

REPORT TO LICENSING PANEL SUB COMMITTEE

CONSIDERATION OF AN OBJECTION TO A TEMPORARY EVENT NOTICE UNDER THE LICENSING ACT 2003

LICENSING PANEL SUB COMMITTEE: Cllr Brar, Cllr Gosling, Cllr Knowles.

OFFICER REPORTING: Craig Hawkings

1) The Application – (Appendix A)

Applicant: Simon James Newhouse

Premises: Fego Caffè, 1 The Hermitage, High Street, Ascot, SL5 7HD.

Ward: Ascot and Sunninghill

A map of the area surrounding the premises is at **(Appendix B)**.

The application is to: Submission of a Temporary Event Notice

A summary of the notice is as follows;

The notice is for the following licensable activities:

- | | |
|--|---------------|
| • The sale by retail of alcohol | 08:00 – 23:00 |
| • Provision of regulated entertainment | 08:00 – 23:00 |

Event Date: 18 – 22 June 2024

2) Relevant Representations Received

Where, as here, relevant representations have been made, the licensing authority must hold a hearing to consider them, unless agreed by the parties. The Licensing and Public Space Protection Order Sub-Committee can take steps as are appropriate for the promotion of the Licensing Objectives as relevant.

To be “relevant”, the representation has to relate to the likely effect to allow the event to proceed, on the promotion of at least one of the four licensing objectives which are set out in the Licensing Act 2003.

The four licensing objectives are;

- The prevention of crime and disorder
- Public safety

- The prevention of public nuisance; and
- The protection of children from harm

In this case the representations received from the responsible authorities are as follows;

- | | |
|-----------------------------|-----------|
| a. Environmental Protection | Objection |
| b. Thames Valley Police | None |

Copy of the representation is at **(Appendix C)**

3) Background

3.1 The TEN was received electronically on 28 March 2024 for an event to be held on 18-22 June 2024 . It was automatically electronically served by the Licensing Authority at the same time on the Police and Environmental Health.

3.2 The event is described as: Ascot week in the application form. The licensable activity stated on the form is for the sale by retail of alcohol for on premises only. The notice giver has advised that the retail sale of alcohol and the provision of regulated entertainment that will take place between 08.00 and 23.00. The maximum number of people at any one time they intend to allow to be present at the premises during the times they intend to carry on licensable activities is 180 including staff and customers.

3.3 The Premises does have a Premises Licence PL060106 that covers the inside of the premises. The Premise licence has a condition, Condition 16 There is no music or entertainment of any kind in the outside area.

4) Temporary Event Notices

4.1 The system of permitted temporary activities is a light touch process, and as such, the carrying on of licensable activities does not have to be authorised by the licensing authority on an application. Instead, a person wishing to hold an event at which such activities are proposed to be carried on (the “premises user”) gives notice of the event (a “temporary event notice” or “TEN”).

4.2 An individual (known as the “premises user”) may give notice of a proposal to use premises for a temporary event, engaging in one or more licensable activities for a period of no more than 168 consecutive hours. The Licensing Sub-Committee is required to consider any objection notice received and must give the premises user a counter-notice under section 105 of the Licensing Act 2003 if it considers it appropriate

for the promotion of a licensing objective to do so. The temporary event may not proceed if a counter-notice has been issued.

4.3 The TEN must be given to the licensing authority in the form prescribed in regulations made under the 2003 Act. Unless it is sent electronically, it must be sent to the relevant licensing authority, to the police and local authority exercising environmental health functions at least ten working days before the event (although a premises user may give a limited number of TENs to the licensing authority less than 10 days before the event to which they relate).

4.4 The police or local authority exercising environmental health functions may intervene to prevent such an event taking place or agree a modification of the proposed arrangements, and their intervention may in some cases result in the licensing authority imposing conditions on a temporary event notice. When giving a temporary event notice, consideration should be given to the four licensing objectives. The licensing authority only otherwise intervenes if the statutory permitted limits on temporary event notices would be exceeded.

4.5 TENs are served under section 100 of the Licensing Act 2003.

5) Objections from 'relevant persons'

5.1 Objections have been received from 'relevant persons,' Environmental Protection, who believe the application undermines the licensing objectives.

5.2 The TEN was objected to by Environmental Protection on 29 March 2024.

The Sub-Committee must have regard to the Council's Statement of Licensing Policy 2021- 2026.

6) Police and Environmental Health intervention

6.1 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.

6.2 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 Revised Guidance issued under section 182 of the Licensing Act 2003 I 53 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.

6.3 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 (or appeals) 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.

6.4 Such cases might arise because of concerns about the scale, location, timing of the event or concerns about public nuisance – even where the statutory limits on numbers are being observed. The premises user who signs the form is legally responsible for ensuring that the numbers present do not exceed the permitted limit at any one time. In cases where there is reason to doubt that the numbers will remain within the permitted limit the premises user should make clear what the nature of the event(s) is and how they will ensure that the permitted persons limit will not be exceeded. For example, where notices are being given for TENs simultaneously on adjacent plots of land it may be appropriate for door staff to be employed with counters. In each case it is important that licensing authorities and relevant persons can consider whether they believe that the premises user intends to exceed the 499 person limit or will be unable to control or know whether the limit will be exceeded. Where the planned activities are likely to breach the statutory limits or undermine the licensing objectives, it is likely to be appropriate for the police or EHA to raise objections.

7) Hearings

7.1 In determining the notice with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:

- the steps that are appropriate to promote the licensing objectives
- the representations (including supporting information) presented by all the parties
- this Guidance
- its own statement of licensing policy

8) Conclusion / Summary

The Licensing Panel Sub Committee is obliged to determine this application with a view to promoting the four licensing objectives which are:

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

In making its decision, the Sub Committee is also obliged to have regard to national guidance and the Council's own Licensing Policy. The Committee must have regard to all of the representations made and the evidence that it hears.

The Sub-Committee must, having had regard to the objection, and in order to promote any of the four licensing objectives, the Sub-Committee may in respect of the event to be held on 18-22 June from 08.00-23.00.

- Serve a counter notice, or
- Not serve a counter notice.

In making their decision the Sub-Committee is reminded that they have a duty to behave impartially and that their decision must be based on the evidence that has been presented to them.

The Sub-Committee are asked to determine the Temporary Event Notice.

Financial implications: None

Environmental/Sustainability Implications: Any authorisation under the Licensing Act 2003 may give rise to environmental implications both positive and negative depending upon the application and any measures proposed to take control adverse environmental factors.

Legal implications: As outlined in the report.

Equality Implications: None.

Risk Implications: None.

Community Safety Implications: As outlined in the report.

Background papers:

Licensing Act 2003

Licensing Act 2003 Section 182 Statutory Guidance

Royal Borough of Windsor and Maidenhead Council Licensing Policy

Enclosures/Appendices:

Appendix A – Temporary Event Notice

Appendix B – Map of the area

Appendix C – Environmental Protection Objection.

Contact details: Craig Hawkings - Licensing Team Leader

Craig.Hawkings@RBWM.gov.uk

Mobile: 07833047887

APPENDIX A

From: noreply@rbwm.gov.uk <noreply@rbwm.gov.uk>
Sent: Thursday, March 28, 2024 12:34 AM
To: Licensing <Licensing@RBWM.gov.uk>; Environmental Protection <Environmental.Protection@RBWM.gov.uk>; licensing@thamesvalley.police.uk
Subject: New Temporary Event Form case created Case 24200-470412

CAUTION: This email originated from outside the council. Do not click any links or open attachments in this email unless you recognise the sender and are sure that the content is safe.

A new case has been created - Case 24200-470412

Subject: Temporary Event form - Environmental services

Brief enquiry details:

Temporary Event Form

Access the case <https://my.rbwm.gov.uk/case-24200-470412>

Submitted details:

Customer id: Anonymous

Channel: website

Call id: 0

Title: Mr

First name: [REDACTED]

Last name: [REDACTED]

Ward: E05012494

Parish: E04001223

Uprn: 010012318727

Email: [REDACTED]

Payment indicator: SUCCESS

Fund code: 54

I confirm that i have read the guidance notes: Yes

Your date of birth: [REDACTED]

Your place of birth: [REDACTED]

National insurance number: [REDACTED]

Would you like correspondence sent to this address: Yes

Property address: Fego Caffe, 1 The Hermitage, High Street, Ascot, UK

Name of licensed premises if applicable: Fego Caffe Ascot Ltd

If address was not found please enter it here: Fego Caffe, 1 The Hermitage, High Street, Ascot, SL5 7HD UK

Does a premises licence or club premises: Yes

Premises licence certificate number: PL060106

Please describe the nature of the premises below please read note 4: Licenced Restaurant

Please describe the nature of the event below please read note 5: Ascot Week

Please state the licensable activities that you intend to carry on at the premises please read note 6: The sale by retail of alcohol

Are you giving a late temporary event notice please read note 8: No

Please state the start date on which you intend to use these premises for licensable activities: 18/06/24

Please state the end date: 2024-06-22

Please state the maximum number of people at anyone time: 180

F the licensable activities will include the supply: Both

Please state if the licensable activities will include: Not applicable

Please state from what time you propose to carry on licensable activities please read note 10: 08:00:00

Please state till what time you propose to carry on licensable activities please read note 10: 23:00:00

Do you currently hold a valid personal license: Yes

Issuing licencing authority: Royal Borough of Windsor and Maidenhead

Licence number: [REDACTED]

Date of issue: 2022-03-29

Date of expiry: 2022-03-29

Any further relevant details: There is no Date of issue found on the personal Licence

Have you previously given a temporary event notice: No

Have you already given a temporary event notice : No

Has any associate of yours already given a temporary event: No

Has any person with whom you are in business carrying: No

Please state the total number of temporary event notices:

Has any person with whom you are in business: No

Declarations please read note 19: Yes

Date submitted: 2024-03-28

Name of person completing this form: Jyoti Harsh

Amount to pay: 21

Please state the number of temporary event notices:

Has any associate of yours already given: No

Has any person with whom you: No

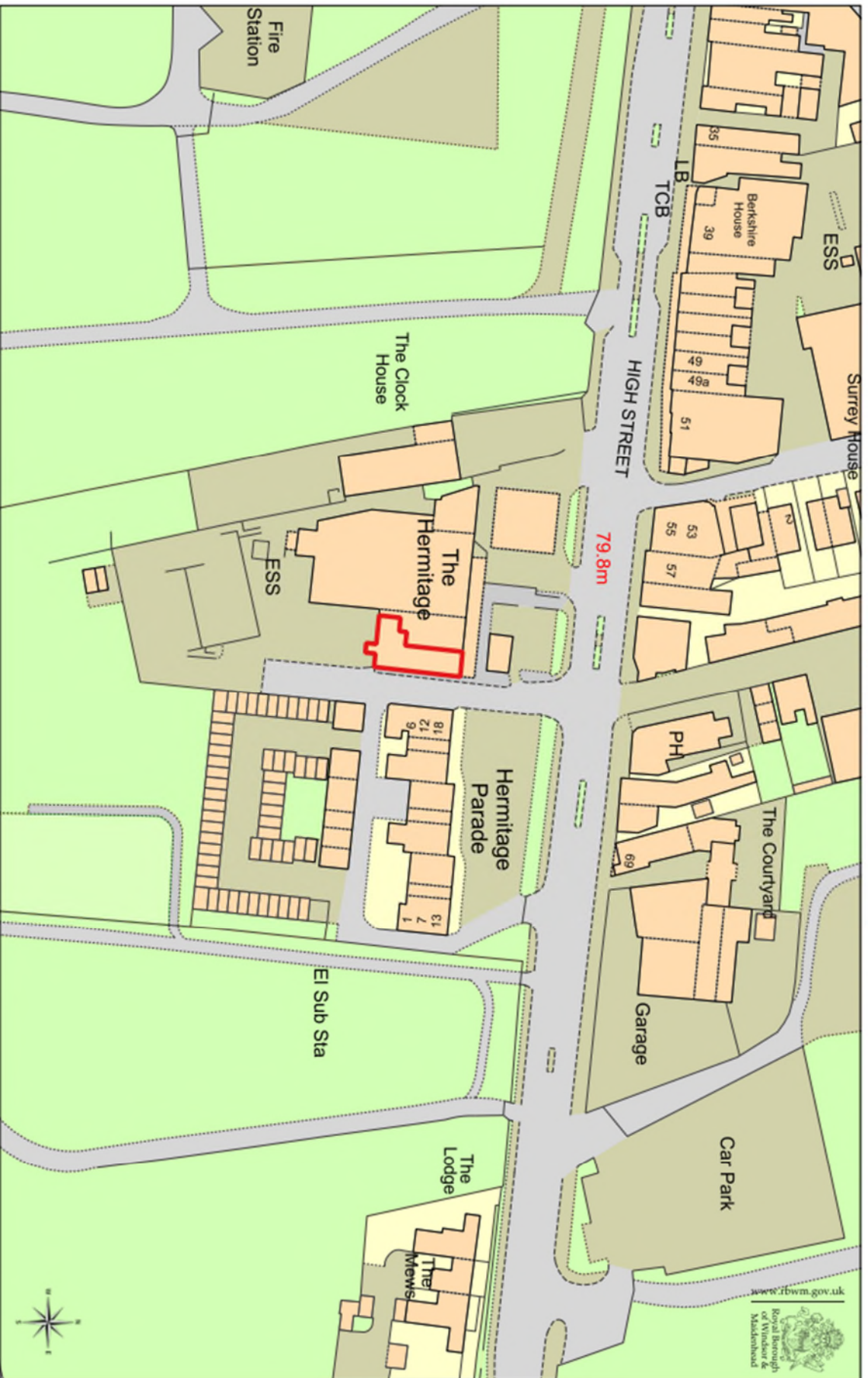
Business event notices: Not Known

Address: Fego Caffè 1 The Hermitage High Street Ascot SL5 7HD

Payment reference: 036620

APPENDIX B

Fego Cafe, 1 The Hermitage, High Street, Ascot, SL5 7HD





Search Google Maps



Ascot, England

Google Street View

May 2023

See more dates



Google

APPENDIX C

The Environmental Protection team object to this TEN under the grounds of the Prevention of Public Nuisance.

The premises are surrounded by residential premises (mainly in flats above the commercial units). We historically have numerous complaints, particularly during Ascot week, about loud music. Last year, Environmental Protection Officers visited the High Street and were of the opinion that statutory nuisance was likely to be occurring and affecting the enjoyment of local residents' properties. It is very unlikely that we will be happy to accept a similar application in Ascot.

We are very happy to attend a hearing if it is necessary.

Best wishes

www.rbwm.gov.uk



Carl Griffin

Environmental Protection Team Leader
Housing, Environmental Health & Trading Standards
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