

# Licensing Panel

## Licensing Act 2003 – Application for a Temporary Event Notice

### The Anglers Arms, 95 Wrigley Head, Failsworth, Oldham, M35 9BH

Report of: Executive Member – Neighbourhoods

Officer Contact: Nicola Lord  
Ext. 3472

**Date of Hearing: 14<sup>th</sup> December 2021**

#### Reason for Hearing:

The purpose of this report is to inform members of a Temporary Event Notice served on the Council in relation to a Christmas Event at The Anglers Arms, 95 Wrigley Head, Failsworth, Manchester, M35 9BH which, due to a representation being received, has been referred to this Panel for determination.

#### Recommendations:

Members are recommended to consider the Notice, taking into account the representation received.

## **Licensing Panel – 14<sup>th</sup> December 2021**

Application for a Temporary Event Notice

The Anglers Arms, 95 Wrigley Head, Failsworth, Manchester, M35 9BH

### 1. Purpose of Report

1.1 The purpose of this report is to inform members of a Temporary Event Notice served on the Council in relation to a Christmas Event at The Anglers Arms, 95 Wrigley Head, Failsworth, Manchester, M35 9BH which, due to representations being received, has been referred to this Panel for determination.

### 2. Recommendations

2.1 Members are recommended to consider the notice taking into account the representations received.

### 3. The Notice

3.1 On the 3<sup>rd</sup> December 2021 the applicant, Annette Nokes, served a temporary event notice in respect of the premises named above. The last date for representations in relation to this application was 8<sup>th</sup> December 2021.

3.2 Details of the licensable activities and the times applied for are as follows:

Activity	Indoors / Outdoors	Hours
Sale by Retail of Alcohol  200 Persons	For consumption ON and OFF the premises	Saturday 18 <sup>th</sup> December 2021 12:00-19:00  Sunday 19 <sup>th</sup> December 2021 12:00-19:00

3.5 A copy of the application and proposed plan is attached at **Appendix 1**.

3.6 A location map is attached at **Appendix 2**.

### 4. Representations

4.1 One representation has been received from Environmental Health on 7<sup>th</sup> December 2021 relating to concerns of previous complaints. This representation can be found at **Appendix 3** of this report.



## 5. Licensing Policy

5.1 Members should take note of the Authority's Licensing Policy Statement when determining an application. Attention should be drawn to Pages 14 & 15 in relation to public nuisance, Paragraph 8.

5.2 A full copy of the Council's Licensing Policy Statement will be available at the hearing.

## 6. Secretary of State's Guidance

6.1 Members also need to consider statutory guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003.

6.2 In relation to Chapter 7.32 to 7.39 **(Police and Environmental Health Intervention)**:-

7.32 The system of permitted temporary activities gives police and EHAs the opportunity to consider whether they should object to a TEN on the basis of any of the licensing objectives.

7.33 If the police or EHA 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 the period of three working days following the day on which they received 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, EHA and the premises user may make representations to the licensing authority. Following the hearing, the licensing authority may decide to impose conditions which already apply to an existing premises licence or club premises certificate at the venue, or issue a counter notice to prevent the event going ahead. As noted above, there is no scope for hearings in respect of late TENs and if objections are raised by the police or EHA in relation to a late TEN, the notice will be invalid and the event will not go ahead.

7.35 Such cases might arise because of concerns about the scale, location, timing of the event or concerns about public nuisance – even where the statutory limits on numbers are being observed. The premises user who signs the form is legally responsible for ensuring that the numbers present do not exceed the permitted limit at any one time. In cases where there is reason to doubt that the numbers will remain within the permitted limit the premises user should make clear what the nature of the event(s) is and how they will ensure that the permitted persons limit will not be exceeded. For example, where notices are being given for TENs simultaneously on adjacent plots of land it may be appropriate for door staff to be employed with counters. In each case it is important that licensing authorities and relevant persons can consider whether they believe that the premises user intends to exceed the 499 person limit, or will be unable to control or know whether the limit will be exceeded. Where the planned activities are likely to breach the statutory limits or undermine the licensing objectives, it is likely to be appropriate for the police or EHA to raise objections.

7.36 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,

(such as at weddings with a cash bar or small social or sporting events) this should not usually give rise to the use of these powers.

### **Modification**

7.37 As noted above, the police or EHA (as “relevant persons”) 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 (for example, by changing the details of the parts of the premises that are to be used for the event, the description of the nature of the intended activities or their duration). The other relevant person has to agree for the modification to be made. There is no scope under the 2003 Act for the modification of a late TEN.

### **Applying conditions to a TEN**

7.38 The 2003 Act provides that only the licensing authority can impose conditions to a TEN from the existing conditions on the premises licence or club premises certificate at the venue. The licensing authority can only do so:

- if the police or the EHA have objected to the TEN;
- if that objection has not been withdrawn;
- if there is a licence or certificate in relation to at least a part of the premises in respect of which the TEN is given;
- and if the licensing authority considers it appropriate for the promotion of the licensing objectives to impose one or more conditions.

7.39 This decision is one for the licensing authority alone, regardless of the premises user’s views or willingness to accept conditions. The conditions must be notified to the premises user on the form prescribed by regulations.

A full copy of the guidelines will be available at the hearing.

## **7. Options**

7.1 When determining the application Members, having had regard to the representations, may take such steps as they consider appropriate for the promotion of the licensing objectives. The steps available to Members are:

- a) Confirm the notice as served on the Licensing Authority;
- b) To reject the notice and issue a counter notice;

7.2 Any steps appropriate to promote the licensing objectives should be specified. If none of the steps are appropriate and proportionate, no action should be taken.

7.3 In arriving at a decision Members must have regard to the relevant provisions of national guidance and the licensing policy statement and reasons must be given for any departure.

7.4 The decision should be based on the individual merits of the application.

## 8. Consultation

8.1 Consultation in accordance with the Act has taken place with all responsible bodies and notice has been given to allow for any representations from interested parties.

## 9. Legal Services Comments

9.1 In determining the application Members should have regard to the Authority's licensing policy statement and the Secretary of State's Guidance. The applicant has a right of appeal to the magistrates' court if the Council refuses the application and the Environmental Health Section have a right of appeal to the magistrates' court if the Council grants the application. No appeal may be made later than 5 working days before the day on which the event period specified in the temporary event notice begins. (A Evans)

## 10. Environmental and Health & Safety Implications

10.1 Contained within the body of the report.

## 11. Equality, Community Cohesion & Crime Implications

11.1 The Councils Statement of Licensing Policy considers these matters. All decisions made by the Licensing Panel must have regard to this policy and national guidance.

## 12. Equality Impact Assessment Completed?

12.1 No

## 13. Background Papers

13.1 The following is a list of background papers on which this report is based in accordance with the requirements of Section 100(1) of the Local Government Act 1972. It does not include documents which would disclose exempt or confidential information as defined by the Act:

File Ref: Records held in Directorate  
Officer Name: Nicola Lord  
Contact No: 0161 770 3472

## 14. Appendices

Appendix 1 – Temporary Event Notice  
Appendix 2 – Location Map  
Appendix 3 – Representation received from Environmental Health