

<b>MEETING:</b>	<b>REGULATORY SUB-COMMITTEE</b>
<b>DATE:</b>	<b>20 AUGUST 2013</b>
<b>TITLE OF REPORT:</b>	<b>APPLICATION FOR A TEMPORARY EVENT NOTICE (TEN) IN RESPECT OF THE 'YEW TREE INN, PRESTON ON WYE, HEREFORD.</b>
<b>REPORT BY:</b>	<b>LICENSING MANAGER</b>

## **1. Classification**

Open

## **2. Key Decision**

This is not an executive decision

## **3. Wards Affected**

Golden Valley North

## **4. Purpose**

To consider an objection to a Temporary Event Notice (TEN).

## **5. Recommendation(s)**

THAT

The Sub-Committee determine the TEN with a view to promoting the licensing objectives in the overall interests of the local community. They should give appropriate weight to:

- The steps that are appropriate to promote the licensing objective of the prevention of public nuisance,
- The objection notice issued by the Public Protection Officer,
- The Guidance issued to local authorities under Section 182 of the Licensing Act 2003, and
- The Herefordshire Council Licensing Policy

## **6. Key Points Summary**

- A temporary event notice was submitted by Mr Phillip Pugh of the Yew Tree Inn, Preston-on-Wye.

- The Public Protection Officer objected to the TEN.
- The matter is therefore brought before the sub-committee for determination.

## 7. Options

There are three options available to the sub-committee:

- Issue a 'counter notice' if it considers necessary for the prevention of public nuisance, or
- Refuse to issue a counter notice and not attach any conditions, thereby authorising the licensable activity and hours as notified in the TEN, or
- 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 TEN providing the conditions were complied with.

## 8. Reasons for Recommendations

Ensure compliance with the legislation.

## 9. Introduction and Background

### Background Information

Applicant	<b>Mr Phillip Pugh</b> <b>Yew Tree Inn, Preston on Wye</b>	
Representative	<b>N/K</b>	
Type of application: <b>TENS Notification</b>	Date received: <b>08/08/2013</b>	72 hour period concluded <b>13/08/2013</b>

### TEN Notification

The notification of the Temporary Event Notice has received an objection from a relevant person, the Public Protection Officer. It therefore is now brought before the sub-committee to determine the notification. A copy of the TEN application is appended to this report.

### Summary of Notification

The licensable activity notified is: -

Sale by retail of alcohol (for consumption both on the Premises), Provision of regulated entertainment,

Between 1930 hours 24 August 2013 and 0000 on 24 August 2013

## **Details of Event**

Anniversary Party

### **Summary of representation**

The Public Protection Officer objects to the TEN due to previous complaints from more than one household regarding noise nuisance from live music and recorded music, and disturbance to nearby residents relating to noise from similar recent events.

### **Current Conditions attached to licence**

#### **Prevention of Crime:**

Staff are trained in the regulations governing the sale of alcohol and are authorised to exclude violent, drunken or abusive customers or those causing a public nuisance.

The provision of a last entry time of 23:30

#### **Public Safety:**

Emergency services numbers are displayed behind the bar for staff use. Staff are instructed in the actions to be taken in the event of an emergency. Basic first aid equipment is provided in the staff area. Seating is provided for 50 customers at all times. Drinks glasses are of strengthened glass and are not allowed to be taken off the premises. Free water is always available. The public part of the premises is centrally heated and there are two large electric air extractors. Level access is provided to the premises.

#### **Prevention of Public Nuisance:**

On site parking is provided for approximately 12 cars.

#### **Protection of Children:**

Staff are trained in the regulations relating to the age of customers on the premises including the Gaming Act 1968.

## **10. Key Considerations**

To consider what action should be taken, if any, to promote the licensing objective of the prevention of public nuisance in accordance with the recommendation.

The sub-committee has to consider the representation and decide whether to allow the temporary event notice or whether to issue a counter notice.

There is an option for the sub-committee to allow the TEN and to attach some or all of the conditions shown on the licence if they feel it will promote the licensing objectives.

## **11. Community Impact**

The granting of the notification as applied for may have an impact on the local community.

## **12. Equality and Human Rights**

None identified.

## **13. Financial Implications**

There are unlikely to be any financial implications at this time to the authority.

## **14. 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.

## **15. Risk Management**

15.1 No risks identified

## **16. Consultees**

16.1 West Mercia Police

Environmental Protection Team

## **17. Appendices**

- a. Copy of TEN notification
- b. Copy of objection from Public Protection Officer

## **18. Background Papers**

**Background papers are available for inspection in the Council Chamber, Brockington, 35 Hafod Road, Hereford 30 minutes before the start of the hearing.**