

# Report to Licensing Sub Committee 1

**13 December 2021**

<b>Subject:</b>	Objection to a Temporary Event Notices for Dylans Drink Shop, 627 Bearwood Road, Smethwick, B66 4BL
<b>Director:</b>	Director – Borough Economy – Alice Davey
<b>Contact Officer:</b>	Balbir Dhugga Licensing Officer <a href="mailto:licensing_team@sandwell.gov.uk">licensing_team@sandwell.gov.uk</a>

## 1. Recommendations

- 1.1 Consider the objection made by West Midlands Police for three Temporary Event Notices given by Krystian Mateuzs Mizinski in respect of Dylans Drink Shop, 627 Bearwood Road, Smethwick, B66 4BL.


## 2. Reasons for Recommendations

- 2.1 To consider an objection made by West Midlands Police under Section 104 of the Licensing Act 2003 in relation to three Temporary Event Notices given by Krystian Mateuzs Mizinski in respect of Dylans Drink Shop, 627 Bearwood Road, Smethwick, B66 4BL.
- 2.2 The Temporary Event Notices were given on the Authority on 29<sup>th</sup> November & 1<sup>st</sup> December 2021.
- 2.3 The Licensing Sub Committee is required to consider this objection made on the grounds of the Prevention of Crime licensing objective and determine whether the events should proceed.



2.4 The Licensing Sub Committee is asked to make a decision on the Temporary Event Notice based on any evidence presented at the hearing taking into account the Guidance issued under Section 182 of the Licensing Act 2003 and the Council's own Statement of Licensing Policy and to give reasons for their decision. The options that can be considered once evidence has been heard are detailed at paragraph 7.

### 3. How does this deliver objectives of the Corporate Plan?

	<p><b>A strong and inclusive economy</b> Investing in people and jobs. Licensed premises provide employment in the Borough and help to support the Borough's economy.</p> <p>It is the Authority's aim to offer a wide choice of high quality and well managed entertainment and cultural venues within a safe, orderly and attractive environment; valued by those who live here, work here and come to visit. We want to ensure that businesses operate responsibly and safely so that our residents live in decent neighbourhoods and have a good quality of life.</p>
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### 4. Context and Key Issues

- 4.1 Under the Licensing Act 2003, a responsible authority or any other person may make representations in respect of the application which must be relevant to one or more of the four licensing objectives, namely:
- The Prevention of Crime and Disorder
  - Public Safety
  - The Prevention of Public Nuisance
  - The Protection of Children from Harm
- 4.2 West Midlands Police have objected to the notice and a copy of their objection is attached at Appendix 2.
- 4.3 The objection notice was served on the authority by the Police on 2<sup>nd</sup> December 2021.



4.4 The grounds for this objection from the Police are that it is believed that alcohol is being sold from the premises without a valid premises licence. Complaints have been received from the public about this. Staff on site have been obstructive to Council officers when they have visited the premises previously and it is believed alcohol is continued to be sold even after staff were informed it was prohibited. There has been reports of illegal substances being consumed inside and outside the premises. This undermines the licensing objective Prevention of Crime and Disorder.

## 5. CURRENT POSITION

5.1 The premises does not have a premises licence. The Premises were previously located at 633 Bearwood Road and moved to 627 Bearwood Road without any application for a new premises licence.

5.2 The Temporary Event Notices form states the following reasons for applying for the TEN's:  
'The operator had a shop with a premises licence at 633 Bearwood Road but has relocated to better premises at No 627. He will be applying for a Premises Licence for the new shop but wishes to operate in the run up to Christmas so will be using TENs for that period. The new shop will operate exactly the same as the old one. There will be at least 2 members of staff on duty until midnight, at which time the shop is physically closed and service is provided through a night hatch in the front door. One member of staff will be on duty during that period.'

5.3 A copy of the three Temporary Event Notice's has been attached at Appendix 1.1 to 1.3 to this report. For the assistance of members, the notices are for the following:

- Notified Licensable activities
  - The sale by retail of alcohol
- Notified hours of licensable activities
  - TEN 1 16-21 Dec 2021 00:00 - 00:00 (24 hrs)
  - TEN 2 23-29 Dec 2021 00:00 - 00:00 (24 hrs)
  - TEN 3 31 Dec 21-06 Jan 2022 00:00 - 00:00 (24 hrs)



5.4 Note another Temporary Event Notice was submitted for the period 7 to 13 December 2021. However, that was a Late TEN and hence is unable to go ahead, when the Police objected. A late TEN cannot be appealed and not therefore within the scope of this hearing.

5.5 The location and proximity to neighbouring premises can be seen on the location map provided which is attached at Appendix 3 to this report.

## 6. Consultation (customers and other stakeholders)

6.1 There is no public consultation for Temporary Event Notices. The notice is only sent to Environment Health and West Midlands Police and only they can object to this Temporary Event Notice.

## 7. Alternative Options

7.1 The options available to the Licensing Sub-Committee having considered all the relevant information are as follows:

7.2 Give the premises user a counter notice if it considers it necessary for the promotion of the licensing objectives to do so.

7.3 If it decides to give a counter notice, this must be accompanied by a notice stating the reasons for its decision with copies of both notices being given to the Police and Environment Health.

7.4 If a counter-notice is not given, the premise user and the Police/ Environment Health must be given a notice of the decision

7.5 Where the authority decides not to give a counter notice it may impose one or more conditions on the standard temporary event notice if

- It considers appropriate for the promotion of the licensing objectives
- the conditions are also imposed on the premises licence that has effect in respect of the same premises and
- the conditions would not be inconsistent with the carrying out of the licensable activities under the temporary event notice.



## 8. Implications

<p><b>Resources:</b></p>	<p>There are no direct strategic resource implications associated with this application.</p> <p>In respect of Temporary Event Notice, we do not for see any issues in respect of sustainability of proposals. The notice relates to privately owned property.</p>
<p><b>Legal and Governance:</b></p>	<p>Members of the Licensing Sub Committee when making their decision on the notice must take into account the four licensing objectives, the Guidance issued under Section 182 of the Licensing Act 2003 and the Council's own Statement of Licensing Policy. The premises user and objectors have the right to appeal the decision made by the Licensing Sub Committee to the Magistrates Court by no later than 5 working days before the date on which the event begins.</p> <p>The Committee are asked to give reasons for their decision wherever possible.</p> <p>Members of the Sub-Committee should not allow themselves to predetermine the application or to be prejudiced in favour or opposed to the applicant and/or the licence holder and shall only determine the application having had an opportunity to consider all relevant facts.</p>
<p><b>Risk:</b></p>	<p>The Police are a statutory consultee for all Licensing Act 2003 Temporary Event Notice. Prevention of Crime and Disorder is one of the four licensing objectives.</p> <p>The Police have made an objection to this notice on crime and disorder issues.</p> <p>Whilst full details of the notice and any objections have been shared with the committee members, only information that is in the public domain has been made available for the reports that have been made public on line, in line with data protection protocols.</p>
<p><b>Equality:</b></p>	<p>The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. The premises user is responsible for complying with all relevant legislation.</p>



## 9. Appendices

- Appendix 1.1 to 1.3 – 3 x Temporary Event Notices (TEN's)
- Appendix 2 – Police Objection
- Appendix 3 – Location Map

## 10. Background Papers

- Sandwell Metropolitan Borough Council Licensing Policy
- Guidance issued under Section 182 of the Licensing Act 2003
- The Licensing Act 2003 (Hearings) Regulations 2005

