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## Licensing Sub Committee

**Tuesday 18th August 2020**

**4.00 pm**

### **Virtual Meeting** **Using Zoom meeting software**

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The following members are requested to attend the meeting:

Jeny Snell

Paul Rowsell

Linda Vijeh

The applicant or any interested parties wishing to address the virtual meeting need to email [democracy@southsomerset.gov.uk](mailto:democracy@southsomerset.gov.uk) by 9.00am on Monday 17<sup>th</sup> August 2020.

The meeting will be viewable online by selecting the committee meeting at:  
[https://www.youtube.com/channel/UCSDst3IHGj9WoGnwJGF\\_soA](https://www.youtube.com/channel/UCSDst3IHGj9WoGnwJGF_soA)

For further information on the items to be discussed, please contact  
[democracy@southsomerset.gov.uk](mailto:democracy@southsomerset.gov.uk)

This Agenda was issued on Tuesday 11 August 2020.

*Alex Parmley, Chief Executive Officer*

**This information is also available on our website**  
**[www.southsomerset.gov.uk](http://www.southsomerset.gov.uk) or via the mod.gov app**

## **Members Questions on reports prior to the Meeting**

Members of the Committee are requested to contact report authors on points of clarification prior to the Committee meeting.

## **Information for the Public**

The Statutory Licensing Committee has responsibility for all activities under the Licensing Act 2003 and the Gambling Act 2005 except for policies and fees. Established under the Licensing Act 2003, it exercises the functions of the Licensing Authority which itself is the Council.

The Other Licensing Committee can be responsible for all other licensing matters. Established by the Council under discretionary power contained in section 101 of the Local Government Act 1972.

It is lawful for the membership of the two committees to be the same, but they are differently constituted and run under different powers.

Licensing Sub Committee agendas and minutes are published on the Council's website at: <http://modgov.southsomerset.gov.uk/ieListMeetings.aspx?CId=145&Year=0>

Agendas and minutes can also be viewed via the mod.gov app (free) available for iPads and Android devices. Search for 'mod.gov' in the app store for your device and select 'South Somerset' from the list of publishers and then select the committees of interest. A wi-fi signal will be required for a very short time to download an agenda but once downloaded, documents will be viewable offline.

The Council's Constitution is also on the web site and available for inspection in council offices.

Further information can be obtained by contacting the agenda co-ordinator – details are provided on the front page.

Meetings of the Licensing Sub Committee are held as required usually in the Council Offices, Brympton Way - However during the coronavirus pandemic these meetings will be held remotely via Zoom video-conferencing. For more details on the regulations regarding remote/virtual meetings please see the Local Authorities and Police and Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 as part of the Coronavirus Act 2020.

### **Public participation at meetings (held via Zoom)**

We recognise that these are challenging times but we still value the public's contribution to our virtual meetings. The applicant and interested parties are able to participate and contribute to the meeting, you will need to be able to access the meeting through Zoom at: <https://zoom.us/join>

Each individual speaker shall be restricted to a total of five minutes.

If you would like to address the meeting, please email [democracy@southsomerset.gov.uk](mailto:democracy@southsomerset.gov.uk) by 9.00am on Monday 17 August 2020. When you have registered, an officer will provide the details to join the meeting. The Chairman will invite you to speak at the appropriate time during the virtual meeting.

If you would like to view the meeting without participating, please see:  
[https://www.youtube.com/channel/UCSDst3IHGj9WoGnwJGF\\_soA](https://www.youtube.com/channel/UCSDst3IHGj9WoGnwJGF_soA)

**Virtual meeting etiquette:**

- Consider joining the meeting early to ensure your technology is working correctly.
- Please note that we will mute all public attendees to minimise background noise. If you have registered to speak during the virtual meeting, the Chairman will unmute your microphone at the appropriate time.
- Each individual speaker shall be restricted to a total of five minutes.
- When speaking, keep your points clear and concise.
- Please speak clearly – the Councillors are interested in your comments.

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# Licensing Sub Committee

**Tuesday 18 August 2020**

## **Agenda**

### *Preliminary Items*

**1. Declarations of Interests**

In accordance with the Council's current Code of Conduct (adopted July 2012), which includes all the provisions relating to Disclosable Pecuniary Interests (DPI), personal and prejudicial interests, Members are asked to declare any DPI and also any personal interests (and whether or not such personal interests are also "prejudicial") in relation to any matter on the Agenda for this meeting. A DPI is defined in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (SI 2012 No. 1464) and Appendix 3 of the Council's Code of Conduct. A personal interest is defined in paragraph 2.8 of the Code and a prejudicial interest is defined in paragraph 2.9. In the interests of complete transparency, Members of the County Council, who are not also members of this committee, are encouraged to declare any interests they may have in any matters being discussed even though they may not be under any obligation to do so under any relevant code of conduct.

**2. Procedure to be followed when considering licensing applications under the Licensing Act 2003 (Pages 5 - 8)**

**3. Temporary Event Notice for Private Land, 51°04'59.9"N 2°27'34.2"W, Shepton Montague, Somerset, BA9 8JB (Pages 9 - 15)**

# Agenda Item 2

## Procedure to be followed when considering Licencing Applications under the Licensing Act 2003

Pre meeting Prior to the start of the Hearing the Committee Administrator will check that any person wishing to address the Sub-Committee is either an Interested Party or an authorised representative of an Interested Party or a Responsible Body and is entitled therefore to do so.

Where there is any doubt about the person's eligibility to address the sub-Committee, the Committee Administrator will seek advice from the Legal Officer(s).

### 1. **The Chairman will introduce:**

- members of the Sub-Committee (which will be made up of three District Councillors);
- the officers present;
- the Parties and their representatives (if any).

**The Chairman will ask**, before starting the Hearing, if any representations are being withdrawn.

### 2. At the start of the hearing **the Chairman will advise:-**

- all Parties of the reason for the Hearing and the procedure to be adopted;
- that where a Party wants another person to appear at the Hearing they must ask permission (under Regulation 8(2)) although such permission will not be unreasonably withheld. No permission is needed where the other person is acting only as the Party's representative;
- that if any Party wishes to ask the Sub-Committee to consider documentary or other information at the hearing, which was not provided before the Hearing, then all Parties must consent;
- that if any Party does not attend or is not represented at the hearing, the Hearing can go ahead but the Sub-Committee will consider any application, notice or written representations received by the relevant deadline from that Party;
- that in some circumstances, the Hearing may be adjourned, where the Sub-Committee consider the public interest demands it.

### 3. **The Chairman will ask each Party to confirm receipt** of the following documents:-

- Officer's report relating to the case;
- The procedure to be adopted during the Hearing;
- The documents, which the authority is required to provide under the Regulations – this varies according to the type of application but normally this means checking that the applicant has received copies of all the representations made in response to the application notices.

Any queries on the procedure or the factual content of the Licensing Officer's report should be dealt with at this point, with the assistance of the legal officer(s), as required.

4. **The Chairman will then ask** the Licensing Officer to present their report on the application. The report will include confirmation that the requirements as to advertising the application and the serving of notices have been met.
  5. **The Chairman will inform all present - prior to receiving representations** - that each Party will be given an equal amount of time to make their representations. This will normally be a maximum of five minutes. However, the Chairman has discretion about the time given to each Party and may vary the time limit where reasonable to do so although reasons will be given and fairness maintained.
  6. **The Chairman will invite any Responsible Bodies present** e.g. representatives of Police/Fire Service/ Environmental Services to address the Sub-Committee on any relevant representations they have made.
  7. **The Chairman will then invite:**
    - Parties or their representatives speaking in support of the application (including the applicant for the review) to address the Sub-Committee on their relevant representations. The address shall relate only to those matters already raised in the application, representations or notice (as applicable). No new information can be presented at the hearing unless all Parties agree, however, where the authority has notified the Party that it requires clarification on any points, this should be provided at this stage;
    - Parties or their representatives, speaking in opposition to the application for review, to address the Sub-Committee on their relevant representations. The address shall relate only to those matters already raised in the application, representations or notice (as applicable). No new information can be presented at the hearing unless all Parties agree, however, where the authority has notified the Party that it requires clarification on any points, this should be provided at this stage.
- The Chairman** will permit a Member to seek immediate clarification of a point made by a Party, their representative or any another person permitted to attend where, prior to this point in the Hearing, circumstances arise which make it desirable to do so, provided that the question is relevant and helps the proper conduct of the Hearing. The rules of natural justice will be followed.
- No Cross examination will be permitted without the consent of the sub-Committee and this will only be given where Committee considers that cross-examination is required for it to consider the representations, application or notice.
8. **The Chairman will ask** whether anyone has any further relevant comments to make and whether each Party is satisfied with the conduct of the Hearing.
  9. **The Chairman will then invite** Members of the Sub-Committee to ask any questions of any of the Parties or any other person permitted by the Sub-Committee to appear at the Hearing.
  10. **The Chairman will check with the legal adviser(s) that all relevant points have been addressed before asking the Parties to leave the room while** the Sub-Committee consider its decision in private. Only the clerk and the legal adviser(s) will remain with the Sub-Committee although only the sub-committee will be making the decision.

11. **Once in private the Chairman will advise the other Members** that they must consider all the information before them in making their decision but will disregard any information which is not relevant to the application, representations or notice and which does not relate to promoting the Licensing Objectives. Members will take account of the Statutory Guidance and the Council's Statement of Licensing Policy but shall be free to depart from it where the merits of the case warrant it. Full reasons shall be given for any such departure. If Members require further information from any Party or any further evidence, they will reconvene the hearing with all Parties able to be present.
12. **The Chairman will ensure, on the Parties return to the Hearing room,** that any legal advice given to the Sub-Committee in private is summarised to the Parties.
13. **The Chairman will notify** all Parties of their decision and the reasons for the decision. The decision will normally be given orally, at the Hearing, in a plain English format to help those attending the Hearing to understand it more easily. This is not the official written Notice of Decision which be sent to all of the Parties shortly afterwards.

Where the Sub-Committee is unable to give a decision at the meeting, **the Chairman will advise all Parties when a decision can be expected.** The decision will be sent to all Parties within the timescales set down in the Regulations.

14. **The Chairman will inform all Parties** of their possible rights of appeal (if any).

## **NOTES**

1. A Party is anyone who has submitted an application or made a relevant representation or served a notice.
2. Where an adjournment is granted the Sub-Committee will notify the Parties forthwith of the date, time and place to which the Hearing has been adjourned.
3. Under no circumstances must the Parties or their witnesses offer Members of the Sub-Committee information in the absence of the other Party. Similarly, Members will not attempt to elicit information from any Party to the Hearing in the absence of the other. Members will not make pronouncements on the merits of the case until all the evidence has been heard. These are essential elements of the rules of natural justice.
4. The Chairman may vary this procedure, as circumstances require but will have regard to the rules of natural justice.
5. The Hearing will take place in public. However, the public can be excluded from all or part of the hearing where the Sub-Committee considers that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking place in public.

The Sub-Committee may also require a Party to leave the hearing if that Party is behaving in a disruptive manner. The Sub-Committee can refuse to readmit the Party or readmit upon conditions but the Party can nevertheless submit to the Sub-Committee before the end of the Hearing any written information it would have

been entitled to submit orally at the Hearing.

6. District Councillors representing the area (District Council Ward) to which the application refers, or have declared an interest, will not form part of the Sub-Committee.
  7. Where any irregularity is brought to the attention of the Sub-Committee during the hearing, the Sub-Committee may, if it feels that a Party has been prejudiced as a result of the irregularity, take such steps as it thinks fit to cure that irregularity before it makes its determination. However, any irregularity from a failure to follow this procedure shall not of itself render the proceedings void and any clerical errors may be corrected.
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# Agenda Item 3

## **Objection notices received in respect of a standard Temporary Event Notice for Private Land, 51°04'59.9"N 2°27'34.2"W, Shepton Montague, Somerset, BA9 8JB**

*Director:* Netta Meadows – Service Delivery  
*Report Author:* Rachel Lloyd – Specialist Licensing  
*Contact Details:* rachel.lloyd@southsomerset.gov.uk or 01935 462134

### **Purpose of the Report**

To inform members that a standard temporary event notice has been received under the Licensing Act 2003 from Mr Damien Doughty for Private Land, 51°04'59.9"N 2°27'34.2"W, Shepton Montague, Somerset, BA9 8JB. It relates to an event on 29 August 2020. An objection notice has been duly served by Mrs Nicola King on behalf of the Chief of Police for Avon and Somerset Constabulary for this temporary event notice.

### **Recommendation**

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

### **Background**

A Temporary Event Notice is intended as a light touch process<sup>1</sup> and 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 department 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.

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<sup>1</sup> Paragraph 7.2 of the Guidance issued under s182 of the Licensing Act 2003, April 2018

## Proposed Activities and Hours

Day	Start Time	Finish Time	Maximum Number of persons at event at any one time	Licensable activity requested	Nature of Event
29/08/20	12:00	23:00	100	Sale by retail of alcohol  'On' the premises  Regulated Entertainment	There will be artistic workshops, showcasing of work by local artists and craftspeople, various talks and live music entertainment

## Relevant Observations

Should the temporary event proceed; the premises user will be responsible for ensuring that there are no more than 100 persons at the premises. Should there be 101 or more persons in that area, at any one time, it will mean that particular temporary event is unlicensed.

The premises user has provided additional information in the nature of the event section on the form, which says "live music entertainment will be constantly monitored to ensure there is little to no disturbance of the local residents. In regards to the ongoing Corona Virus threat will be carrying out a strenuous risk assessment and meet all requirements set out on the GOV.uk website (which we will update according to the changes which are due to be made on the 15th of August)"

## Further Information

The venue is not subject to a premises licence.

## Consideration

In determining a 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

## **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

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.

As there is no premises licence for the area defined by this T.E.N, no conditions can be imposed.

## **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**

The Licensing Act 2003

The Police Reform and Social Responsibility Act 2011

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

Live Music Act 2012

The Licensing Act 2003 (Permitted Temporary Activities) (Notices)(Amendment)

Regulations 2012 No. 960

(Descriptions of Entertainment) (Amendment) Order 2013

The Legislative Reform (Entertainment Licensing) Order 2014

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

The Deregulation Act 2015



Police Objection Notice to a Temporary Event Notice (TEN)  
S104 Licensing Act 2003

**Responsible Authority** : Please delete as appropriate  
POLICE

Your Name	Nicola King	
Job Title	District Licensing Officer	
Postal and email address	Yeovil Police Station Horsey Lane Yeovil Somerset BA20 1SN	
Contact telephone number	101	
Name of the premises you are making a representation about.	Applicant: Damien Doughty	
Address of the premises you are making a representation about.	Private land 51°04'59.9"N 2°27'34.2"W Shepton Montague Somerset United Kingdom BA9 8JB	
Which of the four licensing Objectives does your representation relate to? Please state yes or no.	Yes Or No	Please detail the evidence supporting your representation. Or the reason for your representation. Please use separate sheets if necessary
General – all four licensing objectives.	Yes	An application has been received from Damien Doughty to provide the sale of alcohol and regulated entertainment on 08/08/2020 from 1200hrs – 2300hrs. The event is to showcase work from local artists and craftspeople. The event of for 100 people.  On behalf of the Chief Officer of Police we submit our formal representation in respect of this application.
To prevent crime and disorder		
Public Safety		
The protection of children from harm.		There is significant lack of detail contained with the notice given the nature and size of the event. With no other events planned for the area, there is a risk that many people may attend the event to try and gain entry. These type of events have significant potential to undermine the promotion of the licensing objectives due to their sheer size and complexity. Sites for large occasional events are not usually entirely purpose built for the proposed licensable activities to take place and we are not aware that the applicant has held any similar event?. Therefore, there is considerable work involved before, during and after such events and also co-ordinating the full involvement of all the emergency services and responsible authorities to ensure a safe and well managed event.  For ease of objection and not to create an exhaustive list we have bullet pointed the main areas of our concern below which is missing from the information submitted:- <ul style="list-style-type: none"> <li>• Detailed plan of the site showing access/egress and emergency access, stage, traders, parking etc.</li> <li>• Contingency/bad weather plans.</li> <li>• Plans with Fire – risk assessment not attached.</li> </ul>

- Full list of Staff with Roles & Responsibilities
- List of traders and necessary certificates
- Toilet provisions
- Health & Safety Statement of Intent
- Full Covid-19 Risk Assessment specific to this event
- List of Performers and type of performance to assess restrictions
- Advertising & Marketing – Price of Tickets
- Details of the Landowner & Public Liability insurance.

The above concerns, though not an exhaustive list, reflect the concerns we have regarding the event and lack of information available regarding this event at this time.

Concerns are also raised in relation to the event and the current guidance issued by the government in respect of CoVid 19. The CoVid 19 pandemic has affected the globe where thousands of people have died and despite restrictions easing, the crisis continues. Recent developments of new local lockdowns shows that the situation is ongoing and far from over. Government guidance is clear that mass gatherings should not take place and this application ignores that advice. It is clear that alcohol and social distancing do not go well together and has resulted in local premises having to close and customers and staff having to self-isolate as a result. It has only been announced recently by the Prime Minister that the plans for certain businesses & venues that were scheduled to re-open on 1st August have now been postponed for at least two weeks. e.g.

- Most remaining leisure settings, namely bowling, skating rinks and casinos - NOW POSTPONED.
- Wedding receptions for up to 30 people will be allowed - NOW POSTPONED.

It is evident that mass gatherings are still being discouraged and we could face further restrictions.

Public services (including the police) are stretched and preventing issues from occurring is essential. The lack of a substantial Event Management Plan makes it impossible for us to assess crime and disorder & public safety and whilst everyone wants to return to normality, keeping people safe has to remain a priority.

Currently, outdoor events that are organised by businesses, charitable organisations, and public bodies, may have more than 30 attendees provided they have (i) they have carried out a thorough risk assessment and (ii) taken all reasonable steps to mitigate the risk of viral transmission, taking into account that risk assessment, in line with current Covid-19 Secure guidance. This includes ensuring that social distancing between different households or support bubbles is maintained at all times, and between staff and performers. In particular, those operating venues or running events following current CoVid-19 secure guidelines should take additional steps to ensure the safety of the public and prevent large gatherings or mass events from taking place. Whilst the police acknowledge the applicant has stated within their application that risk assessments will be provided at a later

	<p>date, without these details the police cannot comment upon them.</p> <p>Whilst we fully support any event the police would wish to see an Event Management Plan, Fire Risk Assessment and risk assessments with regards to CoVid -19 as outlined in the current government guidance documents.</p> <p>At present, the police believe that the granting of this licence would undermine the four licensing objectives.</p> <p>Given the above concerns the police request that a counter notice be issued in respect of this application.</p>
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<p>Suggested conditions that could be added to the licence to remedy your representation or other suggestions you would like the Licensing Sub Committee to take into account. Please use separate sheets where necessary and refer to checklist.</p>	<p>As above</p>
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N.B If you, as the Responsible Authority, make a representation, a member from your Authority will be expected to attend the Licensing Sub Committee and any subsequent appeal proceeding.

Signed: N King

Date 6<sup>th</sup> August 2020

Please return this form along with any additional sheets to: The Licensing Unit, South Somerset District Council

This form must be returned within the Statutory Period.