

Licensing and Regulatory Panel
29 November 2022

Title: Objection to a Temporary Event Notice received under the Licensing Act 2003 for The Builders Arms, 38 Lansdowne Street, Leamington Spa, CV32 4SP

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	15.11.2022	Marianne Rolfe
Democratic Services manager & Deputy Monitoring Officer		
Legal Services	17.11.2022	Sue Mullins

1. Summary

- 1.1 Warwick District Council, as the Licensing Authority, has received a valid Temporary Event Notice (TEN) for The Builders Arms, 38 Lansdowne Street Leamington Spa, CV32 4SP. 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 5)
 - 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

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 Cavan Fulton applied for Temporary Event Notice for The Builders Arms, 38 Lansdowne Street Leamington Spa, CV32 4SP on 29 September 2022. The Temporary Event Notice submitted by the applicant is attached as appendix 1.
- 3.5 The notice is to extend the hours already allowed in the premises licence for the sale of alcohol (on the premises only) and the provision of regulated entertainment from 18:00 on Saturday 17 December 2022 to 02:00 on Sunday 18 December 2022. The applicant has indicated that the proposed event is a private party.
- 3.6 The current premises licence allows the sale of alcohol from 09:00 until 01:00 on Friday and Saturday and from 09:00 until 00:00 from Sunday to Thursday. The TEN is therefore seeking to extend the time during which alcohol can be sold on Sunday 18 December from 00:00 to 02:00.
- 3.7 In terms of regulated entertainment, the current premises licence allows regulated entertainment between 12:00 and 00:00 from Fridays to Sundays. The TEN is therefore seeking to extend the time during which regulated entertainment can be provided on Sunday 18 December from 00:00 to 02:00.
- 3.8 The Builders Arms currently holds a premises licence issued under The Licensing Act 2003. When a premises licence is in place under The Licensing Act 2003 a panel is able to add conditions from that licence to a Temporary Event Notice as part of their decision. A copy of the current premises licence for The Builders Arms including all current conditions has been attached as appendix 2.
- 3.9 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.
- 3.10 In accordance with section 105 of the Licensing Act 2003, the licensing authority must hold a hearing to consider the objection unless the relevant person (i.e. the Police or Environmental Health whichever has objected) the premises user and Licensing Authority agree that a hearing is unnecessary. The hearing must be concluded and notice of the decision given to the premises user and the Police, no later than 24 hours before the temporary event is due to commence.
- 3.8 The Licensing Department has received an objection from Environmental Health. Full details of the objection are attached as appendix 3. It has not been agreed that a hearing would be unnecessary and therefore a Panel must be held to make the decision.
- 3.9 A map showing the location of the premises and photos of the premises are attached as appendix 4.

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.