

# Gloucester City Council

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

## 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 24<sup>th</sup> September 2016 into 25<sup>th</sup> 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 24<sup>th</sup> into Sunday 25<sup>th</sup> 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 9<sup>th</sup> 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)