

**NORTH HERTFORDSHIRE DISTRICT COUNCIL**



19 October 2020

Our Ref L and A Sub-Committee -22.10.2020  
Contact. Committee Services  
Direct Dial. (01462) 474655  
Email. [committee.services@north-herts.gov.uk](mailto:committee.services@north-herts.gov.uk)

To: Members of the Committee: Councillor Elizabeth Dennis-Harburg, Councillor Mike Rice and Councillor Richard Thake

**NOTICE IS HEREBY GIVEN OF A  
MEETING OF THE LICENSING AND APPEALS SUB-  
COMMITTEE**

to be held as a

**VIRTUAL MEETING**

On

**THURSDAY, 22ND OCTOBER, 2020 AT 10.00 AM**

Yours sincerely,

Jeanette Thompson  
Service Director – Legal and Community

**\*\*MEMBERS PLEASE ENSURE THAT YOU DOWNLOAD ALL  
AGENDAS AND REPORTS VIA THE MOD.GOV APPLICATION  
ON YOUR TABLET BEFORE ATTENDING THE MEETING\*\***

**Agenda  
Part I**

<b>Item</b>		<b>Page</b>
<b>1.</b>	<b>HEARING PROCEDURE</b> Procedure to be followed during the licensing hearing.	(Pages 3 - 6)
<b>2.</b>	<b>APPLICATION FOR A TEMPORARY EVENT NOTICE IN RESPECT OF THE ENGINE, 3 STATION ROAD, BALDOCK</b> REPORT OF THE LICENSING OFFICER	(Pages 7 - 42)

Application by Dale Mabert for a Standard Temporary Event Notice in respect of The Engine, 3 Station Road, Baldock, Hertfordshire SG7 5BS.



## **Pre-Hearing Preliminary**

### **Committee and Member Services Officer to outline the arrangements for the remote hearing including:**

#### **Sub-committee**

The sub-committee will consist of three voting Members with a fourth non-participating Member listening to the hearing. In the event that a voting Member loses connection, the hearing will adjourn until connection can be restored. If the adjournment exceeds ten (10) minutes, or it is apparent sooner that re-connection will not be possible, the fourth Member will replace the absent Member and become a voting member of the sub-committee. If a quorum of three (3) Members that have been present throughout the hearing is not possible, the hearing will be adjourned to a stated date.

#### **Applicant**

In the event that the applicant loses connection, the hearing will adjourn until connection can be restored. If it becomes apparent that re-connection will not be possible, the hearing will be adjourned to a stated date.

#### **Responsible authority**

In the event that the responsible authority loses connection, the hearing will adjourn until connection can be restored. If it becomes apparent that re-connection will not be possible, the hearing will be adjourned to a stated date. If the responsible authority has completed their presentation and closing statement before losing connection, the Chair may decide to continue with the hearing

## THE ENGINE HEARING PROCEDURE

### 1. Chair's Welcome

Introduction of:

- Councillors sitting on Sub-Committee
  - Legal advisor;
  - Licensing officer(s);
  - The responsible authority
  - The applicant
2. The Chair will outline the procedure for the hearing and seek confirmation that all parties are content to proceed on that basis.
  3. The Chair will ask the legal advisor to outline the matters for consideration during the course of the hearing.

### The Licensing Officer's report

4. The Chair will ask the licensing officer if they have anything to add to their report to the Sub-Committee; if there has been any amendments to the hearing bundle, and if so, if all parties have been made aware of the amendments.
5. The Chair will ask if there are any questions of fact of the licensing officer from:
  - The responsible authority
  - The applicant
6. The Sub-Committee may ask questions of the licensing officer

### The Applicant's case

7. The Chair will ask the applicant to present their submissions to the Sub-Committee.
8. The Chair will ask if there are any questions of fact of the applicants from the responsible authority
9. The Sub-Committee may ask questions of the applicant.

### The responsible authority submit its case

10. The Chair will ask the responsible authority to present their submissions to the Sub-Committee
11. The Chair will ask if there are any questions of fact of the responsible authority from the applicant
12. The Sub-Committee may ask questions of Hertfordshire Constabulary



Closing Statements

13. The licensing officer may make final submissions to the Sub-Committee
14. The responsible authority may make final submissions to the Sub-Committee
15. The applicant may make final submissions to the Sub-Committee.

Conclusion

16. The Legal Advisor will summarise any legal points that have arisen during the hearing and will answer any legal questions from the Sub-Committee.
17. The Sub-Committee will close the hearing and retire to make a decision.
18. Where possible, the Sub-Committee will return and the Chair will announce the sub-Committee's decision including reasons for the decision.

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<p style="text-align: center;"><b>LICENSING AND APPEALS SUB-COMMITTEE</b> <b>22 October 2020</b></p>
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## LICENSING ACT 2003

### **NOTIFICATION BY DALE MABERT OF A STANDARD TEMPORARY EVENT NOTICE IN RESPECT OF THE ENGINE, 3 STATION ROAD, BALDOCK, HERTFORDSHIRE, SG7 5BS.**

#### REPORT OF THE LICENSING OFFICER

#### **1. Background**

1.1 The premises currently hold a licence which is attached as Appendix A.

#### **2. Temporary Event notice applications**

2.1 The notification is for a standard temporary event notice under section 100 of the Licensing Act 2003.

2.2 The notification is for the sale of alcohol between 24 – 30 October 2020.

2.3 The notification is attached as Appendix B.

#### **3. Notification**

3.1 On 8 of October 2020 Dale Mabert submitted a notification for a standard temporary event notice.

3.2 As Dale Mabert made his application electronically, North Hertfordshire District Council served copies of the notification to Hertfordshire Constabulary and NHDC environmental protection. There is no requirement to serve copies on any other responsible authority.

3.3 There is no requirement for public advertising of the notifications and members of the public may not submit repetitions.

#### **4. Representations**

4.1 Hertfordshire Constabulary and NHDC environmental protection have the ability to object to the notifications if they consider that they would undermine one or more of the four licensing objectives.

4.2 Objection notices must be received by the licensing authority no later than the end of the third working day following the day of receipt of the application.

4.3 On 13 October 2020, NHDC Environmental protection issued an objection notice under section 104 of the Licensing Act 2003 in respect of the notification. A copy of the objection notice is attached as Appendix C.

4.4 Dale Mabert has been served with a copy of the objection notice as part of this report.

4.5 Dale Mabert and NHDC environmental protection have been invited to attend the hearing to present their respective cases. They have been advised that they may be legally represented at the hearing.

## 5. Observations

5.1 In determining whether or not to issue a Counter Notice for each notification, the sub-committee must have regard to the Objection Notices and take such steps as it considers appropriate for the promotion of the licensing objectives.

5.2 The Licensing and Appeals Sub-Committee has the following options when issuing the Decision Notice:

- i) Approve the notification as made;
- ii) Refuse the notification and issue a Counter Notice preventing the notification from taking effect; or
- iii) Approve the notification and impose one or more of the conditions in existence on the current premises licence relating to the premises.

5.3 The sub-committee can only impose conditions on the notification if section 106A (2) of the Licensing Act 2003 is satisfied, which states:

*106(2) The relevant licensing authority may 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 club premises certificate that has effect in respect of the same premises, or any part of the same 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.*

5.4 The licensing authority must:

- (a) in a case where it decides not to give a Counter Notice under section 105 of the Licensing Act 2003, give the premises user, Hertfordshire Constabulary and NHDC Environmental Protection notice of the decision;
- (b) in a case where it decides to issue a Counter Notice under Section 105 of the Licensing Act 2003, give the premises user, Hertfordshire Constabulary and NHDC Environmental Protection a Counter Notice and a notice stating the reasons for the decision; or
- (c) in a case where it decides not to give a Counter Notice under section 105 of the Licensing Act 2003 but impose conditions from an existing premises licence for the same premises under Section 106A of the Licensing Act 2003, give the premises user, Hertfordshire Constabulary and NHDC Environmental Protection notice of the decision and a separate statement setting out the conditions.

5.5 Any notice issued by the licensing authority under sections 105 or 106A of the Licensing Act 2003 must be given in the prescribed format and no later than twenty-four hours prior to the commencement of the event period stated in the notification.



5.6 There is a right of appeal available to all parties to the hearing which is detailed in Schedule 5 Part 3 Paragraph 16 which states:

- 16 (1) *This paragraph applies where—*
- (a) *a standard temporary event notice is given under section 100, and*
  - (b) *a relevant person gives an objection notice in accordance with section 104(2).*
- (2) *Where the relevant licensing authority gives a counter notice under section 105(3), the premises user may appeal against that decision.*
- (3) *Where that authority decides not to give such a counter notice, the relevant person may appeal against that decision.*
- (4) *An appeal under this paragraph must be made to a magistrates' court.*
- (5) *An appeal under this paragraph must be commenced by notice of appeal given by the appellant to the designated officer for the magistrates' court within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.*
- (6) *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.*
- (7) *On an appeal under sub-paragraph (3), the premises user is to be the respondent in addition to the licensing authority.*
- (8) *In this paragraph—*

*“objection notice” has the same meaning as in section 104;  
“relevant licensing authority” has the meaning given in section 99; and  
“relevant person” has the meaning given in section 99A.*

## **6. Licensing policy considerations**

6.1 The following paragraphs from the Council's Statement of Licensing Policy 2016 may be relevant to this application. This section does not prevent the sub-committee from considering other paragraphs of the Statement of Licensing Policy where they deem it appropriate.

### *D13.1*

*The Council encourages the use of temporary event notices for small community or infrequent events as a light touch approach to licensing. Full details of how to apply are available on the Council's website [www.north-herts.gov.uk](http://www.north-herts.gov.uk)*

### *D13.3*

*The vast majority of these events will not present any problems, for example special occasions in a pub or community hall or charitable fundraising events. A temporary event notice is a light-touch approach to these events and the Council expects that representations will only be made in exceptional circumstances where compelling evidence exists of the effect or likely effect on the licensing objectives.*

### *D13.4*

*That said, the Council does not expect licence holders to utilise temporary event notifications as a method of avoiding restrictions imposed on an authorisation by way of conditions. The Council is aware that existing licence conditions can be transposed onto a temporary event notice where a Licensing Sub-Committee deem it appropriate based on any relevant representations.*

#### D13.5

*The Council acknowledges that licensed premises can, and often do, enter into informal arrangements with the police in order to ensure that the crime and disorder objective is met. Whilst a temporary event notice giver may offer conditions and/or commitments to mitigate any concerns arising from notification, the Council is aware that they cannot be imposed on the temporary event notice and are not enforceable.*

#### D13.9

*NHDC's Environmental Protection & Housing Team will consider an application for a temporary event notice in relation to the prevention of public nuisance licensing objective. A representation may be submitted to the licensing authority in certain circumstances, for example, where the premises that is the subject of the application has a **current noise abatement notice served upon it**, if there are known noise issues at the premises or if the proposed activities and timings are not appropriate for the location. Where the temporary event notice is at a premises with a current premises licence or club premises certificate, it may be appropriate to request that existing licence conditions are imposed on the temporary event notice in order to promote the prevention of public nuisance licensing objective.*

## 7. Relevant extracts of statutory guidance

7.1 The following paragraphs from the Guidance issued by the Home Office under section 182 of the Licensing Act 2003 (April 2018 version) may be relevant to this application. This section does not prevent the sub-committee from considering other paragraphs of the Guidance where they deem it appropriate and the determination should be based upon consideration of the full document.

#### 1.3

*The licensing objectives are:*

- *The prevention of crime and disorder;*
- *Public safety;*
- *The prevention of public nuisance; and*
- *The protection of children from harm.*

#### 1.4

*Each objective is of equal importance. There are no other statutory licensing objectives, so that the promotion of the four objectives is a paramount consideration at all times.*

#### 1.5

*However, the legislation also supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in the licensing work.*

*They include:*

- *Protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;*
- *Giving the Police and the Licensing Authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing problems;*

#### 2.15

*The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.*

#### 2.16

*Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.*

#### 7.5

*If a TEN is sent electronically via GOV. UK or the licensing authority's own facilities, the licensing authority must notify the Police and EHA as soon as possible and no later than the first working day after the TEN is given.*

#### 7.6

*The Police or EHA ("relevant persons" for the purposes of TENS) may intervene to prevent such an event taking place by sending an objection to the licensing authority, which the licensing authority must consider on the basis of the statutory licensing objectives and decide whether the event should go ahead. A relevant person may also intervene by agreeing a modification of the proposed arrangements directly with the TENS user (see paragraph 7.36). If a relevant person sends an objection, this may result in the licensing authority imposing conditions on a TEN but only where the venue at which the event is to be held has an existing premises licence or club premises certificate. When giving a TEN, the premises user should consider the promotion of the four licensing objectives. The licensing authority may only otherwise intervene if the statutory permitted limits on TENS would be exceeded (see paragraphs 7.15-7.22).*

#### 7.28

*If the licensing authority receives an objection notice from the Police or EHA that is not withdrawn, it must (in the case of a standard TEN only) hold a hearing to consider the objection (unless all parties agree that this is unnecessary). The licensing committee may decide to allow the licensable activities to go ahead as stated in the notice. If the notice is in connection with licensable activities at licensed premises, the licensing authority may also impose one or more of the existing licence conditions on the TEN (insofar as such conditions are not inconsistent with the event) if it considers that this is appropriate for the promotion of the licensing objectives. If the authority decides to impose conditions, it must give notice to the premises user which includes a statement of conditions (a "notice (statement of conditions)") and provide a copy to each relevant party. Alternatively, it can decide that the event would undermine the licensing objectives and should not take place. In this case, the licensing authority must give a counter notice.*

#### 7.29

*Premises users are not required to be on the premises during the event authorised by the TEN, but they will remain liable to prosecution for certain offences that may be committed at the premises during the period covered by it. These include, for example, the offences of the sale of alcohol to a person who is drunk; persistently selling alcohol to children and allowing disorderly conduct on licensed premises.*

#### 7.32

*The system of permitted temporary activities gives police and EHAs the opportunity to consider whether they should object to a TEN on the basis of any of the licensing objectives.*

#### 7.33

*If the Police or EHA believe that allowing the premises to be used in accordance with the TEN will undermine the licensing objectives, they must give the premises user and the Licensing Authority an objection notice. The objection notice must be given within the period of three working days following the day on which they received the TEN.*

7.34

*Where a standard TEN was given, the Licensing Authority must consider the objection at a hearing before a counter notice can be issued. At the hearing, the Police, EHA and the premises user may make representations to the Licensing Authority. Following the hearing, the Licensing Authority may decide to impose conditions which already apply to an existing premises licence or club premises certificate at the venue, or issue a counter notice to prevent the event going ahead. As noted above, there is no scope for hearings in respect of late TENs and if objections are raised by the Police or EHA in relation to a late TEN, the notice will be invalid and the event will not go ahead.*

7.37

*As noted above, the police or EHA (as "relevant persons") may contact the premises user to discuss their objections and try to come to an agreement which will allow the proposed licensable activities to proceed. The TEN can be modified (for example, by changing the details of the parts of the premises that are to be used for the event, the description of the nature of the intended activities or their duration). The other relevant person has to agree for the modification to be made. There is no scope under the 2003 Act for the modification of a late TEN.*

7.38

*The 2003 Act provides that only the Licensing Authority can impose conditions to a TEN from the existing conditions on the premises licence or club premises certificate at the venue. The Licensing Authority can only do so:*

- *If the Police or the EHA have objected to the TEN;*
- *If that objection has not been withdrawn;*
- *If there is a licence or certificate in relation to at least a part of the premises in respect of which the TEN is given;*
- *And if the Licensing Authority considers it appropriate for the promotion of the licensing objectives to impose one or more conditions.*

7.39

*This decision is one for the Licensing Authority alone, regardless of the premises user's views or willingness to accept conditions. The conditions must be notified to the premises user on the form prescribed by regulations.*

## **8. Licensing officer comments**

- 8.1 The comments within this section of the report are provided by the licensing officer to assist the sub-committee with the interpretation of the Act, the Guidance and existing case law. It is for the Sub-Committee to determine what weight they attach to this advice.

### **Definition of 'appropriate'**

- 8.2 The previous Statutory Guidance first issued in July 2004 and subsequently updated up until March 2015, specifically required Licensing Sub-Committees to ensure that their decisions were based on measures that were 'necessary' for the promotion of the licensing objectives. This placed a burden on the licensing authority to demonstrate that no lesser steps would satisfy the promotion of the licensing objectives and any conditions imposed on a licence would only be those necessary for the promotion of the licensing objectives with no opportunity to go any further.

8.3 The revised Statutory Guidance issued on 25<sup>th</sup> April 2012 and subsequently amended in October 2012, June 2013, March 2015, April 2017 and April 2018 has amended the 'necessary' test to one of 'appropriate'. This has changed the threshold which licensing authorities must consider when determining applications by requiring that they make decisions which are 'appropriate' for the promotion of the licensing objectives.

8.4 The Guidance explains 'appropriate' as:

9.43

*The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.*

9.44

*Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. Whilst this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.*

8.5 It is anticipated that, in due course, case law will provide clarity on the meaning of 'appropriate' as referred to in paragraphs 9.43 and 9.44 of the Guidance. The Sub-Committee is therefore advised to give 'appropriate' its ordinary meaning, as expanded upon by paragraph 9.44 of the Guidance, subject to the over-riding requirement on all local authority decisions of reasonableness.

8.6 This approach, of allowing the courts to provide clarity, is reflected in the following paragraphs of the Guidance:

1.9

*Section 4 of the 2003 Act provides that, in carrying out its functions, a licensing authority must 'have regard to' guidance issued by the Secretary of State under section 182. The requirement is therefore binding on all licensing authorities to that extent. However, the guidance cannot anticipate every possible scenario or set of circumstances that may arise and, as long as licensing authorities have properly understood the Guidance, they may depart from it if they have reason to do so as long as they are able to provide full reasons. Departure from the Guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken.*

1.10

*Nothing in this Guidance should be taken as indicating that any requirement of licensing law or any other law may be overridden (including the obligations placed on any public authorities under human rights legislation). The*

*Guidance does not in any way replace the statutory provisions of the 2003 Act or add to its scope and licensing authorities should note that interpretation of the 2003 Act is a matter for the courts. Licensing authorities and others using the Guidance must take their own professional and legal advice about its implementation.*

- 8.7 The Sub-Committee should also be aware that their decision must be proportionate to the evidence received in respect of the application and representation. Proportionality is a key factor in assisting with the definition of 'appropriate'.

### **Case Law**

- 8.8 As paragraph 2.15 of the Guidance confirms, public nuisance under the Licensing Act 2003 has a wide interpretation and it is for the Sub-Committee to determine, based on the evidence, whether they consider these issues to be a public nuisance.
- 8.9 The Guidance states at paragraph 2.20 that conditions relating to public nuisance beyond the vicinity of the premises are not appropriate and the Council's Statement of Licensing Policy supports that view. Conditions that it would be either impracticable or impossible for the licence holder to control would clearly be inappropriate.
- 8.10 That said, if behaviour beyond the premises can be clearly linked to a premises and it is causing a public nuisance, it is wrong to say that the Licensing Act 2003 cannot address this. Whilst conditions may well be inappropriate, if the evidence deems it necessary, times and/or activities under the licence could be restricted or, indeed, the application could be refused.
- 8.11 The magistrates court case of *Koultis v London Borough of Enfield*, 9th September 2011 considered this issue.
- 8.12 In a summary of the case provided by the Institute of Licensing it is reported that District Judge Daber considered an appeal against a decision of the local authority to restrict the hours of musical entertainment of a public house to mitigate the noise from patrons as they left the premises in response to representations from local residents. The appellant relied on the sections of the Guidance that state that "beyond the vicinity of the premises, these are matters for personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right" (para 2.38). It was also suggested that, given that certain residents were not disturbed, this did not amount to public nuisance within the meaning of para 2.33 of the Guidance as approved by Burton J in the *Hope and Glory* case.
- 8.13 The District Judge held that there was ample evidence of public nuisance, and that section 4 of the Act gave the licensing authority a positive duty to deal with it proportionately. In this case, no less interventionist way of dealing with the nuisance had been suggested. He held that not only was the authority not wrong, but that it was in fact right to reduce the hours as it had. The appeal was therefore dismissed.
- 8.14 As this was a decision of the Magistrates Court it would not be binding on other courts, however, it could be considered as persuasive.

- 8.15 As detailed in the Appendix C, an abatement notice has been served on the premises by environmental protection officers. The abatement notice has been appealed by applicant (Mr Dale Mabert).
- 8.16 To be clear the abatement notice is not for consideration at during a hearing as it is a separate matter dealt with by separate legislation outside of the licensing regime.
- 8.17 The matter to be determined is the potential impact the applied for notification will have or is likely to have on the four licensing objectives.
- 8.18 This notification is the fifth application received by NHDC since September 2020. The previous three applications were for late TENs. Environmental protection officers objected to the granting of the late TENs due to the potential for causing a public nuisance.
- 8.19 Late TENs applications do not allow for a hearing to take place due to lack of time and are subsequently counter noticed with no right of appeal to the applicant.
- 8.20 One of the applications was counter noticed due to insufficient time notification provided by the applicant.

## **9. Appendices**

- 9.1 Appendix A Premises licence
- 9.2 Appendix B TEN application form
- 9.3 Appendix C NHDC environmental protection representation

## **10. Contact officer**

- 10.1 Molly Shiells, Licensing Officer  
[molly.shiells@north-herts.gov.uk](mailto:molly.shiells@north-herts.gov.uk); ext. 4233

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**Licensing Act 2003**

**Part A**

**Format of premises licence**

**North Hertfordshire District Council  
Council Offices, Gernon Road, Letchworth Garden City, Hertfordshire, SG6 3JF**

**Original grant date: 30 August 2005  
Current issue date: 12 November 2019**

.....  
Authorised signatory

**Premises licence number: 3333**

**Part 1 – premises details**

**The Engine Public House  
The Engine, 3, Station Road, Baldock, Hertfordshire, SG7 5BS**

**This licence is granted in perpetuity**

**Licensable activities authorised by the licence**

**Section F: Recorded Music:(Indoors and Outdoors)  
Section E: Live Music:(Indoors and Outdoors)  
Section I: Provision of Late Night Refreshments:(Both Indoor and Outdoor)  
Section J: Sale or Supply of Alcohol**

**The times the licence authorises the carrying out of licensable activities**

**Section F: Recorded Music:(Indoors and Outdoors)**

<b>Day</b>	<b>Start Time</b>	<b>End Time</b>
Monday	n/a	n/a
Tuesday	n/a	n/a
Wednesday	n/a	n/a
Thursday	n/a	n/a
Friday	19:00	01:00
Saturday	19:00	01:00
Sunday	n/a	n/a

These hours are to apply each day of the year with the exception of:

Christmas Eve, Christmas Day, Boxing Day, New Years Eve, New Years Day,(The Friday, Saturday and Sunday) preceding the Spring and August Bank Holiday Mondays, Good Friday, Easter Saturday, Easter Sunday, Easter Monday, Any other Bank Holidays.

On all these days, the permitted hours will be from 11:00hrs to 01:00hrs the following morning.

The applicant shall be entitled to hold twelve (12) events per year that will have extended hours. On all these days, the permitted hours will be from 11:00hrs to 01:00hrs the following morning. On these dates, a written log is to be kept by the licensee of the event held and will be made available to the Licensing Authority at their request.

**Section E: Live Music:(Indoors and Outdoors)**

<b>Day</b>	<b>Start Time</b>	<b>End Time</b>
Monday	n/a	n/a
Tuesday	n/a	n/a
Wednesday	n/a	n/a
Thursday	n/a	n/a
Friday	19:00	01:00
Saturday	19:00	01:00
Sunday	n/a	n/a

These hours are to apply each day of the year with the exception of:

Christmas Eve, Christmas Day, Boxing Day, New Years Eve, New Years Day,(The Friday, Saturday and Sunday) preceding the Spring and August Bank Holiday Mondays, Good Friday, Easter Saturday, Easter Sunday, Easter Monday, Any other Bank Holidays.

On all these days, the permitted hours will be from 11:00hrs to 01:00hrs the following morning.

The applicant shall be entitled to hold twelve (12) events per year that will have extended hours. On all these days, the permitted hours will be from 11:00hrs to 01:00hrs the following morning. On these dates, a written log is to be kept by the licensee of the event held and will be made available to the Licensing Authority at their request.

**Section I: Provision of Late Night Refreshments:(Both Indoor and Outdoor)**

Day	Start Time	End Time
Monday	23:00	00:30
Tuesday	23:00	00:30
Wednesday	23:00	00:30
Thursday	23:00	00:30
Friday	23:00	01:30
Saturday	23:00	01:30
Sunday	23:00	00:30

These hours are to apply each day of the year with the exception:

Christmas Eve, Christmas Day, Boxing Day, New Year's Eve, New Year's Day, (the Friday, Saturday and Sunday) preceding the Spring and August Bank Holiday Mondays, Good Friday, Easter Saturday, Easter Sunday, Easter Monday, Any other Bank Holidays.

On these days, the permitted hours will be 23:00hrs to 02:00hrs.

**Section J: Sale or Supply of Alcohol**

Day	Start Time	End Time
Monday	11:00	midnight
Tuesday	11:00	midnight
Wednesday	11:00	midnight
Thursday	11:00	midnight
Friday	11:00	01:00
Saturday	11:00	01:00
Sunday	12:00	midnight

These hours are to apply each day of the year with the exception:

Christmas Eve, Christmas Day, Boxing Day, New Year's Eve, New Year's Day, (the Friday, Saturday and Sunday) preceding the Spring and August Bank Holiday Mondays, Good Friday, Easter Saturday, Easter Sunday, Easter Monday, Any other Bank Holidays.

On these days, the permitted hours will be 11:00hrs to 01:30hrs.

In the event of the transmission of any live national or international sporting or non-sporting events, the permitted hours will be from thirty (30) minutes before the start of the event (the kick-off, start time, etc.) until thirty (30) minutes after the end of the event (the final whistle, trophy presentation, etc.).

**The opening hours of the premises**

<b>Day</b>	<b>Start Time</b>	<b>End Time</b>
Monday	07:00	00:30
Tuesday	07:00	00:30
Wednesday	07:00	00:30
Thursday	07:00	00:30
Friday	07:00	01:30
Saturday	07:00	01:30
Sunday	07:00	00:30

These hours are to apply each day of the year with the exception:

Christmas Eve, Christmas Day, Boxing Day, New Year's Eve, New Year's Day, (the Friday, Saturday and Sunday) preceding the Spring and August Bank Holiday Mondays, Good Friday, Easter Saturday, Easter Sunday, Easter Monday, Any other Bank Holidays.

On these days, the permitted hours will be 11:00hrs to 02:00hrs.

In the event of the transmission of any live national or international sporting or non-sporting events, the permitted hours will be from thirty (30) minutes before the start of the event (the kick-off, start time, etc.) until thirty (30) minutes after the end of the event (the final whistle, trophy presentation, etc.).

**For consumption on and off the premises**

**Part 2**

Name, (registered) address, telephone number and email of holder of the premises licence

**Greene King Retailing Limited  
Abbot House Westgate Brewery, Bury St Edmunds, Suffolk, IP33 1QW**

Registered number of holder, for example company number, charity number (where applicable)

**5265451**

Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol

**Dale Arron Mabert**

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises the supply of alcohol

**Licence Number: 7042  
Issuing authority: North Hertfordshire District Council**

## **Annex 1 – Mandatory conditions**

No supply of alcohol may be made under this 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.

The admission of children, that is persons under eighteen (18) years of age, to the exhibition of any film shall be restricted in accordance with any recommendation made by the British Board of Film Classification (BBFC) or by the Licensing Authority.

Any one or more individuals at the premises for the purposes of carrying out a security activity (an activity to which paragraph 2(1)(a) of Schedule 2 of the Private Security Industry Act 2001 applies and which is licensable conduct for the purposes of that Act) must:

- (a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or
- (b) be entitled to carry out that activity by virtue of section 4 of that Act.

Responsible person means the holder of the premises licence, the designated premises supervisor, or any other person over the age of eighteen (18) years who has been authorised to sell alcohol at the licensed premises.

The responsible person must ensure that staff on relevant premises do not carry out, arrange, or participate in any irresponsible promotions in relation to the premises. In this condition, 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:

- (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 or for a fixed or discounted price to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective
- (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 twenty-four (24) hours or less in a manner which carries a significant risk of undermining a licensing objective
- (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than when that other person is unable to drink without assistance by reason of a disability).

The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

The premises licence holder or club premises certificate holder must ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

The designated premises supervisor in relation to the premises licence must ensure that the

supply of alcohol at the premises is carried on in accordance with the age verification policy. The policy must require individuals who appear to the responsible person to be under eighteen (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 either:

- (i) a holographic mark; or
- (ii) an ultraviolet feature.

The responsible person must ensure that:

(a) where any of the following alcoholic drinks are sold or supplied for consumption on the premises (other than alcohol drinks sold or supplied having been made up in advance ready for sale or supply in securely closed containers) it is available to customers in the following measures:

- (i) beer or cider: half pint;
- (ii) gin, rum, vodka or whisky: 25ml or 35ml; and
- (iii) still wine in a glass: 125ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not, in relation to a sale of alcohol, specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

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. In this condition:

(a) 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.

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

(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 enable 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. Where the permitted price would not be a whole number of pence, the permitted price shall be taken to be the price rounded up to the nearest penny. Where the permitted price on a day (the first day) would be different from the permitted price on the next day (the second day) as a result of a change to the rate of duty or value added tax, the permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of fourteen (14) days beginning on the second day.

## **Annex 2 – Conditions consistent with the operating schedule**

The premises licence holder will ensure that all staff receive appropriate training in relation to the licensing objectives, including refresher training as necessary.

The premises licence holder will ensure that a suitable proof of age scheme is in operation at the premises on all evenings where regulated entertainment is provided.

The premises licence holder will ensure that a suitable closed-circuit television (CCTV) system is installed and maintained at the premises.

The premises licence holder will ensure that sufficient Security Industry Authority licensed door supervisors are employed at the premises to promote the crime and disorder objective.

The premises licence holder will ensure that toughened glassware is used throughout the premises and that plastic/polycarbonate receptacles are used in the external areas of the premises.

The premises licence holder will ensure that the external areas of the premises are adequately lit in the absence of sufficient daylight at all times whilst the premises is open to the public. The premises licence holder will ensure that sufficient staff, including Security Industry Authority licensed door supervisors where necessary, are employed at the premises to promote the public safety objective.

The premises licence holder will ensure that, where possible, the traffic relating to staff and patrons arriving at and leaving the premises is managed to prevent a public nuisance.

The premises licence holder will ensure that there are sufficient control measures in place to prevent a public nuisance in relation to litter and noise from ventilation systems.

The premises licence holder will ensure that children under the age of sixteen (16) years are only permitted on the premises between the hours of 11:00hrs and 22:00hrs.

The premises licence holder will ensure that no children under the age of sixteen (16) years are permitted in the bar area(s) during regulated entertainment, save for regulated entertainment specifically targeted at children.

All doors leading to the external area of the premises (as marked on the premises plan) shall be closed after 23:00hrs on any day during live and recorded music constituting regulated entertainment except for ingress, egress or in the case of an emergency.

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

No regulated entertainment is to take place in the external areas of the premises:

- (i) After 21:00hrs, Sunday to Thursday;
- (ii) After 22:00hrs, Friday and Saturday; and
- (iii) After 22:00hrs, Bank Holidays (as listed within this licence).

The garden is to be cleared of all patrons:

- (i) By 23:00hrs, Sunday to Thursday; and
- (ii) By 23:30hrs, Friday and Saturday.



**Annex 4 – Plans**

See attached

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## Temporary Event Notice

Before completing this notice, please read the guidance notes at the end of the notice. If you are completing this notice by hand, please write legibly in block capitals. In all cases, ensure that your answers are inside the boxes and written in black ink or typed. Use additional sheets if necessary. You should keep a copy of the completed notice for your records. You must send at least one copy of this notice to the licensing authority and additional copies must be sent to the chief officer of police and the local authority exercising environmental health functions for the area in which the premises are situated. The licensing authority will give to you written acknowledgement of the receipt of the notice.

I, the proposed premises user, hereby give notice under section 100 of the Licensing Act 2003 of my proposal to carry on a temporary activity at the premises described below.

1. The personal details of premises user (Please read note 1)	
1. Your name	
Title	Mr <input checked="" type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other (please state)
Surname	Mabert
Forenames	Dale Aaron
2. Previous names (Please enter details of any previous names or maiden names, if applicable. Please continue on a separate sheet if necessary)	
Title	Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other (please state)
Surname	
Forenames	
3. Your date of birth	
4. Your place of birth	
5. National Insurance Number	
6. Your current address (We will use this address to correspond with you unless you complete the separate correspondence box below)	
The Engine, 3 station road	
Post town Baldock	Postcode SG75BS
7. Other contact details	
Telephone numbers Daytime	
Evening (optional)	
Mobile (optional)	
Fax number (optional)	
E-Mail address (if available)	
8. Alternative address for correspondence (If you complete the details below, we will use this address to correspond with you)	

Post town	Postcode
9. Alternative contact details (if applicable)	
Telephone numbers: Daytime	
Evening (optional)	
Mobile (optional)	
Fax number (optional)	
E-Mail address (if available)	

<b>2. The premises</b>	
Please give the address of the premises where you intend to carry on the licensable activities or, if it has no address, give a detailed description (including the Ordnance Survey references) (Please read note 2)	
The Engine 3 station road baldock	
Does a premises licence or club premises certificate have effect in relation to the premises (or any part of the premises)? If so, please enter the licence or certificate number below.	
Premises licence number	
Club premises certificate number	
If you intend to use only part of the premises at this address or intend to restrict the area to which this notice applies, please give a description and details below. (Please read note 3)	
We intend to license a terrace above our shelter, this platform can safely hold more than 25 people but due to covid we are only allowing 24 customers up there and one member of staff.  Full Risk assessments have been sent to EHO and building plans are also included which the EHO has already.  The platform is only to have food and drink as a dining area.	
Please describe the nature of the premises below. (Please read note 4)	
The Engine is pub located in the baldock town centre, this property is a family run and family led property targeting families for food and drink	
Please describe the nature of the event below. (Please read note 5)	

THIS IS NOT AN EVENT, The terrace is only to be licensed for Food and drink as a dinning area

3. The licensable activities		
Please state the licensable activities that you intend to carry on at the premises (please tick all licensable activities you intend to carry on). (Please read note 6)		
The sale by retail of alcohol	<input checked="" type="checkbox"/>	
The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club	<input type="checkbox"/>	
The provision of regulated entertainment (Please read note 7)	<input type="checkbox"/>	
The provision of late night refreshment	<input type="checkbox"/>	
Are you giving a late temporary event notice? (Please read note 8)	<input type="checkbox"/>	
Please state the dates on which you intend to use these premises for licensable activities. (Please read note 9)		
26th October 2020 till 31 <sup>st</sup> October 2020		
Please state the times during the event period that you propose to carry on licensable activities (please give times in 24 hour clock). (Please read note 10)		
Monday to Sunday from 12:00 until 21:30		
Please state the maximum number of people at any one time that you intend to allow to be present at the premises during the times when you intend to carry on licensable activities, including any staff, organisers or performers. (Please read note 11)	25	
If the licensable activities will include the sale or supply of alcohol, please state whether these will be for consumption on or off the premises, or both (please tick as appropriate). (Please read note 12)	On the premises only	<input checked="" type="checkbox"/>
	Off the premises only	<input type="checkbox"/>
	Both	<input type="checkbox"/>

Please state if the licensable activities will include the provision of relevant entertainment. If so, please state the times during the event period that you propose to provide relevant entertainment (including, but not limited to lap dancing and pole dancing). (Please see note 13)

This is a dining area only and no events will be happening on the terrace nor will it be used for events

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4. Personal licence holders (Please read note 14)		
Do you currently hold a valid personal licence? (Please tick)	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
If "Yes" please provide the details of your personal licence below.		
Issuing licensing authority	North Herts council	
Licence number	NHPER/7042	
Date of issue		
Any further relevant details		

5. Previous temporary event notices you have given (Please read note 15 and tick the boxes that apply to you)		
Have you previously given a temporary event notice in respect of any premises for events falling in the same calendar year as the event for which you are now giving this temporary event notice?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If answering yes, please state the number of temporary event notices (including the number of late temporary event notices, if any) you have given for events in that same calendar year		
Have you already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

6. Associates and business colleagues (Please read note 16 and tick the boxes that apply to you)		
Has any associate of yours given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If answering yes, please state the total number of temporary event notices (including the number of late temporary event notices, if any) your associate(s) have given for events in the same calendar year.		
Has any associate of yours already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Has any person with whom you are in business carrying on licensable activities given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

If answering yes, please state the total number of temporary event notices (including the number of late temporary event notices, if any) your business colleague(s) have given for events in the same calendar year.		
Has any person with whom you are in business carrying on licensable activities already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

7. Checklist (Please read note 17)	
I have: (Please tick the appropriate boxes, where applicable)	
Sent at least one copy of this notice to the licensing authority for the area in which the premises are situated	<input checked="" type="checkbox"/>
Sent a copy of this notice to the chief officer of police for the area in which the premises are situated	<input checked="" type="checkbox"/>
Sent a copy of this notice to the local authority exercising environmental health functions for the area in which the premises are situated	<input checked="" type="checkbox"/>
If the premises are situated in one or more licensing authority areas, sent at least one copy of this notice to each additional licensing authority	<input checked="" type="checkbox"/>
If the premises are situated in one or more police areas, sent a copy of this notice to each additional chief officer of police	<input checked="" type="checkbox"/>
If the premises are situated in one or more local authority areas, sent a copy of this notice to each additional local authority exercising environmental health functions	<input checked="" type="checkbox"/>
Made or enclosed payment of the fee for the application	<input checked="" type="checkbox"/>
Signed the declaration in Section 9 below	<input checked="" type="checkbox"/>

8. Condition (Please read note 18)
It is a condition of this temporary event notice that where the relevant licensable activities described in Section 3 above include the sale or supply of alcohol that all such supplies are made by or under the authority of the premises user.

9. Declarations (Please read note 19)	
<p>The information contained in this form is correct to the best of my knowledge and belief.</p> <p>I understand that it is an offence:</p> <p>(i) to knowingly or recklessly make a false statement in or in connection with this temporary event notice and that a person is liable on summary conviction for such an offence to a fine of any amount; and</p> <p>(ii) to permit an unauthorised licensable activity to be carried on at any place and that a person is liable on summary conviction for any such offence to a fine of any amount, or to imprisonment for a term not exceeding six months, or to both.</p>	
Signature	<i>DMABERT</i>

Date	2/10/2020
Name of Person signing	Dale mabert

For completion by the licensing authority

10. Acknowledgement (Please read note 20)	
I acknowledge receipt of this temporary event notice.	
Signature	On behalf of the licensing authority
Date	
Name of Officer signing	



## Notes for Guidance

### General

In these notes, a person who gives a temporary event notice is called a “premises user”.

The police and local authority exercising environmental health functions may intervene on the grounds of any of the four licensing objectives (the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm) to prevent the occurrence of an event at which permitted temporary activities are to take place or to agree a modification of the arrangements for such an event. However, the licensing authority will intervene of its own volition in the cases described below.

First, it will issue a counter notice if there is an objection to a late temporary event notice (see note 8 below).

Secondly, it may issue a notice in relation to its decision to impose conditions on a temporary event notice (see note 2 below).

Thirdly, it will issue a counter notice if the first, second, third and fifth of the limits set out below would be exceeded. If any of the limits below are breached or if a counter notice has been issued, any licensable activities taking place would be unauthorised and the premises user would be liable to prosecution. The limitations apply to:

- the number of times a person may give a temporary event notice (50 times per year for a personal licence holder and 5 times per year for other people);
- the number of times a person may give a late temporary event notice (10 times per year for a personal licence holder and 2 times per year for other people);
- the number of times a temporary event notice may be given in respect of any particular premises (15 times in a calendar year);
- the length of time a temporary event may last for these purposes (168 hours or 7 days);
- the maximum aggregate duration of the periods covered by temporary event notices at any individual premises (21 days per calendar year); and
- the scale of the event in terms of the maximum number of people attending at any one time (a maximum of 499).

For the purposes of determining the overall limits of 50 temporary event notices per personal licence holder (in a calendar year) and of 5 for a non-personal licence holder (in a calendar year), temporary event notices given by an associate or a person who is in business with a premises user (and that business involves carrying on licensable activities) count towards those totals. The limits applying to late temporary event notices are included within the overall limits applying to the total number of temporary event notices. Note 16 below sets out the definition of an “associate”.

When permitted temporary activities take place, a premises user must ensure that either:

- a copy of the temporary event notice is prominently displayed at the premises; or
- the temporary event notice is kept at the premises either in his own custody or in the custody of a person present and working at the premises and whom he has nominated for that purpose.

Where the temporary event notice is in the custody of a nominated person, a notice specifying that fact and the position held by that person must be displayed prominently at the premises.

Where the temporary event notice or a notice specifying the nominated person is not displayed, a constable or an authorised person (for example, a licensing officer, fire officer or environmental health officer) may require the premises user to produce the temporary event notice for examination. Similarly, where the nominated person has the temporary event notice in his custody, a constable or authorised person may require that person to produce it for examination. Failure to produce the temporary event notice without reasonable excuse would be an offence.

It should also be noted that the following, among other things, are offences under the Licensing Act 2003:

- the sale or supply of alcohol to children under 18 years of age (subject to an unlimited fine on conviction);
- allowing the sale of alcohol to children under 18 ( subject to an unlimited fine on conviction);
- knowingly allowing the consumption of alcohol on the premises by a person aged under 18 (subject to an unlimited fine, on conviction );
- allowing disorderly behaviour on the premises (subject to a fine not exceeding level 3 on the standard scale, on conviction);
- the sale of alcohol to a person who is drunk (subject to a fine not exceeding level 3 on the standard scale, on conviction);
- obtaining alcohol for a person who is drunk (subject to a fine not exceeding level 3 on the standard scale, on conviction);
- knowingly allowing a person aged under 18 to make any sale or supply of alcohol unless the sale or supply has been specifically approved by the premises user or any individual aged 18 or over who has been authorised for this purpose by the premises user (subject to a fine not exceeding level 1 on the standard scale, on conviction); and
- knowingly keeping or allowing to be kept on the premises any smuggled goods which have been imported without payment of duty or which have otherwise been unlawfully imported (subject to a fine not exceeding level 3 on the standard scale, on conviction).

In addition, where the premises are to be used primarily or exclusively for the sale or supply of alcohol for consumption on the premises, it is an offence to allow children under 16 to be present when the premises are open for that purpose unless they are accompanied by an adult. In the case of any premises at which sales or supplies of alcohol are taking place at all, it is an offence for a child under 16 to be present there between the hours of midnight and 5am unless accompanied by an adult. In both instances, the penalty on conviction is a fine not exceeding level 3 on the standard scale, currently £1,000.

#### Note 1

A temporary event notice may only be given by an individual and not, for example, by an organisation or club or business. The individual giving the notice is the proposed “premises user”. Within businesses, clubs or organisations, one individual will therefore need to be identified as the proposed premises user.

If you include an e-mail address in section 1(7) or 1(9), the licensing authority may send to this the acknowledgement of receipt of your notice or any notice or counter notice it is required to give under sections 104A, 106A or 107 of the Licensing Act 2003.

#### Note 2

For the purposes of the Licensing Act 2003, “premises” means any place. Premises will therefore not always be a building with a formal address and postcode. Premises can include, for example, public parks, recreation grounds and private land.

If a premises licence or club premises certificate has effect in relation to the premises (or any part of the premises) which you want to use to carry on licensable activities, it is possible that any conditions which apply to the licence or certificate may be imposed on the temporary event notice if certain pre-conditions are met. These pre-conditions are that the police or the local authority exercising environmental health functions object to the notice and the licensing authority decides:

- not to give a counter notice under section 105 of the Licensing Act 2003;
- the conditions apply to the licence or certificate; and
- the imposition of the conditions on the notice would not be inconsistent with the carrying on of the licensable activities under the notice.

#### Note 3

A temporary event notice can be given for part of a building, such as a single room or a plot within a larger area of land. You should provide a clear description of the area in which you propose to carry on licensable activities. This is important as any licensable activities conducted outside the area of the premises protected by the authority of this temporary event notice would be unlawful and could lead to prosecution.

In addition, when holding the proposed event, the premises user would need to be able to restrict the number of people on the premises at any one time when licensable activities are taking place to less than 500. If more than 499 are on the premises when licensable activities are being carried on, the licensable activities would be unlawful and the premises user would be liable to prosecution. The maximum figure of 499 includes, for example, staff, organisers, stewards and performers.

#### Note 4

A description of the nature of the premises assists the chief officer of police and local authority exercising environmental health functions in deciding if any issues relating to the licensing objectives are likely to arise. You should state clearly that the premises to be used are, for example, a public house, a restaurant, an open field, a village hall or a beer tent.

#### Note 5

A description of the nature of the event similarly assists the chief officer of police and local authority exercising environmental health functions in making a decision as to whether or not to make an objection. You should state clearly that the event taking place at the premises would be, for example, a wedding with a pay bar, the supply of beer at a particular farmers’ market, a discotheque, the performance of a string quartet, a folk group or a rock band.

#### Note 6

The licensable activities are:

- the sale by retail of alcohol;
- the supply of alcohol by or on behalf of a club to, or to the order of, a member of a club;
- the provision of regulated entertainment; and
- the provision of late night refreshment.

#### Note 7

Regulated entertainment, subject to specified conditions and exemptions, includes:

- (a) a performance of a play;

- (b) an exhibition of a film;
- (c) an indoor sporting event;
- (d) a boxing or wrestling entertainment;
- (e) a performance of live music;
- (f) any playing of recorded music;
- (g) a performance of dance; and
- (h) entertainment of a similar description to that falling within (e), (f) or (g).

In terms of specific regulated entertainments please note that:

- Plays: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500.
- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500. However, a performance which amounts to adult entertainment remains licensable.
- Films: no licence is required for ‘not-for-profit’ film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
- Indoor sporting events: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
- Boxing or Wrestling Entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000. Combined fighting sports – defined as a contest, exhibition or display which combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.
- Live music: no licence permission is required for:
  - a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
  - a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
  - a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.
  - a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
  - a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.
- Recorded Music: no licence permission is required for:
  - any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
  - any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser

- gets consent for the performance from a person who is responsible for the premises.
- any playing of recorded music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.
- Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
  - any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
  - any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
  - any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
  - any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

If you are uncertain whether or not the activities that you propose are licensable, you should contact your licensing authority for further advice.

#### Note 8

Late notices can be given no later than 5 working days but no earlier than 9 working days before the event in relation to which the notice is given. A late notice given later than 5 working days before the event to which it relates will be returned as void and the activities described in it will not be authorised.

The number of late notices that can be given in any one calendar year is limited to 10 for personal licence holders and 2 for non-personal licence holders. These count towards the total number of temporary event notices (i.e. 50 temporary event notices per year for personal licence holders and 5 temporary event notices for non-personal licence holders).

If there is an objection from either the police or local authority exercising environmental health functions, the event will not go ahead and a counter notice will be issued.

#### Note 9

The maximum period for using premises for licensable activities under the authority of a temporary event notice is 168 hours or seven days.

#### Note 10

You should state here the times during the event period, for example 48 hours, when you intend to carry on licensable activities. For example, you may not intend to carry on licensable activities throughout the entire 48 hour event period, and may intend to sell alcohol between 8.00 hrs and 23.00 hrs on each of the two days.

#### Note 11

No more than 499 may be on the premises for a temporary event at any one time when licensable activities are being carried on. If you intend to have more than 499 attending the event, you should obtain a premises licence for the event. Your licensing authority should be able to advise you. The maximum figure of 499 includes not only the audience, spectators or consumers but also, for example, staff, organisers, stewards and performers who will be present on the premises.

#### Note 12

If you indicate that alcohol will be supplied only for consumption on the premises, you would be required to ensure that no person leaves the premises with alcohol supplied there. If such a supply takes place, the premises user may be liable to prosecution for carrying on an unauthorised licensable activity. Similarly, if the premises user gives notice that only supplies of alcohol for consumption off the premises will take place, he/she must ensure that alcohol supplied is not consumed on the premises. The premises user is free to give notice that he/she intends to carry on both types of supplies. For this purpose, the supply of alcohol includes both of the first two licensable activities listed in note 6 above.

#### Note 13

Relevant entertainment is defined in the Local Government (Miscellaneous Provisions) Act 1982 (“the 1982 Act”) as *any live performance or any live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means)*. Relevant entertainment therefore includes, but is not limited to, lap dancing and pole dancing.

The 1982 Act requires premises which provide relevant entertainment to be licensed under that Act for this purpose. Premises at which there have not been more than eleven occasions on which such entertainment has been provided within a period of 12 months, no such occasion has lasted for more than 24 hours and there has been a period of at least one month between each such occasion are exempt from the requirement to obtain a licence under the 1982 Act. Such premises are likely instead to require an authorisation under the Licensing Act 2003 to be used for such activities as these are a licensable activity (the provision of regulated entertainment — see note 6 above). A temporary event notice may be given for this purpose.

#### Note 14

The holder of a valid personal licence issued under the Licensing Act 2003 may give up to 50 temporary event notices in any calendar year subject to the other limitations in the 2003 Act. A proposed premises user who holds such a licence should give the details requested.

#### Note 15

As stated under Note 14, a personal licence holder (issued under the Licensing Act 2003) may give up to 50 temporary event notices (including 10 late notices) in any calendar year. An individual who does not hold a personal licence may only give 5 temporary event notices (including 2 late notices) in England and Wales in any calendar year. A calendar year is the period between 1st January to 31st December inclusive in any year.

If an event straddles two calendar years, it will count against the limits on temporary event notices (15 for each premises, 21 days for each premises, 50 per personal licence holder and 5 for non-holders) for each year. However, only one notice needs to be given.

For the purposes of determining the overall limits of 50 temporary event notices per personal licence holder (in a calendar year) and of 5 for a non-personal licence holder (in a calendar year), temporary event notices given by an associate or a person who is in business with a premises user (and that business involves carrying on licensable activities) count towards those totals. Note 16 below sets out the definition of an “associate”.

If a temporary event notice has been given for the same premises, by the same premises user, and would have effect within 24 hours before the start of the event period under the current proposal or within 24 hours after the end of that period, the temporary event notice given would be void and any licensable activities carried on under it would therefore be unlicensed.

For the purposes of determining whether or not the required gap of 24 hours is upheld, temporary event notices given by an associate or a person who is in business with a premises user (and that

business involves carrying on licensable activities) count as if they had been given by the premises user. Note 16 below sets out the definition of an “associate”.

#### Note 16

An “associate” of the proposed premises user is:

- a. the spouse or civil partner of that person;
- b. a child, parent, grandchild, grandparent, brother or sister of that person;
- c. an agent or employee of that person; or
- d. the spouse or civil partner of a person within (b) or (c).

For these purposes, a person living with another as that person’s husband or wife is to be treated as that person’s spouse.

#### Note 17

It is a requirement that you send at least one copy of this notice to the licensing authority at least ten working days (or five working days for a late notice) before the commencement of the proposed licensable activities. The authority will give you written acknowledgement of the receipt of the notice. This will be important proof that you gave the notice and when you gave it for the purposes of the Act. Some premises may be situated in two licensing authority areas, for example, where a building or field straddles the local authority boundary. Where this is the case, at least one copy of the notice must be sent to each of the licensing authorities identified, together with the appropriate fee in each case. In such circumstances, you will receive acknowledgements from all the relevant licensing authorities.

One copy must be sent to each of the chief officer of police and the local authority exercising environmental health functions for the area in which the premises is situated at least ten working days for a standard notice (or five working days for a late notice) before the commencement of the proposed licensable activities. Where the premises are situated in two police areas or environmental health areas, a further copy will need to be sent to the further police force and local authority exercising environmental health functions.

#### Note 18

Under the Licensing Act 2003, all temporary event notices are given subject to a mandatory condition requiring that where the licensable activities involve the supply of alcohol, all such supplies must be made by or under the authority of the named premises user. If there is a breach of this condition, the premises user and the individual making the supply in question would be liable to prosecution. For this purpose, the supply of alcohol includes both of the first two licensable activities listed in note 6 above.

#### Note 19

It is an offence knowingly or recklessly to make a false statement in, or in connection with, a temporary event notice. (A person is to be treated as making a false statement if he produces, furnishes, signs or otherwise makes use of a document that contains a false statement.) To do so could result in prosecution and an unlimited fine.

#### Note 20

You should not complete section 10 of the notice, which is for use by the licensing authority. It may complete this section as one means of giving you written acknowledgement of its receipt of the notice.

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File ref: **The Engine, 3 Station Road, Baldock**

Subject: TEN application for 26/10/2020 – 30/10/2020

**Introduction:**

- I am recommending refusal of this application under the licensing objective 'Prevention of Public Nuisance'.
- The application is for use of an exterior platform at first floor height for dining.
- The Council has received over 20 complaints of noise on 18 dates between December 2019 and October 2020 from 11 different sources.
- A Noise Abatement Notice under Section 80 of the Environmental Protection Act 1990 was served on The Engine regarding noise from the garden of the premises on 12 August 2020. Service of the notice has not stopped complaints; which have been received in late August, September and October.
- There are a large number of residential properties located close to the premise which will be disturbed by noise from the event.

**Areas of concern:**

1. Noise disturbance:
  - 1.1 The main noise sources which are likely to affect the local residents include:
    - people noise including shouting, laughing, singing: and
    - music noise, which is deregulated (we have been told by the license holder that there will be no music but we do not have confidence that he has control over activities on site).
2. Proximity of residential properties:
  - 2.1 There are over 80 residential premises which are located within 100m of the premises. A plan of the area has been attached for your information.
4. Complaint history:
  - 4.1 The Council has received complaints about the premises since December last year regarding music, people noise and anti-social behaviour including littering and public urination.
  - 4.2 An Abatement Notice was served on the premises in August 2020 in respect of noise nuisance from use of the garden area that is likely to recur.
  - 4.3 The above complaints relate to noise emanating from the garden/yard area, and are all within the time period when the property has been managed by Dale Mabert.
  - 4.4 After many meetings and telephone conversations we do not have faith that the management of The Engine understands the noise issues and will be able to prevent public nuisance.
5. Premises layout, construction and noise mitigation:
  - 5.1 The raised platform does not provide any noise mitigation in respect of any noise generated within it and hence I have concerns for any licensed activities to take place in this location which is only across the road from some residential properties.

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