



# BURNLEY BOROUGH COUNCIL LICENSING ACT 2003 SUB COMMITTEE

BURNLEY TOWN HALL

Thursday, 19th May, 2022

## PRESENT

## MEMBERS

Councillors K Ingham, A Kelly and J Sumner

## OFFICERS

Karen Davies	– Environmental Health and Licensing Manager
Sajada Khan	– Solicitor
Lisa Tempest	– Licensing Office
Jill Wolfendale	– Principal Environmental Health Officer
Carol Eddleston	– Democracy Officer

## ALSO IN ATTENDANCE

Sgt Gary Herrigan – Lancashire Constabulary

### 1 Appointment of Chair

Councillor Jeff Sumner was appointed Chair of the meeting.

### 2 Apologies for Absence

There were no apologies for absence.

### 3 Minutes of the last Meeting - 9th November 2021

The minutes of the last meeting held on 9<sup>th</sup> November 2021 were approved as a correct record.

### 4 Additional Items of Business

There were no additional items of business.

## **5 Declaration of Interest**

There were no declarations of interest.

## **6 Exclusion of the Public**

It was determined that the hearing would be held in public.

## **7 Hearing of an application for a Temporary Event Notice following receipt of notices of objection**

It was reported that Burnley Borough Council, the landowner of Queens Park, Burnley, had refused permission for 'The Manchester Indie Festival' music event to go ahead on 3<sup>rd</sup> and 4<sup>th</sup> June 2022. The applicant had been notified of the Council's decision and the reasons for refusal by email on 16<sup>th</sup> May.

In the absence of any acknowledgement from the applicant, and lack of withdrawal of the Temporary Event Notice, the Sub-committee noted that it was required to proceed with the hearing. Due to the timescales involved the Sub-committee agreed to proceed with the hearing in the absence of the applicant.

The Sub-committee considered a report to determine a Temporary Event Notice (TEN) application for approval for the sale of alcohol within a temporary structure to be erected as a beer tent in Queens Park for an event to be held from Friday 3<sup>rd</sup> June 2022 to Saturday 4<sup>th</sup> June 2022.

Written objections had been received from Lancashire Constabulary and Environmental Health at Burnley Council. Sgt Gary Hennigan (Lancashire Constabulary) and Jill Wolfendale (Environmental Health) attended the hearing and responded to questions on their cases from members of the Sub-committee.

Members RESOLVED to go into private session to consider the Temporary Event Notice application and to receive legal advice.

### **RESOLVED – DECISION AND REASONS FOR DECISION**

The Temporary Event Notice seeks approval for the sale of alcohol within a temporary structure to be erected as a beer tent and situated within the premises licensed area. It effectively seeks to place one separate TEN event (for the sale of alcohol and within a maximum occupancy of 499) within a 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. It is to be noted that the event is described as a live music event on the notice received and could be construed as artificial creation of one premise 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. It is noted that no contact has been made by the event organiser with the Council's Event Safety Group.

The Temporary Event Notice has been determined with a view to promoting the four licensing objectives but, in particular, the licensing objectives relating to Public Safety, Prevention of Crime & Disorder and Protection of Children from Harm.

The Sub-committee carefully considered the report of the Licensing Officer and the representations made by Lancashire Constabulary and Environmental Health.

The Sub-committee has had regard to the Temporary Event Notice and the relevant representations received.

The Sub-committee has had regard to the s182 Guidance issued by the Government.

The Sub-committee has had regard to its own Statement of Licensing Policy.

Having taken all of the above into consideration, the Council considers it appropriate for the promotion of the licensing objectives to issue a counter notice in relation to the Temporary Event Notice (TEN) applied for for 3<sup>rd</sup> June 2022 to 4<sup>th</sup> June 2022.

## REASONS FOR DECISION.

### 1. Public Safety

The applicant has not considered the following factors affecting the licensing objective of public safety, and presented these in the application:

- The necessary health and safety and fire risk assessments at the site relating to the event, and other measures to reduce risk to public safety;
- An event management plan, site based risk assessments and public liability insurance document;
- A detailed plan of safe access to, and egress from the site, including for emergency services;
- The measures to be employed to monitor the occupancy of the site so that maximum capacity (499) stated on the application is not exceeded;
- The number of people employed or engaged to secure the safety of everyone attending the premises or event including performers in order that numbers can be restricted to 499 people;
- Measures for the appropriate instruction, training and supervision of those employed or engaged to secure the safety of everyone attending the premises or event;
- Details of how facilities will be provided at the event – not limited to toilet facilities, first aid, provision of power to the site (including a copy of the current Electrical Inspection Report Certificate if relevant) and dispersal policy for safe egress of visitors at the end of the evening;
- Arrangements for ensuring that adequate and suitably maintained sanitary provision and washing facilities are provided for the number of people expected to attend any premises or events.

### 2. Prevention of Crime and Disorder

The nature of the event is described as 'live bands, children's funfair, food stalls and beer tent'. Lancashire Constabulary has real concerns with regards to this licensing objective being undermined in the absence of the following.

The applicant has not addressed the following:

- The prevention of under 18's obtaining alcohol as tickets for 17 year olds are available;
- How many tickets are available for each day;
- How the number of people will be monitored on site considering there are 10 entrances/exits;
- Details of security arrangements to be deployed on site;
- The provision of first aid on site, and
- Provisions and arrangements for parking as public transport is likely to be restricted as it is Jubilee weekend.

3. Protection of children from harm.

- If alcohol is to be permitted at the event where children will be present considering there is a children's fun fair at the event, the applicant has not addressed how he will manage to keep children away from the 'beer tent' and prevent any under 18's from accessing alcohol at the event. In the absence of a detailed event management and risk assessment this objective is to be undermined.
- The application does not state how the park will be secured to monitor access to the site in order to monitor the numbers on site at any one time.

4. The matters set out in the paragraphs above have the effect of undermining the licensing objectives of the prevention of public safety, prevention of crime and disorder and protection of children from harm.

5. In those circumstances it is considered that the issue of a counter notice serves to promote the public safety, prevention of crime and disorder and protection of children from harm objectives.

6. Consideration has been given to all the powers available to the licensing authority under section 105 of the Act and concludes that the issue of a counter notice is both necessary and proportionate in the circumstances.

Right of Appeal

7. If the applicant disagrees with the hearing decision, he is entitled to appeal. An appeal should be lodged within 21 days and at least five working days before the event.