

Objection Notices received in respect of Standard Temporary Event Notices for Club Neo, Stars Lane, Yeovil BA20 1NR

Assistant Director: Laurence Willis
Report Author: Anita Legg – Licensing Officer
Contact Details: anita.legg@southsomerset.gov.uk or 01935 462137

Purpose of the Report

To inform members that 5 standard temporary event notices been received under the Licensing Act 2003 from Mr Kieron Robinson for Club Neo, Stars Lane, Yeovil BA20 1NR and further that 5 objection notices have been duly served by Avon and Somerset Constabulary.

Recommendation

To consider the objection notices in accordance with the options detailed later in the report.

Background

A Temporary Event Notice is submitted to the Licensing Authority by the premises user (an individual 18 years or over) and is copied to the Police and the Environmental Health Service as a means to authorise licensable activities where either:

- no premises licence/club premises certificate exists
- in cases where it is not being used
- where the operating schedule including days and timings do not meet the need of the premises user.

Where an objection notice has been received from either the Police or the Environmental Protection service or both, the Council is the authority responsible for determining the notice under sections 105 and 106A of the Licensing Act 2003.

Licensing Objectives

The licensing objectives are:

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm

The licensing objectives are to be considered paramount and the Council has a duty to promote them in its decision making process.

Proposed Activities and Hours

SALE BY RETAIL OF ALCOHOL

'On' the premises sales only

Day	Start Time	Finish Time
01 May 2015	03:00	04:00
02 May 2015	03:00	04:00
03 May 2015	03:00	04:00
04 May 2015	03:00	04:00

Day	Start Time	Finish Time
22 May 2015	03:00	04:00
23 May 2015	03:00	04:00
24 May 2015	03:00	04:00
25 May 2015	03:00	04:00

Day	Start Time	Finish Time
28 August 2015	03:00	04:00
29 August 2015	03:00	04:00
30 August 2015	03:00	04:00
31 August 2015	03:00	04:00

Day	Start Time	Finish Time
30 October 2015	03:00	04:00
31 October 2015	03:00	04:00
01 November 2015	03:00	04:00
02 November 2015	03:00	04:00

Day	Start Time	Finish Time
31 December 2015	03:00	04:00
01 January 2016	03:00	04:00
02 January 2016	03:00	04:00
03 January 2016	03:00	04:00
04 January 2016	03:00	04:00

REGULATED ENTERTAINMENT

Day	Start Time	Finish Time
01 May 2015	03:00	04:00
02 May 2015	03:00	04:00
03 May 2015	03:00	04:00
04 May 2015	03:00	04:00

Day	Start Time	Finish Time
22 May 2015	03:00	04:00
23 May 2015	03:00	04:00
24 May 2015	03:00	04:00
25 May 2015	03:00	04:00

Day	Start Time	Finish Time
28 August 2015	03:00	04:00
29 August 2015	03:00	04:00
30 August 2015	03:00	04:00
31 August 2015	03:00	04:00

Day	Start Time	Finish Time
30 October 2015	03:00	04:00
31 October 2015	03:00	04:00
01 November 2015	03:00	04:00
02 November 2015	03:00	04:00

Day	Start Time	Finish Time
31 December 2015	03:00	04:00
01 January 2016	03:00	04:00
02 January 2016	03:00	04:00
03 January 2016	03:00	04:00
04 January 2016	03:00	04:00

LATE NIGHT REFRESHMENT

Day	Start Time	Finish Time
01 May 2015	03:00	04:00
02 May 2015	03:00	04:00
03 May 2015	03:00	04:00
04 May 2015	03:00	04:00

Day	Start Time	Finish Time
22 May 2015	03:00	04:00
23 May 2015	03:00	04:00
24 May 2015	03:00	04:00
25 May 2015	03:00	04:00

Day	Start Time	Finish Time
28 August 2015	03:00	04:00
29 August 2015	03:00	04:00
30 August 2015	03:00	04:00
31 August 2015	03:00	04:00

Day	Start Time	Finish Time
30 October 2015	03:00	04:00
31 October 2015	03:00	04:00
01 November 2015	03:00	04:00
02 November 2015	03:00	04:00

Day	Start Time	Finish Time
31 December 2015	03:00	04:00
01 January 2016	03:00	04:00
02 January 2016	03:00	04:00
03 January 2016	03:00	04:00
04 January 2016	03:00	04:00

Maximum Number of persons at event at any one time

499

Nature of Event

“To remain open from 03:00 – 04:00 and to comply with our normal condition[s] on our licence.”

Relevant Observations

A premises licence already exists for the club for the following days, times and activities:

Films, Indoor Sporting Events, Boxing or Wrestling, Live Music, Recorded Music, Performances of Dance, Activity like Music/Dance and the Supply of Alcohol from 10:00 to 03:00 Monday to Sunday. Further Late Night Refreshment is authorised under the premises licence from 23:00 to 03:00 Monday to Sunday.

Further Information

The premises are situated in an area that is subject to the Cumulative Impact Policy of the Council.

The conditions currently attached to the premises licence are as follows:

Mandatory Conditions

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.

Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

Where a premises licence authorises the exhibition of films, the admission of children to the exhibition of any film must be restricted in accordance with the film classification.

Admission of children must be restricted in accordance with any recommendation made by the film classification body or the licensing authority.

In this section –

“children” means persons aged under 18, and

“film classification body” means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39).

Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, each such individual must be licensed by the Security Industry Authority.

1 - (1) 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.

(2) 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.

- (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to-
 - (i) 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
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
- (b) provision of unlimited or unspecified quantities of alcohol free for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion at a table meal, as defined in section 159 of the Act);
- (c) 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;
- (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on –
 - (i) the outcome of a race, competition or other event or process, or
 - (ii) the likelihood of anything occurring or not occurring;
- (e) selling or supplying alcohol in associated with promotion 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 refer to the effects of drunkenness in any favourable manner.

2. 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 disability).

3. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

4 – (1) 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

(2) 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.

5 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: 25ml or 35ml; and
 - (iii) still wine in a glass: 125ml; and
- (b) customers are made aware of the availability of these measures.

1. 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.

2. For the purposes of the condition set out in paragraph 1—

(a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) “permitted price” is the price found by applying the formula—

$$P = D + (D \times V)$$

where—

(i) P is the permitted price,

(ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence—

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994

Conditions consistent with the Operating Schedule

Prevention of Crime & Disorder

1. When playing host to adult entertainment in the form of pole dancing and striptease, the premises will operate a strict code of acceptable behaviour agreed with the Police and Licensing Authority. This will include rules relating to physical proximity so to protect performers. Patrons will be made aware of all such rules on attending such performances.

2. The premises shall be a member of the Yeovil Town Centre Radio Link

a) Such text, pager or radio shall be kept in good working order and shall be monitored by a responsible member of staff.

b) Relevant incidents of crime or disorder shall be report to the police via the text, pager or radio.

3. A risk assessment will be carried out at the premises to determine the number of door supervisors who shall be on duty for each public opening. This will be agreed in consultation with the Police. There is to be a ratio of 1 door person to every 75 patrons maintained whilst the premises are open.

a) The premises licence holder will ensure that where door supervisors are employed at the premises, the door supervisors will enter in a register kept for the purpose, their full name, badge number (including expiry date) and the time they began their duty and the time they

completed their duty. This register to be updated on a daily basis and kept. at the premises at all times. It should be so maintained as to enable a police or licensing officer to establish the particulars of all door supervisors engaged at the premises during the previous 21 days and shall be open to inspections by officers of the licensing authority or police officers upon request.

b) Any female customer that needs to be searched will be searched by a female door supervisor or a female member of staff.

4. No person who is knowingly drunk or disorderly will be allowed access to or be allowed to remain on the premises.

5. No person who is the subject of a court banning order and/or who is restricted access through a Pubwatch scheme will be allowed in the premises provided the details of such person have been provided to the premises by the Pubwatch/Police.

6. Any person who behaves inappropriately will be barred from the premises and their details passed to any relevant Pubwatch scheme.

7. The premises licence holder will co-operate with the Responsible Authorities in relation to dealing with the issues of drugs on the premises. A drug policy will be drawn up and agreed with the Police. This policy to be reviewed 6 monthly.

a) Random searching will be carried out of those individuals suspected of carrying drugs or offensive weapons.

b) Confiscated drugs or weapons will be held in the premises safe and the Police will be notified without unreasonable delay.

8. The Premises Licence Holder shall ensure that any bottles or glasses are removed from person leaving the premises.

a) No customer carrying open or sealed alcoholic beverage containers shall be admitted to the premises at such times as they are open to the public.

b) Tables will be cleared or all empty bottles and glasses on a regular basis.

9. A notice shall be displayed at the entrance of the premises that CCTV is in operation in the premises.

10. The premises licence holder or their representative shall be an active member in any pubwatch or similar scheme that operates within Yeovil.

11. An incident book will be kept at the premises in which will be recorded all incidents or crime and disorder. This book will be reviewed by senior management in association with the Designated Premises Supervisor. This book shall be made available to the Licensing Authority or Police Officer upon request.

12. All staff who work behind the bar will be fully trained to ensure that no person who is knowingly drunk or disorderly or appears to be under the age of 21 years is served with intoxicating liquor, such training will be repeated every 6 months and training records retained. Training of all staff will include the requirement for person looking under the age of 21 to be asked for photographic evidence of age by way of a passport or drivers licence. The records should be made available to the Licensing Authority or Police Officers upon request.

13. Any glasses into which drink is dispensed will be by way of polycarbonate glasses. Glass may only be used in the 1st Floor VIP area and may not be removed from this area.

14. An accurate record shall be kept of the number of persons admitted to the premises, such records shall be retained for 28 days and made available to the Responsible Authorities.

15. There shall be a suitable number of adequately trained staff to prevent overcrowding in parts of the premises, keep exit routes clear and to ensure the safe evacuation of people from the premises. In the event of an emergency such staff will have been issued with specific duties.

16. The Premises Licence Holder shall provide training for all staff to ensure that they are familiar with all means of ingress and egress and the appropriate procedures in case of any emergencies that require immediate evacuation. A record of the training shall be maintained and shall be available upon request by officers of the Licensing Authority.

17. A dispersal policy to be drawn up and agreed with the Police. This is to be reviewed 6 monthly.
18. The smoking area shall be permanently monitored by SIA registered door staff during opening hours. The amount of people in the smoking area shall not exceed an agreed number. The number to be agreed in consultation with the Police. Persons leaving the building to smoke will be monitored with a clicker or alternative counting device.
19. No drinks to be taken outside into the smoking area.
20. CCTV must be installed and operated to the standard agreed with the Police. It will cover all areas to which the public have access, excluding inside of toilets. Images must be recorded at a frame rate no less than 6 frames per second. All cameras located on entrances must be able to produce images of an evidential standard as defined by the Home Office Guidance Manual. Cameras in the main areas of the premises must be able to cope with the extreme lighting conditions that may be present. The cameras, recording equipment and all ancillaries should be maintained according to the manufacturers' instructions to ensure that the standard of the image is not compromised.
21. CCTV images to be retained for a minimum of 31 days and to be produced on the request of the Police or a Licensing Officer of South Somerset District Council no later than 48 hours after the request. The correct time and date shall be generated onto the recording.
22. All bar staff involved in a management or supervisory position working at the premises must be trained in the operation and usage of the CCTV system including the creation of evidential discs.
23. The CCTV system must be operational at all times whilst the premises are trading. If the system is faulty or not working then the Police and South Somerset Licensing Service must be informed immediately.
24. There is to be no entry/re-entry to the premises after 0130hrs. The only exception to this rule will be for persons escorting lone females to vehicles/taxis.
25. There shall be no irresponsible drink promotions. Should the Police consider a drink promotion to be irresponsible, the Premises Licence Holder will be consulted about this so to give the Premises Licence Holder an opportunity to remedy the situation prior to any further action being taken by the Police.
26. Due to capacity of the premises and to allow a gentle dispersal from the premises, a one hour wind down period will be required.
27. Free drinking water will be available upon request.
28. A safe area will be provided in the building where people can wait for taxi's etc without having to go into the street.
29. The Premises Licence Holder shall ensure that at least one first- aider trained to deal with problems associated with alcohol and drugs will be on duty whilst the premises are open to the public, and if there are more than one such person on duty their roles will be clearly defined. First aiders will be trained to deal with drug and/or alcohol alcohol related problems.

Public Safety

1. Suitable fire risk assessments will be conducted at the premises and necessary control measures implemented.
2. Adequate and appropriate first aid equipment and materials will be available on the premises.
3. Sufficient lighting will be provided and maintained in any area accessible to the public.
4. The use of special effects or mechanical installations will be arranged, operated and stored so as to minimise any risk to the safety of the audience, performers and staff.
5. As the premises is primarily a disco, effects such as strobe lighting, lasers and smoke machines are used. There will be clear notices warning patrons of this fact, particularly in respect of strobe lighting.

Prevention of Public Nuisance

1. Prominent, clear and legible notices will be displayed at all exits requesting patrons to respect the needs of local residents and to leave the premises and the area quietly.
2. The placing of bottles into receptacles outside the premises will only be permitted to take place between the hours of 8am and 6pm to minimise disturbance to nearby properties.
3. Any flashing bright lights will not be visible from the outside of the premises.

Protection of Children

1. The Premises Licence Holder/Designated Premises Supervisor will maintain a comprehensive policy for the Protection of Children from Harm should the premises be used for an under 18s event.
2. Signs shall be displayed at the bar(s) stating that any person who appears to be under the age of 21 years will be asked for ID in the form of a photo driver's licence or passport
3. The Challenge 21 Scheme shall be operated at the premises. A refusals register will be maintained at the premises and will be reviewed weekly by the DPS. This document will be made available to Responsible Authorities upon request.
4. Any person under the age of 18 will only visit the venue with a responsible adult unless there is an event especially organised for the youth market. Unaccompanied persons under the age of 18 years are not admitted to in venue except at events especially organised for the youth market. Any such event to be agreed with the Police and Licensing Authority 14 days prior to it taking place.

Annex 3 – Conditions attached after a hearing by the licensing authority

- a. The relevant mandatory conditions under the Licensing Act 2003.
- b. The conditions consistent with the applicant's Operating Schedule.
- c. The draft voluntary conditions agreed during negotiations subject to the following amendments: -
 - i. draft voluntary condition 2, last sentence to read 'There is to be a ratio of 1 door person to every 75 patrons maintained whilst the premises are open'
 - ii. draft voluntary condition 6 (d), which was not agreed by the applicant is to be deleted.

Considerations

In determining the temporary event notice with a view to promoting the licensing objectives in the overall interests of the community, the Committee must have regard to and give appropriate weight to the following considerations:

- Any Notice of Objection (including supporting documentation received)
- Guidance issued under s182 of the Act
- The Statement of Licensing Policy published in January 2014
- The steps necessary to promote the licensing objectives
- Human Rights considerations in particular Article 6, Article 8 and Article 1 of Protocol 1
- Each Temporary Event Notice to be determined separately upon its own merits

Options

The options available to the committee in this case are as follows:

- Give a counter notice to the premises user so that event cannot proceed
- Permit the event to proceed in accordance with the temporary event notice
- Impose one or more conditions on the temporary event notice that have the same effect as those conditions that are already included on the premises licence

Section 106A of the Licensing Act 2003 permits licensing authorities to impose one or more conditions on a standard temporary event notice if

- a) the authority considers it appropriate for the promotion of the licensing objectives to do so
- b) the conditions are also imposed on a premises licence or a club premises certificate that has effect in respect of the same premises, or any part of the premises, as the temporary event notice, and
- c) the conditions would not be inconsistent with the carrying out of the licensable activities under the temporary event notice.

Right of Appeal

Schedule 5 Part 3 of the Licensing Act 2003 sets out the rights and procedures for making appeals against the decision of the Licensing Authority:

Where the relevant Licensing Authority gives a counter-notice under section 105(3), the premises user may appeal against that decision.

Where that authority decides not to give such a counter-notice a “relevant person” as specified in section 99A of the Licensing Act 2003, may appeal against that decision.

An appeal must be made to the Magistrates’ Court

The appellant commences an appeal under Part 3 of Schedule 5 to the Licensing Act 2003 by giving a notice of appeal to the designated officer for the Magistrates’ court within 21 days beginning with the day on which the appellant was notified by the Licensing Authority of the decision appealed against.

But no appeal may be brought later than five working days before the day on which the event period specified in the temporary event notice begins.

On determining the appeal, the court may,

- Dismiss the appeal
- Substitute for the decision appealed against any other decision which could have been made by the Licensing Authority; or
- Remit the case to the Licensing Authority to dispose of it in accordance with the direction of the court.

and may make such order as to costs as it thinks fit.

Background Papers

Licensing Act 2003

Police Reform and Social Responsibility Act 2011

Licensing Act 2003 (Hearings) (Regulations) 2005 No. 44

The Licensing Act 2003 (Permitted Temporary Activities) (Notices)(Amendment) Regulations 2012 No. 960

The Latest Guidance issued under section 182 of the Licensing Act 2003.

The Statement of Licensing Policy for South Somerset District Council issued January 2014
