



Title: Objection to a Temporary Event Notice received under the Licensing Act 2003 for Holly Bush, Holly Street, Royal Leamington Spa, CV32 4TN.

Lead Officer: Emma Dudgeon

Portfolio Holder: Cllr Judith Falp

Public report: Yes

Wards of the District directly affected: Leamington Clarendon

Contrary to the policy framework: No

Contrary to the budgetary framework: No

Key Decision: No

Included within the Forward Plan: No

Equality Impact Assessment Undertaken: No

Consultation & Community Engagement: No

Final Decision: Yes

Accessibility checked: Yes

Officer/Councillor Approval

Officer Approval	Date	Name
Head of Service	9/12/2022	Marianne Rolfe
Democratic Services manager & Deputy Monitoring Officer		
Legal Services	9/12/2022	Ross Chambers

1. Summary

- 1.1 Warwick District Council, as the Licensing Authority, has received a valid Temporary Event Notice (TEN) for Holly Bush, Holly Street, Royal Leamington Spa, CV32 4TN. A representation has been received in relation to this notice for the consideration of the panel in the determination of the notice.

2. Options available to the Panel

- 2.1 Members are asked to consider the information contained in this report.

The following options are available to members:

Option 1 – issue a counter notice for the event which will prevent it from taking place;

Option 2 – not to issue a counter notice and allow the event to take place as applied for.

Option 3 – not to issue a counter notice and allow the event to take place with conditions added from the current premises licence.

3. Details for Consideration

- 3.1 When considering the application the panel must also give appropriate weight to:-
- a) The representations received.
 - b) Statutory guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003.
 - c) The Council's Licensing Policy Statement (attached as appendix 6)
 - d) The Licensing Objectives, which are:-
 - i) The Prevention of Crime and Disorder.
 - ii) Public Safety.
 - iii) The Prevention of Public Nuisance.
 - iv) The Protection of Children from Harm.

However, it must only consider those licensing objectives which have been referred to in the representations received.

- 3.2 The Council's Statement of Licensing Policy provides that the authority will take an objective view on all applications and will seek to attach appropriate and proportionate conditions to licences where necessary to ensure the promotion of the four licensing objectives. Each application will be judged on its own merits.
- 3.3 Details of the procedure adopted by the Licensing and Regulatory Committee for Panel Hearings have been supplied to the applicant and those making

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representations. The procedure will be explained more fully by one of the Council's Legal Team at the commencement of the hearing.

- 3.4 Mr Ricky Mancini applied for Temporary Event Notice for the premises known as Holly Bush on 5 December 2022. The Temporary Event Notice submitted by the applicant is attached as appendix 1.
- 3.5 The notice is to extend the hours already permitted on the premises licence to sell alcohol (on the premises only) and to extend the opening hours. The applicant has indicated that the proposed event is a Christmas party.
- 3.6 Warwickshire Police and WDC Environmental Health have powers to object to a Temporary Event Notice where they are satisfied that allowing the premises to be used in accordance with this notice would undermine a licensing objective. The Licensing Department has received an objection from Environmental Health along with additional information in relation to the history of the premises, this is attached as appendix 3. Warwickshire Police submitted an objection to the original notice, however, following an agreement between Warwickshire Police and Mr Mancini to amend the end time of the TEN they subsequently withdrew their objection. Details of this is attached as appendix 4.
- 3.7 The Holly Bush currently holds a premises licence issued under The Licensing Act 2003. The premises licence, including all current conditions, is attached as appendix 2. The TEN requests the extension of alcohol sales on the evening of 23 December into 24 December by 1 hour, from midnight to 01.00am. The TEN also requests the extension of opening hours by half an hour from 00.30am to 01.00.
- 3.8 When a premises licence is in place under The Licensing Act 2003 a panel is only able to add conditions from that licence to a Temporary Event Notice as part of their decision.
- 3.9 In accordance with section 105 of The Licensing Act 2003, the licensing authority must hold a hearing to consider the objection unless the responsible authority, the premises user and Licensing Authority agree that a hearing is unnecessary. It has not been agreed that a hearing would be unnecessary and therefore a Panel must be held to make the decision.
- 3.10 The hearing must be concluded and notice of the decision given to the premises user, environmental health and the Police, no later than 24 hours before the temporary event is due to commence.
- 3.11 A map showing the location of the premises and photos of the premises are attached as appendix 5.

4. Legal Comments

- 4.1 The statutory provisions relating to Temporary Event Notices ("TEN"s) are set out in Part 5 of the Licensing Act 2003 and guidance is contained in Part 7 of the Section 182 Guidance.

- 4.2 Section 7.2 of the guidance states "The system of permitted temporary activities is intended as a light touch process, and as such, the carrying on of licensable activities does not have to be authorised by the licensing authority on an application. Instead, a person wishing to hold an event at which such activities are proposed to be carried on (the "premises user") gives notice to the licensing authority of the event (a "temporary event notice" or "TEN")
- 4.3 Section 7.6 of the guidance states "The police or EHA ("relevant persons" for the purposes of TENs) may intervene to prevent such an event taking place by sending an objection to the licensing authority, which the licensing authority must consider on the basis of the statutory licensing objectives and decide whether the event should go ahead....If a relevant person sends an objection, this may result in the licensing authority imposing conditions on a TEN but only where the venue at which the event is to be held has an existing premises licence or club premises certificate. When giving a TEN, the premises user should consider the promotion of the four licensing objectives."
- 4.4 Section 7.34 of the guidance states "Where a standard TEN was given, the licensing authority must consider the objection at a hearing before a counter notice can be issued. At the hearing, the police, EHA and the premises user may make representations to the licensing authority. Following the hearing, the licensing authority may decide to impose conditions which already apply to an existing premises licence or club premises certificate at the venue, or issue a counter notice to prevent the event going ahead.

5. Policy Framework

5.1. Fit for the Future (FFF)

- 5.1.1 The Council's FFF Strategy is designed to deliver the Vision for the District of making it a Great Place to Live, Work and Visit. To that end amongst other things the FFF Strategy contains several Key projects.
- 5.1.2 The FFF Strategy has 3 strands, People, Services and Money, and each has an external and internal element to it, the details of which can be found [on the Council's website](#). The table below illustrates the impact of this proposal if any in relation to the Council's FFF Strategy.

5.2. FFF Strands

5.2.1 External impacts of proposal(s)

People - Health, Homes, Communities - The licensing policy recognises that residents within, and visitors to the District, need a safe and healthy environment to live, work and visit; and that safe and well run entertainment premises are important to the local economy and vibrancy of the District.

Services - Green, Clean, Safe – None.

Money- Infrastructure, Enterprise, Employment - The licensing policy relates to current legislation, and, where possible, to local factors, allowing

flexibility and the potential to expand and augment the local economy and promote cultural issues.

5.2.2. **Internal impacts of the proposal(s)**

People - Effective Staff – None.

Services - Maintain or Improve Services - None.

Money - Firm Financial Footing over the Longer Term - None.