

At a meeting of the Licensing Panel held in Council Chamber - Allerdale House, Workington on Friday 13 July 2018 at 2.00 pm

Members

Councillor Angela Kendall (Chair)
Councillor Len Davies

Councillor Malcolm Grainger

Apologies for absence were received from Councillor Tony Annison

Staff Present

D Copeland, D Devine, C Fleming, D Fletcher and J Morgan

Also Present

M Jenkinson

95. Election of Chair

Councillor A Kendall was elected Chair for the ensuing meeting.

96. Declaration of Interests

None declared.

97. Questions

None received.

98. Standard Temporary Event Notice – Objection Notice

The Licensing and Compliance Officer submitted a report which sought the Licensing Panel to consider an objection notice which had been received in relation to a Temporary Event Notice (TEN). The person giving the TEN (the “premises user”) was Nathan Richard Todd, Royal Oak, 49 Main Road, Seaton, Workington.

The premises known as Royal Oak, 49 Main Road, Seaton held a premises licence. The TEN had been given for the car park only and did not cover the licenced premises.

The premises description was given as “A well supported local community pub, and gradually becoming a destination pub”.

The nature of the event was given as “. . . A small festival featuring local real ales and local musicians. . . . Live music will be on a small stage using a high quality and professionally ran P.A. system and like last year I will be doing regular noise level readings to ensure noise is kept within a reasonable level. Also same as last year I only aim to have around 4 hours of live music per day”.

The premises user intended to carry out the following licensable activities at the premises:

- The sale by retail of alcohol
- The provision of regulated entertainment

The event was to be held on the following dates and times:

Sale of alcohol:

29 September 2018 – 12:00 until 23:00

30 September 2018 – 12:00 until 22:00

Live music

29 September 2018 – 13:00 until 22:00

30 September 2018 – 13:00 until 21:30

Section 106A of the Licensing Act 2003 permitted licensing authorities to impose one or more conditions on a standard TEN if appropriate. Cumbria Constabulary and Environmental Health (“relevant persons” for the purpose of a TEN) were served a copy of the TEN in line with the requirements of the Act. The relevant persons had given objection notices to the TEN in response, as follows:

Environmental Health:

“Noise complaints were received from local residents following the event on 30.9-1.10.17 and Environmental Health wish to object on the grounds of the prevention of public nuisance. The location is predominantly residential with domestic properties in close proximity to the proposed location.”

Cumbria Constabulary:

“The applicant has informed me that he believes the TEN will take primacy over the premises licence. I accept this would be the case if the application was to licence an area not connected to the premises licence. However the licence makes specific mention of the outside areas and is therefore specifically linked/connected to the premises licence. I am content the application is a means to circumvent a necessary condition and Police wish to continue to object to the application in its new form.”

The Licensing and Compliance Officer set out the following options available to the Licensing Panel:

- a) To allow the licensable activities to go ahead as stated in the TEN;
- b) To modify the TEN by making changes to it;
- c) To issue a counter-notice under the provisions of section 105(2)(b) of the Act to prohibit the event taking place, together with a notice stating the reasons for the decision.

The relevant persons were not agreeable to modifying the TEN, which removed that option from the options available to the Panel.

The meeting was closed to members of the public while the Licensing Panel considered the objection notices. The Licensing and Compliance Officer, representatives from Cumbria Constabulary, representative from Environmental Health and the applicant also left the meeting.

Councillor M Grainger moved that a counter-notice be issued under the provisions of section 105(2)(b) of the Licensing Act 2003 to prohibit the event taking place, on the grounds that the event would undermine the licensing objective concerning the prevention of public nuisance. This was seconded by Councillor L Davies.

A vote was taken on the motion. The vote in favour of issuing a counter-notice was unanimous. The motion was carried.

The meeting was made open to members of the public while the Licensing Panel announced its decision. The Licensing and Compliance Officer, representatives from Cumbria Constabulary, representative from Environmental Health and the applicant returned to the meeting.

The Licensing Panel made it known that where the Authority gave a counter-notice under section 105(2)(b) of the Act, the premises user could appeal against that decision to a magistrates' court.

Decision

That a counter-notice be issued under the provisions of section 105(2)(b) of the Licensing Act 2003 to prohibit the event taking place, on the grounds that the event would undermine the licensing objective concerning the prevention of public nuisance.

Reasons for the Decision

The Panel considered that the proximity of residential areas to the premises subject to the TEN was such that the event would undermine the licensing objective concerning the prevention of public nuisance. This was supported by the complaints received following last year's event, which was substantially the same as the proposal contained in the current application.

In making its decision, the Licensing Panel had regard and gave appropriate weight to the following considerations:

- The objections and supporting information presented by all parties.
- Guidance issued under section 182 of the Licensing Act 2003.
- The Council's Statement of Licensing Policy.
- The steps necessary to promote the licensing objectives.

Resolved

That a counter-notice be issued under the provisions of section 105(2)(b) of the Licensing Act 2003 to prohibit the event taking place, on the grounds that the event would undermine the licensing objective concerning the prevention of public nuisance.

The meeting closed at 3.30 pm