

## Swale Borough Council

**Report to:** Licensing Sub – Committee (Under the Licensing Act 2003)  
**Date:** 18<sup>th</sup> 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 6<sup>th</sup> April 2016 following a TEN given on 5<sup>th</sup> April 2016 for a Drum and Base night by Mr Bradley Wright for Sittingbourne Snooker Club on 30<sup>th</sup> April 2016 – 1<sup>st</sup> 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](mailto: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 5<sup>th</sup> 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 30<sup>th</sup> April 2016 – 1<sup>st</sup> 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 3<sup>rd</sup> March 2016 following a pilot carried out on 27<sup>th</sup> February 2016 where some breaches to the licence were found. An action plan was agreed and sent on 4<sup>th</sup> 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 1998 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.