



GENERAL LICENSING SUB COMMITTEE
15 April 2012

ITEM 5

**Report of the Strategic Director of
Neighbourhoods**

**RECEIPT OF AN OBJECTION NOTICE IN RESPECT OF A
TEMPORARY EVENT NOTICES AT:
SADDLERS 8-9 SADLER GATE DERBY DE1 3NF**

SUMMARY

- 1.1 Two Temporary Event Notices have been received by Derby City Council's Licensing Team from Mrs Louise Lowe in respect of Saddlers 8-9 Sadler Gate Derby DE1 3NF
- 1.2 The sale by retail of alcohol; the supply of alcohol by or on behalf of a club to A member of the club; the provision of regulated entertainment; and the provision of late night refreshment must be licensed under the Licensing Act 2003.
- 1.3 Where no licence exists, any individual aged 18 or over, subject to specific criteria being met, can issue a Temporary Event Notice to the Licensing Authority.
- 1.4 This Notice allows licensable activities to take place without the need for any further authorisation.
- 1.5 Only the Police and the Council's Environmental Protection Team may object to a Temporary Event Notice on the four licencing objectives, hence attendance at committee today.
- 1.6 The four Licensing objectives are:
 - a) the prevention of crime and disorder
 - b) public safety
 - c) the prevention of public nuisance
 - d) the protection of children from harm
- 1.7 The General Licensing Sub Committee can decide to :
 - uphold the objection notice received and serve a counter-notice on the notifying individual
 - or
 - impose one or more of the existing licence conditions on the Temporary Event Notice if it considers it appropriate for the promotion of the licensing objectives
 - or
 - reject the objection notice.

RECOMMENDATION

- 2.1 To consider the information in the report and the objection notices received from Derby City Council Environmental Protection Team and Derbyshire Constabulary in respect of the Temporary Event Notices received from Mrs Louise Lowe at Saddlers 8-9 Sadler Gate Derby DE1 3NF

REASONS FOR RECOMMENDATION

- 3.1 To ensure the licensing objectives are upheld in relation to the Saddlers 8-9 Sadler Gate Derby DE1 3NF

SUPPORTING INFORMATION

- 4.1 Two Temporary Event Notices were received by Derby City Council's Licensing Team from Mrs Louise Lowe on 2 April 2013. A copy is attached at **Appendix 2**.
- 4.2 The Licensing Team has received objection notices from Derby City Council Environmental Protection Team and Derbyshire Constabulary on 4 April 2013. A copy is attached at **Appendix 3**.
- 4.3 An agreement between Mrs Louise Lowe and Derby City Council Environmental Protection Team is attached at **Appendix 4**. This agreement is for the modification of the Temporary Event Notices to attach 2 conditions as outlined in Appendix 4. Only the General Licensing Sub-Committee has the discretion to attach existing conditions to a temporary event notice.
- 4.4 The Objection by Derbyshire Constabulary relates to the promotion of the crime prevention objective.
- 4.5 The responses from all Responsible Authorities are detailed in the table below;

RESPONSIBLE AUTHORITY	OBJECTION	OBJECTION WITHDRAWN	NO OBJECTION	NO RESPONSE
Derbyshire Constabulary	✓			
Environmental Protection Team	✓			

- 4.6 The licensable activities covered by the Temporary Event Notices are for:
the sale by retail of alcohol (on and off the premises)
the provision of regulated entertainment
the provision of late night refreshment
- 4.7 The date and times covering the licensable activities:
Sunday 5 May 2013 through to Monday 6 May 2013 20.00-06.00 and
Sunday 26 May 2013 through to Monday 27 May 2013 20.00-06.00
- 4.8 A location plan of the premises is attached at **Appendix 5**.
- 4.9 A copy of the current premises licence is attached at **Appendix 6**.
- 4.10 The Committee is obliged to determine this objection notice with a view to promoting the licensing objectives which are.
- the prevention of crime and disorder;
 - public safety;
 - the prevention of public nuisance;
 - the protection of children from harm.
- 4.11 In making its decision, the Committee is also obliged to have regard to national Guidance issued under Section 182 of the Licensing Act 2003 and the Council's own Licensing Policy.
- 4.12 The Council recognises the importance of securing proper integration with and attaching relevant conditions that reflect local strategies.
- 4.13 The Council has a duty to act in a manner which is compatible with the Human Rights Act 1998.
- 4.14 A Licence is regarded as property for the purposes of the Human Rights Act 1998. Article 1 of the First Protocol states that:

"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

- 4.15 The Committee must also take into account the effect on local residents. Article 8 states:
- Everyone has the right to respect for his private and family life, his home and his correspondence.
 - There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.
- 4.16 Three stage test to be applied:
- Is the interference in accordance with the law?
 - Is the interference necessary in a democratic society in pursuit of one of the legitimate aims set out above?
- Is the decision proportionate ie. Striking a fair balance between the demands of the general interests of the community and the requirement to protect the individual's fundamental rights?

OTHER OPTIONS CONSIDERED

5.1 No other options available

This report has been approved by the following officers:

Legal officer Financial officer Human Resources officer Service Director(s) Other(s)	Not Applicable for Sub Committee Not Applicable for Sub Committee Not Applicable for Sub Committee Not Applicable for Sub Committee Not Applicable for Sub Committee
For more information contact: Background papers: List of appendices:	Name: Sandra Mansell Telephone:01332 641931 e-mail: Sandra.mansell@derby.gov.uk None Appendix 1 – Implications Appendix 2 – Temporary Event Notice Appendix 3 – Objection Notice Appendix 4 – Agreement between Mrs Lowe and Environmental Protection Appendix 5 – Location plan Appendix 6 - Copy of Premises Licence

IMPLICATIONS

Financial and Value for Money

- 1.1 There is no charge for an objection notice in relation to a temporary event notice.

If a counter-notice is issued, the notifying individual forfeits the fee for the temporary event notice.

Legal

- 2.1 Either party affected by the decision in relation to the service, or non-service of a counter-notice may appeal to the Magistrates Court within 21 days of notification of the decision.

However, no appeal may be brought later than 5 working days before the first day of the event period.

On appeal, the Magistrates Court may:

- dismiss the appeal; or
- substitute the decision for another decision which could have been made by the Council; or
- remit the case to the Council to dispose of it in accordance with the direction of the Court; and
- make an order for costs as it sees fit.

Personnel

- 3.1 None directly arising from this report.

Equalities Impact

- 4.1 The equality impact of this application has been considered to have no significant effects from the information given.

Health and Safety

- 5.1 None directly arising from this report.

Environmental Sustainability

- 6.1 None directly arising from this report.

Asset Management

- 7.1 None directly arising from this report.

Risk Management

- 8.1 None directly arising from this report.

Corporate objectives and priorities for change

- 9.1 The information contained in this report contributes to the council's plan of a thriving and sustainable economy with good quality services that met local needs.