

**REPORT TO LICENSING SUB COMMITTEE**



<b>DATE</b>	<b>19<sup>th</sup> May 2022</b>
<b>PORTFOLIO</b>	<b>Community &amp; Environment</b>
<b>REPORT AUTHOR</b>	<b>Karen Davies</b>
<b>TEL NO</b>	<b>01282 425011</b>
<b>EMAIL</b>	<b>kdavies@burnley.gov.uk</b>

**Licensing Act 2003 Hearing of an application for a Temporary Event Notice following receipt of notices of objection**

**PURPOSE**

1. To consider notices of objection received by the Licensing Authority in response to a Temporary Event Notice given by Person A on 6<sup>th</sup> May 2022 in accordance with Part 5 of the Licensing Act 2003 (The Act).
2. The premises are within Queens Park, Burnley.

**RECOMMENDATION**

3. Members are recommended to make a determination with a view to promoting the licensing objectives, which are:
  - The prevention of crime and disorder
  - Public safety
  - Prevention of public nuisance
  - Protection of children from harm

The premises are subject to a Premises Licence PLN 0057 held by the Council's Head of Green Spaces and Amenities which covers the whole of Queens Park The licence does not include the sale of alcohol.

Sub-Committee may, in respect of the Temporary Event Notice:

- Allow the licensable activities to go ahead as stated in the notice, or
- Attach conditions to the TEN, which must be drawn from conditions attached to the existing premises licence, or
- Issue a Counter Notice, preventing the event taking place, to the premises user under Section 105(2b) if the Committee consider it appropriate for the promotion of the licensing objectives.

Committee must give a notice of the decision, with explanation, under Section 105(3a) to the premises user and the objecting relevant persons.

## REASONS FOR RECOMMENDATION

4. TENs usually operate without conditions which can only be attached at a hearing following objections, but only where a Premises Licence is in place at the premises. Furthermore only those conditions applied to the Premises Licence can be attached to the TEN. Unlike new or variation premises licence applications there is no provision within the TENs process for objections to be mediated out by the parties in advance of a hearing. The Licensing Sub-Committee are responsible for determining such applications where objections are received.

## SUMMARY OF KEY POINTS

5. The event is to be held from Friday 3<sup>rd</sup> June 2022 to Saturday 4<sup>th</sup> June 2022.

(A TEN for this event was received on 19<sup>th</sup> April. This first TEN included regulated entertainment and both on & off sales of alcohol. Regulated entertainment was included because the premises licence holder had not given permission for the use of the licence. The police and environmental health raised concerns with Person A about the numbers attending the festival and the suitability of a TEN. Following discussions between the applicant and the premises licence holder, the Licensing Authority was advised that the premises licence would be relied on for the live music as the number of people attending would exceed the TEN limit of 499. The TEN had not been submitted on the prescribed form which details any premises licence in force, and so was rejected as a result. The correct forms were supplied for resubmission. The resubmitted TEN is the subject of this hearing and was received on 6<sup>th</sup> May.)

The licensable activities applied for are:

- The on-sale by retail of alcohol from 12.00hrs (mid-day) till 21.00hrs and
- Supply of alcohol by a club and
- Provision of late night refreshment

(The latter two would seem to be in error as they do not fit with the nature or timings of the event)

The nature of the event is described as *'Live bands, children's funfair, food stalls, beer tent'*

No plan of the TEN area was supplied with the notice, with the area described as *'We only intend to use the grass area where the toilets are. There will be a marquee which will be fenced off. Our security will control this area.'* (A plan has been requested)

The TEN is provided at Appendix A.

On 11<sup>th</sup> May 2022 the Licensing Authority received objection notices from Lancashire Constabulary and Environmental Health in accordance with s104(2). The objections are provided at Appendices B & C respectively.

A copy of licence PLN 0057 is provided at Appendix D, and a plan of the licenced premises at Appendix E – the licenced area.

The event taking place on Saturday 4<sup>th</sup> June has been advertised for a number of months as 'This is Manchester Indie Festival', with 6 tribute bands and tickets being sold across ticketing platforms.

The regulated entertainment planned for the festival is to be carried out under the authority of the Premises Licence, across the licenced area. This is because numbers attending the festival exceed those permitted by the temporary activities arrangements of The Act, ie 499.

The TEN seeks approval for the sale of alcohol within a temporary structure to be erected as a beer tent and situated within the premises licenced area. It effectively seeks to place one separate TEN event (for the sale of alcohol, and with a maximum occupancy of 499) within the larger festival event that has no occupancy limit imposed by the premises licence. Admission by ticket to the festival will include access to the beer tent. Members will note that the event is described as a live music event on the notice received, and may consider the artificial creation of one premises within another larger premises to be a misuse of the temporary activity provisions of The Act. Any larger event would normally be subject to the additional scrutiny required in relation to new premises and variation applications.

No contact has been made by the event organizer with the Council's Event Safety Advisory Group

Any decision made at the hearing relates solely to the sale of alcohol.

## **FINANCIAL IMPLICATIONS AND BUDGET PROVISION**

6. None

## **POLICY IMPLICATIONS**

7. The Council's Licensing Policy deals with TENs at section 17. Of particular note at Para 17.7 *The authority encourages notice providers to give the earliest possible notice of events likely to take place. This is particularly relevant to events which are to take place in the open air or in a temporary structure. Assistance with the planning of events can be provided through the Council's Events Safety Advisory Group.*
8. Statutory Guidance issued under s182 Licensing Act provides deals with TENs at section 7.  
*At para 7.35 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 each case it is important that licensing authorities and relevant persons consider whether they*

*believe 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.*

**DETAILS OF CONSULTATION**

9. None

**BACKGROUND PAPERS**

10. None

**FURTHER INFORMATION**

**PLEASE CONTACT:**

**Lisa Tempest 01282 425011**

**ALSO:**

