



Lewes District Council

To all Members of the Licensing Sub Committee

A meeting of the Licensing Sub Committee will be held in the **Warren Room, Lewes House, High Street** on **Wednesday, 07 October 2015** at **10:30** which you are requested to attend.

Please note the venue for this meeting which is wheelchair accessible and has an induction loop to help people who are hearing impaired.

This meeting may be filmed, recorded or broadcast by any person or organisation. Anyone wishing to film or record must notify the Chair prior to the start of the meeting. Members of the public attending the meeting are deemed to have consented to be filmed or recorded, as liability for this is not within the Council's control.

29/09/2015

Catherine Knight
Assistant Director - Corporate Services

Agenda

- 1 Election of Chair of the Sub Committee for this meeting**
- 2 Apologies for Absence/Declaration of Substitute Members**
- 3 Declarations of Interest**
Disclosure by councillors of personal interests in matters on the agenda, the nature of any interest and whether the councillor regards the interest as prejudicial under the terms of the Code of Conduct
- 4 Application for a Temporary Event Notice at Cinque Ports, 49 High Street, Seaford, BN25 1PP (page 3)**
To consider the Report of the Director of Service Delivery
(Report No. 133/15 herewith)

For further information about items appearing on this Agenda, please contact

Ruby Brittle at Southover House, Southover Road, Lewes, East Sussex
BN7 1AB. Telephone 01273 471600

Distribution: Councillors W Botting, B Bovington, P Gander (reserve), J Harrison-Hicks,

Agenda Item No: 4

Report No: 133/15

Report Title: Application for a Temporary Event Notice at Cinque Ports, 49 High Street, Seaford BN25 1PP

Report To: Licensing Sub-Committee Date: 7 October 2015

Report By: Director of Service Delivery

Contact Officer(s)-

Name(s): Susan Lindsey
Post Title(s): Licensing Officer
E-mail(s): sue.lindsey@lewes.gov.uk
Tel No(s): 01273 484354

1. The Application:

1.1 Premises User: Mr Robert Thomsett

1.2 Premises: Cinque Ports, 49 High Street, Seaford BN25 1PP

1.3 Type of application: Notice given under section 100 of the Licensing Act 2003 to carry on a temporary activity at 49 High Street, Seaford.

1.3.1 A temporary event notice is a process of notification to the local authority and police that allows licensable activities to be carried on at premises that do not have a premises licence or a club certificate in place for the times applied.

1.4 Licensable activities:

1.4.1 Sale of alcohol for consumption on and off the premises, regulated entertainment and late night refreshment from 8pm until 2am on Saturday 10th October through to Sunday 11th October.

1.5 Purpose of Report

1.5.1 To consider the application for a temporary event notice as a result of an objection notice from Environmental Health.

1.5.2 The Licensing Act requires a Licensing Sub Committee to consider such applications when an appropriate notice of objection under any of the four licensing objectives has been made by either the Police or Environmental Health.

1.5.3 Only the Police and Environmental Health may object to a temporary event notice on the grounds that the issue of the temporary event notice will undermine any of the licensing objectives. Any such objection must be made within 3 working days of receipt of the notification.

- 1.5.4** The Licensing Authority shall then arrange a hearing which must be held within 7 working days beginning with the day after the end of the period within which the Police and Environmental Health may give an objection notice, but in any case the determination must be given at least 24 hours before the event is due to begin.

2. Background Information

- 2.1** The Cinque Ports is a small to medium size public house situated in an area of residential properties along with some business and retail outlets in the old Seaford High Street near to the town centre and the main shopping area. The premises have a ground floor open plan bar to the front and to both sides with a rear lounge area. To the side is a small external yard with double doors that serves as the smoking area. It is covered and has tables and chairs for customers use for smoking and the consumption of alcohol. The entrance to the premises is at the front from the High Street pavement and there is a lobby and doors between the street and the bar area.
- 2.2** The Premises Licence for the Cinque Ports was the subject of a Review Hearing in November 2010 due to receipt of an application for public nuisance, and crime and disorder issues raised by local residents. The result of this Review was to impose certain conditions which were agreed and placed on the Premises Licence.

3 Representations Received

- 3.1** Environmental Health have served notice on the Premises User Mr Robert Thomsett and Lewes District Council objecting to the temporary event notice for the 10th to 11th October 2015 on the grounds of public nuisance.

4. Licensing Policy Consideration

- 4.1** There are no sections contained in the Council's Licensing Policy that refer to Temporary Event Notices. If a relevant objection is made by Environmental Health and no compromise can be reached between the parties a hearing must be held .

- 4.2** The options available to the Licensing Sub Committee are:

To grant or refuse the temporary event.

Conditions can be imposed on a TEN if the conditions are

- Imposed on a premises licence that has effect in respect of the same premises as the temporary event notice, and
- Consistent with the carrying out of the licensable activities which forms part of the temporary event notice.

- 4.3** Following the Committee's decision both Environmental Health and the Premises User have a right of appeal to the Magistrates Court within 21 days.

5. National Guidance:

- 5.1** The Home Office has issued Guidance under Section 182 of the Licensing Act 2003. This Guidance is provided to assist Licensing Authorities to carry out their functions under the Act and the relevant sections for consideration are contained in Part 2 for public nuisance, and Part 7 for Temporary Event Notices

Financial Appraisal

There are no financial implications to this report

Legal Implications

These are contained within the body of this report

Sustainability Implications

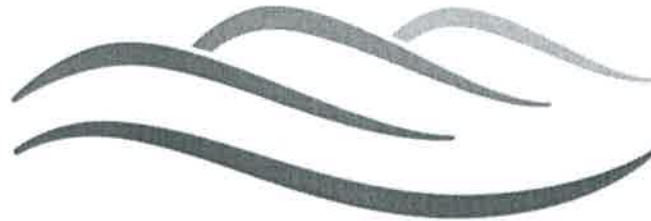
I have completed the Sustainability Implications Questionnaire and there are no impacts either positive or negative (reference LDC 47582)

Background Papers

Application for a Temporary Event Notice at Cinque Ports, 49 High Street, Seaford BN25 1PP

Appendices:

1. 1 e.mail of objection from Environmental Health with supporting witness statement
2. Location Plan of the site and immediate surrounding area
3. Premises Licence – Cinque Ports Public House
3. Relevant sections of Home Office Guidance issued under Section 182 of the Licensing Act 2003. Section 2.14 Public Nuisance, and Section 7 Temporary Event Notices



Lewes District Council

Temporary Event Notice

Before completing this notice, please read the guidance notes at the end of the notice. If you are completing this notice by hand, please write legibly in block capitals. In all cases, ensure that your answers are inside the boxes and written in black ink or typed. Use additional sheets if necessary. You should keep a copy of the completed notice for your records. You must send at least one copy of this notice to the licensing authority and additional copies must be sent to the chief officer of police and the local authority exercising environmental health functions for the area in which the premises are situated. The licensing authority will give to you written acknowledgement of the receipt of the notice.

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

1. The personal details of premises user (Please read note 1)			
1. Your name			
Title	Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other (please state)		
Surname	Thomsett		
Forenames	Robert		
2. Previous names (Please enter details of any previous names or maiden names, if applicable. Please continue on a separate sheet if necessary)			
Title	Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other (please state)		
Surname			
Forenames			
3. Your date of birth		Day 27	Month 01 Year 2015
4. Your place of birth		Newhaven	
5. National Insurance Number		NB328348D	
6. Your current address (We will use this address to correspond with you unless you complete the separate correspondence box below)			
49 High Street			
Post town Seaford		Postcode BN251PP	
7. Other contact details			
Telephone numbers			
Daytime			
Evening (optional)			
Mobile (optional)	07842340913		
Fax number (optional)			
E-Mail address (if available)	bob@cinqueportspub.com		
8. Alternative address for correspondence (If you complete the details below, we will use this address to correspond with you)			
Post town		Postcode	
9. Alternative contact details (if applicable)			
Telephone numbers:			
Daytime			
Evening (optional)			
Mobile (optional)			
Fax number (optional)			
E-Mail address (if available)			

2. The premises	
Please 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) (Please read note 2)	
49 High Street Seaford BN25 1PP	
Does a premises licence or club premises certificate have effect in relation to the premises (or any part of the premises)? If so, please enter the licence or certificate number below.	
Premises licence number	LN/2005?00420
Club premises certificate number	
If you intend to use only part of the premises at this address or intend to restrict the area to which this notice applies, please give a description and details below. (Please read note 3)	
Please describe the nature of the premises below. (Please read note 4)	
Public House	
Please describe the nature of the event below. (Please read note 5)	
50 th Birthday Party	

3. The licensable activities		
Please state the licensable activities that you intend to carry on at the premises (please tick all licensable activities you intend to carry on). (Please read note 6)		
The sale by retail of alcohol	x	<input type="checkbox"/>
The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club	x	<input type="checkbox"/>
The provision of regulated entertainment	x	<input type="checkbox"/>
The provision of late night refreshment	x	<input type="checkbox"/>
Are you giving a late temporary event notice? (Please read note 7)	X	<input type="checkbox"/>
Please state the dates on which you intend to use these premises for licensable activities. (Please read note 8)		
Please state the times during the event period that you propose to carry on licensable activities (please give times in 24 hour clock). (Please read note 9)		
10/10/15 20.00-02.00 11/10/15		
Please 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. (Please read note 10)		85
If the licensable activities will include the supply of alcohol, please state whether the supplies will be for consumption on or off the premises, or both (please tick as appropriate). (Please read note 11)	On the premises only	
	Off the premises only	<input type="checkbox"/>
	Both	x <input type="checkbox"/>
Please state if the licensable activities will include the provision of relevant entertainment. If so, please state the times during the event period that you propose to provide relevant entertainment. (please read note 12)		
10/10/15 20.00-02.00 11/10/15		

4. Personal licence holders (Please read note 13)		
Do you currently hold a valid personal licence? (Please tick)		Yes x <input type="checkbox"/> No <input type="checkbox"/>
If "Yes" please provide the details of your personal licence below.		
Issuing licensing authority	Lewes	
Licence number	LN200600469	
Date of issue	5/10/15	
Date of expiry	4/10/16	
Any further relevant details		

5. Previous temporary event notices you have given (Please read note 14 and tick the boxes that apply to you)		
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 x <input type="checkbox"/>	No <input type="checkbox"/>
If answering yes, please state the number of temporary event notices (including the number of late temporary event notices, if any) you have given for events in that same calendar year	2	
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 b) begins 24 hours or less after the event period proposed in this notice?	Yes <input type="checkbox"/>	No x <input type="checkbox"/>

6. Associates and business colleagues (Please read note 15 and tick the boxes that apply to you)		
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 <input type="checkbox"/>	No x <input type="checkbox"/>
If answering yes, please state the total number of temporary event notices (including the number of late temporary event notices, if any) your associate(s) have given for events in the same calendar year.		
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 <input type="checkbox"/>	No x <input type="checkbox"/>
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 x <input type="checkbox"/>	No <input type="checkbox"/>
If answering yes, please state the total number of temporary event notices (including the number of late temporary event notices, if any) your business colleague(s) have given for events in the same calendar year.	2	
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 <input type="checkbox"/>	No x <input type="checkbox"/>

7. Checklist (Please read note 16)	
I have: (Please tick the appropriate boxes)	
Sent at least one copy of this notice to the licensing authority for the area in which the premises are situated	x <input type="checkbox"/>
Sent a copy of this notice to the chief officer of police for the area in which the premises are situated	x <input type="checkbox"/>
Sent a copy of this notice to the local authority exercising environmental health functions for the area in which the premises are situated	x <input type="checkbox"/>
If the premises are situated in one or more licensing authority areas, sent at least one copy of this notice to each additional licensing authority	x <input type="checkbox"/>
If the premises are situated in one or more police areas, sent a copy of this notice to each additional chief officer of police	x <input type="checkbox"/>
If the premises are situated in one or more local authority areas, sent a copy of this notice to each additional local authority exercising environmental health functions	x <input type="checkbox"/>
Made or enclosed payment of the fee for the application	x <input type="checkbox"/>
Signed the declaration in Section 9 below	x <input type="checkbox"/>

8. Condition (Please read note 17)
It is a condition of this temporary event notice that where the relevant licensable activities described in Section 3 above include the supply of alcohol that all such supplies are made by or under the authority of the premises user.

9. Declarations (Please read note 18)	
<p>The information contained in this form is correct to the best of my knowledge and belief. I understand that it is an offence:</p> <p>(i) to knowingly or recklessly make a false statement in or in connection with this temporary event notice and that a person is liable on summary conviction for such an offence to a fine not exceeding level 5 on the standard scale; and</p> <p>(ii) to permit an unauthorised licensable activity to be carried on at any place and that a person is liable on summary 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.</p>	
Signature	
Date	23/9/15
Name of Person signing	Robert Thomsett

For completion by the licensing authority

10. Acknowledgement (Please read note 19)	
I acknowledge receipt of this temporary event notice.	
Signature	On behalf of the licensing authority
Date	
Name of Officer signing	

NOTES

General

In these notes, a person who gives a temporary event notice is called a “premises user”.

The police and local authority exercising environmental health functions may intervene on the grounds of any of the four licensing objectives (the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm) to prevent the occurrence of an event at which permitted temporary activities are to take place or to agree a modification of the arrangements for such an event. However, the licensing authority will intervene of its own volition in the cases described below.

First, it will issue a counter notice if there is an objection to a late temporary event notice (see note 7 below).

Secondly, it may issue a notice in relation to its decision to impose conditions on a temporary event notice (see note 2 below).

Thirdly, it will issue a counter notice if the first, second, third and fifth of the limits set out below would be exceeded. If any of the limits below are breached or if a counter notice has been issued, any licensable activities taking place would be unauthorised and the premises user would be liable to prosecution. The limitations apply to:

- the number of times a person may give a temporary event notice (50 times per year for a personal licence holder and 5 times per year for other people);
- the number of times a person may give a late temporary event notice (10 times per year for a personal licence holder and 2 times per year for other people);
- the number of times a temporary event notice may be given in respect of any particular premises (12 times in a calendar year);
- the length of time a temporary event may last for these purposes (168 hours or 7 days);
- the maximum aggregate duration of the periods covered by temporary event notices at any individual premises (21 days per calendar year); and
- the scale of the event in terms of the maximum number of people attending at any one time (a maximum of 499).

For the purposes of determining the overall limits of 50 temporary event notices per personal licence holder (in a calendar year) and of 5 for a non-personal licence holder (in a calendar year), temporary event notices given by an associate or a person who is in business with a premises user (and that business involves carrying on licensable activities) count towards those totals. The limits applying to late temporary event notices are included within the overall limits applying to the total number of temporary event notices. Note 15 below sets out the definition of an “associate”.

When permitted temporary activities take place, a premises user must ensure that either:

- a copy of the temporary event notice is prominently displayed at the premises; or
- the temporary event notice is kept at the premises either in his own custody or in the custody of a person present and working at the premises and whom he has nominated for that purpose.

Where the temporary event notice is in the custody of a nominated person, a notice specifying that fact and the position held by that person must be displayed prominently at the premises.

Where the temporary event notice or a notice specifying the nominated person is not displayed, a constable or an authorised person (for example, a licensing officer, fire officer or environmental health officer) may require the premises user to produce the temporary event notice for examination. Similarly, where the nominated person has the temporary event notice in his custody, a constable or authorised person may require that person to produce it for examination. Failure to produce the temporary event notice without reasonable excuse would be an offence.

It should also be noted that the following, among other things, are offences under the Licensing Act 2003:

- the sale or supply of alcohol to children under 18 years of age (maximum fine on conviction is a fine not exceeding level 5 on the standard scale, currently £5,000);
- allowing the sale of alcohol to children under 18 (maximum fine on conviction is a fine not exceeding level 5 on the standard scale, currently £5,000);
- knowingly allowing the consumption of alcohol on the premises by a person aged under 18 (maximum fine on conviction is a fine not exceeding level 5 on the standard scale, currently £5,000);
- allowing disorderly behaviour on the premises (maximum fine on conviction is a fine not exceeding level 3 on the standard scale, currently £1,000);
- the sale of alcohol to a person who is drunk (maximum fine on conviction is a fine not exceeding level 3 on the standard scale, currently £1,000);
- obtaining alcohol for a person who is drunk (maximum fine on conviction is a fine not exceeding level 3 on the standard scale, currently £1,000);
- knowingly allowing a person aged under 18 to make any sale or supply of alcohol unless the sale or supply has been specifically approved by the premises user or any individual aged 18 or over who has been authorised for this purpose by the premises user (maximum fine on conviction is a fine not exceeding level 1 on the standard scale, currently £200); and
- knowingly keeping or allowing to be kept on the premises any smuggled goods which have been imported without payment of duty or which have otherwise been unlawfully imported (maximum fine on conviction is a fine not exceeding level 3 on the standard scale, currently £1,000).

In addition, where the premises are to be used primarily or exclusively for the sale or supply of alcohol for consumption on the premises, it is an offence to allow children under 16 to be present when the premises are open for that purpose unless they are accompanied by an adult. In the case of any premises at which sales or supplies of alcohol are taking place at all, it is an offence for a child under 16 to be present there between the hours of midnight and 5am unless accompanied by an adult. In both instances, the penalty on conviction is a fine not exceeding level 3 on the standard scale, currently £1,000.

Note 1

A temporary event notice may only be given by an individual and not, for example, by an organisation or club or business. The individual giving the notice is the proposed “premises user”.

Within businesses, clubs or organisations, one individual will therefore need to be identified as the proposed premises user.

If you include an e-mail address in section 1(7) or 1(9), the licensing authority may send to this the acknowledgement of receipt of your notice or any notice or counter notice it is required to give under sections 104A, 106A or 107 of the Licensing Act 2003.

Note 2

For the purposes of the Licensing Act 2003, “premises” means any place. Premises will therefore not always be a building with a formal address and postcode. Premises can include, for example, public parks, recreation grounds and private land.

If a premises licence or club premises certificate has effect in relation to the premises (or any part of the premises) which you want to use to carry on licensable activities, it is possible that any conditions which apply to the licence or certificate may be imposed on the temporary event notice if certain pre-conditions are met. These pre-conditions are that the police or the local authority exercising environmental health functions object to the notice and the licensing authority decides:

- not to give a counter notice under section 105 of the Licensing Act 2003;
- the conditions apply to the licence or certificate; and
- the imposition of the conditions on the notice would not be inconsistent with the carrying on of the licensable activities under the notice.

Note 3

A temporary event notice can be given for part of a building, such as a single room or a plot within a larger area of land. You should provide a clear description of the area in which you propose to carry on licensable activities. This is important as any licensable activities conducted outside the area of the premises protected by the authority of this temporary event notice would be unlawful and could lead to prosecution.

In addition, when holding the proposed event, the premises user would need to be able to restrict the number of people on the premises at any one time when licensable activities are taking place to less than 500. If more than 499 are on the premises when licensable activities are being carried on, the licensable activities would be unlawful and the premises user would be liable to prosecution. The maximum figure of 499 includes, for example, staff, organisers, stewards and performers.

Note 4

A description of the nature of the premises assists the chief officer of police and local authority exercising environmental health functions in deciding if any issues relating to the licensing objectives are likely to arise. You should state clearly that the premises to be used are, for example, a public house, a restaurant, an open field, a village hall or a beer tent.

Note 5

A description of the nature of the event similarly assists the chief officer of police and local authority exercising environmental health functions in making a decision as to whether or not to make an objection. You should state clearly that the event taking place at the premises would be, for example, a wedding with a pay bar, the supply of beer at a particular farmers' market, a discotheque, the performance of a string quartet, a folk group or a rock band.

Note 6

The licensable activities are:

- 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 a club;
the provision of regulated entertainment; and
the provision of late night refreshment.

Please refer to Schedules 1 and 2 to the Licensing Act 2003 for fuller details of the definitions and exemptions relating to regulated entertainment and late night refreshment.

Regulated entertainment, subject to specified conditions and exemptions, includes:

- (a) a performance of a play;
- (b) an exhibition of a film;
- (c) an indoor sporting event;
- (d) a boxing or wrestling entertainment;
- (e) a performance of live music;
- (f) any playing of recorded music;
- (g) a performance of dance; and
- (h) entertainment of a similar description to that falling within (e), (f) or (g).

If you are uncertain whether or not the activities that you propose are licensable, you should contact your licensing authority for further advice.

Note 7

Late notices can be given no later than 5 working days but no earlier than 9 working days before the event in relation to which the notice is given. A late notice given later than 5 working days before the event to which it relates will be returned as void and the activities described in it will not be authorised.

The number of late notices that can be given in any one calendar year is limited to 10 for personal licence holders and 2 for non-personal licence holders. These count towards the total number of temporary event notices (i.e. 50 temporary event notices per year for personal licence holders and 5 temporary event notices for non-personal licence holders).

If there is an objection from either the police or local authority exercising environmental health functions, the event will not go ahead and a counter notice will be issued.

Note 8

The maximum period for using premises for licensable activities under the authority of a temporary event notice is 168 hours or seven days.

Note 9

You should state here the times during the event period, for example 48 hours, when you intend to carry on licensable activities. For example, you may not intend to carry on licensable activities throughout the entire 48 hour event period, and may intend to sell alcohol between 8.00 hrs and 23.00 hrs on each of the two days.

Note 10

No more than 499 may be on the premises for a temporary event at any one time when licensable activities are being carried on. If you intend to have more than 499 attending the event, you should obtain a premises licence for the event. Your licensing authority should be able to advise you. The maximum figure of 499 includes not only the audience, spectators or consumers but also, for example, staff, organisers, stewards and performers who will be present on the premises.

Note 11

If you indicate that alcohol will be supplied only for consumption on the premises, you would be required to ensure that no person leaves the premises with alcohol supplied there. If such a supply takes place, the premises user may be liable to prosecution for carrying on an unauthorised licensable activity. Similarly, if the premises user gives notice that only supplies of alcohol for consumption off the premises will take place, he/she must ensure that alcohol supplied is not consumed on the premises. The premises user is free to give notice that he/she intends to carry on both types of supplies. For this purpose, the supply of alcohol includes both of the first two licensable activities listed in note 6 above.

Note 12

Relevant entertainment is defined in the Local Government (Miscellaneous Provisions) Act 1982 ("the 1982 Act") as *any live performance or any live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means)*. Relevant entertainment therefore includes, but is not limited to, lap dancing and pole dancing.

The 1982 Act requires premises which provide relevant entertainment to be licensed under that Act for this purpose. Premises at which there have not been more than eleven occasions on which such entertainment has been provided within a period of 12 months, no such occasion has lasted for more than 24 hours and there has been a period of at least one month between each such occasion are exempt from the requirement to obtain a licence under the 1982 Act. Such premises are likely instead to require an authorisation under the Licensing Act 2003 to be used for such activities as these are a licensable activity (the provision of regulated entertainment – see note 6 above). A temporary event notice may be given for this purpose.

Note 13

The holder of a valid personal licence issued under the Licensing Act 2003 may give up to 50 temporary event notices in any calendar year subject to the other limitations in the 2003 Act. A proposed premises user who holds such a licence should give the details requested.

Note 14

As stated under Note 13, a personal licence holder (issued under the Licensing Act 2003) may give up to 50 temporary event notices (including 10 late notices) in any calendar year. An individual who does not hold a personal licence may only give 5 temporary event notices (including 2 late notices) in England and Wales in any calendar year. A calendar year is the period between 1st January to 31st December inclusive in any year.

If an event straddles two calendar years, it will count against the limits on temporary event notices (12 for each premises, 21 days for each premises, 50 per personal licence holder and 5 for non-holders) for each year. However, only one notice needs to be given.

For the purposes of determining the overall limits of 50 temporary event notices per personal licence holder (in a calendar year) and of 5 for a non-personal licence holder (in a calendar year), temporary event notices given by an associate or a person who is in business with a premises user (and that business involves carrying on licensable activities) count towards those totals. Note 14 below sets out the definition of an "associate".

If a temporary event notice has been given for the same premises, by the same premises user, and would have effect within 24 hours before the start of the event period under the current proposal or within 24 hours after the end of that period, the temporary event notice given would be void and any licensable activities carried on under it would therefore be unlicensed.

For the purposes of determining whether or not the required gap of 24 hours is upheld, temporary event notices given by an associate or a person who is in business with a premises user (and that business involves carrying on licensable activities) count as if they had been given by the premises user. Note 15 below sets out the definition of an “associate”.

Note 15

An “associate” of the proposed premises user is:

- (a) the spouse or civil partner of that person;
- (b) a child, parent, grandchild, grandparent, brother or sister of that person;
- (c) an agent or employee of that person; or
- (d) the spouse or civil partner of a person within (b) or (c).

For these purposes, a person living with another as that person’s husband or wife is to be treated as that person’s spouse.

Note 16

It is a requirement that you send at least one copy of this notice to the licensing authority at least ten working days (or five working days for a late notice) before the commencement of the proposed licensable activities. The authority will give you written acknowledgement of the receipt of the notice. This will be important proof that you gave the notice and when you gave it for the purposes of the Act. Some premises may be situated in two licensing authority areas, for example, where a building or field straddles the local authority boundary. Where this is the case, at least one copy of the notice must be sent to each of the licensing authorities identified, together with the appropriate fee in each case. In such circumstances, you will receive acknowledgements from all the relevant licensing authorities.

One copy must be sent to each of the chief officer of police and the local authority exercising environmental health functions for the area in which the premises is situated at least ten working days for a standard notice (or five working days for a late notice) before the commencement of the proposed licensable activities. Where the premises are situated in two police areas or environmental health areas, a further copy will need to be sent to the further police force and local authority exercising environmental health functions.

Note 17

Under the Licensing Act 2003, all temporary event notices are given subject to a mandatory condition requiring that where the licensable activities involve the supply of alcohol, all such supplies must be made by or under the authority of the named premises user. If there is a breach of this condition, the premises user and the individual making the supply in question would be liable to prosecution. For this purpose, the supply of alcohol includes both of the first two licensable activities listed in note 6 above.

Note 18

It is an offence knowingly or recklessly to make a false statement in, or in connection with, a temporary event notice. (A person is to be treated as making a false statement if he produces, furnishes, signs or otherwise makes use of a document that contains a false statement.) To do so could result in prosecution and a fine not exceeding level 5 on the standard scale.

Note 19

You should not complete section 10 of the notice, which is for use by the licensing authority. It may complete this section as one means of giving you written acknowledgement of its receipt of the notice.

EXPLANATORY NOTE

(This note is not part of these Regulations)

These Regulations amend the Licensing Act 2003 (Permitted Temporary Activities) (Notices) Regulations 2005 (“the 2005 Regulations”). Their purpose is to prescribe the form of a temporary event notice to replace the notice prescribed in the 2005 Regulations. The form of temporary event notice now requires the premises user to provide information about the intended use of premises for the provision of relevant entertainment (within the meaning of paragraph 2A of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982).

An impact assessment has not been produced for this instrument as no impact on businesses, charities, voluntary bodies or the public sector is foreseen.

Re: The Cinque Ports, 49 High Street, Seaford, BN25 1PP

To: Susan Lindsey, Licensing Officer

From: Steven Teale, Senior Environmental Health Technician

Date: 23 September 2015

Subject: Representation against a Temporary Event Notice submitted by Mr Robert Thompsonett, The Cinque Ports, 49 High Street, Seaford, BN25 1PP

Dear Susan,

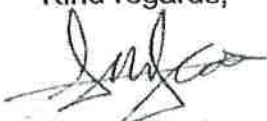
I have received a copy of a Temporary Event Notice (TEN) submitted on 23rd September 2015 by Mr Robert Thompsonett of The Cinque Ports, 49 High Street, Seaford, BN25 1PP.

The TEN refers to a 50th birthday party which Mr Thompsonett intends to host from 20.00 hours on Saturday 10th October until 02.00 hours on Sunday 11th October 2015.

I consider that Mr Thompsonett has failed to properly manage noise caused during previous events at his premises and are concerned that he will fail to achieve the licensing objective of the *prevention of a public nuisance* if this event is allowed to proceed. I have produced a witness statement which provides evidence to support my opinion, which relates to an incident that occurred on the night of Sunday 30th August 2015, during which time Mr Thompsonett failed to observe the terms of his Premises License.

I wish to make a representation against this TEN and request that the Council's Licensing Committee does not consent to any licensable activity at the premises on 10th October taking place outside of the times stated on the existing Premises License.

Kind regards,



Steven Teale
Senior Environmental Health Technician
Tel: 01273 484348

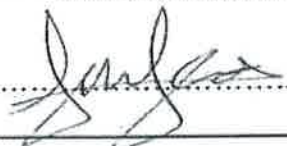
WITNESS STATEMENT

(CJ Act 1967, s.9; MC Act 1980,
ss.5A (3) (a) and 5B; MC Rules 1981, r.70)

Statement of: Steven Michael TEALE
Age of Witness: Over 18
Occupation: Senior Environmental Health Technician

This statement consisting of **four pages**, signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything which I know to be false or do not believe to be true.

Dated the 24th day of September 2015

Signature: 

I am Steven Michael TEALE and I am an authorised officer employed by Lewes District Council (LDC) as a Senior Environmental Health Technician. My duties include working with the Licensing Officer by monitoring activities at licensed premises to consider whether they are complying with their Premises License and to provide reports to the Licensing Officer. I also assess whether a premises is achieving the licensing objective relating to the prevention of a public nuisance.

On the night of Sunday 30th August I was working with my colleague John ATTRILL (JDLA) on LDC's Noise Patrol. The patrol operates from 21.00 hours until 01.00 hours the following morning. We were asked to visit the Cinque Ports public house in the High Street at Seaford during the patrol and to perform a monitoring visit to confirm whether the premises was being operated in accordance with its Premises License conditions.

At 22.55 hours we performed a visit as requested. The weather at the time of the visit was cloudy with rain showers and a light wind. The temperature was about 17°C. It was dark but visibility was good. I was driving and we approached the Cinque Ports from Crouch Lane, which is to the south of the premises. I stopped my

Signature 

car at the junction of Crouch Lane with the High Street and turned my engine off. At this time I heard loud music coming from within the bar. "Islands in the Stream" by Dolly Parton and Kenny Rogers was being played and, during the song, I observed a short middle-aged woman with blond hair close the windows and doors at the front of the premises. The music level from our observation point decreased to an acceptable level. I drove away from the premises at 23.05 hours.

At 00.32 hours on Monday 31st August 2015 we performed a further visit to the Cinque Ports. The weather at the time of the visit was cloudy with rain showers and a light wind. The temperature was about 16°C. Visibility was good. I was driving and we approached the Cinque Ports, as before, from Crouch Lane to the south of the premises. I stopped my car at the junction of Crouch Lane with the High Street and turned my engine off. We remained in the car and I clearly heard loud music being played within the premises. The song was "I'm So Excited" by the Pointer Sisters. I saw that the windows and inner set of entrance doors were closed. From where I sat in my car opposite the pub, I considered the noise level to be excessive. At the same time I also clearly heard an unseen group of people talking loudly and considered that they were in a smoking area situated on the opposite side of the pub.

At 00.38 some people within the bar sang "La La La" along with a song which I did not recognise.

At 00.40 I drove slowly past the pub and stopped by the smoking area. I counted seven people in the smoking area. I drove on and parked in East Street. We stood on the roadside in East Street about fifty metres from the Cinque Ports. The loud voices coming from the smoking area were louder at this location and I consider that this was because the sound was bouncing off the eastern façade of the premises, which we were facing at the time. We walked down the High Street to the front of the Cinque Ports to observe activity in and around the pub.

At 00.43 I sat with JDLA on a low wall opposite the pub and observed that both the inner and outer entrance doors were propped open and that the music had ceased. From this position I saw that thirteen people were standing at the bar drinking and repeatedly shouting what sounded like "Bar! Bar! Bar!". I did not witness any alcohol sales taking place at this time. I saw no effort being made to control the customers or

Signature



the noise they were making, or to contain the noise within the premises. A group of men walked out of the pub onto the High Street. They appeared to be drunk and were shouting sociably at each other. The same woman whom I saw close the windows and doors earlier in the patrol came to the pub entrance and looked at the men, then walked back into the bar without doing anything, despite the excessive noise levels being caused by the group of men. A man who I recognised as the landlord of the Cinque Ports, Robert THOMPSETT, then came out of the bar and approached me. We spoke for some minutes with a customer who said that his name was "Jimmy". RT was unhappy that we had visited the outside of the premises. He told me "The windows and doors have been closed all evening. We only opened the doors after the music stopped at half twelve". He then told me that when the music stopped the customers were shouting "Bob, Bob, Bob", asking for more music. "What more can I do?", he asked me. I explained that he needs to take reasonable steps to control the noise levels coming out of the pub and to control his customers. As we discussed this I observed one female customer fall over in the doorway of the pub and male customer fell over in the roadway on the High Street between two parked cars. Both customers appeared to be very drunk. Many of the customers were still shouting. I gave these situations as examples of where further efforts were required by him, but RT appeared to find the situations funny and made no effort to control the noise. I attempted to explain that he had failed to observe his Premises License permissible hours, but RT and "Jimmy" kept interrupting me. RT told me that he tends to smoke a cigar at the front of his premises after hours so that he can tell customers to be quiet if they were being noisy. He made no attempts to do this during our visit. He then walked back into the bar. The time was 01.02 hours.

I was threatened by RT's customers during a similar visit some years ago, so I was aware that both me and JDLA were in a vulnerable situation. Our patrol finished at 01.00 hours and I wanted to leave, but I was also aware that I had not finished my conversation with RT. I walked through the two sets of entrance doors into the doorway of the bar and tried to tell RT that we were leaving. I was immediately surrounded by a group of several or more angry male customers who began to use abusive and threatening language towards me. For a moment my exit was blocked. I felt scared and frustrated that I was unable to properly perform my duties. I saw a gap and left the bar without hesitation to re-join JDLA in the High Street. We began

Signature



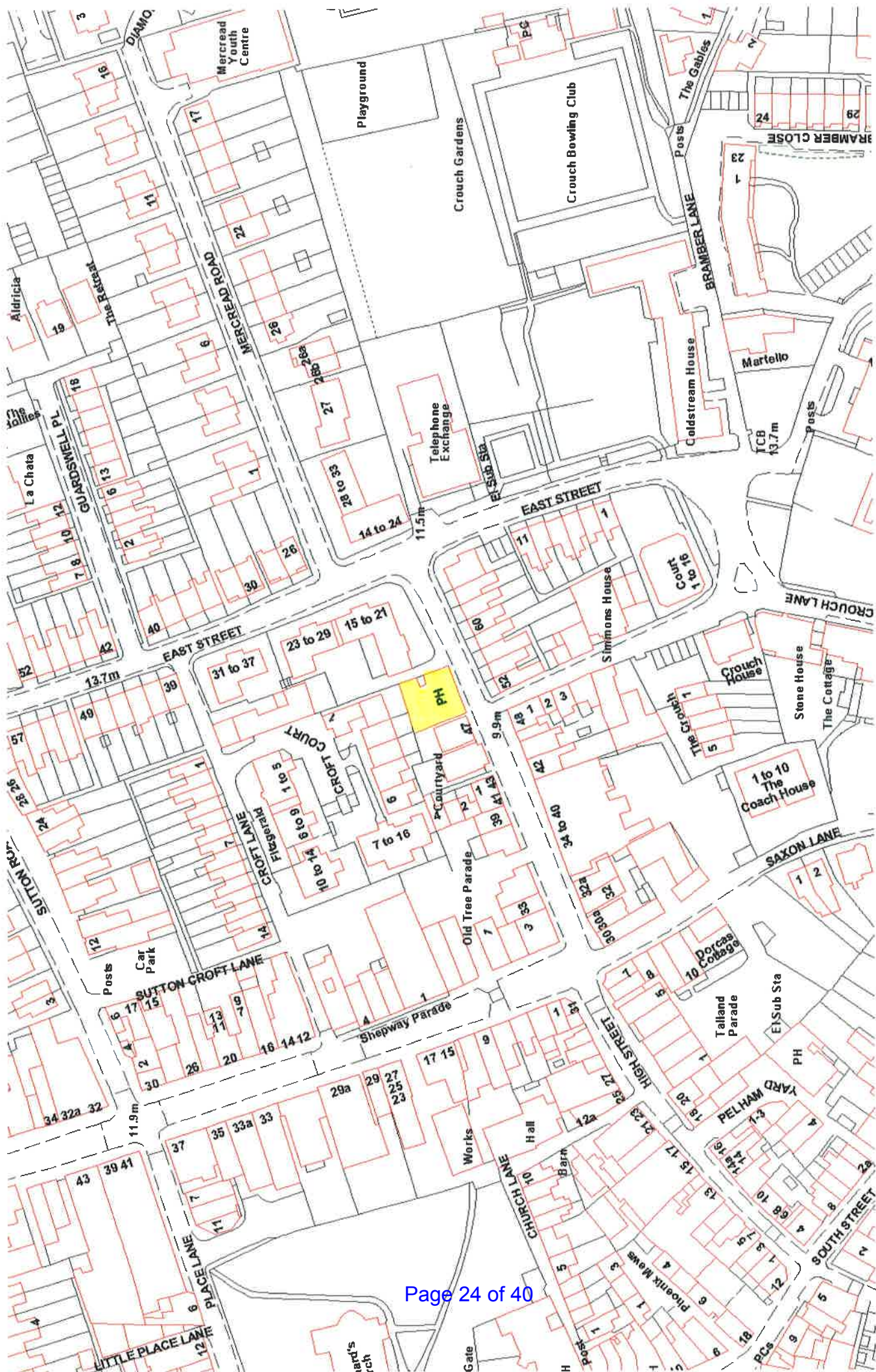
to retreat back to my car in East Street. RT followed us outside with some of his customers. He was clearly upset that the incident in the bar occurred and apologised to me. It was apparent to me that RT was unable to control his customers. We left the premises at 01.06 hours and I completed my contemporaneous notes in my pocket note-book.

I consider that the noise I witnessed emanating from the premises during the visit, including the music, amounted to a public nuisance. [END]



Signature





PREMISES LICENCE SUMMARY

Premises Licence No: LN/2005/00420

Postal address of premises, or if none, ordnance survey map reference or description:

Cinque Ports, 49 High Street, Seaford, East Sussex BN25 1PP

Telephone number: 01323 892391

Licensable activities authorised by the licence:

- (i) **Sale by retail of alcohol**
- (ii) **Indoor sporting events**
- (iii) **Live music**
- (iv) **Recorded music**
- (v) **Provision of facilities for entertainment of a similar description to that for making music and dancing**
- (vi) **Provision of late night refreshment**

Times authorised for the carrying out of licensable activities:

Opening Hours

Monday to Saturday	10am to 12.30am (the following day)
Sunday	11am to 12 midnight

Non standard timings: A further additional hour into the morning following every Friday, Saturday, Sunday and Monday for each May Bank Holiday, Spring/Whitsun Bank Holiday and every August Bank Holiday weekend. A further additional hour into the morning following every Thursday, Friday, Saturday, Sunday and Monday for the Easter Bank Holiday weekend. An additional hour every Christmas Eve. An additional hour every Boxing Day. On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day. One hour before, until one hour after, live televised international football and rugby matches involving a UK national team.

Sale by retail of alcohol

Monday to Saturday	10am to 12 midnight
Sunday	11am to 11.30pm

Non standard timings: A further additional hour into the morning following every Friday, Saturday, Sunday and Monday for each May Bank Holiday, Spring/Whitsun Bank Holiday and every August Bank Holiday weekend. A

MANDATORY CONDITIONS

- (1) No supply of alcohol may be made under the premises licence –
 - (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
 - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
- (2) Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
- (3) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children:

- games or other activities which require or encourage, or are designed to require or encourage, individuals to:
 - (a) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (b) drink as much alcohol as possible (whether within a time limit or otherwise).
- provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act).
- provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less.
- provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on—
 - (a) the outcome of a race, competition or other event or process, or
 - (b) the likelihood of anything occurring or not occurring.

- Selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.
- (4) The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
- (5) The responsible person shall ensure that free tap water is provided on request to customers where it is reasonable available.
- (6) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.
- (7) The responsible person shall ensure that:
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures:
 - (i) beer or cider: ½ pint
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml, and
 - (iii) still wine in a glass: 125 ml, and
 - (b) customers are made aware of the availability of these measures.
- (8) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

CONDITIONS CONSISTENT WITH OPERATING SCHEDULE

General

30 minute 'drinking up' time will allow appropriate dispersal, use of lavatories etc.

In order to further the licensing objectives the management reserves the right to move the fire appliances, AWP machines, cigarette machines and or any other similar objects temporarily in a fixed location which may impact on the ability of individuals on the premises to use exits or escape routes without impediment.

The prevention of crime and disorder

The management are members of Pub Watch and regularly attend meetings. Liaison with local police is frequent.

Majority of customers are local people and well known to the management and staff.

All interior trading areas are visible to staff from behind the bar server.

The management and staff monitor customer behaviour especially during busy periods.

Burglar alarm system in place, alarmed doors and windows / secure windows.

There is always a minimum of two staff on duty at any one time.

Toilets access is clearly visible from the bar.

Drug prevention measure are employed and signs displayed.

Drivers 'shelf' with selection of soft drinks. Drink drive posters on site.

The exterior of the premises is well lit with street and exterior lighting at the front and exterior lighting at the side. The exterior is regularly inspected.

Regular inspections of the courtyard are undertaken during all sessions.

There is regular supervision of persons entering and leaving the premises during busy sessions.

Regular inspections of the toilets are undertaken during all sessions.

Local police station number is kept behind the bar at all times.

All staff have been trained on our drugs awareness policy and alcohol sales regarding underage and intoxicated persons.

No glasses or open bottles are permitted to be taken from the premises.

We will continue to use toughened glass for all purchases, where possible.

Public safety

Health and Safety policy in place and adhered to.

There is currently 1 member of staff who has gained their National Licensee Certificate.

The pub is equipped with emergency lighting, illuminated exit signs.

All fire fighting equipment is serviced annually and there is a contract in place with Pyrotech Ltd.

All portable electrical appliances are tested annually.

There are current electric and gas certificates in place.

Mechanical smoke extraction is provided in the bar. Complies with smoking charter.

The pub has a first aider and first aid facilities which are replenished as required.

The pub promotes a licensed taxi service to facilitate its customers making onward journeys.

Accident / incident book on site for staff and public.

5 staff HOLD Basic Food Hygiene certificates.

Staff are trained in our disability policy and assistance is always available.

The protection of children from harm

Unaccompanied children are not permitted on the premises and no children are permitted on the premises after 8.30pm.

The outside area is completely enclosed and accessed through the Lounge bar.

Children are not permitted in the bar, save access to garden and use of toilets.

AWP is positioned in sight of the bar counter.

The AWP and Cigarette machine are adjacent to one another and in close proximity to the bar counter and therefore easily observed.

Pub has children's menu and suitable soft drinks to promote family atmosphere.

All staff are trained in legislation regarding the sale of alcohol to children and are required to ask for relevant ID if unsure about a customer's age.

CONDITIONS AGREED FOLLOWING A REVIEW HEARING

The prevention of public nuisance

All regulated entertainment is to finish at 11pm.

Live music is to be limited to one event per month either on a Friday or a Saturday.

Regular sound checks are to be conducted by staff at the premises including outside and at least once every half hour. A written record shall be made of these checks in a log book kept for that purpose and shall include the time and date of the checks, the name of the person making them and the results of those checks including any remedial action taken.

A noise management plan shall be agreed with the Council's Environmental Health Department. All recorded music is to be played at a level agreed by that Department.

There shall be no drinking or eating in the smoking area after 10pm. No bottles or glasses shall be taken into that area after this time.

The double doors to the smoking area shall be kept closed at all times apart from access and egress. A member of staff shall be assigned to ensure that this condition is complied with.

Customers will be required to leave the premises in a quiet and orderly manner and suitable notices will be displayed at all entrances and exits to that effect.

PLANS: As approved and attached.

Maintenance and repair

- 2.10 Where there is a requirement in other legislation for premises open to the public or for employers to possess certificates attesting to the safety or satisfactory nature of certain equipment or fixtures on the premises, it would be inappropriate for a licensing condition to require possession of such a certificate. However, it would be permissible to require as a condition of a licence or certificate, if appropriate, checks on this equipment to be conducted at specified intervals and for evidence of these checks to be retained by the premises licence holder or club provided this does not duplicate or gold-plate a requirement in other legislation. Similarly, it would be permissible for licensing authorities, if they receive relevant representations from responsible authorities or any other persons, to attach conditions which require equipment of particular standards to be maintained on the premises. Responsible authorities – such as health and safety authorities – should therefore make their expectations clear in this respect to enable prospective licence holders or clubs to prepare effective operating schedules and club operating schedules.

Safe capacities

- 2.11 “Safe capacities” should only be imposed where appropriate for the promotion of public safety or the prevention of disorder on the relevant premises. For example, if a capacity has been imposed through other legislation, it would be inappropriate to reproduce it in a premises licence. Indeed, it would also be wrong to lay down conditions which conflict with other legal requirements. However, if no safe capacity has been imposed through other legislation, a responsible authority may consider it appropriate for a new capacity to be attached to the premises which would apply at any material time when the licensable activities are taking place and make representations to that effect. For example, in certain circumstances, capacity limits may be appropriate in preventing disorder, as overcrowded venues can increase the risks of crowds becoming frustrated and hostile.
- 2.12 The permitted capacity is a limit on the number of persons who may be on the premises at any time, following a recommendation by the relevant fire and rescue authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act¹, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority which will consider it and decide what the “permitted capacity” of those premises should be.
- 2.13 Public safety may include the safety of performers appearing at any premises, but does not extend to the prevention of injury from participation in a boxing or wrestling entertainment.

Public nuisance

- 2.14 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be

¹ S 177 of the 2003 Act now only applies to performances of dance.

disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.

- 2.15 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.
- 2.16 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (see chapter 15). Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.
- 2.17 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.
- 2.18 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.
- 2.19 Measures to control light pollution will also require careful thought. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.
- 2.20 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.

Standard and late temporary event notices

- 7.8 There are two types of TEN: a standard TEN and a late TEN. These are subject to different processes: a standard notice is given no later than ten working days before the event to which it relates; and a late notice is given not before nine and not later than five working days before the event.

Standard temporary event notices

- 7.9 “Ten working days” (and other periods of days which apply to other requirements in relation to TENs) exclude the day the notice is received and the first day of the event.
- 7.10 The police and EHA have a period of three working days from when they are given the notice to object to it on the basis of any of the four licensing objectives.
- 7.11 Although ten clear working days is the minimum possible notice that may be given, licensing authorities should publicise their preferences in terms of advance notice and encourage premises users to provide the earliest possible notice of events planned by them. Licensing authorities should also consider publicising a preferred maximum time in advance of an event by when TENs should ideally be given to them.

Late temporary event notices

- 7.12 Late TENs are intended to assist premises users who are required for reasons outside their control to, for example, change the venue for an event at short notice. However, late TENs may, of course, be given in any circumstances providing the limits specified at paragraph 7.15 are not exceeded.
- 7.13 Late TENs can be given up to five working days but no earlier than nine working days before the event is due to take place and, unless given electronically to the licensing authority, must also be sent by the premises user to the police and EHA. A late TEN given less than five days before the event to which it relates will be returned as void and the activities to which it relates will not be authorised.
- 7.14 A key difference between standard and late TENs is the process following an objection notice from the police or EHA. Where an objection notice is received in relation to a standard TEN the licensing authority must hold a hearing to consider the objection, unless all parties agree that a hearing is unnecessary. If the police, EHA or both give an objection to a late TEN, the notice will not be valid and the event will not go ahead as there is no scope for a hearing or the application of any existing conditions.

Limitations

- 7.15 A number of limitations are imposed on the use of TENs by the 2003 Act:
- the number of times a premises user may give a TEN is 50 times in a calendar year for a personal licence holder and five times in a calendar year for other people;
 - the number of times a premises user may give a late TEN is limited to 10 times in a calendar year for a personal licence holder and twice for other people. Late TENs count towards the total number of permitted TENs (i.e. the limit of five TENs a year for non-personal licence holders and 50 TENs for personal licence holders). A notice that is given less than ten working days before the event to which it relates, when the premises user has already given the permitted number of late TENs in that calendar year, will be returned as void and the activities described in it will not be authorised.

- the number of times a TEN may be given for any particular premises is 12 times in a calendar year (the Deregulation Act 2015 has increased this number to 15 with effect from 1 January 2016);
- the maximum duration of an event authorised by a TEN is 168 hours (seven days);
- the maximum total duration of the events authorised by TENs in relation to individual premises is 21 days in a calendar year;
- the maximum number of people attending at any one time is 499; and
- the minimum period between events authorised under separate TENs in relation to the same premises (not including withdrawn TENs) by the same premises user is 24 hours.

- 7.16 Any associate, relative or business partner of the premises user is considered to be the same premises user in relation to these restrictions. The 2003 Act defines an associate, in relation to the premises user, as being:
- the spouse or civil partner of that person;
 - a child, parent, grandchild, grandparent, brother or sister of that person;
 - an agent or employee of that person; or
 - the spouse or civil partner of a person listed in either of the two preceding bullet points.
- 7.17 A person living with another person as their husband or wife, is treated for these purposes as their spouse. 'Civil partner' has its meaning in the Civil Partnership Act 2004.
- 7.18 A TEN that is given and subsequently withdrawn by the TEN user can be included within the limits of the numbers of TENs allowed in a given calendar year.
- 7.19 Once these limits have been reached, the licensing authority should issue a counter notice (permitted limits) if any more are given. Proposed activities that exceed these limits will require a premises licence or club premises certificate.
- 7.20 TENs may be given in respect of premises which already have a premises licence or club premises certificate to cover licensable activities not permitted by the existing authorisation.
- 7.21 In determining whether the maximum total duration of the periods covered by TENs at any individual premises has exceeded 21 days, an event beginning before midnight and continuing into the next day would count as two days towards the 21-day limitation.
- 7.22 There is nothing in the 2003 Act to prevent notification of multiple events at the same time, provided the first event is at least ten working days away (or five working days away in the case of a late TEN). For example, an individual personal licence holder wishing to exhibit and sell beer at a series of farmers' markets may wish to give several notices simultaneously. However, this would only be possible where the limits are not exceeded in the case of each notice. Where the events are due to take place in different licensing authority (and police) areas, the respective licensing authorities and relevant persons would each need to be notified accordingly.

Who can give a temporary event notice?

Personal licence holders

- 7.23 A personal licence holder can give a TEN at any premises on up to 50 occasions in a calendar year. This limit is inclusive of any late TENs given in the same year. The use of each TEN must of course observe the limits described above, including the limit of 12 TENs in respect of each premises in a calendar year.

Non-personal licence holders

- 7.24 The 2003 Act provides that any individual aged 18 or over may give a TEN to authorise the carrying on of all licensable activities under the Licensing Act 2003, whether or not that individual holds a personal licence. Such an individual will not, therefore, have met the requirements that apply to a personal licence holder under Part 6 of the 2003 Act. Where alcohol is not intended to be sold, this should not matter. However, many events will involve a combination of licensable activities and the 2003 Act limits the number of notices that may be given by any non-personal licence holder to five occasions in a calendar year (inclusive of any late TENs in the same year). In every other respect, the Guidance and information set out in the paragraphs above applies.

Role of the licensing authority

- 7.25 The licensing authority must check that the limitations set down in Part 5 of the 2003 Act are being observed and intervene if they are not (see paragraph 7.15). For example, a TEN would be void unless there is a minimum of 24 hours between events notified by the same premises user, or an associate or someone who is in business with the relevant premises user in respect of the same premises. This is to prevent evasion of the seven day (or 168 hour) limit on such events and the need to obtain a full premises licence or club premises certificate for more major or permanent events. In addition, for these purposes, a TEN is treated as being from the same premises user if it is given by an associate.
- 7.26 Where the application is not within the statutory parameters described earlier, the licensing authority will issue a counter notice to the premises user.
- 7.27 Where the TEN is in order, the relevant fee paid and the event falls within the prescribed limits, the licensing authority will record the notice in its register and send an acknowledgement to the premises user (which may be given electronically). The licensing authority must do so, no later than the end of the first working day following the day on which it was received (or by the end of the second working day if it was received on a non-working day), unless an objection notice is received beforehand from the police or EHA on the basis of any of the four licensing objectives (see paragraphs below).
- 7.28 If the licensing authority receives an objection notice from the police or EHA that is not withdrawn, it must (in the case of a standard TEN only) hold a hearing to consider the objection (unless all parties agree that this is unnecessary). The licensing committee may decide to allow the licensable activities to go ahead as stated in the notice. If the notice is in connection with licensable activities at licensed premises, the licensing authority may also impose one or more of the existing licence conditions on the TEN (insofar as such conditions are not inconsistent with the event) if it considers that this is appropriate for the promotion of the licensing objectives. If the authority decides to impose conditions, it must give notice to the premises user which includes a statement of conditions (a "notice (statement of conditions)") and provide a copy to each relevant party. Alternatively, it can

decide that the event would undermine the licensing objectives and should not take place. In this case, the licensing authority must give a counter notice.

- 7.29 Premises users are not required to be on the premises during the event authorised by the TEN, but they will remain liable to prosecution for certain offences that may be committed at the premises during the period covered by it. These include, for example, the offences of the sale of alcohol to a person who is drunk; persistently selling alcohol to children and allowing disorderly conduct on licensed premises.
- 7.30 In the case of an event authorised by a TEN, failure to adhere to the requirements of the 2003 Act, such as the limitation of no more than 499 being present at any one time, would mean that the event was unauthorised. In such circumstances, the premises user would be liable to prosecution.
- 7.31 Section 8 of the 2003 Act requires licensing authorities to keep a register containing certain matters, including a record of TENs received. There is no requirement to record all the personal information given on a TEN.

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. 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

- 7.36 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

- 7.37 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.
- 7.38 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.

Hearings to impose conditions

- 7.39 Section 105 of the 2003 Act is clear that a licensing authority must hold a hearing to consider any objections from the police or EHA unless all the parties agree that a hearing is not necessary. If the parties agree that a hearing is not necessary and the licensing authority decides not to give a counter notice on the basis of the objection, it may impose existing conditions on the TEN.

Duty of premises users to keep and produce TENs

- 7.40 Where a TEN is not prominently displayed at the premises, the police and licensing officers have the right under sections 109(5) and (6) of the 2003 Act to request the premises user (or relevant nominated person who has the TEN in their custody) to produce the TEN for examination. If the police do not intervene when a TEN is given, they will still be able to rely on their powers of closure under the Anti-social Behaviour, Crime and Policing Act 2014³.

³ For further guidance on the closure power under the 2014 Act, please refer to https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/352562/ASB_Guidance_v8_July2014_final_2_.pdf