

## AGENDA SUPPLEMENT

### Licensing/Gambling Hearing

**To:** Councillors Cuthbertson, Galvin and Looker

**Date:** Monday, 19 December 2022

**Time:** 2.00 pm

**Venue:** Remote Meeting

The Agenda for the above meeting was published on **15 December 2022**. The attached additional documents are now available for the following agenda item:

5. **The Determination of an Application** (Pages 1 - 10)  
**submitted by Andrew Robert Sparks for a Temporary Event Notice under Section 100 of the Licensing Act 2003 (as amended) in respect of The Priory, 103 Micklegate, York YO1 6LB (CYC-020329)**

Additional documents submitted by North Yorkshire Police.

This agenda supplement was published on **16 December 2022**.

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**Licensing Hearing 19 December 2022**

**The Priory, 103 Micklegate, York**

**Additional documents submitted by North Yorkshire Police**

1. Section 182 guidance – TEN extract
2. Witness statement from PC Churchward
3. Email exchange from PS Booth to Freemans solicitor to advise the Premise Licence Holder of the matter.

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## **Police and environmental health intervention**

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.

7.35 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.

7.36 However, in most cases, where for example, alcohol is supplied away from licensed premises at a temporary bar under the control of a personal licence holder, (such as at weddings with a cash bar or small social or sporting events) this should not usually give rise to the use of these powers.

### **Modification**

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.

### **Applying conditions to a 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.



**WITNESS STATEMENT**

**Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B**

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Statement of: Gemma CHURCHWARD

Age if under 18: Over 18 (if over 18 insert 'over 18')

Occupation: Police Officer

This statement (consisting of 1 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

Signature: GC (witness)

Date: 14/12/2022

I am PC1160 Gemma CHURCHWARD of North Yorkshire Police currently stationed at Fulford road Police Station, York and I perform the role of Licensing Officer.

On Saturday 10<sup>th</sup> December 2022 I was on duty in company with PC1520 BOLLAND in plain clothes. At 17:40 hours we attended THE PRIORY, MICKLEGATE to serve a TEN objection letter to the Designated Premises Supervisor, Andrew SPARKS.

On attending we located SPARKS serving customers at the bar. I witnessed PC BOLLAND speaking to SPARKS where I observed her serving the TEN objection letter to SPARKS. I heard SPARKS confirm he had received an email in relation to the TEN objection from Sgt Jackie BOOTH. SPARKS asked if he had to attend the hearing and PC BOLLAND informed him he did. SPARKS did not reply and walked away.

I made Sgt BOOTH aware that we had served the TEN objection letter by email at 20:56 hours the same day.

Signature: Gemma CHURCHWARD

Signature witnessed by: n/a

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**From:** Booth, Jackie  
**Sent:** 14 December 2022 11:51  
**To:** [REDACTED]  
**Subject:** FW: Ten Objection to Priory

Good Morning [REDACTED],

Thank you for your time on the phone this morning and apologies this was not received yesterday, my error in the email address.

I have confirmed that the hearing for this matter will now be heard on Monday 19<sup>th</sup> December 2022 at 2pm.

I appreciate you have advised that Freemans are not instructed to act in this matter.

I would be grateful if you could forward my email to the Premise Licence Holder to ask if he could contact me regarding the matter.

My experience at hearings with York Licensing Authority is that they will want to ensure that as a Responsible Authority I have liaised with the Premise Licence holder to make them aware of the matter.

If you could please acknowledge receipt.

Kind Regards

Jackie

PS133 Booth  
Force Licensing Manager  
Partnership Hub  
Tel 101 Ext 30133  
Mobile: 07710977979  
Email:- [Jacqueline.booth@northyorkshire.police.uk](mailto:Jacqueline.booth@northyorkshire.police.uk)

**Please note my working days are Mon-Thurs 0700x1700**

***Committed to the Code of Ethics***

**From:** Freemans Solicitors <[REDACTED]>  
**Sent:** 14 December 2022 12:11  
**To:** Booth, Jackie <Jacqueline.Booth@northyorkshire.police.uk>  
**Subject:** Ten Objection to Priory

Hi Jackie

Thank you for your email which I have forwarded to our clients, Milton Portfolio Op Co 3 Limited.

Kind regards.



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