

AGENDA

LICENSING SUB-COMMITTEE MEETING

Date: Monday, 18 April 2016

Time: 10.30 am

Venue: Assembly Room, Swale House, East Street, Sittingbourne, Kent, ME10 3HT

Membership:

Councillors Bobbin, Paul Fleming and Lesley Ingham.

Quorum = 3

	Pages
1. Fire Evacuation Procedure	
<p>The Chairman will advise the meeting of the evacuation procedures to follow in the event of an emergency. This is particularly important for visitors and members of the public who will be unfamiliar with the building and procedures.</p> <p>The Chairman will inform the meeting whether there is a planned evacuation drill due to take place, what the alarm sounds like (i.e. ringing bells), where the closest emergency exit route is, and where the second closest emergency exit route is, in the event that the closest exit or route is blocked.</p> <p>The Chairman will inform the meeting that:</p> <p>(a) in the event of the alarm sounding, everybody must leave the building via the nearest safe available exit and gather at the Assembly points at the far side of the Car Park; and</p> <p>(b) the lifts must not be used in the event of an evacuation.</p> <p>Any officers present at the meeting will aid with the evacuation.</p> <p>It is important that the Chairman is informed of any person attending who is disabled or unable to use the stairs, so that suitable arrangements may be made in the event of an emergency.</p>	
2. Apologies for Absence and Confirmation of Substitutes	
3. Notification of Chairman and Outline of Procedure	

4. Declarations of Interest

Councillors should not act or take decisions in order to gain financial or other material benefits for themselves or their spouse, civil partner or person with whom they are living with as a spouse or civil partner. They must declare and resolve any interests and relationships.

The Chairman will ask Members if they have any interests to declare in respect of items on this agenda, under the following headings:

(a) Disclosable Pecuniary Interests (DPI) under the Localism Act 2011. The nature as well as the existence of any such interest must be declared. After declaring a DPI, the Member must leave the meeting and not take part in the discussion or vote. This applies even if there is provision for public speaking.

(b) Disclosable Non Pecuniary (DNPI) under the Code of Conduct adopted by the Council in May 2012. The nature as well as the existence of any such interest must be declared. After declaring a DNPI interest, the Member may stay, speak and vote on the matter.

Advice to Members: If any Councillor has any doubt about the existence or nature of any DPI or DNPI which he/she may have in any item on this agenda, he/she should seek advice from the Director of Corporate Services as Monitoring Officer, the Head of Legal or from other Solicitors in Legal Services as early as possible, and in advance of the Meeting.

5. Review of premises licence under the Licensing Act 2003

To review an application for a Temporary Events Notice to extend the licensable hours from 01:00 – 03:00 at Sittingbourne Snooker Club, 7-11 High Street, Sittingbourne, Kent.

Issued on Friday, 8 April 2016

The reports included in Part I of this agenda can be made available in **alternative formats**. For further information about this service, or to arrange for special facilities to be provided at the meeting, **please contact DEMOCRATIC SERVICES on 01795 417330**. To find out more about the work of this Committee, please visit ww.swale.gov.uk

Director of Corporate Services, Swale Borough Council,
Swale House, East Street, Sittingbourne, Kent, ME10 3HT

Swale Borough Council

Report to: Licensing Sub – Committee (Under the Licensing Act 2003)
Date: 18th April 2016
Report Author: Angela Seaward – Senior Licensing Officer
Subject: Mr Bradley Wright, Sittingbourne Snooker Ltd, 7-11 High Street, Sittingbourne, Kent

Purpose and summary of report:

To consider an objection received from Kent Police 6th April 2016 following a TEN given on 5th April 2016 for a Drum and Base night by Mr Bradley Wright for Sittingbourne Snooker Club on 30th April 2016 – 1st May 2016 from 20:00 – 03:00. Reference number SWALE-TEN-3149

Recommendations:

The Committee is asked to determine this matter and decide whether to:

- (i) issue a counter notice ,(refuse the TEN event) if it is appropriate for the promotion of the licensing objectives to do so.
- (ii) If the decision is not to give a counter notice, the TEN may have conditions imposed if it is considered appropriate for the promotion of the licensing objectives to do so, and the conditions would not be inconsistent with the carrying out of the licensable activities under the TEN. (The conditions are also imposed on the premises licence that has effect for the same premises).
- (iii) decide not to issue a counter notice or impose conditions,(allow the event as set out in the TEN).

Members are asked to consider the application on its merits.

Background papers: The Licensing Act 2003
DCMS Guidance Documents issued under Section 182 of the Licensing Act 2003 as amended.
Swale Borough Council Statement of Licensing Policy.

Contacts: Angela Seaward at angelaseaward@swale.gov.uk
Telephone: 01795 417534

The Licensing Act 2003 Act requires the Council to publish a 'Statement of Licensing Policy' that sets out the policies the Council will general apply to promote the licensing objectives when making decision on applications made under the Act. The Policy will be available at the meeting for reference purposes.

Under the 2003 Act, it is the duty of all licensing authorities that, in carrying out their functions, they 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 its 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. Should the need arise the Guidance will be available at the meeting for reference purposes.

The Licensing Authority must, under the Act refer any TEN given for hearing to the Licensing Sub Committee, if objection notice is given by a relevant person. A copy of the Council's approved procedure for hearings, along with a copy of the Hearings Regulations has been circulated to all parties prior to the meeting.

Report Title: Mr Bradley Wright, Sittingbourne Snooker Ltd 7-11 High Street,
Sittingbourne, Kent

Temporary Event Notice.

Purpose of the report

The report advises Members of a Temporary Event Notice (Appendix A) given under the Licensing Act 2003 by Mr Bradley Wright in respect of premises at Sittingbourne Snooker Club, 7-11 High Street, Sittingbourne, a premises already having a premises licence (Appendix C), for a Drum and Base Night in respect of which an objection (Appendix B) has been received from Kent Police.

Issues to be decided

1. Members are asked to determine this matter in accordance with the options set out under recommendations above.
2. The relevant statutory provisions are sections 98 to 110 inclusive of the Licensing Act 2003. The applicable Licensing Objectives are as follows;
 - the prevention of crime and disorder;
 - the protection of public safety;
 - the prevention of public nuisance: and
 - the protection of children from harm
3. Members are advised that they may only issue a counter notice if it is appropriate for the promotion of a licensing objective
4. The relevant section of the Guidance issued under section 182 of the Licensing Act 2003 (revised guidance March 2015) is chapter 7, which is attached to this report as appendix E

The TEN

- a. On 5th April 2016 an application was received from Mr Bradley Wright for a Temporary Event Notice in respect of premises, Sittingbourne Snooker Club at 7-11 High Street, Sittingbourne, Kent. This for a Drum and Base Night to be held on Saturday 30th April 2016 – 1st May 2016 from 20:00 – 03:00.

b. Objection

Relevant Person :

- Kent Police– Objection is shown as Appendix B
- Kent Police indicate their satisfaction that if the premises were allowed to be used in accordance with the TEN it would undermine the following licensing objectives: prevention of crime and disorder, public safety and prevention of public nuisance. Their reasons are as follows :

“It is the opinion of Kent Police licensing that a TEN is intended for small scale one off events as described in the guidance under section 182 of the Licensing Act 2003 rather than to extend the hours of a licensed premise.

This premise is currently being reviewed by Kent Police because the premise is not operating in line with the licensing objectives and has been breaching the conditions of the licence despite regular intervention from both Police and Council Licensing Officers.

The applicant has already highlighted to Licensing Officers recently that he knows that the period of time when there are most likely to be outbreaks of Crime and Disorder is between the hours of 01:00 hours and 03:00 hours and the event being proposed is a Drum and Bass night. These events attract a particular clientele who feel that rules do not apply to them and similar events in Kent have been objected to and stopped at premises that are well run. This premise has had several incidents recently which have come to the attention of both Police and Council Licensing officers including persons using drugs, serious assault and irresponsible drinking. Those that attend these events often use drugs as evidenced at previous events by Police Licensing Officers and the patrons often start fighting both in and outside the premise causing a public nuisance, crime and disorder and affecting the public safety of those around them

The applicant has stated that there will be 8 SIA door staff and that all drinks will be served in plastic glasses for the entire event, and that it will be a ticketed event with 400 attendees including staff. Currently the premise is still in breach of Fire Safety Regulations and has had the capacity numbers reduced to 300 persons, any increase in that number would be a clear breach of the public safety objective.

Kent Police object to the Temporary Event Notice in relation to this event due to the lack of promoting of the licensing objectives.”.

- Members will see that Kent Police refer to intervention by both Police and Council Licensing Officers. Your Officers confirm that the premises were visited 3rd March 2016 following a pilot carried out on 27th February 2016 where some breaches to the licence were found. An action plan was agreed and sent on 4th March 2016 for a period of 4 months to rectify the situation. This has almost been completed with the full co-operation of the premises licence holder.

Policy Considerations

The following paragraphs of the Council’s Statement of Licensing Policy apply to this application:

Section 19 – Temporary Event Notices.

Crime and Disorder

Members of the Licensing Act 2003 – Licensing Sub – Committee are reminded of their duty under the Section 17 of the Crime and Disorder Act 1989 to consider the crime and disorder implications of their decisions and the Licensing Authority’s responsibility to co-operate in the reduction of crime and disorder in the Borough.

Section 17 of the Crime and Disorder Act 1998 states:

“Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those function on, and the need to do all that is reasonably can to prevent crime and disorder in its area”.

Implications Assessment

The decision should be made with regard to the Secretary of the State's guidance and the Council's Statement of Licensing Policy under the Licensing Act 2003. Where the decision departs from either the Guidance or the Policy clear and cogent reasons must be given. Members should be aware that if such a departure is made the risk of appeal / challenge is increased.

Human Rights

While all Convention Rights must be considered, those which are of particular relevance to the application are:

- Article 6(1) – Right to a fair hearing.
- Article 10 – Freedom of Expression

Recommendations

Members must ensure that the application is considered on its merits, as well as against the relevant guidance, policy and statutory framework.

8. List of Appendices

- Appendix A – TEN
- Appendix B - Objection from the Police.
- Appendix C - Current Licence for Sittingbourne Snooker Ltd Premises.
- Appendix D - Plan of area
- Appendix E - Guidance Chapter 7
- Appendix F - Section 19 SoLP
- Appendix G - HRA Articles
- Appendix H - Order of proceedings

5. Appeals

All parties to the hearing will receive written notice of the decision. The written notice will be given at least 24 hours before the beginning of the event period specified in the TEN. The parties may appeal the Licensing Act 2003 Sub Committee's decision within 21 days beginning with the day on which the Appellant was Notified by the Licensing Authority of the decision appealed against subject to the appeal being brought at least 5 working days before the day on which the event is proposed to commence. All/any appeals must be lodged with the Magistrates' Court. Parties should be aware that they MAY incur an adverse Cost Order should they bring an appeal.

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SCHEDULE

Regulation 2

Temporary Event Notice

Before completing this notice please read the guidance notes at the end of the notice. If you are completing this notice by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written or typed in black ink. Use additional sheets if necessary.

You should keep a copy of the completed notice for your records. You must send at least one copy of this notice to the licensing authority and additional copies must be sent to the chief officer of police and the local authority exercising environmental health functions for the area in which the premises are situated. The licensing authority will give to you written acknowledgement of the receipt of the notice.

I, the proposed premises user, hereby give notice under section 100 of the Licensing Act 2003 of my proposal to carry on a temporary activity at the premises described below.

1. The personal details of premises user (Please read note 1)			
1. Your name			
Title	Mr <input checked="" type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other (please state)		
Surname	WRIGHT		
Forenames	BRADLEY MARC		
2. Previous names (Please enter details of any previous names or maiden names, if applicable. Please continue on a separate sheet if necessary)			
Title	Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other (please state)		
Surname			
Forenames			
3. Your date of birth		Day	Month
			Year 1986
4. Your place of birth		Chatham	
5. National Insurance Number			
6. Your current address (We will use this address to correspond with you unless you complete the separate correspondence box below)			
7-11 High Street Sittingbourne Kent ME10 4AY			
Post town		Post code	
Sittingbourne		ME10 4AY	
7. Other contact details			
Telephone numbers		[REDACTED]	
Daytime		[REDACTED]	
Evening (optional)		[REDACTED]	
Mobile (optional)		[REDACTED]	
Fax number (optional)		[REDACTED]	
E-Mail Address (if available)		[REDACTED]	
8. Alternative address for correspondence (If you complete the details below, we will use this address to correspond with you)			

RECEIVED
05 APR 2016

PAID
05 APR 2016
£21.00
CHP.

Post town		Post code
9. Alternative contact details (if applicable)		
Telephone numbers: Daytime		
Evening (optional)		
Mobile (optional)		
Fax number (optional)		
E-Mail Address (if available)		

2. The premises	
Please give the address of the premises where you intend to carry on the licensable activities or if it has no address give a detailed description (including the Ordnance Survey references) (Please read note 2)	
<p style="text-align: center;">Sittingbourne Snooker Club 7+11 High Street Sittingbourne ME10 4AY</p>	
Does a premises licence or club premises certificate have effect in relation to the premises (or any part of the premises)? If so, please enter the licence or certificate number below.	
Premises licence number	SIT / SWALE / 189 / 0004
Club premises certificate number	
If you intend to use only part of the premises at this address or intend to restrict the area to which this notice applies, please give a description and details below. (Please read note 3)	
<p style="text-align: center;">/</p>	
Please describe the nature of the premises below (Please read note 4)	
<p style="text-align: center;">Snooker Club</p>	
Please describe	
2 Floor Drum and Bass Night TICKET ONLY EVENT 8:00PM - 3:00AM 8 SIT DOOR STAFF AND ALL DRINKS SERVED IN PLASTICS FOR DURATION OF EVENT.	

3. The licensable activities

Please state the licensable activities that you intend to carry on at the premises (please mark an "X" next to the licensable activities you intend to carry on). (Please read note 6)

The sale by retail of alcohol	<input checked="" type="checkbox"/>
The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club	<input type="checkbox"/>
The provision of regulated entertainment	<input checked="" type="checkbox"/>
The provision of late night refreshment	<input checked="" type="checkbox"/>
Are you giving a late temporary event notice? (Please read note 7)	<input type="checkbox"/>

Please state the dates on which you intend to use these premises for licensable activities. (Please read note 8)

30th APRIL 8:00PM - 1st MAY 3:00AM

Please state the times during the event period that you propose to carry on licensable activities (please give times in 24 hour clock). (Please read note 9)

20:00 - 03:00

Please state the maximum number of people at any one time that you intend to allow to be present at the premises during the times when you intend to carry on licensable activities, including any staff, organisers or performers. (Please read note 10)

400

If the licensable activities will include the supply of alcohol, please state whether the supplies will be for consumption on or off the premises, or both (please tick as appropriate). (Please read note 11)	On the premises only	<input checked="" type="checkbox"/>
	Off the premises only	<input type="checkbox"/>
	Both	<input type="checkbox"/>

Please state if the licensable activities will include the provision of relevant entertainment. If so, please state the times during the event period that you propose to provide relevant entertainment. (Please read note 12)

20:00 - 03:00 AM


4. Personal licence holders (Please read note 12)			
Do you currently hold a valid personal licence? (Please tick)		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
If "Yes" please provide the details of your personal licence below.			
Issuing licensing authority	SWALE BOROUGH COUNCIL		
Licence number	SWALE - PL - 1611		
Date of issue			
Date of expiry	19/3/2025		
Any further relevant details			

5. Previous temporary event notices you have given (Please read note 13)		
Have you previously given a temporary event notice in respect of any premises for events falling in the same calendar year as the event for which you are now giving this temporary event notice?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
If answering yes, please state the number of temporary event notices (including the number of late temporary event notices, if any) you have given for events in that same calendar year	1	
Have you already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>


6. Associates and business colleagues (Please read note 14)		
Has any associate of yours given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If answering yes, please state the total number of temporary event notices (including the number of late temporary event notices, if any) your associate(s) have given for events in the same calendar year	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Has any associate of yours already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Has any person with whom you are in business carrying on licensable activities given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If answering yes, please state the total number of temporary event notices your business colleague(s) have given for events in the same calendar year.		
Has any person with whom you are in business carrying on licensable activities already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

7. Checklist (Please read note 15)	
I have (Please tick the appropriate boxes)	
Sent at least one copy of this notice to the licensing authority for the area in which the premises are situated	<input type="checkbox"/>
Sent a copy of this notice to the chief officer of police for the area in which the premises are situated	<input type="checkbox"/>
Sent a copy of this notice to the local authority exercising environmental health functions for the area in which the premises are situated	<input type="checkbox"/>
If the premises are situated in one or more licensing authority areas, send at least one copy of this notice to each additional licensing authority	<input type="checkbox"/>
If the premises are situated in one or more police areas, send a copy of this notice to each additional chief officer of police	<input type="checkbox"/>
If the premises are situated in one or more local authority areas, send a copy of this notice to each additional local authority exercising environmental health functions	<input type="checkbox"/>
Make or enclose payment of the fee for the application	<input type="checkbox"/>
Sign the declaration in Section 9 below	<input type="checkbox"/>

8. Condition (Please read note 16)
It is a condition of this temporary event notice that where the relevant licensable activities described in Section 3 above include the supply of alcohol that all such supplies are made by or under the authority of the premises user.

9. Declarations (Please read note 17)	
The information contained in this form is correct to the best of my knowledge and belief.	
I understand that it is an offence:	
(i) to knowingly or recklessly make a false statement in connection with this temporary event notice and that a person is liable on conviction for such an offence to a fine up to level 5 on the standard scale; and	
(ii) to permit an unauthorised licensable activity to be carried on at any place and that a person is liable on conviction for any such offence to a fine not exceeding £20,000, or to imprisonment for a term not exceeding six months, or to both.	
Signature	
Date	5/4/2016
Name of Person signing	BRADLEY WRIGHT

For completion by the licensing authority

10. Acknowledgement (Please read note 18)	
I acknowledge receipt of this temporary event notice.	
Signature	 On behalf of the licensing authority
Date	5/4/2016
Name of Officer signing	Angela Seawood

NOTES

General

In these notes, a person who gives a temporary event notice is called a "premises user".

The police and local authority exercising environmental health functions may intervene on the grounds of any of the four licensing objectives (the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm) to prevent the occurrence of an event at which permitted temporary activities are to take place or to agree a modification of the arrangements for such an event. However, the licensing authority will intervene of its own volition in the cases described below.

First, it will issue a counter notice if there is an objection to a late temporary event notice (see note 7 below).

Secondly, it may issue a notice in relation to its decision to impose conditions on a temporary event notice (see note 2 below).

Thirdly, it will issue a counter notice if the first, second, third and fifth of the limits set out below would be exceeded. If any of the limits below are breached or if a counter notice has been issued, any licensable activities taking place would be unauthorised and the premises user would be liable to prosecution. The limitations apply to:

- the number of times a person may give a temporary event notice (50 times per year for a personal licence holder and 5 times per year for other people);
- the number of times a person may give a late temporary event notice (10 times per year for a personal licence holder and 2 times per year for other people);
- the number of times a temporary event notice may be given in respect of any particular premises (15 times in a calendar year);
- the length of time a temporary event may last for these purposes (168 hours or 7 days);
- the maximum aggregate duration of the periods covered by temporary event notices at any individual premises (21 days per calendar year);
- the scale of the event in terms of the maximum number of persons (one time (a maximum of 499)).

For the purposes of determining the overall limits of 50 temporary event notices per personal licence holder (in a calendar year) and of 5 for a non-personal licence holder (in a calendar year), temporary event notices given by an associate or a person who is in business with a premises user (and that business involves carrying on licensable activities) count towards those totals. The limits applying to late temporary event notices are included within the overall limits applying to the total number of temporary event notices. Note 15 below sets out the definition of an "associate".

When permitted temporary activities take place, a premises user must ensure that either:

- a copy of the temporary event notice is prominent
- the temporary event notice is kept at the premises in the custody of a person present and working at the premises and who has been nominated for that purpose.

Where the temporary event notice is in the custody of a nominated person, a notice specifying that fact and the position held by that person must be displayed prominently at the premises.

Where the temporary event notice or a notice specifying the nominated person is not displayed, a constable or an authorised person (for example, a licensing officer, fire officer or environmental health officer) may



Chief Officer of Police Objection Notice in relation to a Temporary Event Notice given under Part 5 Section 100 Licensing Act 2003)

Details of person making objection	
Name of Chief Officer of Police	Chief Superintendent Futers
Postal Address: (Divisional Headquarters)	Medway Police Station Purser Way Gillingham Kent ME7 1NE
E-mail address	licensing.north.division@kent.pnn.police.uk
Telephone Numbers:	
Licensing Co-ordinator	Geoff Rowley 01634 792733
Licensing Officers	Gill Angus 01634 792388
	Chris Hill 01634 792276
	Clare Cossar 01634 792411
Details of Temporary Event	
Date(s) of Event	30 th April – 1 st May 2016
Licensable Activities proposed	Sale of Alcohol provision of regulated entertainment and Late night Refreshment
Hours of Licensable activity	20:00 – 03:00
Name of Premises:	Sittingbourne Snooker Club
Address of premises:	7-11 High Street Sittingbourne Kent ME10 4AY
Date and time TEN received by Police	5 th April at 14:14
Date and time objection notice given to Licensing Authority and the premise user	6 th April 2016 at 11:05

The Chief Officer of Police has received a Temporary Event Notice under Section 100 Licensing act 2003, and under Section 104 of that Act asks the Licensing Authority to consider this objection in respect of: -

Prevention of crime and disorder	X
Public Safety	X
Prevention of public nuisance	X
Protection of children from harm	

Due to the circumstances of this case, I am satisfied that allowing the premise to be used in accordance with the notice would undermine the licensing objective(s)

It is the opinion of Kent Police licensing that a TEN is intended for small scale one off events as described in the guidance under section 182 of the Licensing Act 2003 rather than to extend the hours of a licensed premise.

This premise is currently being reviewed by Kent Police because the premise is not operating in line with the licensing objectives and has been breaching the conditions of the licence despite regular intervention from both Police and Council Licensing Officers.

The applicant has already highlighted to Licensing Officers recently that he knows that the period of time when there are most likely to be outbreaks of Crime and Disorder is between the hours of 01:00 hours and 03:00 hours and the event being proposed is a Drum and Bass night. These events attract a particular clientele who feel that rules do not apply to them and similar events in Kent have been objected to and stopped at premises that are well run. This premise has had several incidents recently which have come to the attention of both Police and Council Licensing officers including persons using drugs, serious assault and irresponsible drinking. Those that attend these events often use drugs as evidenced at previous events by Police Licensing Officers and the patrons often start fighting both in and outside the premise causing a public nuisance, crime and disorder and affecting the public safety of those around them

The applicant has stated that there will be 8 SIA door staff and that all drinks will be served in plastic glasses for the entire event, and that it will be a ticketed event with 400 attendees including staff. Currently the premise is still in breach of Fire Safety Regulations and has had the capacity numbers reduced to 300 persons, any increase in that number would be a clear breach of the public safety objective.

Kent Police object to the Temporary Event Notice in relation to this event due to the lack of promoting of the licensing objectives.

DC 9539 Angus
PP. Ch. Supt Adrian Futers
North Division Area Commander

Date: 6th April 2016



Swale Borough Council, Swale House, East Street,
Sittingbourne, Kent, ME10 3HT

Premises licence number

SIT/SWALE/189/0004

Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description

Sittingbourne Snooker Ltd
7-11 High Street

Post town	Sittingbourne, Kent	Post code	ME10 4AY
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Telephone number	01795 424040
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Where the licence is time limited the dates

N/A

Licensable activities authorised by the licence

Performance of Dance	(Indoors Only, main area and level 2 bar)
Provision of live & recorded music	(Indoors Only, main area and level 2 bar)
Facilities for Dancing	(Indoors Only, main area and level 2 bar)
Provision of late night refreshments	(Indoors Only, main area and level 2 bar)
Sale of alcohol on the premises	(Indoors Only, main area and level 2 bar)

The times the licence authorises the carrying out of licensable activities

Performance of Dance:	Monday – Wednesday & Sunday:	12:00hrs – 00:00hrs
	Sunday prior Bank Holiday Monday	12:00hrs – 00:30hrs
	Thursday:	12:00hrs – 01:00hrs
	Friday & Saturday	12:00hrs – 01:00hrs
	Live Music:	Monday – Wednesday & Sunday:
Sunday prior Bank Holiday Monday		12:00hrs – 00:30hrs
Thursday :		12:00hrs – 01:00hrs
Friday & Saturday:		12:00hrs – 01:00hrs

The times the licence authorises the carrying out of licensable activities continued

Recorded Music:	Can be played throughout opening hours.	
Facilities for Dancing:	Monday – Wednesday & Sunday:	12:00hrs – 00:00hrs
	Sunday prior Bank Holiday Monday	12:00hrs – 00:30hrs
	Thursday:	12:00hrs – 01:00hrs
	Friday & Saturday	12:00hrs – 01:00hrs
Late night refreshments:	Each night from 23:00hrs until close.	
Sale of alcohol:	Monday – Wednesday & Sunday:	12:00hrs – 00:00hrs
	Sunday prior Bank Holiday Monday	12:00hrs – 00:30hrs
	Thursday:	12:00hrs – 01:00hrs
	Friday & Saturday:	12:00hrs – 01:00hrs

The opening hours of the premises

Monday – Wednesday & Sunday:	12:00hrs – 00:00hrs
Sunday prior bank Holiday Monday	12:00hrs – 00:30hrs
Thursday:	12:00hrs – 01:00hrs
Friday & Saturday:	12:00hrs – 01:00hrs

Where the licence authorises supplies of alcohol whether these are on and/or off supplies

On and off the premises

Part 2

Name, (registered) address, telephone number and e-mail (where relevant) of holder of premises licence

Mr Bradley Wright
67 Periwinkle Close
Sittingbourne
Kent
ME10 2JU

Registered number of holder, for example company number, charity number (where applicable)

09422557

Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol

Mr Bradley Wright
67 Periwinkle Close
Sittingbourne
Kent
ME10 2JU

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises the supply of alcohol

SWALE-PL-1611
Swale Borough Council

Annex 1 – Mandatory Conditions

Condition 1

No supply of alcohol may be made under this licence:-

- (a) At a time when there is no designated premises supervisor in respect of it or
- (b) At a time when the designated premises supervisor does not hold a personal licence or his/her personal licence is suspended.

Every retail sale or supply of alcohol made under this licence must be made or authorised by a person who holds a personal licence.

Condition 2

Only individuals licensed by the Security Industry Authority (SIA) may be used at the premises to guard against:-

- (a) Unauthorised access or occupation (e.g. through door supervision)
- (b) Outbreaks of disorder
- (c) Damage

Condition 7

- (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
- (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone,

encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;

- (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

Condition 8

The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

Condition 9

- (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
 - (a) a holographic mark, or
 - (b) an ultraviolet feature.

Condition 10

The responsible person must ensure that—

- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.”

Condition 11

- (1) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price, which is less than the permitted price.
- (2) For the purpose of the condition set out in paragraph 1:-
- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979(6);
- (b) "permitted price" is the price found by applying the formula:- $P = D + (D \times V)$ where:-
- (i) P is the permitted price,
 - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence:-
- (i) the holder of the premises licence
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994(7)
- (3) Where the permitted price given by Paragraph (b) of paragraph (2) would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- (4) (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph (2) on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Annex 2 - Conditions consistent with the Operating Schedule**Condition 1**

- (1) A CCTV system will be installed, or the existing system maintained, such system to be fit for the purpose.
- (2) The CCTV system shall be capable of producing immediate copies of recordings on site. Copies of recordings will be recorded onto CD/DVD or other equivalent medium.
- (3) Any recording shall be retained and stored in a suitable and secure manner for a minimum of 28 days (one calendar month) and shall be available, subject to compliance with the Data Protection legislation, to the Police or Officers of the Licensing Authority immediately that a request is made or, in any case, within 48 hours.
- (4) The CCTV system will incorporate cameras covering the entrance door, rear entry points, all public areas [except inside toilet areas] of the premises and the alcohol display areas. The system will be capable of providing an image, which is regarded as identification standard. The precise positions of the cameras may be agreed, subject to compliance with Data Protection legislation, with Police from time to time.
- (5) The system will display, on any recording, the correct time and date of the recording.
- (6) A system will be in place to maintain the quality of the recorded image and a complete audit trail maintained.
- (7) The CCTV system will be maintained so as to be fully operational throughout the hours that the premises are open for any licensable activity and at all times when any members of staff or public are in the premises.
- (8) Any rear access points to the premises will be alarmed and covered by CCTV.

Condition 2

- (1) Minimum of two SIA approved door staff to be on duty when any function takes place or regulated entertainment or the upstairs area is open for licensing purposes.
- (2) Sufficient SIA door staff will be employed to deal with any likely contingency.
- (3) There will be a minimum of 2 SIA door staff employed at the premises from 2000 hours on every Friday and Saturday night until close of the premises, when there is any regulated entertainment.
- (4) All SIA door staff will wear reflective jackets or tabards and their registration card will be displayed in a reflective armband.

Condition 3

All toilets on the premises will have the cistern boxed in with no horizontal surfaces in the toilet area.

Condition 4

A system will be in place so that numbers of customers inside the premises is known at all times when regulated entertainment is taking place. Ie clicker counter.

Condition 5

No entry will be allowed after midnight on a Friday and Saturday or if regulated entertainment is taking place on any other day. Any readmission will by means of a clearly identifiable means ie stamp or similar to identify readmissions to SIA staff, police officers or other enforcement agency.

Condition 6

The premises will be member of a radio scheme [subject to approval] and will use and monitor the radio at all times the premises are open for licensable activities

Condition 7

Notices will be prominently displayed to ask customers to leave quietly at all points of exit.

Condition 8

- (a) The 'Challenge 21' scheme shall be adopted so that all staff are trained to ask any customer wishing to purchase alcohol, who appears to be under the age of 21 years, for evidence of age.
- (b) Challenge 21 posters to be prominently displayed in all areas where alcohol is on sale and at the point of entry to the premises.
- (c) All staff to be fully trained in 'Challenge 21'. The training will be auditable and available to police and local authority licensing officers and trading standards officers

Condition 9

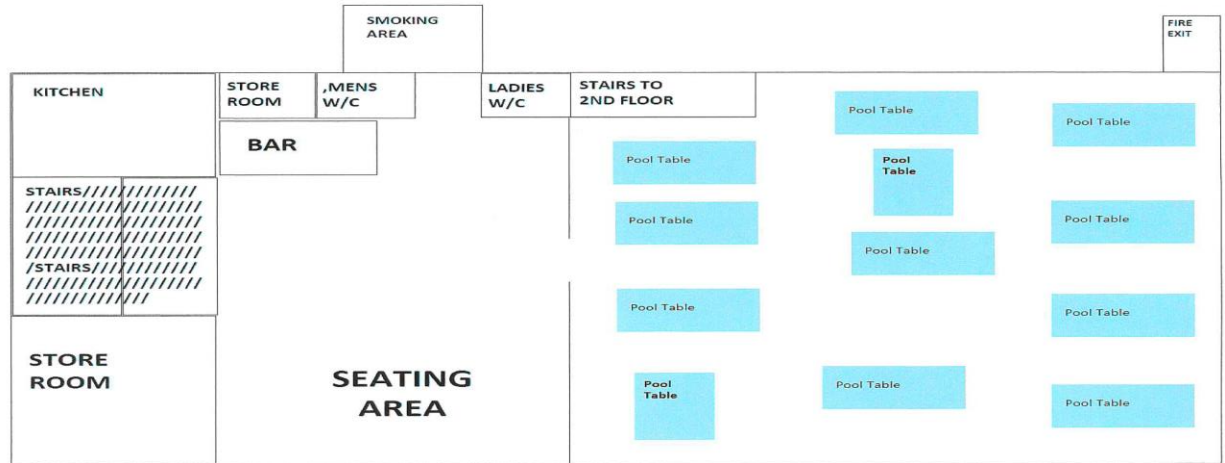
Only ID acceptable will be passport, photo driving licence and any PASS marked identification.

Annex 3 - Conditions attached after a hearing by the licensing authority

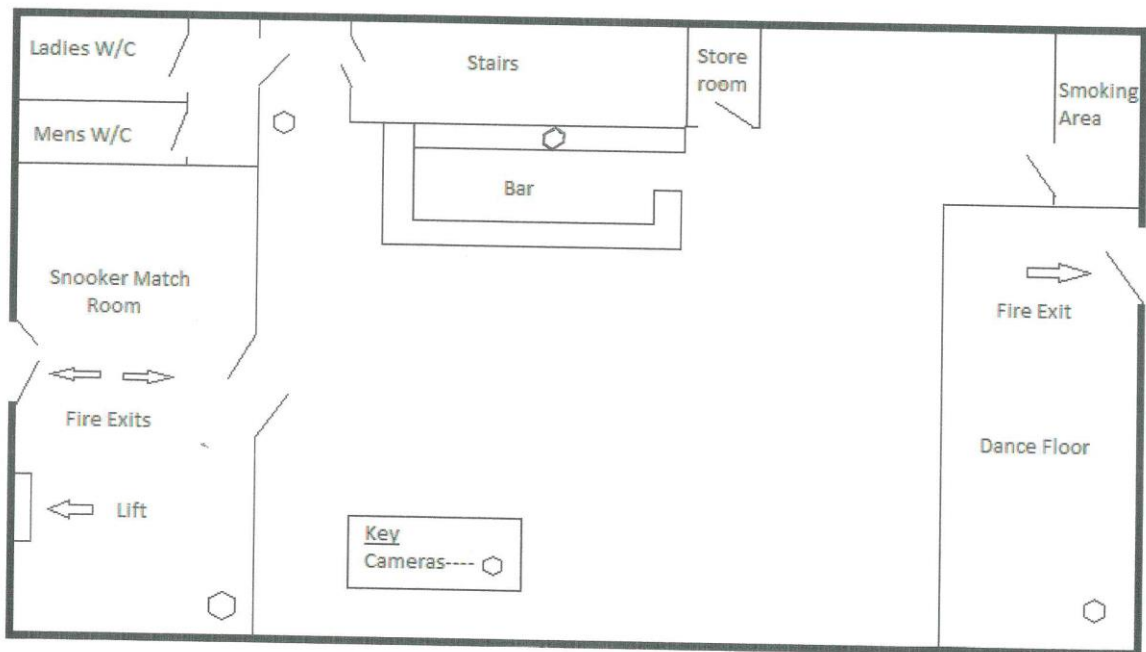
N/A

Annex 4 – Plans

1st Floor



2nd Floor



Temporary Event Notices (TENs)

7.1 This Chapter covers the arrangements in Part 5 of the 2003 Act for the temporary carrying on of licensable activities which are not authorised by a premises licence or club premises certificate.

General

7.2 The system of permitted temporary activities is intended as a light touch process, and as such, the carrying on of licensable activities does not have to be authorised by the licensing authority on an application. Instead, a person wishing to hold an event at which such activities are proposed to be carried on (the “premises user”) gives notice to the licensing authority of the event (a “temporary event notice” or “TEN”).

7.3 The TEN must be given to the licensing authority in the form prescribed in regulations made under the 2003 Act. The form requires the user to describe key aspects of the proposed event, including the general nature of the premises and the event, the licensable activities intended to be carried on at the proposed event, including whether they will include any relevant entertainment as defined in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (i.e. displays of nudity designed to sexually stimulate any member of the audience including, but not limited to, lap dancing and pole dancing).

7.4 Unless it is sent electronically, it must be sent to the relevant licensing authority, to the police and “local authority exercising environmental health functions” (“EHA”) at least ten working days before the event. A premises user may also give a limited number of “late TENs” to the licensing authority less than 10 working days before the event to which they relate, although certain restrictions apply (see paragraphs 7.12-7.14). “Working day” under the 2003 Act means any day other than a Saturday, Sunday, Christmas Day, Good Friday or Bank Holiday. For limited purposes in relation to a TEN, the 2003 Act defines a “day” as a period of 24 hours beginning at midnight.

7.5 If a TEN is sent electronically via GOV.UK or the licensing authority’s own facility, the licensing authority must notify the police and EHA as soon as possible and no later than the first working day after the TEN is given.

7.6 The police or EHA (“relevant persons” for the purposes of TENs) may intervene to prevent such an event taking place by sending an objection to the licensing authority, which the licensing authority must consider on the basis of the statutory licensing objectives and decide whether the event should go ahead. A relevant person may also intervene by agreeing a modification of the proposed arrangements directly with the TENs user (see paragraph 7.36). If a relevant person sends an objection, this may result in the licensing authority imposing conditions on a TEN but only where the venue at which the event is to be held has an existing premises licence or club premises certificate. When giving a TEN, the premises user should consider the promotion of the four licensing

objectives. The licensing authority may only otherwise intervene if the statutory permitted limits on TENs would be exceeded (see paragraphs 7.15-7.22).

7.7 A TEN does not relieve the premises user from any requirements under planning law for

Standard and late temporary event notices

7.8 There are two types of TEN: a standard TEN and a late TEN. These are subject to different processes: a standard notice is given no later than ten working days before the event to which it relates; and a late notice is given not before nine and not later than five working days before the event.

Standard temporary event notices

7.9 “Ten working days” (and other periods of days which apply to other requirements in relation to TENs) exclude the day the notice is received and the first day of the event.

7.10 The police and EHA have a period of three working days from when they are given the notice to object to it on the basis of any of the four licensing objectives.

7.11 Although ten clear working days is the minimum possible notice that may be given, licensing authorities should publicise their preferences in terms of advance notice and encourage premises users to provide the earliest possible notice of events planned by them. Licensing authorities should also consider publicising a preferred maximum time in advance of an event by when TENs should ideally be given to them.

Late temporary event notices

7.12 Late TENs are intended to assist premises users who are required for reasons outside their control to, for example, change the venue for an event at short notice. However, late TENs may, of course, be given in any circumstances providing the limits specified at paragraph 7.15 are not exceeded.

7.13 Late TENs can be given up to five working days but no earlier than nine working days before the event is due to take place and, unless given electronically to the licensing authority, must also be sent by the premises user to the police and EHA. A late TEN given less than five days before the event to which it relates will be returned as void and the activities to which it relates will not be authorised.

7.14 A key difference between standard and late TENs is the process following an objection notice from the police or EHA. Where an objection notice is received in relation to a standard TEN the licensing authority must hold a hearing to consider the objection, unless all parties agree that a hearing is unnecessary. If the police, EHA or both give an objection to a late TEN, the notice will not be valid and the event will not go ahead as there is no scope for a hearing or the application of any existing conditions.

Limitations

7.15 A number of limitations are imposed on the use of TENs by the 2003 Act:

- the number of times a premises user may give a TEN is 50 times in a calendar year for a personal licence holder and five times in a calendar year for other people;
- the number of times a premises user may give a late TEN is limited to 10 times in a calendar year for a personal licence holder and twice for other people. Late TENs count towards the total number of permitted TENs (i.e. the limit of five TENs a year for non-personal licence holders and 50 TENs for personal licence holders). A notice that is given less than ten working days before the event to which it relates, when the premises user has already given the permitted number of late TENs in that calendar year, will be returned as void and the activities described in it will not be authorised.
- the number of times a TEN may be given for any particular premises is 12 times in a calendar year (the Deregulation Act 2015 has increased this number to 15 with effect from 1 January 2016);
- the maximum duration of an event authorised by a TEN is 168 hours (seven days);
- the maximum total duration of the events authorised by TENs in relation to individual premises is 21 days in a calendar year;
- the maximum number of people attending at any one time is 499; and
- the minimum period between events authorised under separate TENs in relation to the same premises (not including withdrawn TENs) by the same premises user is 24 hours.

7.16 Any associate, relative or business partner of the premises user is considered to be the same premises user in relation to these restrictions. The 2003 Act defines an associate, in relation to the premises user, as being:
the spouse or civil partner of that person;
a child, parent, grandchild, grandparent, brother or sister of that person;
an agent or employee of that person; or
the spouse or civil partner of a person listed in either of the two preceding bullet points.

7.17 A person living with another person as their husband or wife, is treated for these purposes as their spouse. 'Civil partner' has its meaning in the Civil Partnership Act 2004.

7.18 A TEN that is given and subsequently withdrawn by the TEN user can be included within the limits of the numbers of TENs allowed in a given calendar year.

7.19 Once these limits have been reached, the licensing authority should issue a counter notice (permitted limits) if any more are given. Proposed activities that exceed these limits will require a premises licence or club premises certificate.

- 7.20 TENs may be given in respect of premises which already have a premises licence or club premises certificate to cover licensable activities not permitted by the existing authorisation.
- 7.21 In determining whether the maximum total duration of the periods covered by TENs at any individual premises has exceeded 21 days, an event beginning before midnight and continuing into the next day would count as two days towards the 21-day limitation.
- 7.22 There is nothing in the 2003 Act to prevent notification of multiple events at the same time, provided the first event is at least ten working days away (or five working days away in the case of a late TEN). For example, an individual personal licence holder wishing to exhibit and sell beer at a series of farmers' markets may wish to give several notices simultaneously. However, this would only be possible where the limits are not exceeded in the case of each notice. Where the events are due to take place in different licensing authority (and police) areas, the respective licensing authorities and relevant persons would each need to be notified accordingly.

Who can give a temporary event notice?

Personal licence holders

- 7.23 A personal licence holder can give a TEN at any premises on up to 50 occasions in a calendar year. This limit is inclusive of any late TENs given in the same year. The use of each TEN must of course observe the limits described above, including the limit of 12 TENs in respect of each premises in a calendar year.

Non-personal licence holders

- 7.24 The 2003 Act provides that any individual aged 18 or over may give a TEN to authorise the carrying on of all licensable activities under the Licensing Act 2003, whether or not that individual holds a personal licence. Such an individual will not, therefore, have met the requirements that apply to a personal licence holder under Part 6 of the 2003 Act. Where alcohol is not intended to be sold, this should not matter. However, many events will involve a combination of licensable activities and the 2003 Act limits the number of notices that may be given by any non-personal licence holder to five occasions in a calendar year (inclusive of any late TENs in the same year). In every other respect, the Guidance and information set out in the paragraphs above applies.

Role of the licensing authority

- 7.25 The licensing authority must check that the limitations set down in Part 5 of the 2003 Act are being observed and intervene if they are not (see paragraph 7.15). For example, a TEN would be void unless there is a minimum of 24 hours between events notified by the same premises user, or an associate or someone who is in business with the relevant premises user in respect of the same premises. This is to prevent evasion of the seven day (or 168 hour) limit on such events and the need to obtain a full premises licence or club premises

certificate for more major or permanent events. In addition, for these purposes, a TEN is treated as being from the same premises user if it is given by an associate.

- 7.26 Where the application is not within the statutory parameters described earlier, the licensing authority will issue a counter notice to the premises user.
- 7.27 Where the TEN is in order, the relevant fee paid and the event falls within the prescribed limits, the licensing authority will record the notice in its register and send an acknowledgement to the premises user (which may be given electronically). The licensing authority must do so, no later than the end of the first working day following the day on which it was received (or by the end of the second working day if it was received on a non-working day), unless an objection notice is received beforehand from the police or EHA on the basis of any of the four licensing objectives (see paragraphs below).
- 7.28 If the licensing authority receives an objection notice from the police or EHA that is not withdrawn, it must (in the case of a standard TEN only) hold a hearing to consider the objection (unless all parties agree that this is unnecessary). The licensing committee may decide to allow the licensable activities to go ahead as stated in the notice. If the notice is in connection with licensable activities at licensed premises, the licensing authority may also impose one or more of the existing licence conditions on the TEN (insofar as such conditions are not inconsistent with the event) if it considers that this is appropriate for the promotion of the licensing objectives. If the authority decides to impose conditions, it must give notice to the premises user which includes a statement of conditions (a “notice (statement of conditions)”) and provide a copy to each relevant party. Alternatively, it can decide that the event would undermine the licensing objectives and should not take place. In this case, the licensing authority must give a counter notice.
- 7.29 Premises users are not required to be on the premises during the event authorised by the TEN, but they will remain liable to prosecution for certain offences that may be committed at the premises during the period covered by it. These include, for example, the offences of the sale of alcohol to a person who is drunk; persistently selling alcohol to children and allowing disorderly conduct on licensed premises.
- 7.30 In the case of an event authorised by a TEN, failure to adhere to the requirements of the 2003 Act, such as the limitation of no more than 499 being present at any one time, would mean that the event was unauthorised. In such circumstances, the premises user would be liable to prosecution.
- 7.31 Section 8 of the 2003 Act requires licensing authorities to keep a register containing certain matters, including a record of TENs received. There is no requirement to record all the personal information given on a TEN.

Police and environmental health intervention

- 7.32 The system of permitted temporary activities gives police and EHAs the opportunity to consider whether they should object to a TEN on the basis of any of the licensing objectives.
- 7.33 If the police or EHA believe that allowing the premises to be used in accordance with the TEN will undermine the licensing objectives, they must give the premises user and the licensing authority an objection notice. The objection notice must be given within the period of three working days following the day on which they received the TEN.
- 7.34 Where a standard TEN was given, the licensing authority must consider the objection at a hearing before a counter notice can be issued. At the hearing, the police, EHA and the premises user may make representations to the licensing authority. Following the hearing, the licensing authority may decide to impose conditions which already apply to an existing premises licence or club premises certificate at the venue, or issue a counter notice to prevent the event going ahead. As noted above, there is no scope for hearings in respect of late TENs and if objections are raised by the police or EHA in relation to a late TEN, the notice will be invalid and the event will not go ahead.
- 7.35 Such cases might arise because of concerns about the scale, location, timing of the event or concerns about public nuisance. However, in most cases, where for example, alcohol is supplied away from licensed premises at a temporary bar under the control of a personal licence holder, (such as at weddings with a cash bar or small social or sporting events) this should not usually give rise to the use of these powers.

Modification

- 7.36 As noted above, the police or EHA (as “relevant persons”) may contact the premises user to discuss their objections and try to come to an agreement which will allow the proposed licensable activities to proceed. The TEN can be modified (for example, by changing the details of the parts of the premises that are to be used for the event, the description of the nature of the intended activities or their duration). The other relevant person has to agree for the modification to be made. There is no scope under the 2003 Act for the modification of a late TEN.

Applying conditions to a TEN

- 7.37 The 2003 Act provides that only the licensing authority can impose conditions to a TEN from the existing conditions on the premises licence or club premises certificate at the venue. The licensing authority can only do so:
- if the police or the EHA have objected to the TEN;
 - if that objection has not been withdrawn;
 - if there is a licence or certificate in relation to at least a part of the premises in respect of which the TEN is given;

and if the licensing authority considers it appropriate for the promotion of the licensing objectives to impose one or more conditions.

7.38 This decision is one for the licensing authority alone, regardless of the premises user's views or willingness to accept conditions. The conditions must be notified to the premises user on the form prescribed by regulations.

Hearings to impose conditions

7.39 Section 105 of the 2003 Act is clear that a licensing authority must hold a hearing to consider any objections from the police or EHA unless all the parties agree that a hearing is not necessary. If the parties agree that a hearing is not necessary and the licensing authority decides not to give a counter notice on the basis of the objection, it may impose existing conditions on the TEN.

Duty of premises users to keep and produce TENs

7.40 Where a TEN is not prominently displayed at the premises, the police and licensing officers have the right under sections 109(5) and (6) of the 2003 Act to request the premises user (or relevant nominated person who has the TEN in their custody) to produce the TEN for examination. If the police do not intervene when a TEN is given, they will still be able to rely on their powers of closure under the Anti-social Behaviour, Crime and Policing Act 2014.

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19 TEMPORARY EVENT NOTICES

19.1 The Licensing Act 2003 makes provision for the authorisation of a person (known as a premises user) to provide licensable activities on a temporary basis at unlicensed premises, or to add activities and/or extend the hours of existing activities at a licensed premises. The activities are authorised by the serving of a Temporary Event Notice (TEN) on the Licensing Authority, subject to the notice meeting the proper criteria as detailed under the Act.

19.2 Comprehensive planning of events is essential and where there are likely to be impacts on neighbouring residents or businesses as a result of the activities to be authorised by a TEN, the Licensing Authority expects the premises user to have considered any potential impacts and how they may be mitigated.

19.3 The Licensing Authority welcomes requests for advice from applicants who wish to provide temporary events to ensure they understand the law relating to such events and to reduce the likelihood of objections being made.

19.4 There are two types of TEN, Standard or Late. Both are subject to a numerical limit on the number of each type of TEN that can be served by personal licence holders and non-personal licence holders in a calendar year. There is also a numerical limitation on the number of TENs that may be served in respect of individual premises or place.

19.5 **Standard TEN.** A standard TEN must be served at least 10 working days (Monday to Friday excluding Bank Holidays) before the event commences. The 10 working days excludes the day of service and the day on which the event starts. Copies of the TEN must be served on the Licensing Authority, The Environmental Health (EH) Department, and the Police. The fee is payable only to the Licensing Authority. **Applicants are encouraged to serve TENs at least 28 days before the proposed events to allow greater time for an event to be planned.**

19.6 Where numerical limits are exceeded the Licensing Authority will serve a counter notice and the proposed licensable activities will not be authorised.

19.7 Where objections are received from the Police and/or EH and not withdrawn, the notice will be referred for a hearing before the Licensing Sub-Committee. The Sub-Committee may approve the TEN as applied for, add appropriate conditions (if the TEN takes place on a premises with an existing premises licence) or reject a TEN by serving a counter notice.

19.8 **Late TEN.** A late TEN may be served between 9 and 5 working days before a proposed event commences. The same limitations apply to the day the notice was served and the day of the event. Where numerical limits are exceeded a counter notice will be served and the proposed licensable activities will not be authorised.

19.9 If the late TEN is served with fewer than 5 working days' notice it is deemed invalid and would be rejected. The proposed activities would not be authorised. The Licensing Authority has no discretion to accept TENs outside the permitted statutory deadlines.

19.10 Where valid representations are received from the Police or Environmental Health in respect of a late TEN, the TEN will be rejected and proposed activities will be unauthorised. A refund of the fee will not be made.

19.11 The Licensing Authority will take the appropriate action where there is evidence that licensable activities have been provided without the authorisation of a TEN.

19.12 It should be noted that if a TEN has been processed and is no longer required the fee will not be refunded as the Licensing Authority has already carried out its obligations.

Article 6

In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

Article 10 – Freedom of expression

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

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Making Swale a Better Place

LICENSING AUTHORITY: SWALE BOROUGH COUNCIL

Licensing Act 2003 Sub-committee Hearing Procedure Temporary Event Notices

1. Introductions

The Chairman will request all those persons participating in the hearing to identify themselves or introduce them.

Members/Officers/TEN Giver and any representative/Relevant Person/s objecting.

2. Procedural Matters

The Chairman will:

- i) Confirm that all parties are aware of the sub-committee **hearing procedure** and that each party has a copy of the hearing procedure document.
- ii) Confirm that all sub-committee members have pre-read **all the papers** and any other documents contained in the report regarding the hearing.
- iii) Explain that the sub-committee will allow all parties to put their case fully and make full **submissions**, within a reasonable time frame. The procedure will be discussion led by the Sub-Committee and **questions** will usually be permitted.
- iv) Explain that where any person attending the hearing **behaves in a disruptive manner**, the sub-committee may direct that person to leave the hearing (including temporarily). If this happens, the person may give the sub-committee in writing any information which the person would have been entitled to give orally.
- v) Enquire whether any draft **conditions** have been agreed between the applicant and any of the other parties for the sub-committee to consider should they decide not to issue a counter notice and exercise their discretion to impose conditions.
- vi) Enquire whether any parties request to have **any witness** give evidence at the hearing; and if so grant the request unless the request is unreasonable.

3. The Hearing

- A) The Chairman will ask the legal advisor or licensing officer to briefly outline the application and objection/s regarding the application.
- B)
 - i) Ask the TEN giver (or their representative) to put forward their case opening remarks and evidence (including witnesses).
 - ii) **Allow** appropriate **questions** from any relevant person and/or members of the subcommittee
 - iii) Any points of clarification.
- C)
 - i) Ask relevant person/s) to put forward their case. Opening remarks and evidence (including witnesses) by the officer representing the relevant person(or their representative).
 - ii) Allow appropriate **questions** from :
the TEN giver other relevant person member of the Sub-Committee.
 - iii) Any points of clarification.

E) **Closing Summary**

Relevant Person/s/The Applicant

F) **End of Hearing**

- i) The Chairman will ask the members of the sub-committee if they have any final questions for any party to the hearing.
- ii) The Chairman will ask the legal advisor whether there are any further matters to be raised or resolved before the hearing is closed.
- iii) The Chairman will bring the hearing to a close and shall declare that the sub-committee will retire, to private session, to consider the matter.
- iv) The Chairman will invite the legal advisor to remain with the sub-committee during its deliberations to provide any advice required.

G) **The Decision**

The Chairman shall declare in public session:

- i) The sub-committee's **determination** and indicate that all parties to the hearing will receive a copy of the written Determination Notice at least 24 hours before the beginning of the event period specified in the TEN; and
- ii) that all parties may **appeal** against the sub-committee's decision within 21 days beginning with the day on which the appellant is notified of the Licensing Authority's written determination subject to the appeal being brought at least 5 working days before the day on which the event is

proposed to commence. Appeals must be lodged with the Magistrates' Court. Parties should be aware that the Magistrates Court may make an order with respect to costs on any appeal.

- iii) Formally close the meeting.

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