

Report to: Licensing Sub-Committee.

Date of Meeting: 30th May 2022

**Report Title: Application for a Temporary Events Notice, with an objection.
YATES WINE LODGE, 53-57 ROBERTSON STREET, Hastings.**

Report By: Andrew Palmer, Assistant Director, Environment and Place.

Purpose of Report

To consider an Objection Notice to a Temporary Event Notice (TEN) served on behalf of Yates, Cambridge Road, Hastings.
Responsible Authorities. One.

Recommendation(s)

- 1. The Sub-Committee considers the Temporary Event Notice in the light of the objection notice made by Sussex Police and resolves to take such steps as it considers appropriate and proportionate for the promotion of the licensing objectives and determine whether to serve a counter notice.**

Reasons for Recommendations

The Sub-Committee must consider the oral representations and information given at the hearing before reaching a decision

Introduction

1.0 Background

1. On 7th February 2005 the Licensing Act 2003 came into force for all local authorities, marking the practical commencement of the Government's new liquor licensing regime.
2. On the 18th May 2022, Hastings Borough Council was served a Temporary Events Notice in respect of **Yates Wine Bar, 53-57 Robertson Street, Hastings TN34 1HY. (Attached at Appendix A).**
3. This premise holds a licence to operate until SUNDAY-WEDNESDAY: 07:00-01:30 (SUBJECT TO NOTIFICATION TO POLICE AS SPECIFIED ABOVE).

THURSDAY-SATURDAY: 07:00-03:30 under the Licensing Act 2003

SUNDAY – WEDNESDAY FOR SALE OF ALCOHOL & OTHER LICENSABLE ACTIVITIES EXTENDED UNTIL 03.00 HOURS, WITH CLOSE AT 03.30 HOURS, MAY ONLY BE EXTENDED BEYOND 01.00 HOURS IF THE POLICE HAVE BEEN GIVEN TEN WORKING DAYS NOTICE OF THE INTENTION TO DO SO WITH POLICE HAVING ABSOLUTE VETO & CONFIRMING IN WRITING OR VERBALLY WITHIN 48 HOURS OF SUCH A REQUEST.

(Attached at Appendix B), The premise is located within Area 1A (Hastings Town Ctr) of the Council Special Saturation Policy (Cumulative Impact).

2.0 Application

4. The TEN application requests the following:

2nd June 2022 01.00 hours until 03.00 hours on the same day.

3.0 Consultation

5. The Act provides for periods of notice and the number of events that may be held. Notice must be given to the Licensing Authority, Police and Environmental Protection ten working days before the beginning of the event period. The Police and Environmental Protection then have three working days to lodge objections with the Licensing Authority and Applicant.
6. A copy of the Police Objection Notice to the TEN, which was received on the 20th May 2022, is attached at **Appendix C**. Environmental Protection have not made any representations.
7. Objections must relate to the undermining of the licensing objectives, the prevention of crime and disorder, public safety, the prevention of public nuisance, the protection of children from harm. This has been done. It should be noted that

Sussex police have attempted to persuade the DPS, to add the premises existing conditions on their licence to the TEN application but this has been refused.

8. This premises was placed on a 3-month Action Plan on 9th November 2021. The reasons for this was due to an increasing number of incidents generated from the premises and the drug swab results being very high. On 11th February another meeting was held to discuss their progress. The Action Plan was extended as incidents had not sufficiently reduced and drug swabs results were still high. The Action Plan was extended for a further two months. To date the premises remains on that Action Plan due to an ongoing state of affairs.
9. The licensing team has prepared a list of other Castle ward venues with late licences this is attached in **Appendix D**.

4.0 Legal Considerations

10. Part 5 of the 2003 Licensing Act provides a system of permitted temporary activities, under which licensable activities can be carried out on a temporary basis (for a period not exceeding 7 days) without the need for a premises licence or a club premises certificate.
11. If an objection notice to a temporary event notice is made by a responsible authority and no compromise can be reached between the parties, a hearing must be held.
12. Paragraph 7.28 of the Section 182 Guidance sets how the Authority should decide what actions are appropriate.
13. Sch 1, para 1(11) of the Licensing Act 2003 (Hearings) Regulations 2005 confirms the hearing has to take place within 7 working days of the end of the objections period (being 3 working days from service on the objector of the TEN as per section 104(3) of the 2003 Act). But a decision must be reached and the written notice of the decision served at least 24 hrs before the beginning of the event (as per Section 105(4)).
14. If the licensing authority receives an objection notice from the police or EHA 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.
15. 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 a counter notice.

16. The Department for Culture, Media and Sport has issued guidance under Section 182 of the Licensing Act 2003. This guidance is provided to Licensing Authorities to assist them in carrying out their functions.
17. All members of the Licensing Committee have previously been supplied with copies of the DCMS Government guidance and the Hastings Borough Council Statement of Licensing Policy.
18. Human rights considerations must be taken into account fully in balancing licensing issues, in particular, Article 1 of the first protocol and article 8. Article 1 relates to the protection of property and the peaceful enjoyment of possessions and property. Holding a premises licence would be considered a possession. Article 8 relates to the right to respect for private and family life, home and correspondence. These are however qualified rights and can be deprived of “in the public interest”. Interference is permissible if what is done:-
 - Has its basis in law;
 - Is necessary in a democratic society to fulfil a pressing need or pursue a legitimate aim;
 - Is proportionate to the aims being pursued; and,
 - Is related to the prevention of crime; or, the protection of public order or health.

If members choose to issue a Counter Notice there is a right of appeal.

Right of Appeal

Under the provisions of Section 181 and Schedule 5 of the Licensing Act 2003, there is a right of appeal against the decision of the Licensing Committee if the applicant is aggrieved at the outcome. Where the relevant licensing authority gives a Counter Notice, the premises user may appeal against that decision.

Where that authority decides not to give such a Counter Notice, the chief officer of the police or environmental health department of the local authority may appeal against that decision.

Full details of all the rights of appeal can be found within Schedule 5 of the Act. Any appeal should be made to Hastings Magistrates Court, Bohemia Road, Hastings within 21 days from the notification of this decision but no appeal may be brought later than five working days before the day on which the event period specified in the Temporary Event Notice begins. You must contact the Magistrates Court to establish the formal procedure for the appeal.

5.0 Options

- Issue a Counter Notice (refusal)
- Not issue a Counter Notice (grant)
- Grant the TEN with conditions (as per existing conditions upon the licence)

Wards Affected

Report Template v29.0



Castle Ward.

Policy Implications

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness
Crime and Fear of Crime (Section 17)
Risk Management
Environmental Issues
Economic/Financial Implications
Human Rights Act
Organisational Consequences
Local People's Views
Anti-Poverty

Additional Information

Appendix A. Temporary Event notice.
Appendix B. Premises Licence.
Appendix C. Sussex Police Section 104(2) LA2003 Letter of Objection.
Appendix D. List of closing times – Castle Ward late-night licensed venues

Officer to Contact

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