

## **Licensing Hearing Panel**

**18 December 2023**

### **Consideration of Temporary Event Notice under Part 5 of the Licensing Act 2003**

#### **Super Pizza, 6 Batchelor Street, Chatham, Kent ME4 4BJ**

Report from: Bhupinder Gill, Assistant Director, Legal and Governance

Author: Mandy Francis, Licensing Manager

#### Summary

The licensee for Super Pizza, 6 Batchelor Street, Chatham, Kent ME4 4BJ has served a Temporary Event Notice on Medway Council, Environmental Health and the Police in accordance with the Licensing Act 2003.

Event Details: To extend the opening hours for Late Night Refreshment for the period 27<sup>th</sup> December 2023 to 2 January 2024.

Objections have been received from Kent Police.

#### 1. Recommendations

1.1. That the Panel considers the Temporary Event Notice and determines which of the options, set out in paragraph 4 below, to take.

#### 2. Budget and policy framework

2.1. Medway Council has published its [Statement of Licensing Policy](#), which it will consider alongside the revised [Guidance](#) issued by the Home Office under section 182 of the Licensing Act 2003 in all applications.

2.2. Members are directed to paragraph 8 of the Councils' [Statement of Licensing Policy](#) as well as Chapter 7 of the revised [Guidance](#).

#### 3. Background

3.1. In general terms, Temporary Event Notices are for one or more licensable activities on a temporary basis. These are dealt with in Part 5 of the Licensing Act 2003. Each respective Temporary Event cannot exceed 168 hours as they are designed for "light touch" licensing for events such as garden parties, fetes, fairs etc. The maximum number of persons attending is 499 and only 12

Temporary Event Notices can be given for a premises in the same year. There must be a minimum of 24 hours between each event.

- 3.2. Only the Police and Environmental Protection can object to a Temporary Event Notice under Section 104 Licensing Act 2003 on the basis they are satisfied that that allowing the premises to be used in accordance with the notice would undermine a licensing objective.
- 3.3. The licensee for Super Pizza, 6 Batchelor Street, Chatham, Kent ME4 4BJ has served a Temporary Event Notice on Medway Council, Environmental Health and Kent Police in accordance with the Licensing Act 2003 on 1 December 2023 to extend the opening hours for Late Night Refreshment.
- 3.4. The period specified on the notice is from 14:00hrs on 25th December 2023 until 14:00hrs on 2 January 2024. A copy of the notice is attached at Appendix A.
- 3.5. Licensing contacted the licensee and advised the notice was void as the hours exceeded the permitted days/hours limitation (max of 7 days with total hours not exceeding 168 hours). He subsequently amended the hours from 01:00hrs on 27<sup>th</sup> December 2023 until 05:00hrs on 2 January 2024; these hours comply with the limitation. Confirmation of the amended dates and hours is attached at Appendix B. The notice was therefore accepted on 4 December 2023 and Kent Police and Environmental Health were notified of the amended hours and date the notice was accepted.
- 3.6. For members information, the licensee has been advised that whilst he has confirmed that he will close at 05:00 each day, this will not reduce the TEN hours as it is one event with a start date/time and end date/time.
- 3.7. On 7 December 2023, Kent Police served a notice of objection to the TEN on the licensee and Licensing. The objection, which relates to two of the licensing objectives; the prevention of crime and disorder and the prevention of public nuisance, is attached at Appendix C.

## 4. Options

- 4.1. The options open to the Panel are:
  - Take no action and permit the event in the manner described in the Temporary Event Notice;
  - Issue a counter notice (i.e. refuse the event) under s 105(2)(b) if the hearing panel considers it appropriate for the promotion of the prevention of public nuisance licensing objective to do so;
  - To impose one or more of the existing premises licence conditions on the Temporary Event Notice if the hearing panel consider it appropriate for the promotion of the licensing objectives to do so and if the

conditions would not be inconsistent with the carrying out of the licensable activities under the Temporary Event Notice.

## 5. Risk Management

- 5.1. The Council has to consider and determine this application, which is a function relating to licensing and registration as set out in Schedule 1 to the Functions Regulations, the Licensing Act 2003, the Gambling Act 2005 and other licensing functions reserved by law to the Council's Licensing and Safety Committee and its Sub-Committees, in accordance with the law (both statutory and case law), relevant statutory guidance and statements of policy.

Risk	Description	Action to avoid or mitigate risk	Risk rating
Decision making	Members not making an appropriate decision and having that decision appealed against	Consider the case on its merits based on the evidence, legislation and guidance. Members should give clear and comprehensive reasons for decision.	C III

## 6. Financial implications

- 6.1. There are no direct financial implications at this time.

## 7. Legal implications

- 7.1. This hearing is regulated by The Licensing Act 2003 (Hearings) Regulations 2005 (as amended).
- 7.2. There is a legal requirement for the Licensing Authority to decide the matter at least 24 hours prior to the event should the decision be that the Temporary Event would undermine the relevant licensing objective(s).
- 7.3. There is a possibility of a challenge by way of appeal to the decision by either the applicant or objector.
- 7.4. Legal advice will be given to members as appropriate at the meeting. However, whatever the decision of the committee, this must be based on the evidence placed before it and the committee must decide what weight to attribute to this information.
- 7.5. In accordance with the provisions of Part 3 of Schedule 5 of the Licensing Act 2003, where the licensing authority gives a counter-notice under Section 105,

the premises user may appeal against the decision. Where the authority does not give a counter notice, Kent Police may appeal against the decision. In both cases, appeals must be made to a Magistrates Court within 21 days of receiving notification of the decision - however, no appeal can be brought less than 5 working days prior to the first proposed event day.

### Lead officer contact

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### Appendices

Appendix A – Temporary Event Notice  
Appendix B – Confirmed amendment to event dates and hours  
Appendix C – Objection notice from Kent Police

### Background papers

None