

REPORT TO LICENSING & APPEALS SUB-COMMITTEE

Agenda Item: 3

Hearing Date: 21st November 2023

Contact Officer: Emma McHugh

HEARING FOR THE CONSIDERATION OF AN OBJECTION NOTICE TO A TEMPORARY EVENT NOTICE

Applicant's Name	Robert Winterton
Premises Name	Sir Nigel Gresley
Address	Market Street Swadlincote Derbyshire DE11 9DA

1. PURPOSE

- 1.1 To consider an objection notice made by the Chief Officer of Police in response to two temporary event notices (TEN) made by Robert Winterton at the Sir Nigel Gresley on 9th November 2023. A copy of each TEN is attached at **Appendix 1-2**.

2. BACKGROUND

- 2.1 The premises user submitted two TENs on 9th November 2023 regarding the intended use of the premises for the sale of alcohol for consumption on and off the premises at the above premises. The nature of the event for which the notification has been received is 'Extension of hours for the provision of licensable activities for the Christmas/New Year period'.

3. APPLICATION DETAILS

- 3.1 The TEN notifies the Licensing Authority that the above licensable activities will take place at the following days and times:

Activity	Days	Times
TEN 1	21 st and 22 nd December 2023	Midnight to 1am for each day.
TEN 2	28 th and 29 th December 2023	Midnight to 1am for each day.

- 3.2 A permitted temporary activity is a licensable activity that is carried on in accordance with a temporary event notice under section 100 and in compliance with the provisions of Part 5 of the Licensing Act 2003.
- 3.3 A TEN is subject to various restrictions and limits. Where the requirements for obtaining a TEN cannot be met, the licensable activity can only be authorised by way of a premises licence.
- 3.4 Officers are satisfied that this TEN has been properly served and the criteria in respect of TENs have been met.

4. CONSULTATION RESPONSES

- 4.1 In respect of a TEN, if the Chief Officer of Police or Environmental Health is satisfied that allowing the premises to be used in accordance with the notice would undermine any of the licensing objectives, he must give a notice to the Licensing Authority and premises licence user detailing the reasons for the objection.
- 4.2 An objection notice has been received from the Chief Officer of Police on 10th November 2023 on the grounds of prevention of crime and disorder. The Police request that the conditions from the premises licence are attached to the TEN as this would alleviate their concerns about the undermining of the licensing objectives. A copy of the objection notice is attached at **Appendix 3**.
- 4.4 It is only the Licensing Authority who is permitted to attach premises licence conditions to a TEN. Please note that the premises user has agreed to attaching their premises licence conditions to the TEN.

5. OTHER RELEVANT CONSIDERATIONS

- 5.1 The Authority should consider its responsibilities under the Crime and Disorder Act 1998, and the Human Rights Act 1998 when considering the fair balance between the interests of the applicant and the rights of local residents.
- 5.2 Any decision taken by the Sub-Committee must be appropriate and proportionate to the objective being pursued.
- 5.3 Members are reminded that whenever they make a decision under the Licensing Act 2003, they have a duty to act with a view to promoting the licensing objectives.
- 5.4 When considering any representations, only those issues relating to the four licensing objectives should be considered and appropriate weight given to the importance and relevance to the application of each representation.
- 5.5 In making its decision, Members must also have regard to the Statutory Guidance issued under section 182 of the Licensing Act 2003 and the Council's own Licensing Policy. If Members depart from either, they must specify their reasons for doing so.

6. DETERMINATION

- 6.1 If having regard to the objection notice, the Sub-Committee must take such of the following steps as it considers necessary for the promotion of the licensing objectives:
1. Allow the licensable activities to take place as stated in the TEN;
 2. Impose one or more of the existing licence conditions from the premises licence on the TEN (insofar as such conditions are not inconsistent with the event. A copy of the premises licence is attached at **Appendix 4**).
 3. Issue a counter notice under section 105 of the Licensing Act 2003 meaning that the event cannot take place.

7. RIGHT OF APPEAL

- 7.1 Members should note that the premises user or persons making representations have the right of appeal against any decision made by the Sub-Committee.

However, no appeal may be brought later than 5 working days before the day on which the TEN begins.

8. APPENDICES

1. Temporary Event Notice – 21st-22nd December 2023
2. Temporary Event Notice – 28th – 29th December 2023
3. Police Objection
4. Premises Licence