

Title of report: Notification of a standard Temporary Event Notice (TEN) in respect of Razbari, 156 Eign Street, Hereford. HR4 0AP and the issue of an objection notice in respect of the TEN given by West Mercia Police – Licensing Act 2003

Meeting: Licensing sub-committee

Meeting date: Tuesday 7 December 2021 at 10:00am

Report by: Senior Licensing Technical Officer

Classification

Open

Decision type

This is not an executive decision

Wards Affected

Hereford-Widemarsh

Purpose

To consider the notification of a standard temporary event notices (TEN) in respect of Razbari, 156 Eign Street, Hereford. HR4 0AP and the issue of an objection notice in respect of the TEN given by West Mercia Police

Recommendation(s)

That:

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

- a) The steps that are appropriate to promote the licensing objectives,
- b) The representations (including supporting information) presented by all parties,
- c) The guidance issued to local authorities under Section 182 of the Licensing Act 2003, and
- d) The Herefordshire Council Statement of Licensing Policy 2020-2025

Reasons for Recommendations

Ensures compliance with the Licensing Act 2003

Alternative options

1. There are two options available to the committee:
 - Issue a 'counter notice' (thus refusing the notice) if it considers necessary for the promotion of the licensing objectives, or
 - Refuse to issue a counter notice thereby authorising the Licensable Activity and hours as notified in the Temporary Event Notice

Key considerations

2. The details of the TEN are:

Applicant	Usha Begum	
Agent	Charles Denny	
Type of application: TEN Notification	Date received: 23 November 2021	72 hour period concluded 26 November 2021

3. **TEN Notification**

The notification of the Temporary Event Notice (appendix 1) has received an objection from a relevant person, West Mercia Police (appendix 2). It therefore is now brought before sub-committee to determine the notification.

4. **Summary of Notification**

The licensable activity notified is: -

Sale/Supply of Alcohol (consumption on and off the premises) 17:00 – 24:00 (each day)

Late Night Refreshment 23:00 – 24:00 (each day)

Details of Event

The purpose of this TEN is to enable the restaurant to provide a service to its dine in and take away customers to include the sale of alcohol by retail between the hours of 17:00 and 24:00 each day, and Late Night Refreshment from 23:00 until 24:00 from Wednesday 8th December through to and including Tuesday 14th December.

The four licensing objectives will be promoted at all times, with particular emphasis on avoiding any form of public nuisance especially between 23:00 and 24:00, and prevention of sales of alcohol to anyone under the age of 18 at all times.

The Challenge 25 age verification policy will be applied, and staff trained accordingly. Alcohol will only be sold ancillary to table meals on the premises, and only sold for consumption off the premises in accompaniment with a takeaway meal, and in sealed containers. The applicant, Usha Begum, is undertaking the APLH qualification on Thursday 25th November, in order to gain a full understanding of licensing law in advance of the TEN commencing

5. **Summary of Representations**

A relevant person, West Mercia Police, has made a written objection on 26 November 2021 on the grounds that the temporary event would undermine the Protection of Crime & Disorder Objective.

Community impact

6. Any decision may have an impact on the local community.

Environmental Impact

7. This report is in relation to a temporary event notice under the Licensing Act 2003 and as such there are minimal environmental impacts for the council, as licensing authority.

Equality duty

8. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to –

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

9. There are no equality issues in relation to the content of this report.
10. This report has human rights implications for both the premises licence holder and the residents from the local neighbourhood. Any of the steps outlined in section 1 of this report may have financial implications for a licensee's business and livelihood and/or may have impact upon the day to day lives of residents living in close proximity to the premises.
11. Article 8(i) of the European Convention of Human Rights provides that everyone has the right to respect for his/her private and family life and his/her home (which includes business premises). This right may be interfered with by the council on a number of grounds including the protection of rights and freedoms of others. The First Protocol – Article 1 – also provides that every person is entitled to the peaceful enjoyment of his possessions and shall not be deprived of his possessions except in the public interest and conditions provided for by law. Members must accordingly make a decision which is proportionate to the hearing and endeavour to find a balance between the rights of the applicant, residents and the community as a whole.

Resource implications

12. This report is in relation to a premises license under the Licensing Act 2003 and as such there are minimal resource implications for the council, as licensing authority.

Financial implications

13. There are unlikely to be any financial implications for the Council, as licensing authority at this time.

Legal implications

14. 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.

Right of Appeal

15. 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.
16. Appeals should be made to the Magistrates Court and must be made within 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against

Risk management

17. There is little risk associated with the decision at this time as the legislation allows a right of appeal to the Magistrates Court

Consultees

18. The Police or an Environmental Health Officer are the only responsible authorities who are able to issue an objection notice under the act.

Appendices

Appendix 1 – TEN application

Appendix 2 – West Mercia Police Objection

Background papers

None Identified

Please include a glossary of terms, abbreviations and acronyms used in this report.

TEN – Temporary Event Notice