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Date: 19 August 2020

SPELTHORNE BOROUGH COUNCIL

DECISION NOTICE

in accordance with s.105 LICENSING ACT 2003

| | |
|--------------------------------|---|
| Licensing Sub-Committee | 19 August 2020 |
| TENS Premises User | Shawn Alexander (Black Steel Limited) |
| Dates of events | 21-22 and 28-31 August 2020 |
| In respect of | 273-275 London Road, Staines-upon-Thames, TW18 4JJ |

SUB-COMMITTEE DECISION WITH REASONS

To serve Counter Notices in respect of both events

1. The purpose of this Licensing Sub-Committee was to consider whether to grant or reject two Temporary Event Notices (TENs) in light of objection notices served by the police and by the local authority exercising environmental health functions.

ATTENDANCE

2. A number of people attended the Sub-Committee hearing to make representations. They were:
 - a. Mr Robert Sutherland (Complete Licensing) on behalf of Black Steel Limited;

- b. Mr Richard Bunch (Complete Licensing) on behalf of Black Steel Limited;
 - c. Mr Wes Pierce (Number 8 Events) on behalf of Black Steel Limited;
 - d. Ms Kayleigh Craine, events manager, on behalf of Black Steel Limited;
 - e. PC Richard Sadler on behalf of Surrey Police, a relevant person;
 - f. LEO Jackie Clark on behalf of Surrey Police;
 - g. ASB Specialist Bev Gosden on behalf of Surrey Police; and
 - h. Ms Tracey Willmott-French, Senior Environmental Health Officer, Spelthorne Borough Council, a relevant person.
3. The Notices are to enable the sale by retail of alcohol on the premises between 12noon-11pm on 21 and 22 August 2020 and to enable the sale by retail of alcohol and the provision of regulated entertainment between 12noon-11pm on 28, 29, 30 and 31 August 2020.
 4. There is currently no premises licence on the premises.

EVIDENCE

5. The Sub-Committee has considered all of the relevant evidence made available to it including:-
 - Applications made by Shawn Alexander for Black Steel Limited;
 - Written and oral submissions by Mr Robert Sutherland, Mr Richard Bunch, Mr Wes Pierce and Ms Kayleigh Craine on behalf of the applicant;
 - Written and verbal objections from Surrey Police; and
 - Written and verbal objections from the Council's Environmental Health Section.
6. The Sub-Committee considered the background to these applications, namely that residents had complained about events taking place on the premises by various different event organisers on 18 July 2020, 25 July 2020 and 1 August 2020. Due to a number of complaints received by residents and attendance at the premises by the Council's officers and police officers, the Council served a statutory noise abatement notice on the landowners and occupiers of the premises on 31 July 2020 and on 1 August 2020 respectively. The Police obtained a partial closure order on 7 August 2020 for the premises, outlining the individuals permitted to access the premises, which includes any person with a ticket to an event on the premises, which event benefits from an extant authorisation under the Licensing Act 2003.

Applicant

7. Mr Sutherland explained to the Sub-Committee that Black Steel Limited had not been involved in the organisation of previous events at the premises however

noted that previous events had taken place at the premises without any nuisance caused. Mr Sutherland also highlighted that no evidence of crime or anti-social behaviour had been recorded during the previous events on the premises.

8. Mr Sutherland understood that a previous event at the premises had caused nuisance leading to the Council's decision to serve a noise abatement notice on the occupier of the land. Mr Sutherland assured the Sub-Committee that the notice would be complied with as Black Steel Limited had an expert team involved in managing and planning their proposed events.
9. The proposed event was described by Mr Sutherland as a family event with a BBQ to promote unity for family and friends. Due to the delay in the first TENS application, the first event on 21 and 22 August will only involve around 250 attendees, including security staff and performers. Mr Sutherland stated that around 100-150 tickets had been sold so far at a price of £30 per ticket per family. Mr Pierce added that the information provided to all staff and attendees would enable a secure environment.
10. Mr Sutherland explained that 14 SIA security guards would be hired at both events to ensure customer security and safety and to prevent anti-social behaviour and disorder. Mr Sutherland made reference to the report provided by Black Steel Limited outlining measures to tackle noise nuisance and anti-social behaviour. Ms Craine confirmed that adequate lighting would be installed at the premises and all staff would be trained to ensure covid-19 guidelines and licensing objectives are met.
11. Mr Sutherland referred to a report provided by sound expert, Mr Richard Vivian, describing the proposed sound system catered to 250 attendees. Mr Vivian's report describes the premises area and provides an assessment and relevant calculations to assist in preventing noise nuisance from occurring. Mr Sutherland explained that Mr Vivian will attend the premises to train all staff on noise nuisance prevention. The music played at the premises will be incidental as attendees will be occupied with fairground rides and other activities. The location of the music source will be at the rear of the premises, focused on an area where attendees are gathered. Mr Sutherland explained that the sound system is small and the anticipated music is minimal and should not be audible from the site. The music will be monitored and recorded regularly by staff. Ms Craine added that the music played will consist of a mixed genre of commercial music and the volume would be turned down by 10:30pm.
12. Mr Sutherland clarified that a wind down at the end of the event would take place at around 10:30pm in order to assist with the dispersal of attendees in an orderly fashion. This process would be gradual, considering most people would have

already left the premises earlier and allow for a staggered exit. Security staff will assist with the wind down to prevent any anti-social behaviour taking place.

13. Mr Sutherland stated that there is enough space on the site to allow free parking to all attendees. Plastic will be used instead of glass at the premises and there will be sufficient toilet facilities for everyone on site.
14. If invited to attend a Safety Advisory Group meeting, Mr Sutherland stated that Black Steel Limited would be more than happy to attend and discuss safety measures at their events. If the TENS are granted, Mr Sutherland would like to openly communicate with residents in the area, providing their contact details in case of any complaints and communicate with the relevant authorities to provide sufficient risk assessments.

Police

15. PC Richard Sadler explained that the Police had genuine concerns regarding the dispersal of attendees from the event onto the dual carriageway, causing a build-up of traffic and obstruction of the highway.
16. PC Sadler referred to previous complaints by residents who had suffered as a result of three unlicensed events taking place at the premises causing disturbance and noise. Such complaints led to the police obtaining a partial closure order for the premises. PC Sadler was concerned by the lack of measures provided by Black Steel Limited to alleviate any concerns raised previously by residents.
17. PC Sadler explained that the police do not want to stop such events from taking place in the borough, however must take into account public safety and concerns of the community. PC Sadler did not accept that Black Steel Limited would be able to tackle issues arising in relation to crime and disorder, public safety and public nuisance at the premises if the TENs were granted.

Environmental Health representations

18. Ms Tracey Willmott-French, a Senior Environmental Health Officer, raised concerns regarding the rush of documentation received by Black Steel Limited in a short timeframe. Ms Willmott-French noted that the documentation provided was inadequate and did not provide a sufficient outline of management of the event, risk assessment and measures to prevent the nuisance. The Council had not received any plan of the area describing the location of bars, toilets, fairground rides, car parks and other amenities. The Council had also not received any outline of how social distancing will take place.

19. Ms Willmott-French added that Black Steel Limited had not yet taken steps to communicate with the residents nor the police even though the event was to take place within a short period of time. Ms Willmott-French also pointed out that no training had yet been given to staff in relation to noise abatement and covid-19 guidelines.
20. Ms Willmott-French stated that approval of the TENs for the proposed events would cause further issues to the residents' living near the premises who have already suffered as a result of 3 previous unlicensed events which took place at the premises.

Findings

The Sub-Committee considered the licensing objectives in turn:

Prevention of Crime and Disorder

21. The Sub-Committee gave weight to Police concerns regarding the potential for crime and disorder, in light of previous incidents of disorder complained of. The Sub-Committee noted that there had been clear incidents of disorder at the previous events and despite the crime and disorder policy proposed by the Applicant, they still had concerns that those steps would not address potential issues.

Public Safety

22. The Sub-Committee were persuaded by the objections of the Police. The Police expressed concerns in the ability of the Applicant to control the premises particularly in respect of egress from the premises.
23. The Sub-Committee gave weight to the objection of Environmental Health, relating to a lack of evidence regarding risk assessments, concerns over people leaving the premises and managing people attending the event.
24. The Sub-Committee also noted concerns raised by the Police and Environmental Health regarding compliance with Coronavirus regulations and guidance. However, the Sub-Committee were mindful of paragraph 2.7 of the revised guidance issued under section 182 of the Licensing Act 2003, regarding public health. Although, public health is separate to public safety under the statutory guidance, the Sub-Committee considered that the lack of thorough risk assessments and details of how the Applicant would comply with Coronavirus requirements, raised doubts over the Applicant's ability in organising and consequently managing the events safely more generally.

25. These doubts were compounded by the fact that the Applicant had not liaised with emergency services and partners and would only commit to doing so if the TENS were granted. The Sub-Committee were of the view that to promote public safety, the Applicant should have communicated with such bodies during the planning of the events, as there was no evidence submitted to show that the site would be safe for such events.
26. The Sub-Committee were also concerned regarding the lack of adequate evacuation points in the event of a fire, particularly in the event of attendees being directed for 50m along the pavement next to a dual carriageway at night. The Sub-Committee also noted the Police's comments in relation to a structure on the premises and whether it was safe. The Sub-Committee were of the view that had discussions with relevant emergency bodies taken place, the Applicant may have been able to reassure the Sub-Committee of this.

Prevention of Public Nuisance

27. The Sub-Committee gave weight to the objection of Environmental Health. The officer expressed concerns regarding the ability of the Applicant to suitably train staff to prevent occurrences of noise nuisance.
28. The Sub-Committee had regard for paragraph 2.15 of the revised guidance issued under section 182 of the Licensing Act 2003. The Sub-Committee lacked confidence that staff would be given sufficient training in the time available and in the ability of the Applicant to suitably train staff to prevent occurrences of noise nuisance. The Sub-Committee was not convinced the Applicant had an acceptable grasp of what would be a noise nuisance to residents.
29. Overall, the Sub-Committee lacked confidence that the Applicant would be able to deliver on the assurances made to Police and Environmental Health in the limited time available.
30. The Sub-Committee was concerned that the licensing objectives of the prevention of crime and disorder, public safety and prevention of public nuisance would be undermined if the TENS events were to proceed. The Sub-Committee was aware that its decision should be appropriate and proportionate to the promotion of the licensing objectives.

Decision

31. The Sub-Committee has given weight to the objections of Surrey Police and to Environmental Health and is persuaded that if the events for which notices have been given went ahead, that the licensing objectives in relation to the prevention

of crime and disorder, public safety and prevention of public nuisance would be undermined.

32. The Sub-Committee has decided to serve counter notices in respect of both the TENS applications for events on 21 to 22 August 2020 and 28 to 31 August 2020.
33. The counter notices shall be served by the Council's Senior Environmental Health Officer on behalf of the Sub-Committee.

Cllr. R.W. Sider BEM (Chairman)

Cllr. I.J. Beardsmore

Cllr. N.J. Gething

Date of Decision: 19 August 2020

Date of Issue: 20 August 2020

RIGHT TO APPEAL

34. You have a right to appeal against this decision, which must be made to a Magistrates court within 21 days of receipt of this decision notice but no later than 5 working days before the day upon which the event was due to begin. The Magistrates Court for the administrative area of Surrey is Guildford Magistrates Court.