

REPORT TO:	LICENSING SUB COMMITTEE 20 June 2016
AGENDA ITEM:	6
SUBJECT:	LICENSING ACT 2003 – Temporary Event Notice subject to Police Objection Notice
LEAD OFFICER:	Executive Director, Place Department
CABINET MEMBER:	Cllr. Hamida Ali, Cabinet Member for Communities, Safety & Justice
WARDS:	West Thornton
CORPORATE PRIORITY/POLICY CONTEXT: This report is specific to this application and has no implications on the Council's Corporate Policies.	
FINANCIAL SUMMARY: This temporary event notice is being processed as part of normal duties carried out by the Department with no additional costs involved.	
FORWARD PLAN KEY DECISION REFERENCE NO.: N/A	

For general release

1. RECOMMENDATIONS

- 1.1 The Sub-Committee is asked to consider the objection notice given by the Police in respect of a temporary event notice given by Hertractions Ltd. for 791 London Road, Thornton Heath, CR7 6AW.

2. EXECUTIVE SUMMARY

- 2.1 The purpose of this report is to advise the Sub-Committee that a temporary event notice has been given to the licensing authority under the Licensing Act 2003 ("the Act"). This temporary event notice is the subject of an objection notice from the Police, therefore a hearing is required.

3. DETAIL

- 3.1 A Protocol for Licensing Hearings and a Procedure for Licensing Sub-Committee Hearings has previously been agreed by the Licensing Committee (minute A/24/05 refers). The protocol has been subsequently amended by the licensing committee (minutes A/32/06, A/40/07 and A/07/12 refer).
- 3.2 The proposed premises user and the Police have been notified of the hearing in accordance with the Licensing Act 2003 (Hearings) Regulations 2005 and Licensing Act 2003 (Hearings) (Amendment) Regulations 2005 “the Regulations”. Information to accompany the notice of hearing was provided to the proposed premises user and the Police in accordance with “the Regulations”.
- 3.3 Appendix A to this report provides details of the temporary event notice.

4. CONSULTATION

- 4.1 The Police were given a copy of the temporary event notice and a copy of the objection notice has been given to the proposed premises user.

5. FINANCIAL CONSIDERATIONS

1 Revenue and Capital consequences of report recommendations

There are no direct financial implications associated with this report, subject to the risks at 5.2 & 5.3. This application is being processed as part of normal duties and therefore the work associated with it is contained within the departmental budget.

2 The effect of the decision

The decision of the Sub-Committee may be subject to appeal and/or Judicial Review

3 Risks

An appeal against a decision of the Sub-Committee or a Judicial Review of the application process may present financial risks to the Council with regard to any award of costs against it.

4 Options

The options available are as detailed in the recommendations at paragraph 1 above.

5 Savings/ future efficiencies

None identified.

- 6** (Approved by: Lisa Taylor, Assistant Director of Finance
– Resources Department)

6. COMMENTS OF THE COUNCIL SECRETARY AND SOLICITOR

6.1 The Solicitor to the Council comments that the sub-committee must determine this matter, taking into account relevant representations, the Licensing Act 2003, the regulations made thereunder, statutory guidance and the Council's own licensing policy.

6.2 (Approved by: Gabriel MacGregor, Acting Council Solicitor and Acting Monitoring Officer).

7. HUMAN RESOURCES IMPACT

7.1 The Human Resources impact of supporting the Licensing Hearings will be contained within the budgeted establishments of the Democratic and Legal Services and Licensing Teams.

7.2 (Approved by: Adrian Prescod, HR Business Partner, for and on behalf of Director of Human Resources, Chief Executive's Department).

8. CUSTOMER IMPACT

8.1 There are no specific customer services issues relating to this report.

9. EQUALITIES IMPACT ASSESSMENT (EIA)

9.1 The arrangements for the Licensing Hearings seek to ensure that all applicants, licence/certificate holders and other interested parties receive a fair hearing and that the process is accessible to all groups within the community.

10. ENVIRONMENTAL AND DESIGN IMPACT

10.1 The effective implementation of the Licensing Act 2003 will contribute to an improved environment for local residents and other stakeholders.

11. CRIME AND DISORDER REDUCTION IMPACT

11.1 A copy of the temporary event notice was forwarded to the Police Licensing Officer and the police must give an objection notice if they are satisfied that allowing the premises to be used in accordance with a temporary event notice would undermine the crime prevention objective.

12. HUMAN RIGHTS IMPACT

12.1 The Human Rights 1998 (HRA) requires public bodies to ensure everything they do is compatible with Convention Rights and makes it unlawful for a public authority to act incompatibly with those Rights. **Article 6 (A6)** of the European

Convention on Human Rights (ECHR) is the right to a fair trial. The key elements of this include

- The right to a *fair* hearing;
- The right to a *public* hearing;
- The right to a hearing before an *independent and impartial tribunal*;
- The right to a hearing *within a reasonable time*.

12.2 When hearing an application, the proceedings of a non-judicial body such as the Licensing Sub Committee, as opposed to an actual Court, need not meet the full requirements of A6 where there is a right of appeal from the Licensing Sub Committee to a Court that does meet the full A6 standards and can consider all aspects of the case (even if that does not include a full re-hearing of the facts).

12.3 So, while it is good practice to make a hearing before the Licensing Sub Committee as A6 compliant as possible, it will not be a breach of the HRA if it is not. Further, the hearing of all applications are subject to the principles of Natural Justice and the requirement for decisions to be 'Wednesbury reasonable'.

13. FREEDOM OF INFORMATION/DATA PROTECTION CONSIDERATIONS

13.1 Protocols agreed in relation to Licensing Hearings are within the Council's Constitution and will be accessible as part of the Council's Publication Scheme maintained under the Freedom of Information Act.

CONTACT OFFICER: Michael Goddard, Licensing Manager, Place Department, ext. 61838.

BACKGROUND DOCUMENTS: Application Forms, Licensing Hearings Protocol and Procedure.