

Report from the Assistant Director – Planning & Public Protection

Section 100 Licensing Act 2003, The Licensing Act 2003 (Permitted Temporary Activities) (Notices) Regulations 2005 as amended by The Licensing Act 2003 (Permitted Temporary Activities) (Notices) (Amendment) Regulations 2016 and the Police Reform and Social Responsibility Act 2011:

Submission of a Temporary Event Notice (TEN) for The Crescent Community Venue, 8 The Crescent, York, YO24 1AW

Summary

1. This report seeks Members determination of a Temporary Event Notice (TEN) submitted under the Licensing Act 2003 to authorise the sale by retail of alcohol, the provision of regulated entertainment and the provision of late night refreshment for a two day event scheduled to take place Saturday, 4th and Sunday 5th November 2017.
2. Reference number: CYC-001538
3. Name of premises user: Robert James Joseph Morwood-Leyland
4. Type of authorisation applied for: Temporary Event Notice
5. Summary of application: The nature of the TEN is to allow for the sale by retail of alcohol, the provision of regulated entertainment, and the provision of late night refreshment for a DJ event. The event is scheduled to take place in the function room of the premises for two days on Saturday, 4 November 2017 between 00:01 hours and 04:00 hours and Sunday 5 November 2017 between 00:01 hours and 04:00 hours for an occupancy of 350 people. These timings are outside the existing premises licence permitted licensable hours.

Background

6. A TEN authorises the provision of licensable activities on a temporary basis without the need for a premises licence or club premises certificate. A TEN is submitted by a 'premises user' who is an individual aged over 18 years. A TEN is subject to various restrictions, one of which includes limiting the maximum number of people attending the event at any one time to less than 500.
7. The police and environmental protection officers (EPU) can object to a TEN on the grounds that it would undermine any of the four licensing objectives;
 - The prevention of crime and disorder;
 - Public safety;
 - The prevention of public nuisance; and
 - The protection of children from harm.
8. As a result of an objection conditions from an existing premises licence can be attached to the TEN.
9. A copy of the TEN is attached at Annex 1.
10. A copy of the existing premises licence is attached at Annex 2.

Promotion of Licensing Objectives

11. There is no requirement for a premises user to indicate how the licensing objectives will be met and there is no provision on the TEN application form to allow for this information to be entered.

Special Policy Consideration

12. This premise is located within the special policy area.

Consultation

13. Consultation was carried out by the premises user in accordance with S100 Licensing Act 2003 and The Licensing Act 2003 (Permitted Temporary Activities) (Notices) Regulations 2005 as amended by The Licensing Act 2003 (Permitted Temporary Activities) (Notices) (Amendment) Regulations 2012. The premises user complied with all statutory requirements.

14. All procedural aspects concerning the submission of the TENs and the submission of the notices of objection have been complied with.

Summary of Objections

15. An objection to the TEN has been received from City of York Council's Environmental Protection Unit (EPU) on the grounds the prevention of the public nuisance licensing objective will be undermined if the event is to take place. A copy of the objection is attached at Annex 3.
16. On Saturday 14 October 2017 a DJ event took place at the premises. This event was covered by a TEN between 00:00 hours and 03:00 hours for 350 people.
17. On submission of the TEN for this event, the applicant was served with a notice of conditions (relating to noise and copied from the existing premises licence) after agreement with EPU, to be complied with during the event.
18. A noise complaint was received by Council Officers who attended the premises at 23:00 hours. The noise was confirmed to amount to a statutory nuisance from loud bass and vibrations. The complainant alleged the noise continued until 03:00 hours and is a regular occurrence.
19. A copy of the TEN and the notice of conditions relating to this event is attached at Annex 4.

Options

20. By virtue of s106 of the Act, the Committee have the following options available to them in making their decision: -
21. Option 1: Modify the terms of the TEN.
22. Option 2: Issue a counter notice refusing authorisation of the TEN.
23. Option 3: Choose not to issue a counter notice

Analysis

24. The following could be the result of any decision made this Sub Committee:-

25. Option 1: This decision could be appealed at Magistrates Court by the premises user or the objector.
26. Option 2: This decision could be appealed at Magistrates Court by the premises user.
27. Option 3: This decision could be appealed at Magistrates Court by the objector.

Council Plan

28. The Licensing Act 2003 has 4 objectives the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm.
29. The promotion of the licensing objectives will support the Council's Plan for a prosperous city for all and a council that listens to residents.

Implications

30.
 - **Financial** - N/A
 - **Human Resources (HR)** – N/A
 - **Equalities** – N/A
 - **Legal** – This decision could be appealed at Magistrates Court by the applicant or any of the objectors.
 - **Crime and Disorder** - The Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authority's responsibility to co-operate in the reduction of crime and disorder in the city.
 - **Information Technology (IT)** – N/A
 - **Property** – N/A
 - **Other** – none

Risk Management

31. All Members of the Licensing Act 2003 Committee have received full training on the Act and the regulations governing hearings. They are aware that any decision made which is unreasonable or unlawful could be open to challenge resulting in loss of image, reputation and potential financial penalty.
32. The report details the options available to the panel in determining the application and recommends that a decision be reached. There are no risks involved with this recommendation.

Recommendations

33. Members determine the application.
Reason: To address the objections received as required by the Licensing Act 2003.

Contact Details

Author:

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Chief Officer Responsible for the report:

Michael Slater
Assistant Director
Housing & Community Safety.

**Report
Approved**



Date 26/10/2017

Specialist Implications Officer(s)

Head of Legal & Democratic Services
Ext: 1004

Wards Affected: Micklegate

For further information please contact the author of the report

Background Papers:

Annex 1 - Copy of TEN

Annex 2 - Copy of Premises Licence

Annex 3 - Copy of EPU objection

Annex 4 - Copy of TEN for 14 & 15 October 2017 and attached conditions

Annex 5 - Legislation and Policy Considerations