

AGENDA

LICENSING ACT 2003 SUB COMMITTEE MEETING



Date: Tuesday 15 May 2012
Time: 10.00 am
Venue: Town Hall, High Street,
Maidstone

Membership:

Councillors Mrs Grigg, Mrs Hinder and Mrs Joy

Legal Representative: Mrs Jayne Bolas

Page No.

1. Disclosures by Members and Officers
 2. Disclosures of Lobbying
 3. To consider whether any items should be taken in private because of the possible disclosure of exempt information
 4. Report of the Democratic Services Manager - To determine the Temporary Event Notice application by Emma-Jane Milgate, 2 Courtenay Road, Maidstone, Kent, ME15 6UL having regard to relevant objections from the Police and Environmental Health. This matter needs to be taken as an urgent item due to the Statutory timescales relating to LA2003 Hearings
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Continued Over/:

Issued on 10 May 2012

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Alison Broom

**Alison Broom, Chief Executive, Maidstone Borough Council,
Maidstone House, King Street, Maidstone Kent ME15 6JQ**

Agenda Item 4

Agenda Item No:	1 – Summary of Report
Reference	12/01437/LATEN
Report To:	LICENSING SUB – COMMITTEE (UNDER THE LICENSING ACT 2003)
Date:	8TH MAY 2012
Report Title:	Emma-Jane Milgate, Yelsted Court Farm, Yelsted, Sittingbourne, ME9 7UT
	Temporary Event Notice
Report Author:	<u>Lorraine Neale</u>
Summary:	<p>1. The Premises User – Emma-Jane Milgate</p> <p>2. Type of procedure: Temporary Event Notice. Appendix A</p> <p>Grounds of police objection: That this style of event cannot adequately be run as a TEN and should really be covered by a full licence and be passed over by the Safety Advisory Group (Appendix B)</p> <p>Grounds of Environmental Health objection are that taking the frequency, duration and level/type of music, into account they believe that the event will be highly likely cause a Statutory Nuisance to neighbouring properties. (Appendix C)</p> <p>The applicant originally made the application to Medway Council in February 2012 and was subsequently advised by them that the application had been made to the wrong authority. Medway Council's correspondence is attached as Appendix D. The application which is dated 30.3.12 and the fee were received and accepted by Maidstone Council on 27.4.12 The application has been made on the old prescribed form and not the new prescribed form which was issued on 25.4.12. It would be unreasonable in the circumstance to require completion of the new form given the circumstances in this case.</p>
Affected Wards:	North Down
Recommendations :	The Sub Committee is asked to determine the application and decide whether to issue a counter notice (ie refuse the event) if it is appropriate for the promotion of a licensing objective to do so.
Policy Overview:	The decision should be made with regard to the Secretary of State's Guidance as amended and the Licensing Authority's Statement of Licensing Policy under the Licensing Act 2003. Where the decision departs from Policy or Guidance the departure must be directed at the promotion of a licensing objective, and such departure must be supported by proper reasons.
Other Material Implications:	<p>HUMAN RIGHTS: In considering this application it is necessary to consider the rights of the premises user. The hearing procedure has been formulated to ensure a fair hearing for all parties.</p> <p>LEGAL: Under the Licensing Act 2003 the Licensing Authority has a duty to exercise licensing control in respect of temporary events.</p>

**Background
Papers:**

Licensing Act 2003 as amended by the Police Reform and Social Responsibility Act 2011 (PRSR Act). 25 April 2012.
DCMS Guidance Document issued under section 182 of The Licensing Act 2003 as amended on 25 April 2012
Maidstone Borough Council Statement of Licensing Policy

Contacts:

Mrs Lorraine Neale at: lorraineneale@maidstone.gov.uk – tel: 01622 602028

Agenda Item No. 1

Report Title: Emma-Jane Milgate, Yelsted Court Farm, Yelsted, Sittingbourne, ME9 7UT

Temporary Event Notice

Purpose of the Report

The report advises Members of a Temporary Event Notice (Appendix A), brought by Emma-Jane Milgate, in respect of an event to be held from 27th – 29th July 2012 regarding a festival type event at Yelsted Court Farm, Yelsted, Sittingbourne, ME9 7UT. Objections have been received from both relevant authorities, the Police (Appendix B) and Maidstone Borough Council's Environmental Health Department (Appendix C).

Issue to be Decided and Options

1. Members must, having regard to the application and the objections of the two relevant authorities, take such steps mentioned below as members consider necessary for the promotion of the licensing objectives.
2. The steps are:
 - To take no action and permit the event in manner described in the TEN;
 - To issue a counter notice (ie refuse the event) under s 105 (2) (b) if the sub-committee considers it appropriate for the promotion of a licensing objective to do so.
 - (Note: There is no discretion, in this case, to impose a condition on a TEN where it is decided not to give a counter notice, because there is no premises licence or club premises certificate in existence for any part of the premises to which the application relates.) Background
3. The relevant statutory provisions are sections 98 to 110 inclusive of the Licensing Act 2003. The applicable Licensing Objectives areas follows:
 - The prevention of crime and disorder;
 - public safety;
 - the prevention of public nuisance; and
 - the protection of children from harm.
4. Members are advised that they may only issue a counter notice if it is appropriate for the promotion of a licensing objective.
5. The relevant section of the Guidance issued under section 182 of The Licensing Act 2003 (as amended on 25 April 2012) is Chapter 7, which is attached to this report at Appendix D.

6. The relevant provision in the Licensing Authority's Statement of Licensing Policy is paragraph 14, however new guidance has been issued under section 182 of The Licensing Act 2003 which requires the Licensing Authority's Statement of Licensing Policy to be revised.(The new guidance is attached as Appendix E).

"14 – Temporary Event Notice.

Certain temporary events involving up to 499 people are licensed by notifying the Licensing Authority and Police using the Temporary Event Notice procedure. Only the police can object to a Temporary Event Notice on the grounds of crime and disorder. However, depending on the nature and location of such events, these can have serious implications on the Licensing Objectives. Organisers of these events are encouraged to submit their notification as soon as reasonably practicable to enable the police and the Licensing Authority to work with them to identify and reduce the risk of crime and disorder.

The Act requires that a minimum of 10 working days notice is given, but as guidance, the Licensing Authority considers and recommends that a reasonable period of notice for the service of a Temporary Event Notice is at least 28 days but not more than three months, prior to an event taking place. Some council departments have expertise in advising the organisers of temporary events in respect of issues such as crowd control and complex entertainment. Organisers may ask for this advice at the earliest possible opportunity by contacting the Licensing office.

A copy of the Temporary Event Notice must be submitted to the Police at Maidstone Police station, Palace Avenue, Maidstone, as well as notifying the Licensing Authority.

7. Members of The Licensing Act 2003 – Licensing Sub – Committee are reminded of their duty under section 17 of the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the Licensing Authority's responsibility to co – operate in the reduction of crime and disorder in the Borough.

Section 17 of the Crime and Disorder Act 1998 states:

"Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those function on, and the need to do all that it reasonably can to prevent, crime and disorder in its area"

Implications Assessment

8. The decision should be made with regard to the Secretary of State's Guidance as amended and the Licensing Authority's Statement of Licensing Policy under the Licensing Act 2003. Where the decision departs from either the Guidance or the policy clear and cogent reasons must be given. Members should be aware that if such a departure is made the risk of appeal / challenge is increased.

9. **Human Rights:** While all Convention Rights must be considered, those which are of particular relevance to the application are:

- Article 8 - Right to respect for private and family life
- Article 1 of the First Protocol - Protection of Property
- Article 6(1)- Right to Fair Hearing
- Article 10 – Freedom of Expression

The full text of each Article is given in the attached Appendices.

Conclusion

10. Members must ensure that the application is considered on its merits, as well as against the relevant guidance, policy and statutory framework.

List of Appendices

11. Appendix A Temporary Event Notice
Appendix B Copy of Police Objection Notice
Appendix C Copy of Environmental Health objection
Appendix D Medway Council correspondence
Appendix E Copy of the amended Guidance (relating to Temporary Events)
Appendix F Human Rights Articles
Appendix G Order of Proceedings

Appeal

12. All parties to the hearing will receive written notice of the decision. The written notice will be given at least 24 hours before the beginning of the event period specified in the Temporary Event Notice. The parties may appeal the decision to the Magistrate's Court within 21 days of the day that the appellant was notified by the licensing authority of the decision appealed against, subject to the appeal being brought at least 5 working days before the day on which the event is proposed to commence..

Contact:	Senior Licensing Officer
Email:	lorraineneale@maidstone.gov.uk

Reason for Urgency: This matter needs to be taken as an urgent item due to the Statutory timescales relating to LA2003 Hearings.

APPENDIX A

SCHEDULE 1

PRESCRIBED FORM OF TEMPORARY EVENT NOTICE

Regulation 3

The Prescribed form for a temporary event notice is as follows:

[Insert name and address of relevant licensing authority and its reference number (optional)]

Temporary Event Notice

Information on the Licensing Act 2003 is available on the website of the Department for Culture, Media and Sport (http://www.culture.gov.uk/alcohol_and_entertainment/default.htm) or from your local licensing authority.

Before completing this notice please read the guidance notes at the end of the notice. If you are completing this notice by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written or typed in black ink. Use additional sheets if necessary.

You should keep a copy of the completed notice for your records. You must send two copies of this notice to the licensing authority and an additional copy must be sent to the chief officer of police for the area in which the premises are situated. The licensing authority will endorse one of the two copies and return it to you as an acknowledgement of receipt.

I, the proposed premises user, hereby give notice under section 100 of the Licensing Act 2003 of my proposal to carry on a temporary activity at the premises described below.

1. The personal details of premises user (Please read note 1)			
1. YOUR NAME			
Title	(delete as appropriate) Mr Mrs <u>Miss</u> Ms Other (please state)		
Surname	Milgate		
Forenames	EMMA-JANE		
2. PREVIOUS NAMES (Please enter details of any previous names or maiden names, if applicable. Please continue on a separate sheet if necessary)			
Title	(delete as appropriate) Mr Mrs Miss Ms Other (please state)		
Surname			
Forenames			
3. Your date of birth		Day	26
		Mth	02
		Yr	1987
4. Your place of birth		Minster hospital, Sheppy, Kent.	
5. National Insurance Number		JJ 39 59 89 B	
6. YOUR CURRENT ADDRESS (We will use this address to correspond with you unless you complete the separate correspondence box below)			
2 Courtenay road, Maidstone, Kent.			
Post town		Post code	
Maidstone		ME15 6UL	
7. OTHER CONTACT DETAILS			
TELEPHONE NUMBERS			
Daytime	07575994846		
Evening (optional)			
Mobile (optional)	07575994846		
FAX NUMBER (optional)			
E-Mail Address (optional)		teamkarmageddon@yahoo.com	
8. ALTERNATIVE ADDRESS FOR CORRESPONDENCE (If you complete the details below, we will use this address to correspond with you)			
Post town		Post code	

LICENSING PARTNERSHIP
£21 PAID MBC
27 APR 2012
SEL
DOCUMENTS VERIFIED

9. ALTERNATIVE CONTACT DETAILS (IF APPLICABLE)	
TELEPHONE NUMBERS	
Daytime	
Evening (optional)	
Mobile (optional)	
FAX NUMBER (optional)	
E-Mail Address (optional)	

2. The premises
Please give the address of the premises where you intend to carry on the licensable activities or if it has no address give a detailed description (including the Ordnance Survey references) (Please read note 2)
Yelsted Court Farm Yelsted. Sittingbourne, Kent ME9 7UT
If you intend to use only part of the premises at this address or intend to restrict the area to which this notice applies, please give a description and details below. (Please read note 3)
The main arena will be in an open field across the road from the farm all so all other services including camping and first aid.
Please describe the nature of the premises below. (Please read note 4)
green field.
Please describe the nature of the event below. (Please read note 5)
The aim of the event is to raise awareness of ecological matters while providing entertainment. workshops, crafts and music in a ecological Respectfull way.


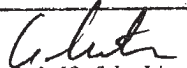
3. The licensable activities		
Please state the licensable activities that you intend to carry on at the premises (please mark an "X" next to the licensable activities you intend to carry on). (Please read note 6)		
The sale by retail of alcohol		X
The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club		
The provision of regulated entertainment		X
The provision of late night refreshment		X
Please state the dates on which you intend to use these premises for licensable activities. (Please read note 7)		
27 th 28 th , 29 th July 2012		
Please state the times during the event period that you propose to carry on licensable activities (please give times in 24 hour clock). (Please read note 8)		
Friday 27 th 14.00 - 02.00 Saturday 28 th 12.00 - 04.00 Sunday 29 th 12.00 - 20.00		
Please state the maximum number of people at any one time that you intend to allow to be present at the premises during the times when you intend to carry on licensable activities, including any staff, organisers or performers. (Please read note 9)		499
If the licensable activities will include the supply of alcohol, please state whether the supplies will be for consumption on or off the premises, or both (please mark an "X" next to the appropriate box). (Please read note 10)	On the premises only	
	Off the premises only	
	Both	X
4. Personal licence holders (Please read note 11)		
Do you currently hold a valid personal licence? (Please mark an "X" in the box that applies to you)		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If "Yes" please provide the details of your personal licence below.		
Issuing licensing authority		
Licence number		
Date of issue		
Date of expiry		
Any further relevant details		

5. Previous temporary event notices you have given (Please read note 12)		
Have you previously given a temporary event notice in respect of any premises for events falling in the same calendar year as the event for which you are now giving this temporary event notice? (Please mark an "X" in the box that applies to you)	Yes	No X
If answering yes, please state the number of temporary event notices you have given for events in that same calendar year		
Have you already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice? (Please mark an "X" in the box that applies to you)	Yes	No X

6. Associates and business colleagues (Please read note 13)		
Has any associate of yours given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice? (Please mark an "X" in the box that applies to you)	Yes	No X
If answering yes, please state the total number of temporary event notices your associate(s) have given for events in the same calendar year		
Has any associate of yours already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice? (Please mark an "X" in the box that applies to you)	Yes	No X
Has any person with whom you are in business carrying on licensable activities given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice? (Please mark an "X" in the box that applies to you)	Yes	No X
If answering yes, please state the total number of temporary event notices your business colleague(s) have given for events in the same calendar year.		
Has any person with whom you are in business carrying on licensable activities already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice? (Please mark an "X" in the box that applies to you)	Yes	No X

7. Checklist (Please read note 14)	
I shall (Please mark the appropriate boxes with an "X")	
Send two copies of this notice to the licensing authority for the area in which the premises are located	✓
Send a copy of this notice to the chief officer of police for the area in which the premises are located	✓
If the premises are situated in one or more licensing authority areas, send two copies of this notice to each additional licensing authority	
If the premises are situated in one or more police areas, send a copy of this notice to each additional chief officer of police	
Make or enclose payment of the fee for the application	✓
Sign the declaration in Section 9 below	✓

8. Condition (Please read note 15)
It is a condition of this temporary event notice that where the relevant licensable activities described in Section 3 above include the supply of alcohol that all such supplies are made by or under the authority of the premises user.

9. Declarations (Please read note 16)			
The information contained in this form is correct to the best of my knowledge and belief.			
I understand that it is an offence:			
(i) to knowingly or recklessly make a false statement in connection with this temporary event notice and that a person is liable on conviction for such an offence to a fine up to level 5 on the standard scale; and			
(ii) to permit an unauthorised licensable activity to be carried on at any place and that a person is liable on conviction for any such offence to a fine not exceeding £20,000, or to imprisonment for a term not exceeding six months, or to both.			
SIGNATURE		DATE	30/3/2012
Name of Person signing	Emma milgate		
10. Acknowledgement (Please read note 17)			
I acknowledge receipt of this temporary event notice.			
SIGNATURE	 On behalf of the Licensing Authority	DATE	01/05/12
Name of Officer Signing	G. CURTIS		

NOTES

General

In general, only the police may intervene on crime prevention grounds to prevent the occurrence of an event at which permitted temporary activities are to take place or to agree a modification of the arrangements for such an event. However, the licensing authority may intervene of its own volition by issuing a counter notice if the first, second and fourth of the limits set out below would be exceeded. If any of the limits below are breached or if a counter notice has been issued, any licensable activities taking place would be unauthorised and the premises user would be liable to prosecution. The limitations apply to:

- the number of times a person (the "premises user") may give a temporary event notice (50 times per year for a personal licence holder and 5 times per year for other people);
- the number of times a temporary event notice may be given in respect of any particular premises (12 times in a calendar year);
- the length of time a temporary event may last for these purposes (96 hours);
- the maximum aggregate duration of the periods covered by temporary event notices at any individual premises (15 days per calendar year); and
- the scale of the event in terms of the maximum number of people attending at any one time (a maximum of 499).

For the purposes of determining the overall limits of 50 temporary event notices per personal licence holder (in a calendar year) and of 5 for a non-personal licence holder (in a calendar year), temporary event notices given by an associate or a person who is in business with a premises user (and that business involves carrying on licensable activities) count towards those totals. Note 13 below explains the definition of an "associate".

When permitted temporary activities take place, a premises user must ensure that either:

- a copy of the temporary event notice endorsed as acknowledged by the licensing authority is prominently displayed at the premises; or that
- the temporary event notice endorsed as acknowledged by the licensing authority is kept at the premises either in his own custody or in the custody of a person present and working at the premises and whom he has nominated for that purpose.

Where the temporary event notice is in the custody of a nominated person, a notice specifying that fact and the position held by that person must be displayed prominently at the premises.



**Kent
Police**

Chief Officer of Police Objection Notice in relation to a
Temporary Event Notice given under Part 5 Section 100
Licensing Act 2003 (S104 Licensing Act 2003)

Details of person making objection

Name of Chief Officer of Police	Chief Insp. Adrian Futers
Postal Address: (Area Headquarters)	Maidstone Police Station Palace Avenue Maidstone. ME15 6NF
E-mail address	licensing.midkent@kent.pnn.police.uk
Telephone Number:	01622 604403

The Chief Officer of Police has received a Temporary Event Notice under Section 100 Licensing Act 2003, and under Section 104 of that Act, asks the Licensing Authority to consider this objection in respect of the prevention of crime and disorder objective.

Details of Temporary Event

Date(s) of event	27 th July 2012 --> 29 th July 2012
Licensable activities proposed	Sale of alcohol on and off site. Regulated Entertainment and Late night refreshment.
Hours of licensable activities	27/07/12 = 14:00hrs - 02:00hrs. 28/07/12 = 12:00hrs - 04:00hrs 29/07/12 = 12:00hrs - 20:00hrs.
Name of Premises:	Yelsted Court Farm
Address of premises:	Yelstead Sittingbourne Kent ME9 7UT
Date and time TEN received by police	02/05/12 <i>Must be at least 10 working days before the day of the event – S104 (1) Licensing Act 2003</i>
Date and time objection notice given to Licensing Authority and the premises user	02/05/12 <i>Must be within 48 hours of receipt - S104 (3) Licensing Act 2003</i>

Due to the circumstances of this case, I am satisfied that allowing the premises to be used in accordance with the notice would undermine the crime prevention objective because

Please see attached sheet

Please use separate sheets where necessary

Suggested modifications that could be added to the temporary event notice to remedy the objection or other suggestions the Licensing Sub Committee may take into account:

Please use separate sheets where necessary. Consider s106 Licensing Act 2003.

Please see attached sheet

Signed: _____

Date: .02.\.05.\.2012..

Print name:PC Neil Barnes

Force Number:10051.....

pp Chief Officer of Police for the Police Area in which the licensed premises are situated

The Objection notice must be given to the Licensing Authority and copy to the premises user no later than 48 hours after the Chief of Police is given a copy of the temporary event notice - S104 (3) Licensing Act 2003.

This form must be returned within the Statutory Period.

S106 Licensing Act 2003 applies where a chief officer of police has given an objection notice and states that at any time before the hearing is held he may, with the agreement of the premises user, modify the temporary event notice by making changes to the notice returned to the premises user under Section 102.

Due to the circumstances of this case I am satisfied that allowing the premises to be used in accordance with the notice would undermine the "Prevention of crime and disorder, the Public Safety, the Prevention of public nuisance and the Protection of children from harm" licensing objectives.

The application received is to allow licensable activities (Alcohol, Entertainment and late night refreshment) to be carried out in a farm field in Yelsted village for three consecutive days. The planned hours of operation are:

Friday the 27th July 2012 = 14:00hrs until 02:00hrs

Saturday the 28th July 2012 = 12:00hrs until 04:00hrs

Sunday the 29th July 2012 = 12:00hrs until 20:00hrs.

The application is asking for 499 people and to allow alcohol sales for consumption both on and off premises.

The application describes the event as "The aim of the event is to raise awareness of ecological matters while providing entertainment workshops, crafts and music in an ecological respectful way" (sic). The application also mentions that camping will be allowed. The Police have spoken to the applicant Emma Milgate and it is our understanding that the only facility that the field has at the moment is non drinkable water. Therefore everything else will need to be provided.

Although the event is billed as an ecological style event, with workshops and crafts etc. The Police believe that this is simply a distraction from the reality which is that this is a full on music festival to be staged until the early hours in a rural location, which has a number of residential premises nearby.

The event has a Web Site WWW.teamkarmageddon.co.uk

A quick look at the gallery page of that web site shows a series of pictures taken at recently held "teamkarmageddon" events which have taken place within a nightclub. The pictures show, what is clearly just a music event, with many of the customers looking under the influence, there is no visible sign of an ecological agenda. Although it could be argued that the event to be staged in Yelsted is of a different format to that held in the nightclub it is clear that the website is advertising exactly the same format.

The teamkarmageddon website consists of some 10 pages on all of which there is only one reference of what might be an ecological theme. Home Page, "Working together with local charities to provide a better start in life for animals and those most in need". There are no details at all of any of the crafts and workshops. The emphasis is clearly on the music.

When looking on other web sites that are selling tickets for this event "Don'tstayin" and "Residentialadvisor" for instance, these are advertising the event as being held at a "secret location" in the Maidstone area. Although clearly the location is not a secret and to be fair the teamkarmageddon website makes no such claim, it can be seen that the persons attracted to this event are hoping for a "Rave" style event.

The line up includes a large number of acts which call themselves drum n bass artists. The applicant herself is clearly an artist/DJ with profiles on websites such as "Southernhardcorevibes"

With this in mind Kent Police believe that this Temporary Event notice should be treated for what it is. An application to hold a music festival for 500 people camping in a field, playing drum n bass music until 04:00hrs.

Drum n Bass music tends to have a low bass note which travels significant distances especially at night. The applicant has provided an overhead photo of the proposed venue and a number of residential properties are close by. From the times applied for we would expect that these residents would have to write off that weekend. It should also be remembered that music at festivals where camping is permitted rarely stops at the official cut off time, as many people return to their tents and continue with their own music event. Late night noise is a very common source of complaint for the authorities to deal with and often leads to tempers flaring. This can lead to other more serious offences including assaults. Due to it's location (rural) it may take sometime for a sufficient Police response in the case of significant disorder.

It is unfortunately the case that certain types of music attract more issues than others. Drum n Bass (DnB) being one of those which often tends to attract drug use. There are several nightclub premises in Maidstone who refuse to stage DnB events due to the problems associated with the style of music and it's fans.

Kent Police believe that all of this will seriously undermine both the Prevention of Crime and Disorder licensing objective as well as the Prevention of Public Nuisance Licensing objective.

There are several other issues which concern Kent Police with this application. The proposed site is a field with minimal facilities. Therefore all visitors, all staff, acts and caterers have to access the site via Yelsted Lane, which is a narrow country lane. Allowing for 400 visitors this would average 200 extra cars using the Yelsted Lane and the surrounding area. The field has no other roads adjacent to it therefore it is impossible to designate a free road for

emergency services, if they had to attend they would have to wait in the traffic jam before they could get to the scene. When speaking to the applicant she stated that she was hopeful that visitors would use a Sittingbourne Taxi firm from Sittingbourne Railway Station, however there appears to be no promotion of this on the web site just a chance to buy a parking ticket which lasts all weekend for an extra £10.

Kent Police have not seen and are not aware of a traffic management strategy.

Kent Police believe that this is a significant risk to the Public Safety licensing objective.

On top of this children are allowed on site, tickets for under 16yr olds are cheaper and under 5's are free according to the website. However Kent Police have not seen and are not aware of an event plan to cover first aid, lost children etc. As mentioned above this event is clearly designed to attract DnB fans for a weekend of drinking and late night partying. It is possible that a young family could attend in which case their children would be at risk from alcohol/drug fuelled crime and disorder.

Kent Police believe that there is a risk to the Protection of Children from Harm licensing objective.

Suggested modifications that could be added to the temporary event notice to remedy the objection or other suggestions the Licensing Sub Committee may take into account:

Unfortunately at this point Kent Police can not make any suggestions that would satisfy us that these risks to the licensing objectives are removed. The location is unsuitable and the planning is inadequate. This style of event should really be run on a full licence and should probably pass in front of the Safety Advisory Group. It is totally unrealistic to suggest that this could be done in time.

Appendix C

Consultee Comments for Licensing Application

12/01437/LATEN

2 May 2012

Application Summary

Application Number: 12/01437/LATEN

Address: Yelsted Court Farm Yelsted Lane Sittingbourne Kent ME9 7UT

Proposal: Temporary Event Notice

Case Officer: Sylvia Lewis

Consultee Details

Name: Mr Michael Swoffer

Address: Maidstone House, King Street ME15 6JQ

Email: michaelswoffer@maidstone.gov.uk

On Behalf Of: MBC Environmental Health

Comments

Objection Due to Public Nuisance

Environmental Enforcement are objecting to the application due to the nature of the event, times intended to start and finish and also the proximity of neighbouring properties.

Having amplified music in an open field, even with marquees will mean the music will travel a substantial distance. We believe that it will be impossible to prevent a noise nuisance to neighbouring properties with the times and nature of event that has been proposed.

The times of the event are a major issue also. Three nights of loud amplified music, two of which finishing in the early hours of the morning, would also cause a major disturbance to the local residents.

We have looked on our mapping system and within a 1km radius there are approximately 60 residential houses that could be effected by the noise from the event.

People camping overnight at events like this also pose a noise issue with raised voices and the use of personal stereos. Having up to 499 people in an open field can become very noisy if not controlled.

When assessing a Statutory Nuisance under the Environmental Protection Act 1990 for this kind of event we take into account the frequency, duration and level/type of music. Taking all those factors into account we believe that it will highly likely cause a Statutory Nuisance to neighbouring properties. Environmental Enforcement fully object to this event as we cannot see how the organisers will be able to prevent a nuisance to the local residents.

Appendix D

Swale House, East Street
Sittingbourne, Kent ME10 3HT
DX59900 Sittingbourne 2
Phone: 01795 424341
Fax: 01795 417141
www.swale.gov.uk



Miss E Milgate
2 Courtenay Road
Maidstone
Kent
ME15 6UL

Please ask for: Licensing Department
☎ Direct Line: (01795) 417567
E-mail: licensing@swale.gov.uk
Our Ref: SWALE-TEN-1992
Date: 2 February 2012

Dear Madam

Re: The Licensing Act 2003 - Temporary Events Notice.

I acknowledge receipt of your temporary event notification, accompanied by the fee of £21.00.

Please see the enclosed endorsed copy of your notification. Comments will now be invited from the Police, providing that they make no objections, your temporary event notice will be issued shortly.

If you require any further information please do not hesitate to contact me on the above number.

Yours faithfully

Clare Thornby
Licensing Assistant



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Fax: 01795 417141
www.swale.gov.uk



Miss E J Milgate
2 Courtenay Road
Maidstone
Kent
ME15 6UL

Please ask for: Licensing
Direct Line: 01795 417364
e-mail: Licensing@swale.gov.uk
Our Ref: TEN/2012
Your Ref:
Date: 6th February 2012

Dear Miss Milgate.

Re: The Licensing Act 2003, Temporary Events Notice

I am writing with reference to your notification of a Temporary Event Notice, received at this office on 2nd February 2012.

Unfortunately although your paperwork was initially endorsed, further investigations have now shown that Yelsted does not fall in our area, this area is covered by Maidstone Borough Council and therefore you will need to re-submit your notification to their Licensing Team and the relevant Police Licensing Officer for that area.

As you have already paid for the application, we will forward the payment to Maidstone by way of a cheque. Please attach this letter with your paperwork to make them aware that we will be sending payment.

If you require any further information please do not hesitate to contact me on the above number.

Yours faithfully


Samantha Potts
Licensing Supervisor

7. Temporary event notices (TENs)

- 7.1 This Chapter covers the arrangements in Part 5 of the 2003 Act for the temporary carrying on of licensable activities that are not authorised by a premises licence or club premises certificate.

GENERAL

- 7.2 The system of permitted temporary activities is 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 of the event (a “temporary event notice” or “TEN”).
- 7.3 The TEN must be given to the licensing authority in the form prescribed in regulations made under the 2003 Act. Unless it is sent electronically, it must be sent to the relevant licensing authority, to the police and local authority exercising environmental health functions at least ten working days before the event (although a premises user may give a limited number of TENs to the licensing authority less than 10 days before the event to which they relate).
- 7.4 If a temporary event notice is sent electronically via Business link or the licensing authority’s own facility, the licensing authority must notify the police and local authority exercising environmental health functions as soon as possible and no later than the first working day after the notice is given.
- 7.5 The police or local authority exercising environmental health functions may intervene to prevent such an event taking place or agree a modification of the proposed arrangements, and their intervention may in some cases result in the licensing authority imposing conditions on a temporary event notice. When giving a temporary event notice, consideration should be given to the four licensing objectives. The licensing authority only otherwise intervenes if the statutory permitted limits on temporary event notices would be exceeded.
- 7.6 A temporary event notice does not relieve the premises user from any requirements under planning law for appropriate planning permission where it is required.

LIMITATIONS

- 7.7 A number of limitations are imposed on the use of TENs by the 2003 Act. The limitations apply to:

- the number of times a premises user may give a TEN (50 times in a calendar year for a personal licence holder and 5 times in a calendar year for other people);
- the number of times a TEN may be given for any particular premises (12 times in a calendar year);
- the maximum length of time a TEN may have effect (168 hours or 7 days);
- the maximum total duration of the periods authorised by TENs in relation to individual premises (21 days in a calendar year); and
- the maximum number of people attending at any one time (fewer than 500).

7.8 Proposed activities that exceed these limits will require a premises licence or club premises certificate.

7.9 TENs may be given in respect of premises which already have a premises licence or club premises certificate to cover licensable activities not permitted by the existing authorisation.

7.10 In determining whether the maximum total duration of the periods covered by TENs at any individual premises has exceeded 21 days, an event beginning before midnight and continuing into the next day would count as two days towards the 21-day limitation.

7.11 There is nothing to prevent notification of multiple events at the same time, provided the first event is at least ten days away (or five days away in the case of a late TEN). For example, an individual personal licence holder wishing to exhibit and sell beer at a series of farmers' markets may wish to give several notices simultaneously. However, this would only be possible where the events are to take place in the same licensing authority (and police area), and the limits are not exceeded in the case of each notice.

WHO CAN GIVE A TEMPORARY EVENT NOTICE?

PERSONAL LICENCE HOLDERS

7.12 A personal licence holder can give a TEN at any premises on up to 50 occasions in any calendar year. This limit is inclusive of any late TENs given in the same year. The use of each TEN must of course observe the limits described above, including the limit of 12 TENs in respect of each premises in a calendar year.

NON-PERSONAL LICENCE HOLDERS

7.13 The 2003 Act provides that any individual aged 18 or over may give a TEN whether or not that individual holds a personal licence. Such an individual will not, therefore, have met the requirements that apply to a personal licence holder under Part 6 of the 2003 Act. Where alcohol is not intended to be sold, this should not matter. However, many events will involve combinations of licensable activities. In the absence of a premises user holding a personal licence, the 2003 Act limits the number of notices that may be given by any non-personal licence holder to 5 occasions in a calendar year (this limit is inclusive of any late TENs in the same year). In every other respect, the Guidance and information set out in the paragraphs above applies.

STANDARD AND LATE TEMPORARY EVENT NOTICES

7.14 There are two types of TEN; a standard TEN and a late TEN. These are subject to different processes:

- a standard notice is given no later than 10 working days before the event to which it relates; and
- a late notice is given not before 9 and not later than 5 working days before the event.

STANDARD TEMPORARY EVENT NOTICES

7.15 “Ten working days” (and other periods of days which apply to other requirements in relation to TENs) exclude the day the notice is received and the first day of the event. Working days are Monday to Friday excluding Christmas Day, Good Friday and other Bank Holidays. A notice that is given less than 10 working days before the event to which it relates, when the premises user has already given the permitted number of late TENs in that calendar year, will be returned as void and the activities described in it will not be authorised.

7.16 The police and local authority exercising environmental health functions have a period of three working days from when they are given the notice to object to it on the basis of any of the four licensing objectives.

7.17 Although ten clear working days is the minimum possible notice that may be given, licensing authorities should publicise their preferences in terms of advance notice and encourage premises users to provide the earliest possible notice of events planned by them. Licensing authorities should also consider publicising a preferred maximum time in advance of an event by when TENs should ideally be given to them.

LATE TEMPORARY EVENT NOTICES

7.18 Late TENs are intended to be used by premises users who are required for reasons outside their control to, for example, change the venue at short notice. They should not be used save in exceptional circumstances.

- 7.19 As for a standard TEN, the police and local authority exercising environmental health functions have a period of three working days from when they are given the notice to object to it on the basis of any of the four licensing objectives. If there is an objection from either the police or local authority exercising environmental health functions, the event will not go ahead. In these circumstances there is no scope for a hearing or the application of existing conditions.
- 7.20 **Late TENs can be given up to five working days but no earlier than nine working days before the event is scheduled and, unless given electronically to the licensing authority, must also be sent by the premises user to the police and local authority exercising environmental health functions. A late TEN given less than five days before the event to which it relates will be returned as void and the activities to which it relates will not be authorised.** The number of late TENs that can be given in a calendar year is limited to ten for personal licence holders and two for non-personal licence holders. Late TENs count towards the total number of TENs (for example, the limit of five TENs per year for non-personal licence holders and 50 TENs for personal licence holders). Once these limits have been reached, the licensing authority should issue a counter notice (permitted limits) if any more are given.

ROLE OF THE LICENSING AUTHORITY

- 7.21 The licensing authority must check that the limitations set down in Part 5 of the 2003 Act are being observed and intervene if they are not (see paragraph 7.7 above). For example, a TEN would be void unless there is a minimum of 24 hours between events notified by the same premises user, or an associate, or someone who is in business with the relevant premises user, in respect of the same premises. This is to prevent evasion of the seven-day (or 168 hour) limit on such events and the need to obtain a full premises licence or club premises certificate for more major or permanent events. In addition, for these purposes, a TEN is treated as being from the same premises user if it is given by an associate.
- 7.22 The 2003 Act defines an associate, in relation to the premises user, as being:
- the spouse or civil partner of that person;
 - a child, parent, grandchild, grandparent, brother or sister of that person;
 - an agent or employee of that person; or
 - the spouse or civil partner of a person listed in either of the two preceding bullet points.
- 7.23 A person living with another person as their husband or wife, is treated for these purposes as their spouse. 'Civil partner' has its meaning in the Civil Partnership Act 2004.
- 7.24 Where the application is not within the statutory parameters described earlier, the licensing authority will issue a counter notice to the premises user.

- 7.25 Where the TEN is in order, the relevant fee paid, the event falls within the prescribed limits and there has been no objection from the police or local authority exercising environmental health functions on the basis of any of the four licensing objectives, the licensing authority will record the notice in its register and send an acknowledgement to the premises user (which may be given electronically).
- 7.26 If the licensing authority receives an objection notice from the police or local authority exercising environmental health functions that is not withdrawn, it must (in the case of a standard TEN only) hold a hearing to consider the objection (unless all parties agree that this is unnecessary). The licensing committee may decide to allow the licensable activities to go ahead as stated in the notice. If the notice is in connection with licensable activities at licensed premises, the licensing authority may also impose one or more of the existing licence conditions on the TEN (insofar as such conditions are not inconsistent with the event) if it considers that this is appropriate for the promotion of the licensing objectives. If the authority decides to impose conditions, it must give notice to the premises user which includes a statement of conditions (a “notice (statement of conditions)”), and provide a copy to each relevant party. Alternatively, it can decide that the event would undermine the licensing objectives and should not take place. In this case, the licensing authority must give counter notice.
- a
- 7.27 Premises users are not required to be on the premises for the entire duration of the event authorised by the TEN, but they will remain liable to prosecution for certain offences that may be committed at the premises during the period covered by it. These include, for example, the offences of the sale of alcohol to a person who is drunk; persistently selling alcohol to children; and allowing disorderly conduct on licensed premises.
- 7.28 In the case of an event authorised by a TEN, failure to adhere to the requirements of the 2003 Act, such as the limitation of no more than 499 being present at any one time, would mean that the event was unauthorised. In such circumstances, the premises user would be liable to prosecution.
- 7.29 Section 8 of the 2003 Act requires licensing authorities to keep a register containing certain matters, including a record of TENs received. There is no requirement to record all the personal information given on a TEN.

POLICE AND ENVIRONMENTAL HEALTH INTERVENTION

- 7.30 The system of permitted temporary activities gives police and local authorities exercising environmental health functions the opportunity to consider whether they should object to a TEN on the basis of any of the licensing objectives.
- 7.31 Such cases might arise because of concerns about the scale, location, timing of the event or concerns about public nuisance. However, in most cases, where (for example) alcohol is supplied away from licensed premises at a temporary bar under

the control of a personal licence holder, (for example, at weddings or small social or sporting events) this should not give rise to the use of these powers.

- 7.32** Each of the police and local authority exercising environmental health functions (as an authorised person) have the right under sections 109(5) and (6) of the 2003 Act to request the premises user to produce the TEN for examination. If the police do not intervene when a TEN is given, they will still be able to rely on their powers of closure under Part 8 of the 2003 Act should disorder or noise nuisance be expected or arise.
- 7.33** If the police or local authority exercising environmental health functions believe that allowing the premises to be used in accordance with the TEN will undermine the licensing objectives, they must give the premises user and the licensing authority an objection notice. The objection notice must be given within three working days of their receipt of the TEN.
- 7.34** 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, local authority exercising environmental health functions and the premises user may make representations to the licensing authority. If the police and/or local authority exercising environmental health functions give an objection to a late notice, the TEN will not be valid.
- 7.35** The police or local authority exercising environmental health functions may contact the premises user to discuss their objections and try to come to an agreement which will allow the proposed licensable activities to proceed. The TEN can be modified. If there is no agreement, the licensing authority must hold a hearing to consider the notice.

Appendix F

HUMAN RIGHTS

Article 8

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Article 1 of the First Protocol

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

Article 6(1)

In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgement shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

Article 10

3. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
4. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

**LICENSING AUTHORITY:
MAIDSTONE BOROUGH COUNCIL**

**Licensing Act 2003 Sub-Committee Hearing Procedure of
Applications for the Review of a Premises Licence or Club Premises
Certificate**

Introduction and Procedure

i) Introductions

The Chairman will request all those persons participating in the hearing to identify themselves, starting with the:

- ✕ Members of the sub-committee (who will, if applicable, declare any personal or prejudicial interests)
- ✕ Legal advisor
- ✕ Committee clerk
- ✕ Maidstone Borough Council licensing officers/managers
- ✕ The licence/certificate holder (and any representative)
- ✕ The applicant for review* (and any representative)
- ✕ Each responsible authority (and any representative)
- ✕ Each interested party (and any spokesperson or representative)

ii) Procedural Matters

- **Procedure**

The Chairman will:

- ✕ Confirm that all parties are aware of the sub-committee hearing procedure and that each party has a copy of the hearing procedure document.

* Not applicable following a closure order.

- **Submissions**

The Chairman will:

- ⌘ Explain that the sub-committee will allow all parties to put their case fully and make full submissions, within a reasonable time frame.

- **Discussion and cross-examination**

The Chairman will:

- ⌘ Explain that the sub-committee procedure shall take the form of a discussion led by the sub-committee.
- ⌘ Explain that the sub-committee will usually permit cross examination (conducted within a reasonable time frame).

- **Disruptive Behaviour**

The Chairman will:

- ⌘ Explain that where any person attending the hearing behaves in a disruptive manner, the sub-committee may direct that person to leave the hearing (including temporarily) and thereafter the person may submit to the sub-committee in writing any information which the person would have been entitled to give orally had the person not been required to leave the hearing.

- **Reading of Papers**

The Chairman will:

- ⌘ Confirm that all sub-committee members have pre-read all the papers and any other documents contained in the report regarding the hearing.

- **Draft Conditions**

The Chairman will:

- ⌘ Enquire whether draft conditions have been agreed between the licence/certificate holder and any of the other parties for the sub-committee to consider.

- **Witnesses**

The Chairman will:

- ⌘ Enquire whether any parties request to have any witnesses give evidence at the hearing; and if so grant the request unless the request is unreasonable.
- ⌘ Invite the parties, where appropriate, to appoint a spokesperson.

The Hearing

Outline of the Application and Representations

- ✘ The Chairman will ask the legal advisor or community services manager to briefly outline the application and all representations regarding the application.

i) The Applicant for Review

- ✘ Opening remarks by the applicant for review (or their representative).
- ✘ Evidence of the applicant for review and any witnesses.
- ✘ After each person has given evidence the person may be questioned by the licence/certificate holder, each responsible authority, interested party and sub-committee member.
- ✘ If necessary, the applicant for review (or their representative) may clarify any matter that arose during questioning.

ii) Responsible Authorities (where applicable)

RESPONSIBLE AUTHORITY	Tick if applicable
Police	
Trading standards	
Environmental Health	
Child Protection (Social Services)	
Planning	
Fire and Rescue	

- ✘ Opening remarks by the officer representing the responsible authority (or their representative).
- ✘ Evidence of the responsible authority officer and any witnesses.
- ✘ After each person has given evidence the person may be questioned by the applicant for review, the licence/certificate holder, each other responsible authority, interested party and sub-committee member.
- ✘ If necessary, the officer (or their representative) may clarify any matter that arose during questioning.

iii) Interested Parties

- ✘ Opening remarks by the interested party (or spokesperson/representative).
- ✘ Evidence of the interested party and any witnesses.

- ✘ After each person has given evidence the person may be questioned by the applicant for review, the licence/certificate holder, responsible authorities, each other interested party and sub-committee member.
- ✘ If necessary, the interested party (or spokesperson/representative) may clarify any matter that arose during questioning.

iv) The Licence/Certificate Holder

- ✘ Opening remarks by the licence/certificate holder (or their representative).
- ✘ Evidence of the licence/certificate holder and any witnesses.
- ✘ After each person has given evidence the person may be questioned by the applicant for review, each responsible authority, interested party and sub-committee member.
- ✘ If necessary, the licence/certificate holder may clarify any matter that arose during questioning.

Closing Speeches

In the following order:

- ✘ **The applicant for review**
- ✘ **Each responsible authority**
- ✘ **Each interested party**
- ✘ **The licence/certificate holder**

End of Hearing

- ✘ The Chairman will ask the members of the sub-committee if they have any final questions for any party to the hearing.
- ✘ The Chairman will ask the legal advisor whether there are any further matters to be raised or resolved before the hearing is closed.
- ✘ The Chairman will invite the legal advisor to remain with the sub-committee during its deliberations.

- ✘ The Chairman will bring the hearing to a close and shall declare that the sub-committee will retire, to private session, to consider the application, all relevant representations, evidence, the relevant extracts of Licensing Authority's Statement of Licensing Policy, the relevant extracts of the National Guidance issued under section 182 of The Licensing Act 2003 and the licensing objectives under the Licensing Act 2003.
- ✘ The Chairman shall ask all other persons to withdraw from the room.

The Decision

The Chairman shall declare in public session:

- ✘ The sub-committee's determination.
- ✘ All parties to the hearing will receive a copy of the written Determination Notice regarding the sub-committee's determination.
- ✘ All parties may appeal against the sub-committee's decision within 21 days beginning with the day on which the appellant is notified of the Licensing Authority's written determination. Appeals must be lodged with the Magistrates' Court. The decision of the sub-committee does not take effect until the period for appealing has ended, or if there is an appeal, upon completion of the appeal. Parties should be aware that the Magistrates Court may make an order with respect to costs on any appeal.
- ✘ The hearing is formally closed.