

MEETING:	REGULATORY SUB-COMMITTEE
DATE:	21 JUNE 2010
TITLE OF REPORT:	NOTIFICATION OF TEMPORARY EVENT NOTICE IN RESPECT OF MR CHIPS, 17 COMMERCIAL ROAD, HEREFORD, HR1 2BB AND THE ISSUE OF AN OBJECTION NOTICE GIVEN BY THE CHIEF OFFICER OF POLICE FOR WEST MERCIA.' - LICENSING ACT 2003
PORTFOLIO AREA:	ENVIRONMENT & TRADING STANDARDS

CLASSIFICATION: Open

Wards Affected

Hereford City

Purpose

To consider the notification of a Temporary Event Notice in respect of Mr CHIPS, 17 Commercial Road, Hereford, HR1 2BB and the issue of an objection notice given by the Chief Officer of Police for West Mercia.

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 necessary to promote that licensing objective,
- The objection notice issued by the West Mercia Police,
- 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 West Mercia Police

Options

There are two 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, thereby authorising the Licensable Activity and hours as notified in the Temporary Events Notice

Reasons for Recommendations

Ensures compliance with the Licensing Act 2003.

Introduction and Background

Background Information

Applicant	Keith Ricketts 12 Bardolph Close, Southdale, Hereford, HR2 7QA	
Solicitor	N/A	
Type of application: TENS Notification	Date received: 11/06/10	48 hour period concluded 13/06/10

TEN Notification

The notification of a Temporary Event Notice has received an objection from the relevant Chief Officer of Police. It therefore is now brought before committee to determine the notification.

Summary of Notification

The licensable activity notified is: -

The provision of Late Night Refreshment on:-

27th June 2010 between 01:30 – 04:00

Details of Event

The application states 'Late Licence'. No other details are provided.

Summary of Representations

The relevant Chief Officer of Police has made a written objection on 11th June 2010 on the grounds that the temporary event would undermine the Crime Prevention Objective as: -

- The premises prior to the introduction of the act operated without restriction, and was a location where alcohol related crime and disorder occurred in Hereford City.
- In the last 12 months there have been 4 incidents in or near to the premises where disorder has occurred, which is alcohol related. These incidents can relate to the fact that the premises was operating. One of these incidents occurred when the premises was subject to a temporary event notice.

- Since the commencement of the Licensing Act 2003, a number of TEN have been granted for this premise, without police objection, but they have only been on “Special Occasions “such as New Years Eve, when additional policing resources have been deployed. There is no information that indicates that this date for this application is a ‘special occasion’.

A copy of the objection can be found within the background papers.

Key Considerations

To consider what action should be taken, if any, to promote the licensing objectives of the prevention of crime and disorder.

Community Impact

The granting or refusing of the Notification is likely to have little 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.

By virtue of Schedule 5 Section 16(6) there is no right of appeal to the Magistrates Court as any appeal has to be bought no later than 5 working days before the day on which the event period specified in the temporary event notice begins.

Consultees

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

Appendices

Copy of TEN notification
Police Objection Notice

Background Papers

Background papers are available for inspection in the Committee Room 1, Shirehall, Hereford 30 minutes before the start of the hearing.