC and complaints are starting to be received on a weekly basis regarding loud music emanating from the club. The complaints all advise that the roof of the club physically vibrates whilst the bass tones are clearly audible above the television or conversation in their homes and gardens. The complainants homes are approximately 60m away from the club and are behind the rail line which indicates the level of the music.

The club does have a noise limiter which was set by previous members of the EP Team. At this moment in time it unclear whether the limiter is still being used in line with the premises license but is something that is proposed to be tested next week.

I trust this information is of assistance for you when arranging a committee hearing. Please come back to me with any questions or queries.

Kind Regards,

Alex

Alex Mason
Environmental Health Officer

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