

Report from the Director – Environment, Transport & Planning

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 3 – 5 St Helen’s Square, York, YO1 8QN.

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, provision of regulated entertainment and provision of late night refreshment for a two day event scheduled to take place on 25 & 26 November 2021.
2. Reference number: CYC- 62992
3. Name of premises user: Stephanie Powell
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 private student society event. The event is scheduled to take place in the restaurant, bar and tea room of Impossible at 3 and 5 St Helen’s Square York on 25 and 26 November 2021 from 22.00 hours until at 03.00 hours for an occupancy of 230 people. These timings are outside the existing premises licence/s permitted licensable hours which terminates at 01.00 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 499.
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/s is attached at Annex 2. Number 3 and number 5 St Helen's Square each have their own premises licence. The TEN applied for states the licensable activities will take place in both number 3 & number 5.

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 premises 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 TEN 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 North Yorkshire Police on the grounds the prevention of crime and disorder, prevention of public nuisance, public safety and the protection of children from harm licensing objectives will be undermined if the event is to take place. A copy of the objection is attached at Annex 3.
16. An objection to the TEN has been received from the Public Protection Team at the City of York Council on the grounds the prevention of public nuisance and the protection of children from harm licensing objectives will be undermined if the event is to take place. A copy of the objection is attached at Annex 4.

Options

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

Analysis

21. The following could be the result of any decision made this Sub Committee:-
22. Option 1: This decision could be appealed at Magistrates Court by the premises user or the objector.
23. Option 2: This decision could be appealed at Magistrates Court by the premises user.
24. Option 3: This decision could be appealed at Magistrates Court by the objector.

Council Plan

25. 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.
26. By taking the statutory requirements of the Licensing Act into consideration, as well as the four licensing objectives when determining licensing applications the Council are supporting the new and existing licence trade, as well as local residents and businesses. The functions support the Council's Plan of safe communities and culture for all, and a good quality of life for everyone.

Implications

27.

- **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

28. 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.
29. 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

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

Contact Details

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Chief Officer Responsible for the report:

James Gilchrist
Director Environment, Transport & Planning

**Report
Approved**



**11.11
.2021**

Specialist Implications Officer(s)

Head of Legal & Democratic Services
Ext: 1004

Wards Affected: Guildhall

Annexes:

Annex 1 - Copy of TEN

Annex 2 - Copy of Premises Licence/s

Annex 3 - Copy of objection North Yorkshire police

Annex 4 - Copy of objection Public Protection

Annex 5 - Legislation and Policy Considerations