

# ITEM 3

## Licensing Sub-Committee

8<sup>th</sup> November 2006

Report of: Licensing Officer  
Application: Temporary Event Notices  
Application 92154 & 92155  
Reference No:

### 1. APPLICATION

#### Summary of Application

Temporary Event Notices covering Saturday 18 November and Saturday 25 November at the Red House, 1 Wolverton Road, Newport Pagnell.

#### Proposed Activities

Sale by retail of alcohol; Provision of Regulated Entertainment

#### Proposed duration of event and proposed hours

19.00 to 00:00

### 2. BACKGROUND INFORMATION

The proposed premise user is a personal licence holder. The Red House has a premise licence on Saturdays for the supply of alcohol until 23:00, Late Night Refreshment until 23.30 and Recorded Music (unrestricted)

The temporary event notices are to cover parties and will include a Disco and Karaoke.

Copies of the applications are included in Annex A and B.

The proposed premise user Dorothy Bennett holds the premise licence for the Red House and is the Designated Premise Supervisor.

Dorothy Bennett has previously had 7 Temporary Event notices since January 2007 not included these two applications.

3 of these were held at the Green Man Public House, Newport Pagnell, 3 at the Red House and 1 at Moulsoe Village Hall.

Details of licence reviews:

Not applicable

### **3. PROMOTION OF LICENSING OBJECTIVES**

Not applicable

### **4. RESPONSIBLE AUTHORITIES**

Only Thames Valley Police can object to a Temporary Event Notice.

The police must be satisfied that using the premise in the accordance with the notice would undermine the crime prevention objective. A copy of the objection notice is provided in Annex C.

### **5. POLICY CONSIDERATIONS**

#### **The following paragraphs of the Licensing Authorities Statement of Licensing Policy apply to this application:**

3.2 The following factors will also be given due weight: -

- Each application will be determined on its own merits having regard to guidance issued under Section 182 of the Licensing Act 2003, and local criteria. The former will take precedence;
- The rules of natural justice will be applied at all times.
- The right of any individual, or body to apply for a variety of permissions is not undermined.
- The statutory right of any interested party or responsible authority to make appropriate representations or to seek a review in respect of an application where appropriate is accepted.
- The direct impact of the activities taking place at the licensed premises on members of the public living, working, or engaged in normal activity at or in the vicinity of the premises. (Note “ in the vicinity” will be decided upon by officers and members of the Licensing Authority as considered appropriate when considering an application, having regard to the characteristics of the neighbourhood) will be given due weight.

7.3.1 Under Section 17 of the Crime and Disorder Act 1998, local authorities must have regard to the likely effect of carrying out of their functions on crime, disorder and anti-social behaviour; doing all they reasonably can to prevent these matters occurring.

1.0 It should be noted that the Licensing Act 2003 also empowers a senior police officer e.g. an Inspector to close licensed premises in a number of circumstances e.g. when disorder is taking place, or is likely to take place imminently or a nuisance is being caused by noise emanating from the premises.

1.0.0 When determining applications the Licensing Authority will have regard

to any Guidance issued by the Department for Culture, Media and Sport (DCMS).

## **20.6 Permitted Temporary Activities (Temporary Event Notices)**

1.0.0 The Licensing Act 2003 provides for certain occasions when small - scale events where no more than 500 people at a time attend and last for up to 96 hours do not need a licence only if advance notice is given to the Police and the Licensing Authority. The Police can only object to a Temporary Event Notice if the event is likely to undermine the crime and disorder objective.

The Committee is reminded that the Human Rights Act 1998 guarantees the right to a fair hearing for all parties in the determination of their civil rights. The Act also provides for the protection of property, which may include licences in existence, and the protection of private and family life.

### **0. Permitted Temporary Activities**

#### **2.1 Temporary Events Notices**

2.1.1 Where it is intended to use premises for one or more licensable activities during a period of not more than 96 hours (four days) an individual may use the Temporary Event Notice procedure giving the Licensing Authority and the Chief Officer of Police 10 working days notice.

2.1.2 The notice must contain details of:

- a) The relevant licensable activities;
- b) The 'event period';
- c) The numbers attending, (not more than 499 people are permitted at any one time);
- d) If alcohol is to be supplied, whether the consumption will be on the premises, off the premises, or both.

2.1.3 There must be a break of at least 24 hours between consecutive event periods. There are limits prescribed in respect of the number of temporary event notices that can be applied for by the relevant premises user. However, there is nothing to prevent the simultaneous notification of multiple events at a single time so long as the first event is at least ten days away. For example, an individual personal licence holder wishing to exhibit and sell beer at a series of country shows may wish to give several notices simultaneously. However, this would only be possible where all the events are to take place in Milton Keynes.

2.1.5 The most important aspects of the system of temporary event notices are that no permission is required for these events from the Licensing Authority. In general, only the Police may intervene to prevent such an event or modify the arrangements for such an event.

- 2.1.6 The Licensing Authority will only ever intervene if the statutory limits on the number of notices that may be given in various circumstances would be exceeded.
- 2.1.9 The Licensing Authority cannot attach any terms, limitations or restrictions on such events other than those set down in the legislation. However, the Licensing Authority will provide advice about proper respect for the concerns of local residents and of other legislative requirements regarding health and safety, noise pollution, temporary structures; or other necessary permissions, e.g. road closures or the need to prevent anti-social behaviour by those attending.
- 2.1.11 A purpose of the notification requirement is to enable the Licensing Authority to check that the limitations set down in the Act are being observed and to intervene if they are not. Where the application exceeds the permitted limits etc the Licensing Authority will issue a counter notice to the premises user. However, where the notice is in order, the prescribed fee paid, the event falls within the limitations in the Act and there has been no police intervention, then the Licensing Authority will record the notice in its register and send an acknowledgement to the premises user.

## 2.2 **Police intervention**

- 2.2.1 The Police have the opportunity to consider whether in exceptional circumstances they should prevent the event taking place for reasons of preventing crime and disorder, or insist on certain conditions. Such exceptional cases might arise because of concerns about the scale, location or timing of the event.
- 2.2.2 The Act provides that in exceptional circumstances, the Police may issue an objection notice because they believe the event would undermine the crime prevention objective. It must be issued within 48 hours of being notified, but can be withdrawn if satisfactory negotiations take place. The issuing of such an objection notice requires the consideration of the objection by the Licensing sub committee at a hearing. Consideration by the Licensing Authority is confined to the crime prevention objective only. At the hearing, the Police and the premises user may put arguments to the Licensing sub Committee, following which a “counter notice” may be issued by the Licensing Authority as an outcome of the hearing.
- 2.2.3 A hearing would not be necessary if the Police withdrew the objection notice. If the Police do not intervene, they will still be able to rely on their powers of closure should disorder or disturbance subsequently arise.

**The following paragraphs of the Licensing Act 2003 apply to this application**

**The following paragraphs of the Secretary of States Guidance apply to this application**

8.16 The second and more important purpose of the notification requirement is to afford the police the opportunity to consider whether they should object to the event taking place for reasons of preventing crime and disorder. Such cases might arise because of concerns about the scale, location or timing of the event. The general run of cases where alcohol is supplied away from licensed premises at a temporary bar under the control of a personal licence holder (e.g. at weddings or small social, community, charitable or sporting events) should not give rise to the use of these police powers. The 2003 Act provides that the police may issue an objection notice because they believe the event would undermine the crime prevention objective set out in the Act. The police must issue any objection notice within 48 hours of being notified, but they can subsequently withdraw their objection notice. If the police do not intervene, they will still be able to rely on their powers of closure under Part 8 of the 2003 Act should disorder or noise nuisance subsequently arise. The issuing of such an objection notice requires the consideration of the objection by the licensing authority at a hearing. Consideration by the licensing authority is confined to the crime prevention objective. It may not, for example, uphold a police objection notice on grounds of public nuisance. At the hearing, the police and the premises user may be heard by the relevant licensing committee. A hearing would not be necessary if the objection notice is withdrawn by the police.

8.18 The police may withdraw their objection notice at any stage if the proposed premises user agrees to modify his proposal to meet their concerns. For example, if the premises user agrees to modify the period during which alcohol may be sold. The licensing authority will then be sent or delivered a copy of the modified notice by the police as proof of their agreement

8.23 In October 2001, the Government issued non-statutory Guidance to police officers in respect of section 17 of the Criminal Justice and Police Act 2001 (which amended the Licensing Act 1964), which concerned their powers to close without notice for up to 24 hours certain licensed premises that were disorderly, likely to become disorderly or causing disturbance by excessive noise. The 2003 Act extended these powers to include in addition premises covered by temporary event notices. That original Guidance has been replaced to reflect the terms of Part 8 of the 2003 Act and the details are set out in Chapter 11 of this Guidance. The powers in section 17 of the 2001 Act also only related to premises selling alcohol for consumption on the premises. These powers now extend to premises being used under a temporary event notice in respect of any licensable activity under the Licensing Act 2003

**6. OFFICERS OBSERVATIONS**

The objection and any decision to refuse the application must be confined to

the crime prevention objective.

If the objection is upheld then the Licensing Authority must issue a counter notice and also a decision notice stating the reasons for its decision.

Further details requested of the applicant prior to the hearing:

1. Further details on any incidents occurring on dates where you have previously held a Temporary Event Notice.
2. Additional controls you put in place during events covered by Temporary Event Notices to promote the Crime and Disorder licensing objective

Further details requested of Thames Valley Police prior to the hearing:

1. How the crime prevention objective would be undermined should the Temporary Event Notice be granted.
  2. Further details on the incident the Police were called to on the 15/10 at 02.17hrs as detailed in the representation
1. The premise had a Temporary Event Notice on the 27<sup>th</sup> – 28<sup>th</sup> October 2006 whether any issues arose from these events.

## **8. ASSOCIATED PAPERS**

None

### Contact Officer

For further information on this application please contact Claire Affleck on telephone 01908 252372 or e-mail: [Claire.affleck@milton-keynes.gov.uk](mailto:Claire.affleck@milton-keynes.gov.uk)