

BOSTON BOROUGH COUNCIL

LICENSING SUB-COMMITTEE TEMPORARY EVENT NOTICE

Subject: Temporary Event Notices

Premises User: Mr Burak Erdogan

Premise: The Assembly Rooms, Market Place, Boston

Hearing Date: 1400 hrs – 16 December 2019

Summary

This is a hearing to consider objections by the Chief Officer of Lincolnshire Police and Environmental Health to Temporary Event Notices (TENs).

Three Temporary Event Notices have been submitted by Mr Burak Erdogan for the Assembly Rooms, Boston. The Assembly Rooms is not currently operating, Mr Erdogan is not the Premises Licence Holder, he is however the Designated Premises Supervisor. The Premises Licence Holder has permitted Mr Erdogan to use the Assembly Rooms on a number of occasions for the sale of alcohol, late night refreshment and the provision of regulated entertainment.

The dates applied for are as follows:

TEN 1

2200hrs on 20 December 2019 until 0500hrs the following day.
2200hrs on 21 December 2019 until 0500hrs the following day.

TEN 2

2200hrs on 24 December 2019 until 0500hrs the following day.
2200hrs on 26 December 2019 until 0500hrs the following day.

TEN 3

2200hrs on 28 December 2019 until 0500hrs the following day.
2200hrs on 31 December 2019 until 0600hrs the following day.

Options

The Licensing sub-committee must determine the Temporary Event Notices, in accordance with the Licensing Act 2003, having regard to the guidance issued under Section 182 of the Act and the Licensing Authority's Statement of Licensing Policy. The sub-committee must, having regard to any objection notices, take such steps as considered appropriate for the promotion of the licensing objectives. These steps are summarised as follows:

The options available to the sub-committee are summarised below:

- Take no action and permit the event in the manner described in the Temporary Event Notices.
- Impose one or more of the existing premises licence conditions on the Temporary Event Notices.
- Issue counter notices (i.e. refuse the event).

The sub-committee must give full reasons for its decision.

1 Purpose of the Report

- 1.1 The Licensing Sub-Committee is required to consider Temporary Event Notices (TENs) submitted by Mr Burak Erdogan (the premises user). The Premises Licence Holder is Activ Red Ltd and Mr Erdogan is the Designated Premises Supervisor.
- 1.2 The premises is not currently operational and the Premises Licence Holder has permitted Mr Erdogan to use the premises, subject to authorisation by Temporary Event Notices, for the sale of alcohol, late night refreshment and the provision of regulated entertainment.

The dates applied for are as follows:

TEN 1

2200hrs on 20 December 2019 until 0500hrs the following day.
2200hrs on 21 December 2019 until 0500hrs the following day.

TEN 2

2200hrs on 24 December 2019 until 0500hrs the following day.
2200hrs on 26 December 2019 until 0500hrs the following day.

TEN 3

2200hrs on 28 December 2019 until 0500hrs the following day.

2200hrs on 31 December 2019 until 0600hrs the following day.

1.3 Under the provisions of section 104 of the Licensing Act 2003 objection notices in respect of the TENs have been received from the Chief Officer of Police and Environmental Health.

1.4 The Licensing Authority must hold a hearing to consider the objection notices.

2. Background

2.1 A TEN indicates that a premises will be used for licensable activities during the particular period identified in the TEN. A TEN can either be used to authorise licensable activities at a premises that does not benefit from a Premises Licence; to extend the hours for licensable activities at a licensed premises; provide additional licensable activities at a licensed premises; or allow a person who is not the Premises Licence holder to provide licensable activities at a licensed premises. This is a "light touch" regime for occasional events where no more than 499 persons (including staff) may attend an event at any one time.

2.2 Only the Police or Environmental Health may object to a TEN.

2.3 The Assembly Rooms is licensed for a number of licensable activities as detailed on the licence attached at Appendix 1. However, 3 TENs have been submitted to allow Mr Erdogan, not being the licence holder, to provide licensable activities. Any conditions on a Premises Licence do not automatically apply to a TEN, regardless of who submitted the TEN.

2.4 Where either the Police or Environmental Health (or both) is satisfied that allowing the premises to be used in accordance with a TEN would undermine a licensing objective, an objection notice stating the reasons for being so satisfied can be submitted. This can include a statement that the licensing objectives will not be promoted unless the conditions on a Premises Licence are imposed on the TEN.

2.5 If the sub-committee is satisfied it is appropriate for the promotion of the licensing objectives, a counter notice cancelling the TEN can be issued. If the sub-committee decide not to issue a counter notice (refuse the TEN) they may impose one or more conditions on the TEN if they consider it appropriate for the promotion of the licensing objectives to do so. Only conditions which are already contained within the Premises Licence may be imposed on a TEN.

2.6 The Licensing Objectives are:

- The Prevention of Crime and Disorder
- Public Safety

- The Prevention of Public Nuisance
- The Protection of Children from Harm

3. The Temporary Event Notice

- 3.1 Temporary Event Notices have been served by Mr Erdogan, the premises user, to use The Assembly Rooms for 6 events as detailed in paragraph 1.2 above. The TENs are for the retail sale of alcohol, late night refreshment and for regulated entertainment. The events are described as club nights/disco/dance nights. Mr Erdogan previously submitted TENs for 2 similar events at the premises on 28 September 2019 and 30 November 2019. In the case of the previous TENs the sub-committee resolved to append the Premises Licence conditions to the TEN.
- 3.2 A copy of the TENs are attached at Appendix 2.
- 3.3 The TENs were received by the Licensing Authority, Police and Environmental Health on 4 December 2019. The Police and Environmental Health have 3 working days following the day a TEN is received to serve an objection notice. On 5 December 2019 objection notices were received from Environmental Health and the same was received from The Chief Officer of Police on 9 December 2019. A copy of the objection notices is attached at Appendix 3. Under the terms of the 2003 Act the Licensing Authority must hold a hearing to consider the objection notices. Such a hearing must commence within 7 working days of the closing date for objections.

4. Considerations

- 4.1 The sub-committee must consider the TENs given by Mr Erdogan and the objection notices given by Environmental Health and the Police. Having regard to the licensable activities to be authorised by the TENs and the objection notices received the sub-committee must make a decision appropriate for the promotion of the licensing objectives. It would be appropriate to consider all 3 notices simultaneously at one hearing.
- 4.2 In determining the options available, with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:
- The Section 182 Guidance made under the Act – See Appendix 4;
 - The Licensing Authority’s Licensing Policy Statement – See Appendix 5;
 - The options available to promote the licensing objectives;
 - The objection notices and/or submissions (including supporting information, if any) presented by all parties.

- 4.3 The Local Authority must fulfill its obligations under section 17 of the Crime and Disorder Act 1981 when carrying out their function as a Licensing Authority. Section 17 places a duty on the Local Authority to do all it reasonably can to prevent crime and disorder in their area. The possible crime and disorder implications are relevant factors in the consideration of TENs where a Police objection has been made. In giving “due regard” to these possible implications the sub-committee must consider and weigh up all the information made available at the hearing and the submissions made by the Police, Environmental Health and premises user.

5. Human Rights & Equalities

- 5.1 In considering the objection notices the sub-committee should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Human Rights Act it is unlawful for a public authority to act in a manner which is incompatible with the European Convention on Human Rights.
- 5.2 The sub-committee, in its decision making, must have due regard to its public sector equality duty under section 149 of the Equality Act 2010. A copy of section 149 of the Act is attached at Appendix 6.

6. Options

- 6.1 The sub-committee cannot modify the TENs in any way, for example reduce the hours of the TENs; only the Police/Environmental Health and the premises user can agree to modify a TEN. As no agreement to modify the TENs has been made, they must be determined in their original format.
- 6.2 The Sub-Committee’s determination should be justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.
- 6.3 There are three distinct options available to the committee:
- If the sub-committee, acting as the licensing authority, are satisfied that the licensing objectives will be promoted as the TENs stands they must take no action and permit the events in the manner described in the Temporary Event Notices with no additional conditions.
 - The sub-committee, acting as the licensing authority, may decide to impose on the TENs a condition or conditions appended to the existing premises licence. The sub-committee can only do so if the Police or Environmental Health have objected to the TEN, the objection notice has not been withdrawn; there is a Premises Licence in relation to at least part of the premises in respect of which the TENs are given and if the sub-committee considers it appropriate for the promotion of the licensing objectives to impose one or more conditions. The conditions

imposed must not be inconsistent with the carrying out of the licensable activities under the Temporary Event Notices. The conditions the committee can consider imposing are detailed at Appendix 7.

- The sub-committee, acting as the licensing authority, can issue a counter notice preventing the events from going ahead if considered appropriate for the promotion of the licensing objectives.

7. Appeal

- 7.1 The premises user, Environmental Health and the Police may appeal the decision made by the sub-committee, regarding the TENs, to the Magistrates Court. However the decision made by the sub-committee takes immediate effect. Any appeal must be made within 21 days of the day on which all parties were notified, in writing by the Licensing Authority, of the decision to be appealed against. No appeal may be brought later than 5 working days before the day on which the event period specified in each of the Temporary Event Notices begins.

8. List of Associated Papers

Appendix 1	Copy of Premises Licence
Appendix 2	Copy of Temporary Event Notice
Appendix 3	Copy of Police and Environmental Health objection notices
Appendix 4	Section 182 Guidance
Appendix 5	Relevant extract of Statement of Licensing Policy.
Appendix 6	Section 149 – Equality Act 2010
Appendix 7	Conditions available to be imposed on the TENs