

**Notification of a Temporary Event Notice with Environmental Health
Objection – ‘Orange Tree, 16 King Street, Hereford, Herefordshire, HR4
9BX’ – Licensing Act 2003.**

Meeting: Licensing sub-committee

Meeting date: Tuesday 31 May 2022 at 10:30am via Video Conferencing

Report by: Principal Licensing Officer

Classification

Open

Decision type

This is not an executive decision

Wards affected

Central

Purpose

To consider the notification of a standard temporary event notices (TEN) in respect of 'The Orange Tree, 16 King Street, Hereford, Herefordshire, HR4 9BX' and the issue of an objection notice in respect of the TEN given by The Environmental Health department at Herefordshire Council, who are a Responsible Authority under the Licensing Act 2003.

Recommendation(s)

That:

The sub committee determine the notification 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	Jade Owen Skinny Eats, 31 Carroll Avenue, Hereford, HR4 0QW	
Agent	TL Guys Ltd	
Type of application: TENS Notification	Date received: 18 May 2022	72 hour period concluded 21 May 2022

3. **TEN Notification**

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

4. **Summary of Notification**

The licensable activity and the hours notified are: -

The Sale of Alcohol	-	as Pre-existing premises licence
Provision of Regulated Entertainment	-	1500 hrs to 0200 hours
The provision of Late Night Refreshment	-	Times not specified

Details of Event

Jubilee Weekend Celebrations:

In consultation with Police Licensing, we have addressed the following areas:

1. There will be regulated entertainment in the form of live and recorded music over the two days starting at 3pm.
2. SIA door staff will be employed during the event, who will monitor both inside and the external garden.
3. There will be a Personal Licence Holder available at all times.
4. Sound will be monitored to ensure that there is no disturbance to neighbouring properties.

Summary of Representations

A Responsible Authority, the Environmental Health department at Herefordshire Council, has made a written objection on 19 May 2022 on the grounds that the temporary event would undermine the licensing objective of the Prevention of Public Nuisance.

5. **Summary of the Current Premises Licence**

Live Music, Recorded Music: Sunday – Thursday 19:00 – 23:00; Friday – Saturday 19:00 – 24:00

Late Night Refreshment: Sunday – Thursday 23:00 – 24:00; Friday – Saturday 23:00 – 02:00

Sale/Supply of Alcohol: Sunday – Thursday 10:00 – 24:00; Friday – Saturday 10:00 – 02:00

Non-Standard Timings: Live Music & Recorded Music
Terminal Hour Extended until 00:00hrs on Christmas Eve, New Year's Eve, Valentine's Day, Hallowe'en, Bank Holidays and Sundays before Bank Holiday Mondays

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 the licensing authority.

Financial implications

13. There are unlikely to be any financial implications for the council, as the 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.

- 15 **The Licensing Act 2003 (Platinum Jubilee Licensing Hours) Order 2022**

This order will extend the hours during which licensed premises can be used for the on sale of alcohol (consumption of alcohol on premises), the provision of late-night refreshment, and the provision of regulated entertainment, to mark Her Majesty the Queen's Platinum Jubilee. This order will not apply to the off sales of alcohol (consumption of alcohol off the premises). It will apply over the extended bank holiday, Thursday 2 June - Sunday 5 June 2022 and adds 2 hours to licensable hours beginning at 11pm on each of the 2 June 2022, 3 June 2022 and 4 June 2022.

Right of Appeal

16. In this case there is no right of appeal against the decision by either the person giving notification of the TEN or the relevant person as appeal must be lodged not less than 5 working days before the event.

Risk management

17. There is little risk associated with the decision at this time.

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 – Environmental Health Objection

Background papers

None Identified

Glossary of terms, abbreviations and acronyms used in this report.

TEN – Temporary Event Notice