

Decision Licensing Sub Committee 25 October 2021

The hearing concerned the determination of a Temporary Event Notice following an objection from Sussex Police.

The Temporary Event Notice relates to an event on 5 November 2021 between 16:00 and 00.00 (midnight) at front of 3 garages, near the corner of Stansfield Road and Landport Rd, Lewes for the sale of alcohol for consumption off the premises only. This event to be on the evening of the Lewes Bonfire.

In discharging its functions, the Sub Committee considered the promotion of the licensing objectives, the Council's own Licensing Policy, the Home Office statutory guidance, other relevant legislation and the rules of natural justice.

The Sub Committee considered the notification form and the oral representations made by Susan Lindsey, the agent for the premises user, at the hearing.

Those were that this was not the first time that there had been a TEN from the premises user (in relation to the Lewes Bonfire) and that in fact there had been eight previous TENs of which two events at been that the same premises as this TEN. It was pointed out that there had never been any problems connected to the previous TENs made by the premises user and the premises user had previously responded positively to any recommendations by the Police. Susan Lindsey asked that the Sub Committee consider that history.

In describing the event Susan Lindsey stated that at all times there would be two or three people working at the stall/gazebo (selling the alcohol) set out in front of the garages. They would be selling water, soft drinks and lager in cans but not spirits. They would not sell to anyone who was intoxicated and would rigorously pursue a Challenge 25 policy and would employ the same procedures and policies as licenced premises. There would be bins for any rubbish including recycling. She pointed out that the event was not in the centre of town (half a mile outside the town centre) so it was contended that there would not be a high density of people in that area but only those coming to see the nearby bonfire/fireworks. It was acknowledged that this was not a well-lit area but that the stall/gazebo would have lights on it which would assist. In answer to a question, she added that the alcohol and any cash collected would be kept in a locked vehicle and any queue would be controlled by those working on the event as had been the case in previous years without incident.

She contended that the Police had provided no proof of how this TEN would undermine the licensing objective but rather that the Police had only provided an arbitrary, generic and blanket objection. She reminded the Sub Committee that any decision should be made on a case-by-case basis. Further she pointed out that the Police had other criminal powers if any problems did arise. She stated that the premises user would be open to dialogue with Sussex Police before the event if the TEN was allowed.

In answer to a question Susan Lindsey stated that the premises user was not aware that generally other licensed premises would be shutting at 22:30 on Bonfire Night (regardless of their normal licensable hours). When asked why the TEN was until midnight she explained that was because it was unknown at what time people would start to come into that area as that was dependent upon the timing of other events on Bonfire

Night but that it was not expected that there would be many people there before 21.30 hrs.

The Sub Committee gave due regard to the written and oral objections of Sussex Police. Those concerns related to the prevention of crime and disorder, the prevention of public nuisance and public safety.

Denham Vokins for the Police stated that Bonfire Night in Lewes was a significant demand on Police resources, and they had concerns in particular with public disorder fuelled by drunkenness. He stated that the Police expected large numbers of people at this year's Bonfire Night event in Lewes because the event had not happened last year.

The Police were concerned that despite the undertakings of the premises user about the running of the event that there were no licence conditions that could be enforced. Denham Vokins contended that normally the Police would not object to a TEN, but this event was not like, for example, a fete. He stated that Bonfire Night was a challenge for all licenced premises and that Bonfire Night tested even experienced licenced premises holders with SIA door staff. He pointed to several public order incidents arising from excessive alcohol which had occurred on previous Bonfire Nights in Lewes and at a recent bonfire event.

In addition, he pointed out that the assertion by the premises user that there had been no problems caused by previous TENs could not be proved as these involved off sales and any problems could have occurred elsewhere.

Denham Vokins expressed concern that if most licenced premises in Lewes on Bonfire Night were to shut at 22.30 hrs then people might be attracted to this stall/event as being a place people could obtain alcohol until midnight. He also expressed concern about the starting hour of 16:00 as the Police considered that, predominantly young, people would purchase alcohol at that time for later use.

The Police considered that the Sub Committee should focus on the context of the TEN and consider its cumulative impact in light of the whole of Bonfire Night in Lewes. They considered that any undertakings given by the premises user as to the running of the event to be meaningless as they could not be enforced.

Decision

The Sub Committee resolved to allow the Temporary Event Notice (so the Council will not serve a Counter Notice).

Reasons for the decision

In making its decision the Sub Committee took account of the previous history of the premises user giving other Temporary Event Notices at the same, and other, premises in the area on Bonfire Night. It was content, on balance, that these previous Notices had not undermined the licensing objectives and therefore it considered that this TEN would be unlikely to undermine any licensing objective. It noted that the premises user was willing to discuss with Sussex Police its concerns about this event and that in the past the premises user had responded positively to recommendations from Sussex Police. Notwithstanding the decision, the Sub Committee had some concerns regarding the late hour of the event since that this might attract people to the premises, if other licensed

premises were to close earlier, and would recommend that the premises user consider that issue before the event with the Police and the Licensing Authority.

The Licensing Act 2003 provides a right of appeal by Sussex Police to the Magistrates' Court on the decision by the Licensing Sub Committee not to give a Counter Notice. That appeal should be made within 21 days of the appellant being notified of the decision, but no appeal may be brought later than five working days before the event on 5 November 2021.

This decision will be provided to all parties in writing within the legal timescales.