



## Licensing Committee

**Report title:** Fox and Firkin, 316 Lewisham High Street, London, SE13 6JZ

**Date:** 26 May 2022

**Key decision:** No.

**Class:** Part 1

**Ward(s) affected:** Lewisham Central

**Contributors:** Community Services - Safer Communities Service and Head of Law

### Outline and recommendations

Determination of Temporary Event Notice Application - After having regard to all the representations heard, Members must take such steps as they consider appropriate to promote the Licensing Objectives.

### Timeline of engagement and decision-making

To consider the application for a Temporary Event Notice. The options open to members of the Committee are set out in paragraph 4 below.

**Proposal:** Temporary Event Notice (TEN)

**Legislation:** Licensing Act 2003

**Premises:** Fox and Firkin, 316 Lewisham High Street, London, SE13 6JZ

**Applicant:** Daniel Sidders

This matter is required to be heard within a short timescale to meet the statutory requirements. The notice was served in accordance with section 100 of the Licensing Act 2003.

#### 1. Notice Content & Objection

1.1 The Temporary Event Notice is for the following activity to take place in a currently unlicensed section of garden to the rear of the premises.

From 12:00 - 23:00hrs on the following 5 dates:

2<sup>nd</sup> June, 3<sup>rd</sup> June, 4<sup>th</sup> June, 5<sup>th</sup> June and 6<sup>th</sup> June 2022.

- 1.2 The provision of regulated entertainment in the form of live music events as well as sale by retail of alcohol ON the premises for up to 250 people.
- 1.3 The notice was served on the Metropolitan Police (MPS) and other responsible authorities on 4<sup>th</sup> May 2022. An objection was received from the MPS within the specified time limit in accordance with section 104 of the Licensing Act 2003 – The objection was received in relation to the Prevention of Crime and Disorder, Preservation of Public Safety and Prevention of Public Nuisance.
- 1.4 The premises (NOT including the garden area under consideration) currently has a licence for:

Entertainment & Alcohol

10.00 - 02.00 Sunday to Thursday

10.00 – 03.00 Friday & Saturday

Late night refreshment

23.00 – 03.00 Sunday to Thursday

23.00 – 04.00 Friday & Saturday

On St. David's Day, St. Patrick's Day, St. George's Day and St. Andrew's Day, the finish time will be extended by one hour, with seven days notice and agreement with the police.

For statutory bank holiday weekend periods (Friday, Saturday, Sunday and Monday) and for Thursday before Good Friday and for Christmas Eve, the finish time will be extended by one hour beyond these times.

## **2. Legal and Human Rights Implications**

- 2.1 Where an objection notice is received following a Temporary Event Notice a licensing authority is required to hold a hearing. In this case the Licensing Authority is required to consider whether the proposed temporary event will promote the crime prevention and public nuisance licensing objectives.
- 2.2 The licensing authority is a public authority under the Human Rights Act 1998. Therefore the Licensing Authority is under a duty to act compatibly with Convention Rights in the exercise of their function. Article 6 (1) of the Convention provides that everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial hearing established by law.
- 2.3 The right to give a Temporary Event Notice falls within the scope of civil rights and obligations in Article 6 (1) as it relates, in this case, to a Premises Licence holder's right to pursue commercial activity. This right is a qualified right therefore it may be interfered with if it is appropriate to protect the general interest of the community.

## **3. Equalities Implications**

- 3.1 The Equality Act 2010 includes a new public sector equality duty (the equality duty or duties) the duty covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race or religion or belief, sex and sexual orientation.
- 3.2 In summary the Council must, in the exercise of its functions, have due regard to the need to-
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
  - advance equality of opportunity between people who share a protected characteristic and those who do not
  - foster good relations between those who share a protected characteristic and those who do not.
- 3.3 As with the case with the original separate duties, the new duty continues to be a “have regard duty” and the weight to attach to it is a matter for the committee bearing in mind the relevance and proportionality. It is not an absolute requirement to eliminate discrimination, advance equality of opportunity or foster good relations.

#### **4. Determination of objection notice**

- 4.1 After having regard to all the representations heard, Members must take such steps as they consider appropriate to promote the prevention of crime and disorder and public nuisance. Therefore the Licensing Committee may;
1. Decide no action is appropriate to promote the licensing objectives therefore the temporary event may go ahead.
  2. Impose one or more conditions on the standard temporary event notice if-
    - a. the authority considers it appropriate for the promotion of the licensing objectives to do so, AND if
    - b. the conditions are also imposed on a premises licence or club premises certificate that has effect in respect of the same premises, or any part of the same premises, as the standard temporary event notice, and
    - c. the conditions would not be inconsistent with the carrying of licensable activities under the standard temporary event notice
  3. Issue a counter notice if it considers it is appropriate to promote the licensing objectives, therefore the temporary event may not go ahead.
- 4.2 There is a right of appeal to the Magistrates Court against a decision either to give a counter notice or to allow the temporary event to go ahead.

<u>Short Title of Document</u>	<u>Background Papers</u> <u>Date</u>	<u>Appendix</u>
Temporary Event Notice		
Application rec'd	04/05/2022	
<u>Police Objection</u>		

Objection rec'd

05/05/22

Should you require any further information on this report please contact Richard Lockett of the Safer Communities Service on 020 8314 3389