

SUPPLEMENT TO THE AGENDA FOR

Regulatory Sub Committee

Thursday 19 July 2012

2.00 pm

The Council Chamber, Brockington, 35 Hafod Road, Hereford

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MEETING:	REGULATORY SUB-COMMITTEE
DATE:	19 JULY 2012
TITLE OF REPORT:	NOTIFICATION OF A STANDARD TEMPORARY EVENT NOTICES (TEN) IN RESPECT OF THE 'CROWN & ANCHOR, LUGWARDINE, HEREFORD, HR1 4AB' AND THE ISSUE OF AN OBJECTION NOTICE IN RESPECT OF THE TEN GIVEN BY THE ENVIRONMENTAL HEALTH OFFICER.' - LICENSING ACT 2003
PORTFOLIO AREA:	HEALTH & WELLBEING SERVICE

CLASSIFICATION: Open

Wards Affected

Hagley

Purpose

To consider the notification of a standard temporary event notices (TEN) in respect of the 'Crown & Anchor, Lugwardine, Hereford, HR1 4AB' and the issue of an objection notice in respect of the TEN given by the Environmental Health Officer.

Key Decision

This is not a Key Decision.

Recommendation

THAT Sub-Committee determine the application with a view to promoting the licensing objective of the prevention of crime and disorder in the overall interests of the local community. They should give appropriate weight to:

- The steps that are **appropriate** to promote that licensing objective,
- The objection notice issued by the Environmental Health Officer,
- The Guidance issued to local authorities under Section 182 of the Licensing Act 2003, and
- The Herefordshire Council Licensing Policy

Key Points Summary

- Objection Notice issued by Environmental Health Officer

Further information on the subject of this report is available from
Fred Spriggs – Licensing Officer 01432 383542

Options

There are three options available to the committee:

- a) Issue a 'counter notice' if it considers necessary for the promotion of the crime prevention objective, or
- b) Refuse to issue a counter notice and not attach any conditions, thereby authorising the Licensable Activity and hours as notified in the Temporary Event Notice.
- c) Refuse to issue a counter notice but attach conditions to the TEN. In effect this would authorise the Licensable Activities and hours as notified in the Temporary Event Notice providing the conditions were applied with.

Reasons for Recommendations

Ensures compliance with the Licensing Act 2003.

Introduction and Background

Background Information

Applicant	Michael Clifford Crown & Anchor, Lugwardine, Hereford, HR1 4AB	
Solicitor	N/A	
Type of application: TENS Notification	Date received: 11/07/12	48 hour period concluded 13/07/12

TEN Notification

The notification of the Temporary Event Notices has received an objection from a relevant person, the Environmental Health Officer. It therefore is now brought before committee to determine the notification.

Summary of Notification

The licensable activity notified is: -

Sale by retail of alcohol (for consumption both on and off the Premises), Provision of regulated entertainment, Provision of late night refreshment

Between Midday 10th August 2012 and 0100 on 11th August 2012

Details of Event

A Birthday Party in Marquee with a pay bar and music

Current Conditions Attached to Licence

General:

The types of regulated entertainments proposed re-instate the normal pub entertainments that were previously unregulated.

No new steps have been identified by risk assessment in relation to the four licensing objectives, except as below:

We have considered the terms of the local licensing policy in preparing this application.

Prevention of Crime:

We maintain a register to record incidents relevant to the four licensing objectives.

We have a comprehensive staff training programme and all staff are trained on the Licensing Act 2003 and drugs awareness.

We work closely with the police, local authority, licensed trade associations and other enforcement agencies to ensure that we adopt current industry best practice in support of the four licensing objectives.

We operate a responsible drinking policy and offer free soft drinks to designated drivers in parties of four or more.

Public Safety:

All relevant measures as above and:

We ensure that open containers are not taken from the premises.

We will operate a 30 minute 'wind down' period after permitted hours to ensure effective dispersal from the premises.

Prevention of Public Nuisance:

All relevant measures as above and:

Live music will end at 23:00 and all windows will be kept shut after 22:30.

All customers are asked to leave quietly after 23:00, and staff are trained to reinforce this message.

Protection of Children:

The restrictions set out in the Licensing Act 2003 will apply.

We operate a strict proof of age under age drinking policy, supported by comprehensive staff training.

We operate policy to ensure that all children are supervised by a responsible adult.

Children under 16 are not allowed in the bar after 21:00 unless dining and under the supervision of a responsible adult.

We have clearly defined designated non-smoking areas.

No unusual risks of harm to children have been identified.

No adult entertainment or services or activities must take place at the premises (Adult Entertainment includes, but is not restricted to, such entertainment or services which would generally include topless bar staff, striptease, lap-table, or pole-dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language).

Summary of Representations

A relevant person, the Environmental Health Officer, has made a written objection on 11th July 2012 on the grounds that the temporary event would undermine the Prevention of Public Nuisance Objective. Full details can be found within the background papers.

Key Considerations

To consider what action should be taken, if any, to promote the licensing objectives.

Community Impact

The granting or refusing of the Notification may have a serious impact on the Community.

Legal Implications

The Committee should be aware of a number of stated cases which have appeared before the Administrative Court and are binding on the Licensing Authority.

The case of Daniel Thwaites Plc v Wirral Borough Magistrates' Court (Case No: CO/5533/2006) at the High Court of Justice Queen's Bench Division Administrative Court on 6 May 2008, [2008] EWHC 838 (Admin), 2008 WL 1968943, Before the Honourable Mrs Justice Black.

In this case it was summed up that: -

A licensing authority must have regard to guidance issued by the Secretary of State under section 182. Licensing authorities may depart from it if they have reason to do so but will need to give full reasons for their actions.

There is a right of appeal against the decision by either the person giving notification of the TEN or the relevant person. Such appeal must be made within 21 days of notification of the decision but not less than 5 working days before the event.

Consultees

The Police are the only responsible authority able to issue an objection notice under the act.

Appendices

Copy of TENs notification
EHO Objection

Background Papers

Background papers were available for inspection in the Council Chamber 30 minutes before the start of the hearing.

ADDITIONAL INFORMATION

On 25th April 2012 the legislation changed in respect of TEN's. The amended Section are shown below

104 Objection to notice by a relevant person

- (2) Where a relevant person who is given a temporary event notice is satisfied that allowing the premises to be used in accordance with the notice would undermine a licensing objective, the relevant person must give a notice stating the reasons for being so satisfied (an "objection notice")—
 - (a) to the relevant licensing authority,
 - (b) to the premises user, and
 - (c) to every other relevant person.
- (3) The objection notice must be given before the end of the third working day following the day on which the relevant person is given a copy of the temporary event notice.
- (4) Subsection (2) does not apply at any time after the relevant person has received a copy of a counter notice under section 107 in respect of the temporary event notice.

105 Counter notice following objection to standard temporary event notice

- (1) This section applies where an objection notice is given under section 104(2) in respect of a standard temporary event notice.
- (2) The relevant licensing authority must—
 - (a) hold a hearing to consider the objection notice, unless the premises user, the relevant person who gave the objection notice and the authority agree that a hearing is unnecessary, and
 - (b) having regard to the objection notice, give the premises user a counter notice under this section if it considers it appropriate for the promotion of a licensing objective to do so.
- (3) The relevant licensing authority must—
 - (a) in a case where it decides not to give a counter notice under this section, give the premises user and each relevant person notice of the decision, and
 - (b) in any other case—
 - (i) give the premises user the counter notice and a notice stating the reasons for its decision, and
 - (ii) give each relevant person a copy of both of those notices.
- (4) A decision must be made under subsection (2)(b), and the requirements of subsection (3) must be met, at least 24 hours before the beginning of the event period specified in the temporary event notice.
- (5) Where the premises are situated in the area of more than one licensing authority, the functions conferred on the relevant licensing authority by this section must be exercised by those authorities jointly.
- (6) This section does not apply—
 - (a) if the objection notice has been withdrawn (whether by virtue of section 106 or otherwise), or
 - (b) if the premises user has been given a counter notice under section 107.

106 Modification of standard temporary event notice following objection

- (1) This section applies where a relevant person has given an objection notice under section 104(2) in respect of a standard temporary event notice (and the objection notice has not been withdrawn).
- (2) At any time before a hearing is held or dispensed with under section 105(2), the relevant person may, with the agreement of the premises user and each other relevant person, modify the temporary event notice by making changes to it.
- (3) Where a temporary event notice is modified under subsection (2)—
 - (a) the objection notice is to be treated for the purposes of this Act as having been withdrawn from the time the temporary event notice is modified, and
 - (b) from that time—
 - (i) this Act has effect as if the temporary event notice given under section 100 had been the notice as modified under that subsection, and
 - (ii) to the extent that the conditions of section 98 are satisfied in relation to the unmodified notice they are to be treated as satisfied in relation to the notice as modified under that subsection.
- (4) A copy of the temporary event notice as modified under subsection (2) must be sent or delivered by the relevant person to the relevant licensing authority before a hearing is held or dispensed with under section 105(2).
- (6) This section does not apply if a counter notice has been given under section 107.
- (7) In this section “objection notice” has the same meaning as in section 104(2).

106A Conditions on standard temporary event notice following objection

- (1) This section applies where—
 - (a) a relevant person has given an objection notice under section 104(2) in respect of a standard temporary event notice,
 - (b) the objection notice has not been withdrawn, and
 - (c) the relevant licensing authority has decided under section 105 not to give a counter notice under that section.
- (2) The relevant licensing authority may impose one or more conditions on the standard temporary event notice if—
 - (a) the authority considers it appropriate for the promotion of the licensing objectives to do so,
 - (b) the conditions are also imposed on a premises licence or club premises certificate that has effect in respect of the same premises, or any part of the same premises, as the temporary event notice, and
 - (c) the conditions would not be inconsistent with the carrying out of the licensable activities under the temporary event notice.
- (3) Where the authority decides to impose one or more conditions under subsection (2)—
 - (a) the authority must give the premises user notice of the decision,
 - (b) the notice must be accompanied by a separate statement (the “statement of conditions”) which sets out the conditions that have been imposed on the temporary event notice, and
 - (c) a copy of the notice and statement of conditions must be given to each relevant party.
- (4) The notice and statement of conditions under subsection (3) must—
 - (a) be in the prescribed form,
 - (b) be given to the premises user in the prescribed manner, and
 - (c) be given no later than 24 hours before the beginning of the event period specified in the temporary event notice.

- (5) Where the premises are situated in the area of more than one licensing authority, the functions conferred on the relevant licensing authority by subsection (2) must be exercised by those authorities jointly.

PART 3

OTHER APPEALS

Temporary event notices

- 16
- (1) This paragraph applies where—
 - (a) a standard temporary event notice is given under section 100, and
 - (b) a relevant person gives an objection notice in accordance with section 104(2).
 - (2) Where the relevant licensing authority gives a counter notice under section 105(3), the premises user may appeal against that decision.
 - (3) Where that authority decides not to give such a counter notice, relevant person may appeal against that decision.
 - (4) An appeal under this paragraph must be made to a magistrates' court.
 - (5) An appeal under this paragraph must be commenced by notice of appeal given by the appellant to the designated officer for the magistrates' court within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.
 - (6) But no appeal may be brought later than five working days before the day on which the event period specified in the temporary event notice begins.
 - (7) On an appeal under sub-paragraph (3), the premises user is to be the respondent in addition to the licensing authority.
 - (8) In this paragraph—
 - “objection notice” has the same meaning as in section 104;
 - “relevant licensing authority” has the meaning given in section 99 and
 - “relevant person” has the meaning given in section 99A.

TEN6713

11 JUL 2012

Temporary Event Notice

TO:

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.


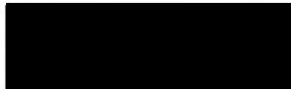
I, the proposed premises user, hereby give notice under section 100 of the Licensing Act 2003 of my proposal to carry on a temporary activity at the premises described below.

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	CLIFFORD
Forenames	MICHAEL
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	[REDACTED]
4. Your place of birth	[REDACTED]
5. National Insurance Number	[REDACTED]
6. Your current address (We will use this address to correspond with you unless you complete the separate correspondence box below)	
[REDACTED]	
Post town	HEREFORD
Post code	[REDACTED]
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)	
[REDACTED]	

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)	
CLOWNTACTOR COTTES LAWS LUGNATEINS HEREFORD	
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	
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)	
REAR GARDEN OF THE PROPERTY.	
Please describe the nature of the premises below. (Please read note 4)	
PUBLIC HOUSE	
Please describe the nature of the event below. (Please read note 5)	
BIRTHDAY PARTY IN A MARQUEE WITH A PAY BAR LIVE AND APPLIED MUSIC	

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)	
FRIDAY 10 AUG 12.	
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)	
1200hrs - 0100hrs.	
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)	100
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 mark an "X" next to the appropriate box). (Please read note 11)	On the premises only <input type="checkbox"/>
	Off the premises only <input type="checkbox"/>
	Both <input checked="" type="checkbox"/>

4. Personal licence holders (Please read note 12)	
Do you currently hold a valid personal licence? (Please mark an "X" in the box that applies to you)	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
If "Yes" please provide the details of your personal licence below.	
Issuing licensing authority	HEREFORD
Licence number	
Date of issue	
Date of expiry	
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? (Please mark an "X" in the box that applies to you)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If answering yes, please state the number of temporary event notices you have given for events in that same calendar year		
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? (Please mark an "X" in the box that applies to you)	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? (Please mark an "X" in the box that applies to you)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If answering yes, please state the total number of temporary event notices your associate(s) have given for events in the same calendar year		
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? (Please mark an "X" in the box that applies to you)	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? (Please mark an "X" in the box that applies to you)	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? (Please mark an "X" in the box that applies to you)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

7. Checklist (Please read note 15)	
I shall (Please mark the appropriate boxes with an "X")	
Send at least one copy of this notice to the licensing authority for the area in which the premises are situated	<input checked="" type="checkbox"/>
Send a copy of this notice to the chief officer of police for the area in which the premises are situated	<input checked="" type="checkbox"/>
Send a copy of this notice to the local authority exercising environmental health functions for the area in which the premises are situated	<input checked="" 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 checked="" 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 checked="" 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 checked="" type="checkbox"/>
Make or enclose payment of the fee for the application	<input checked="" type="checkbox"/>
Sign the declaration in Section 9 below	<input checked="" 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.

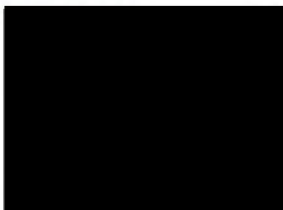
Signature	
Date	04 JULY 2012.
Name of Person signing	M CLIFFORD

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	11-07-12
Name of Officer signing	Emma Bowell



MEMORANDUM

To : **ADY POOLE – LICENSING ASSISTANT**

From : **Richard Corfield**

Tel : **01432 261666** My Ref : **RCO/109266**

Date : **11 July 2012** Your Ref : **TEN6713**

**CROWN & ANCHOR, CROWN AND ANCHOR, COTTS LANE, LUGWARDINE, HEREFORDSHIRE,
HR1 4AB**

Having assessed the TEN application at the above location, I would like to make the following comments:

Prevention of Public Nuisance.

I am not satisfied that this event can take place without giving rise to public nuisance from excess noise.

Complaints have been made by members of the public to similar recent events and there have been a substantial number of objections to applications for a premises license application for similar activities.

The location is in close proximity to several dwellings. I do not consider that this is a suitable location for live or recorded music to be played outside or within a temporary structure at night.

I therefore object to this application.

RICHARD CORFIELD
ENVIRONMENTAL HEALTH OFFICER

