

Report to: **Licensing Sub-Committee**

Date: **6<sup>th</sup> September 2022**

Title: **Application for a new Temporary Event Notice at The Stannary Arms, Legion House, 2 King Street, Tavistock.**

Portfolio Area: **Customer First**

Wards Affected: **Tavistock**

Urgent Decision: **Y** Approval and clearance obtained: **Y**

Date next steps can be taken: **6<sup>th</sup> September 2022**

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### **Recommendations:**

**That the Sub-Committee considers the application for a Temporary Event Notice and decides whether:**

- i) to allow licensable activities to go ahead as stated in the notice;**
- ii) to allow licensable activities to go ahead, subject to the inclusion of relevant existing premises licence conditions and/or modified to such an extent so as to adequately promote the licensing objectives; or**
- iii) to refuse the application in its entirety.**

**The decision must be in line with the licensing objectives contained within the Licensing Act 2003.**

### **1. Executive summary**

- 1.1 The purpose of the Licensing Sub-Committee meeting is to determine an application for a Temporary Event Notice at **The Stannary Arms, Legion House, 2 King Street, Tavistock, PL19 0DS** in accordance with Section 105 of the Licensing Act 2003.

- 1.2 The Application seeks approval for the sale by retail of alcohol, provision of regulated entertainment (performance of live music), and late-night refreshment between 7pm on 7<sup>th</sup> October and 2am 8<sup>th</sup> October. A copy of the application can be found at **Appendix A**.
- 1.3 Following the application being circulated to Environmental Health and Devon and Cornwall Police in accordance with the statutory requirements, an objection notice was received on 28<sup>th</sup> September from Environmental Health and as the objection notice has not been withdrawn a hearing is required before the application can be determined. A copy of the objection notice can be found at **Appendix B**.
- 1.4 As each application must be considered on its individual merits and in relation to the licensing objectives under the Licensing Act 2003, recommendations as such cannot be made. However, having considered the individual circumstances of this application and representations and evidence received at hearing, the Sub-Committee may allow or refuse the application as outlined in the Recommendations.

## **2. Background**

- 2.1 The Licensing Authority received an application from Martyn Beech on 23<sup>rd</sup> September 2022 for a Temporary Event Notice on 7<sup>th</sup> to 8<sup>th</sup> October 2022. The application is for:
  - The sale by retail of alcohol between 7pm on 7<sup>th</sup> October and 2am on 8<sup>th</sup> October.
  - The provision of Regulated Entertainment (live music) between 7pm on 7<sup>th</sup> October and 1.30am 8<sup>th</sup> October.
  - The provision of late-night refreshment on the premises between 11pm on 7<sup>th</sup> October and 2am 8<sup>th</sup> October.
- 2.2 The premises has a current premises licence in place and a copy of this can be found at **Appendix C**.
- 2.3 Environmental Health have given notice to the Licensing Authority that they are satisfied that allowing the premises to be used in accordance with the notice would undermine the prevention of public nuisance objective. They have served notice on the applicant to this effect.
- 2.4 Any person over 18 years of age, may give a Temporary Event Notice in respect of permitted temporary activities, intended to take place other than under a licence. This may include:
  - The sale by retail of alcohol
  - 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
  - The provision of late night refreshment

- 2.5 A temporary event notice must be given to the Licensing Authority the Police and Environmental Health department not less than 10 working days before the event takes place.

Only the Police and Environmental Health department are able to make objections in respect of a Temporary Event Notice on the basis of any of the four licensing objectives.

- 2.6 As an objection in respect of this application has been received from a relevant person (Environmental Health), which has not been withdrawn and mediation has not been possible, the Licensing Sub-Committee acting on behalf of the Licensing Authority must make a determination on this application. When coming to a decision, the Licensing Sub-Committee must give consideration to the Council's Statement of Licensing Policy (the Policy) and Home Office guidance issued under Section 182 Licensing Act 2003 (revised April 2018).

- 2.7 Section 3.1 of the Policy states: The Licensing Authority has a duty under the Act to carry out its licensing functions with a view to promoting the four licensing objectives.

- 2.8 The four licensing objectives are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

- 2.9 Section 3.2 of the Policy states: These objectives are the only matters to be taken into account in determining the application and any conditions attached must be appropriate to achieve the licensing objectives. Each objective is of equal importance. Licensable activities will only be allowed as applied for where the Licensing Authority is satisfied that these objectives have been met.

- 2.10 Section 2.4 of the Policy sets out additional legislation, strategies, policies and guidance to which the Licensing Authority will have regard.

- 2.11 No representations have been received from Devon and Cornwall Police in relation to this application.

### **3. Outcomes/outputs**

- 3.1 When determining an application for a premises licence or Temporary Event Notice application, particularly when considering appropriate conditions and operating hours, the following sections of the Statement of Licensing Policy (the Policy) and Section 182 Guidance (the Guidance) are especially relevant:

- 3.2 Where applications have given rise to representations or objections, any appropriate conditions should normally focus on the most

sensitive periods. In certain circumstances, conditions relating to noise immediately surrounding the premises may also prove appropriate to address any disturbance anticipated as customers enter and leave (paragraph 2.19 of the Guidance).

- 3.3 Sections 5.5.1 of the Policy states: The Licensing Authority will deal with the issue of licensing hours on the individual merits of each application, but the presumption will be to grant the hours requested unless there are relevant objections to those hours raised on the basis of the licensing objectives.
- 3.4 Section 5.5.2 of the policy states: However, when issuing a licence with hours beyond midnight it is more likely that relevant representations will be made unless there are higher standards of control within operating schedules to promote the licensing objectives, especially for premises which are situated near residential areas or in areas where anti-social disorder takes place.
- 3.5 Section 5.5.5 of the Policy states: The terminal hours will normally be approved where the Applicant can show that the proposal would not adversely affect the licensing objectives unless, after hearing relevant representation the Licensing Authority believe it appropriate to restrict the hours required due to the nature of the activities and the amenity of the area. If the Licensing Committee or a sub-committee believes that granting longer hours would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested.
- 3.6 Section 3.8.1 of the Policy states: The Authority recognises the great variety of premises for which licences may be sought. These include theatres, members' clubs, sports clubs, cinemas, restaurants, pubs, nightclubs, cafes, takeaways, community halls, schools and off licences. The Authority will not restrict access by children to any particular type of premises unless it is considered appropriate to do so in order to protect them from harm.
- 3.7 Section 3.8.6 of the Policy states: When deciding whether or not to limit access to children the Licensing Authority will judge each application on its own individual merits. Examples which may give rise to concern in respect of children would include premises: -
  - where entertainment of an adult or sexual nature is provided
  - where there is a strong element of gambling taking place
  - with a known association with drug taking or dealing
  - where there have been convictions of the current management for serving alcohol to those under 18 years
  - where the supply of alcohol for consumption on the premises is exclusive or primary purpose of the services provided at the premises
  - where there are unsupervised areas (for example toilets, beer gardens, play zones).

3.8 The desired outcome is a determination of the application with reasons provided which relate to the four licensing objectives and when conditions are imposed, that these are appropriate to address the licensing objectives.

#### **4. Options available**

4.1 The Committee may decide to allow licensable activities to go ahead as stated in the notice. If the notice is in connection with licensable activities at licensed premises the committee may also impose one or more of the existing conditions on the notice insofar as such conditions are not inconsistent with the event if it considers that this is appropriate for the promotion of the licensing objectives.

4.2 If the committee decides to impose conditions it must give notice to the premises user which includes a statement of conditions, alternatively it can decide that the event would undermine the licensing objectives and should not take place therefore issuing a counter notice under Section 105 of the Licensing Act 2003.

4.3 The Sub-Committee will need to consider the hours of operation proposed, the effectiveness of any controls proposed by the applicant, the representation(s)/objection(s) received, the location of the premises in relation to residential properties, the history of the management of the premises (if applicable), the evidence provided of any problems in the past, the likely impact of any extension of hours and activities, public transport, taxi availability, the right the applicant has to operate a business and balancing the rights of residents to the quiet enjoyment and privacy of family life. West Devon relies on tourism, with the population in the district increasing considerably in the summer months with holidaymakers both from this country and international visitors who are, in the main, families with young children and retired people – the very segment of society who would perhaps be deterred by anti-social behaviour. These, and any other relevant issues, may be explored at the hearing in so far as it reflects the four licensing objectives.

4.4 A decision made by the Licensing Sub-Committee may be appealed by the applicant or any person who has made relevant representations. The right of appeal is to the Magistrates' Court by virtue of Section 181 and Schedule 5 of the Licensing Act 2003. The Magistrates' Court may dismiss the appeal, or substitute its own decision, or send back the case to the Licensing Authority with directions as to how the case is to be dealt with. The Magistrates' Court may make any costs order it thinks fit.

#### **5. Implications**

Implications	Relevant to	Details and proposed measures to address
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	proposals Y/N	
Legal/Governance	Y	The legal and governance implications are set out in the body of the report
Financial implications to include reference to value for money	Y	There are no direct financial implications to the Council from this Report.
Risk	Y	<p>The Licensing Authority must follow strict legislation in accordance with the Licensing Act 2003 and adhere to the statutory instruments contained with the Act.</p> <p>All decisions must be taken in consideration of the four licensing objectives (section 2.9). These objectives are in place to give protection to the public from the potential negative impacts caused by licensed premises.</p> <p>Decisions may be appealed leading to risks under the following categories if the above precautions are not taken:</p> <ul style="list-style-type: none"> <li>- Legal Governance</li> <li>- finance</li> </ul> <p>(see financial and legal/governance sections above).</p>
Supporting Corporate Strategy	Y	Stimulating a thriving economy
Climate Change - Carbon / Biodiversity Impact	N	
<b>Comprehensive Impact Assessment Implications</b>		
Equality and Diversity	Y	Compliance with the Human Rights Act 1998 – Article 6: right to a fair trial.
Safeguarding		All decisions must take into consideration the ‘protection of children from harm’ licensing objective.
Community Safety, Crime and Disorder		Section 17 Crime and Disorder Act 1998 applies. Decisions made must relate to the four licensing objectives as detailed in section 2.8 of this report.

Health, Safety and Wellbeing		All decisions must take into consideration the four licensing objectives, including 'public safety' and 'protection of children from harm'.
Other implications		

### **Supporting Information**

#### **Appendices:**

- Appendix A – Temporary Event Notice application
- Appendix B – Environmental Health Objection Notice
- Appendix C – Stannary Arms Premises Licence

#### **Background Papers:**

There are none