

BABERGH DISTRICT COUNCIL

To: Licensing Sub-Committee	Report Number: M67
From: Head of Environment	Date of meeting: 3 September 2012

**LICENSING ACT 2003 - HEARING REPORT (TEMPORARY EVENT NOTICES)
CONSIDERATION OF OBJECTION NOTICE ISSUED UNDER SECTION 104**

1. Purpose of Report

- 1.1 To report information to the Licensing Sub-Committee to enable consideration of an OBJECTION NOTICE given by the Environmental Health Officer under section 104 of the Licensing Act 2003, in respect of a Temporary Event Notice (TEN).
- 1.2 The Police and local Environmental Health authority have powers to object to a TEN where they are satisfied that allowing the premises to be used in accordance with the notice would undermine a licensing objective.

2. Recommendations

- 2.1 The Sub-Committee must, having regard to the section 104 objection notice (attached as Appendix B), determine whether or not to give a counter notice to the premises-user under section 105 of the Licensing Act 2003 to prevent the event from going ahead; and
- 2.2 If the Sub-Committee has decided under section 105 not to give a counter notice under that section, to determine whether it is appropriate for the promotion of the licensing objectives to impose one or more conditions on the standard temporary event notice - provided that such conditions are (a) also imposed on premises licence BPL0196 held for the same premises; and (b) are not inconsistent with the carrying out of the licensable activities under the temporary event notice.

The Sub-Committee is able to resolve these matters

3. Financial Implications

- 3.1 There is a statutory right of appeal to the magistrates' court for any party aggrieved by the decision taken by the Licensing Authority.

4. Risk Management

- 4.1 None, other than those that inherently apply to the Licensing Authority when carrying out its licensing functions. The four licensing objectives are prevention of crime and disorder, public safety, prevention of public nuisance and protection of children from harm.

5. Consultations

- 5.1 The notice has been given subject to the statutory consultation requirements with the Police and Environmental Health Department. There are no public advertising requirements for temporary event notices and 'other persons' (including local residents and businesses) are not entitled to raise representations for this type of licensing process.

6. Equality Analysis

- 6.1 There are no equality impacts arising directly from the matters contained within this report.

7. Shared Service / Partnership Implications

- 7.1 Not applicable.

8. Key Information

- 8.1 The Sub-Committee must consider the objection notice given by the Environmental Health Officer, and having regard to the objection notice give the premises user a counter notice under section 105 of the Licensing Act 2003 if it considers it appropriate for the promotion of a licensing objective to do so.

- 8.2 The four licensing objectives are:

- (a) The prevention of crime and disorder
- (b) Public safety
- (c) Prevention of public nuisance
- (d) Protection of children from harm

- 8.3 Should the Sub-Committee determine not to issue a counter notice under section 105, and allow the event to go ahead, then it will need to make a further decision on whether it is appropriate to attach conditions under section 106A of the Licensing Act 2003.

- 8.4 Conditions may only be attached under this provision where the same premises are already licensed via a premises licence (or club premises certificate). The Licensing Authority may only apply those conditions from the linked premises licence which are consistent with the activities sought by the temporary event notice.

- 8.5 If the Licensing Authority imposes one or more conditions under section 106A then it will need to give the premises user a notice of the decision accompanied by a separate 'statement of conditions', in the prescribed format, setting out the conditions which apply to the TEN. This must be given no later than 24 hours before the commencement of the activities specified in the TEN. Each party to the hearing must also be given these documents.

8.6 The details of the relevant Temporary Event Notice given under section 100 of the Licensing Act 2003 are as follows

Premises-user:	Mr James Haggar (DPS at the Anchor Inn, Nayland)
Premises:	Anchor Inn, 26 Court Street, Nayland, COLCHESTER CO6 4JL
Premises licence:	BPL0196 held by Exclusive Inns Limited
Date/time of event:	From 11:00hrs until midnight on Friday 7 th September and Saturday 8 th September 2012 and noon until 23:30hrs on Sunday 9 th September 2012
Event details:	Beer-fest for 300 persons, involving supply of alcohol ON the premises, late night refreshment and regulated entertainment. The venue for the TEN is stated as being 'at the bottom of the pub's garden'.
TEN received/ref:	22 August 2012 (TEN 12/0374 ELMS reference 129249)
EHO objection:	24 August 2012

8.7 This premises already benefits from a permanent premises licence (licence number BPL0196 issued 28 October 2005) and Mr James Haggar is the DPS for the premises licence holder Exclusive Inns Limited.

9. **APPENDICES**

Title	Location
(A) Temporary Event Notice 12/0374	Attached
(B) Objection Notice from EHO James Buckingham	Attached
(C) Summary and conditions of premises licence BPL0196	Attached

10. **BACKGROUND DOCUMENTS**

10.1 None

CONTACT: Lee Carvell (Corporate Manager - Licensing)
Tel: 01473 825719 email: lee.carvell@babbergh.gov.uk

ENVIRONMENT DIVISION



Babergh District Council
Application for a Temporary Event Notice
Licensing Act 2003

For help contact
licensingsection@babergh.gov.uk
Telephone: 00 44 (0)1473 825890

* required information

Section 1 of 8

You can save the form at any time and resume it later. You do not need to be logged in when you resume.

System reference This is the unique reference for this application generated by the system.

Your reference You can put what you want here to help you track applications if you make lots of them. It is passed to the authority.

Are you an agent acting on behalf of the applicant?

- Yes
- No

Put "no" if you are applying on your own behalf or on behalf of a business you own or work for.

Applicant Details

* First name

* Family name

* E-mail

Main telephone number Include country code.

Other telephone number

Indicate here if you would prefer not to be contacted by telephone

Are you:

- Applying as a business or organisation, including as a sole trader
- Applying as an individual

A sole trader is a business owned by one person without any special legal structure. Applying as an individual means you are applying so you can be employed, or for some other personal reason, such as following a hobby.

Applicant Business

* Is your business registered in the UK with Companies House? Yes No

* Registration number

* Business name If your business is registered, use its registered name.

* VAT number Put "none" if you are not registered for VAT.

* Legal status

Continued from previous page...

* Your position in the business

Home country

The country where the headquarters of your business is located.

Registered Address

Address registered with Companies House.

* Building number or name

* Street

District

* City or town

County or administrative area

* Postcode

* Country

The information given here will be saved and will be pre-filled in future forms.

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APPLICATION DETAILS (See also guidance on completing the form, general notes and note 1)

Have you had any previous or maiden names?

Yes

No

* Your date of birth / /

Applicant must be 18 years of age or older

National Insurance number

This box need not be completed if you are an individual not liable to pay UK national insurance.

Place of birth

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Correspondence Address

Is the address the same as (or similar to) the address given in section one?

Yes

No

If "Yes" is selected you can re-use the details from section one, or amend them as required. Select "No" to enter a completely new set of details.

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Additional Contact Details

Are the contact details the same as (or similar to) those given in section one?

Yes

No

If "Yes" is selected you can re-use the details from section one, or amend them as required. Select "No" to enter a completely new set of details.

E-mail

Telephone number

Other telephone number

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THE PREMISES

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

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). (See also guidance on completing the form, note 2)

* Does the premises have an address?

Yes

No

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Address

Is the address the same as (or similar to) the address given in section one?

If "Yes" is selected you can re-use the details from section one, or amend them as required. Select "No" to enter a completely new set of details.

Yes

No

* Building number or name

* Street

District

* City or town

County or administrative area

* Postcode

* Country

* Does a premises licence or club premises certificate have effect in relation to the premises (or any part of the premises)?

Neither

Premises licence

Club premises certificate

* Premises licence number

Location Details

* Provide further details about the location of the event

If you intend to use only part of the premises at this address or intend to restrict the area to which this notice applies, give a description and details below (see also guidance on completing the form, note 3)

Describe the nature of the premises below (see also guidance on completing the form, note 4)

Describe the nature of the event below (see also guidance on completing the form, note 5)

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LICENSABLE ACTIVITIES

State the licensable activities that you intend to carry on at the premises (see also guidance on completing the form, note 6):

- 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
- The giving of a late temporary event notice

(see also guidance on completing the form, note 7)

State the dates on which you intend to use these premises for licensable activities (see also guidance on completing the form, note 8)

September 7th, 8th, 9th

The maximum period for using premises for licensable activities under the authority of a temporary event notice is 96 hours (four days).

State the times during the event period that you propose to carry on licensable activities (give times in 24 hour clock) (see also guidance on completing the form, note 9)

7th - 11:00-00:00, 8th - 11:00 -00:00, 9th - 12:00 - 23:30

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 (see also guidance on completing the form, note 10)

300

Note that the maximum number of people cannot exceed 499.

If the licensable activities will include the supply of alcohol, state whether the supplies will be for consumption on or off the premises, or both (see also guidance on completing the form, note 11):

- On the premises only
- Off the premises only
- Both

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PERSONAL LICENCE HOLDERS (See also guidance on completing the form, note 12)

Do you currently hold a valid personal licence? Yes No

Continued from previous page...

Provide the details of your personal licence below.

Issuing licensing authority

Licence number

Date of issue / /
dd mm yyyy

Date of expiry / /
dd mm yyyy

Any further relevant details

Section 6 of 8

PREVIOUS TEMPORARY EVENT NOTICES (See also guidance on completing the form, note 13)

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?
 Yes No

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 Yes No
b) Begins 24 hours or less after the event period proposed in this notice?

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ASSOCIATES AND BUSINESS COLLEAGUES (See also guidance on completing the form, note 14)

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?
 Yes No

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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?
- Yes No

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?

Yes No

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?
- Yes No

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CONDITION

It is a condition of this temporary event notice that where the relevant licensable activities described in Section 4 above include the supply of alcohol that all such supplies are made by or under the authority of the premises user.
(See also guidance on completing the form, note 16)

PAYMENT DETAILS

This fee must be paid to the authority. If you complete the application online, you must pay it by debit or credit card.
This formality requires a fixed fee of £21

ATTACHMENTS

DECLARATION

- * 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

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* (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

Ticking this box indicates you have read and understood the above declaration

This section should be completed by the applicant, unless you answered "Yes" to the question "Are you an agent acting on behalf of the applicant?"

* Full name

* Capacity

* Date / /
dd mm yyyy

Full name

Capacity

Date / /
dd mm yyyy

This section should be completed by the applicant, unless you answered "Yes" to the question "Are you an agent acting on behalf of the applicant?"

Digital signature You can digitally sign the form if you wish, this will be verified and passed to the authority.

When you are satisfied that you have completed the form correctly, save it and continue with the application process. If the online application screen is no longer available in your browser, [click here](#) to resume.

Place Directorate

Responsible for the Economy
and the Environment



Mr James Haggar
17 Clopton Gardens
Hadleigh
IPSWICH
Suffolk
IP7 5JG

Please ask for: James Buckingham
Direct line: 01473 825880
Fax number: 01473 825738
Your reference:
Our reference: TENS 012-0374/BPL0196
E-mail: james.buckingham@babergh.gov.uk
Please reply to: Babergh District Council

24 August 2012

Dear Mr Haggar

**LICENSING ACT 2003 - TEMPORARY EVENT NOTICE RECEIVED 22 AUGUST 2012
'BEER FEST', 07-09 SEPTEMBER 2012
ANCHOR INN, NAYLAND, 26 COURT STREET, NAYLAND, COLCHESTER CO6 4JL**

In accordance with the requirements of Section 104 of the Licensing Act 2003, I write to notify you that I have submitted an objection to your application for a Temporary Event Notice (TEN) for the proposed event listed above.

I am satisfied that allowing the premises to be used in accordance with the TEN, would impact on promotion of the licensing objectives, specifically the prevention of public nuisance.

The application proposes a 3 day/evening event with regulated entertainment. The location is specified as being "At the bottom of the pub's garden". Regulated entertainment covers a wide remit of licensable activities including the playing of amplified live or recorded music.

The premises is closely surrounded by residential properties on three sides and Babergh District Council's Environmental Protection service has received complaints from several residents over a number of years regarding the playing of amplified music at the premises. These relate to:

- May 2000: A lunchtime BBQ on a Bank Holiday Monday with amplified music;
- August 2000: Noise from amplified music played at BBQs on Bank Holiday Mondays;
- June 2005: Live music played in car park from mid-afternoon until mid-evening on a Sunday;
- September 2005: Live music being played outside in grounds of pub; and
- June 2011: Loud music played in pub for last 3 nights until gone 1am.

A Statutory Noise Nuisance was witnessed on the first two of these occasions by an Environmental Health Officer. With regard to the last occasion, a Simple Caution was issued to the previous DPS for a breach of the Premises Licence, namely the playing of live music when this was not licensed.

Given the unspecified nature of the regulated entertainment, I must assume that amplified music could be played if the TENS were to be granted. Given the:

- close proximity of neighbouring properties;

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Babergh District Council
Council Offices, Corks Lane, Hadleigh, Ipswich, IP7 6SJ
Telephone (01473) 822801
Facsimile (01473) 825742
Minicom (01473) 825878
www.babergh.gov.uk



Strategic Director (Place): Lindsay Barker
Head of Economy: Peter Burrows **Head of Environment:** Chris Fry

- that the application proposes to use an outdoor location;
- the long duration and late finish times proposed on three consecutive nights over a weekend;
and
- the history of noise complaints;

I am of the opinion that the application would give rise to a public nuisance from noise. This would cover not only music noise, but also noise from people attending the event and from traffic arriving/departing the premises late at night.

Yours sincerely

James Buckingham
Corporate Manager - Environmental Protection