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**Licensing Act 2003 Sub Committee**

**15 August 2013**

Report from the Assistant Director – Housing & Community Safety

**Section 100 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:  
Submission of Temporary Event Notices (TEN) for Macumba, 3 Coffee Yard, York, YO1 8AR.**

**Summary**

1. This report seeks Members determination of a TEN submitted under the Licensing Act 2003 to allow on a specific date for an increase of the licensed area of a venue already operating with a premises licence and to authorise the sale of alcohol and the provision of regulated entertainment for an extended period at venue.
2. Reference number: CYC-022413/5
3. Name of premises user: Mr Hayati Kucukkoylu
4. Type of authorisation applied for: Temporary Event Notice (TEN)
5. Summary of application: The TEN relates to a venue which already holds a premises licence i.e. Macumba, 3 Coffee Yard York, licence number CYC 009165. The nature of the TEN is to allow for:
  - a) An increase in the licensed area of the premises to include the whole of the outside courtyard area.
  - b) The sale of alcohol and the provision of regulated entertainment between the hours of 19:00 and 03:00 the following morning throughout the whole area.

- c) The event is scheduled to take place on the nights of both Friday 13<sup>th</sup> September and Saturday 14<sup>th</sup> September between 19:00 hours and 03:00 hours the following morning for a maximum occupancy of 125 people inside and 50 people outside.

### **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 can object to a TEN on the grounds of 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 for the venue is attached at Annex 2.

### **Promotion of Licensing Objectives**

11. The TEN submitted give no indication as to how the licensing objectives will be met, however, there is no requirement for a premises user to provide this information on a TEN and there is no provision on the application form to allow for this information to be entered.

### **Special Policy Consideration**

12. This premise is not 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 Representations made by Responsible Authorities**

15. North Yorkshire Police served notices of objection to the TEN in compliance with S104 Licensing Act 2003 as amended by S112 Police Reform and Social Responsibility Act 2011 on the grounds that the licensing objective, the prevention of crime and disorder. A copy of their representation is attached at Annex 3.
16. The nature of the objection is as follows:
  - a) The Back Swinegate area of the city accounts for 3.7% of the total geographic area of the city walls (and the small part of the CIZ area outside the city walls) yet it accounts for:-
    - i. 16.5% of the licensed premises
    - ii. 8.9% of the total violence
    - iii. 10.6% of the total damage
    - iv. 7% of the total ASB
    - v. 10.9% of the total “theft from a person or other” crime category
  - b) The notification intimates an increase of customers (up to 175) into that area over an extended period (0300hrs) and it is believed that this will have an adverse impact on the surrounding area beyond the control of Mr Kucukkoylu.
  - c) The Police Licensing Officer in company with the council's Licensing Enforcement Officer recently spoke to Mr Kucukkoylu regarding alleged breaches of the conditions attached to the premises licence and, given the time frame between him opening the premises and the alleged breaches of the conditions, it is not felt that he is currently able to operate a late night, drink led

entertainment premises without undermining the licensing objectives.

17. The council's Environmental Protection Unit also served notices of objection to the TEN in compliance with S104 Licensing Act 2003 as amended by S112 Police Reform and Social Responsibility Act 2011 on the grounds that the licensing objective, prevention of public nuisance, would be undermined. A copy of their objection is attached at Annex 4.

18 The nature of their objection is as follows:

- a) 3 noise complaints have been received by EPU on 15<sup>th</sup>, 20<sup>th</sup> and 28<sup>th</sup> July regarding noise and loud music from the venue despite a warning letter being sent on 16<sup>th</sup> July.
- b) During late night visits to the premises it was noted that customers were in the courtyard after midnight in contravention to the conditions on the premises licence.

### **Options**

19 By virtue of s106 of the Act, the Committee have the following options available to them in making their decision: -

20. Option 1: Modify the terms of the TEN.

21. Option 2: Issue a counter notice refusing authorisation of the TEN.

22. Option 3: Choose not to issue a counter notice

### **Analysis**

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

24. Option 1: This decision could be appealed at Magistrates Court by the premises user or the objector.

25. Option 2: This decision could be appealed at Magistrates Court by the premises user.

26. Option 3: This decision could be appealed at Magistrates Court by the objector.

## **Council Plan**

27. 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.
- 28 The promotion of the licensing objectives will support the Council's priorities to protect vulnerable people, build strong communities, and protect the environment.

## **Implications**

29.

- **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 representors.
- **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**

30. 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.

31. 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**

32. 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:**

Steve Waddington  
Assistant Director  
Housing & Community Safety.

**Report  
Approved**

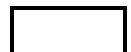


**Date** 08/08/13

**Specialist Implications Officer(s)**

Head of Legal & Democratic Services  
Ext: 1004

**Wards Affected: Guildhall West**



**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 police objection
- Annex 4** - Copy of EPU objection.
- Annex 5** - Legislation and Policy Considerations