

Executive

19 March 2020

Report of the Director of Children, Education and Communities
Portfolio of the Executive Member for Culture, Leisure and Communities

Protecting Live Music Venues & Nightclubs

Summary

1. This report responds to a motion passed at Council on 31 October 2019 calling on the Executive to take a number of actions in respect of live music venues in the city.

Recommendations

2. The Executive is asked to agree to:
 - Recognise the importance of York's live music venues and nightclubs as an integral part of the city's cultural offer
 - Endorse the work of the York Music Venues Network and agree that the Council be a member of the network through the Executive Member for Culture, Leisure and Communities
 - Agree the actions set out in paragraphs 6 to 17

Background

3. The motion agreed at Council reads as follows. Council notes:
 - that culture is in the eye of the beholder and can mean different things to different people or groups;
 - that offering a broad and balanced mix of culture, available to all York residents, is a crucial part of creating "a city that works for all";
 - that a musical performance can take many forms and the lines between musician, DJ, artist and performer are becoming increasingly blurred;
 - that the recently developed Cultural Strategy makes little reference to the cultural significance of live music venues and nightclubs;

- that several of York's high-profile music venues, Working Men's Clubs and nightclubs have closed in recent years, with several others under threat.

4. Council believes:

- that there is an inherent value in bringing people together and sharing experiences;
- that the enjoyment of music and rhythm – live or recorded – crosses all social, cultural and economic boundaries;
- that pre-existing music venues should be supported and protected, particularly where the changing nature of the city centre, with increasing residential development, brings them into conflict with new neighbours;
- that nightclubs and performance venues can vary significantly, but that any problems – whatever their nature - should not preclude a venue from delivering greater cultural value through a different incarnation in the future;
- that a thriving, vibrant, diverse and responsibly managed early-evening, evening and night-time offer is a crucial part of the city's economy.

5. Council resolves to call on Executive:

- to support the establishment of a York Music Venues Network, building on the existing work of the national charity Music Venues Trust at a local level;
- to work closely with the York Music Venues Network to assist in supporting and developing this crucial part of the city's night-time economy;
- to include the York Music Venues Network in all future discussions relating to the city's cultural offer;
- to include the York Music Venues Network as statutory consultees on all future developments in the city;
- to proactively work with 'problem venues' to ensure they are adding value to the city, giving them every chance to develop and change before the cultural potential of the space they occupy is lost;
- to endorse recognition of nightclubs and other 'non-traditional' performance spaces alongside live music venues as "Cultural Spaces" under Local Plan Policy D3;

- to endorse routinely applying relevant Planning Conditions, in line with the “Agent of Change” policies reflected in Paragraph 182 of the 2019 NPPF, to all development surrounding “Cultural Venues” as recognised under Policy D3;
- to lobby the Government for legislative change to ensure music venues are eligible for business rate relief in the future.

Issues

6. Issues identified in the council motion were as follows:

a) **To support the establishment of a York Music Venues Network, building on the existing work of the national charity Music Venues Trust at a local level:**

7. The York Music Venues Network (the Network) has now been established. At its recent meetings it discussed: Constituting the group, its relationship with the Music Venue Trust; potential funding sources; current venue related proposals and developments in the city, issues and challenges; venue listing ideas; disability access in venues; business rates.

8. The Executive Member for Culture, Leisure and Communities will formally represent the Council on this group (other elected members may also attend) and will ensure that issues discussed are fed into the Council for action / a response as appropriate.

b) **To work closely with the York Music Venues Network to assist in supporting and developing this crucial part of the city’s night-time economy:**

9. An initial meeting has been held between officers of the Network and the Executive Member of Culture, Leisure and Communities to explore areas of collaboration. Key areas identified were:

- The potential to promote a positive narrative around the city’s venues:
 - Promoting positive messages about our music venues in Council communications
 - Getting behind Independent Venue Week to showcase the vibrancy and diversity of our venues
- Raising awareness of events and activities:
 - Working with Make It York to consider how to investigate and support better advertising of events as well as more comprehensive event listings

- Enabling our music venues to join the *YorkCard* scheme, raising awareness and incentivising York residents to make more use of them
- Ensuring that the Network is involved in discussion about the development of the cultural strategy:
 - Enabling the Network to join the Cultural Leaders Group
 - Including the Network in development of action plans as part of rolling out the cultural strategy
- Ensuring that Network members are aware of relevant planning applications affecting their businesses and of their rights to comment:
 - Further specific actions as set out below
- Raise awareness amongst Network members of key features of the planning system / planning legislation as they apply to music venues:
 - Organising a workshop for Network members, to be run by the council's planning team, to brief them

c) To include the York Music Venues Network in all future discussions relating to the city's cultural offer:

10. Discussion about the city's cultural offer takes place in the context of the city's cultural strategy. This is led by the Cultural Leaders Group of which the Executive Member for Culture, Leisure and Communities is a member. The Cultural Strategy calls for new representative partnership arrangements to be put in place to include all the cultural sector. With the appointment of the Head of Culture and Wellbeing within Make it York this can now be progressed. Music venues will be able to participate in this new cultural forum both individually and through the Network, ensuring a strong voice for the sector in all future discussion about the city's cultural offer.

d) To include the York Music Venues Network as statutory consultees on all future developments in the city:

11. Statutory consultees are determined by national legislation and the Network cannot therefore be designated locally as a statutory consultee. Once the network is constituted, however, it will be included on the Council's list to receive the weekly list of planning applications and it will then be able to comment accordingly on

applications and/or draw them to the attention of individual Network members.

12. Through the inclusion of the Network within the new cultural forum the Network will be able to bring a specialist view about music venue provision to relevant consultations especially with regard to the cultural well-being aspects of proposed developments.

e) To proactively work with ‘problem venues’ to ensure they are adding value to the city, giving them every chance to develop and change before the cultural potential of the space they occupy is lost:

13. This point recognises the importance, when complaints arise, of working with venues to find positive solutions. It recognises that in the great majority of cases this will be possible and that there is enormous potential for experienced operators to work with each other to find solutions. Underlying this is a recognition, in the words of Live DMA, the European network of live music associations, that “Music is not a noise”, and that live music is an important part of our cultural heritage that needs to be supported.
14. With regard to licensing, the council accepts the importance of licensed businesses to the culture, economy and vitality of the city. The overriding principle of the council’s approach is that each application is determined on its own merits. The council’s licensing policy strongly supports a mix of the different types of licensed premises and encourages the development of venues for the provision of live entertainment and performing arts, recognizing the contribution that they make to the vitality of the city.
15. The Live Music Act 2012 and Legislative Reform (Entertainment Licensing) Order 2014 have deregulated part of the Licensing Act 2003, so that regulated entertainment activities, such as the provision of live and recorded music, are no longer licensable activities between the hours of 8.00 am to 11.00 pm to an audience of 500 or less.

f) To endorse recognition of nightclubs and other ‘non-traditional’ performance spaces alongside live music venues as “Cultural Spaces” under Local Plan Policy D3:

16. Policy D3 on pages 151-152 of the submitted Local Plan documents - see: https://www.york.gov.uk/downloads/file/15869/cd001_-_city_of_york_local_plan_publication_draft_regulation_19_consultation_february_2018 supports a wide range of cultural provision and facilities. Nightclubs, live music venues and other ‘non-traditional’

performance spaces are unquestionably included within the meaning of “cultural spaces”. The local plan documents make clear that in defining, promoting and facilitating cultural wellbeing, the Council will seek to work in partnership with developers, stakeholders, and the arts and cultural sector to sustain and enhance York's cultural capacity and character. The Council will, in due course, produce a Supplementary Planning Document outlining the requirements of the Cultural Wellbeing Plan which will help to clarify how these plans are to be taken forward.

g) To endorse routinely applying relevant Planning Conditions, in line with the “Agent of Change” policies reflected in Paragraph 182 of the 2019 NPPF, to all development surrounding “Cultural Venues” as recognised under Policy D3:

17. Paragraph 182 states that planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or ‘agent of change’) should be required to provide suitable mitigation before the development has been completed.
18. The guidance in paragraph 182 is long-established in national planning policy and recognised by the local planning authority in considering planning applications; however, planning legislation requires applications to be determined on their individual merits and a “blanket approach” to the imposition of conditions in any circumstances would not be appropriate.

h) To lobby the Government for legislative change to ensure music venues are eligible for business rate relief in the future:

19. It is proposed that the Executive Member for Culture, Leisure and Communities writes to the appropriate secretary of state on this issue. Music venues were mentioned in the 2019 Queens Speech when the government confirmed its plans for business rates, including bringing forward the next revaluation date from 2022 to 2021 and increasing the frequency of future revaluations in England to three years, from five years. The retail discount, which is available for the 2019/20 and

2020/21 tax years, currently allows qualifying businesses with a rateable value of less than £51,000 a third off their business rates bills on top of any other reliefs for which they are eligible. The government has confirmed that it will increase the discount to 50% (probably from April 2020) and that it will be available to cinemas and music venues as well as independent shops, restaurants, cafés, bars and pubs. By doing so, it hopes to boost high streets up and down the country.

20. The Localism Act also gives a power to local authorities to grant business rate discounts. Our policy is due to be refreshed. It does not currently prioritise music venues but the potential for their inclusion in the policy could be considered by members as part of any forthcoming review.

Options

21. The principal options open to the Executive are:
 - To endorse the actions proposed
 - To suggest any additional relevant actions that the Council may take

Analysis

22. The House of Commons Digital, Media and Sport Committee report of March 2019 clearly identified the challenges facing smaller music venues which are closing at an unprecedented rate across the country. This cross party report highlighted the risk to the future talent pipeline as well as to our cultural vibrancy. It also identified the opportunity for a new positive approach to our grassroots music venues, which would strengthen their resilience, provide them with the support they need, and remove barriers to their ability to fulfil their essential role at the heart of our communities. The proposals in this report aim to deliver some quick wins for York in this regard as well as to open up forums for discussion that can help to address longer-term challenges.

Council Plan

23. The proposals in this report further the priorities in the Council Plan with regard to: Safe Communities and Culture for all and an Open and Effective Council.

Implications

24. There are no additional Finance, Equalities, Property, Legal, Human Resources, Crime and Disorder, or Information Technology implications arising from this report.

Risk Management

25. In compliance with the Council's risk management strategy the main risks that have been identified associated with the proposals contained in this report are those which could lead to damage to the Council's reputation and failure to meet stakeholders' expectations. The level of risk is assessed as "Low".

Contact Details

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Report Approved ✓	Date: 5 March, 2020	
Specialist Implications Officers:		
Wards Affected:	All	✓

For further information please contact the author of the report