

## REPORT TO LICENSING SUB COMMITTEE



<b>DATE</b>	<b>15<sup>th</sup> September 2022</b>
<b>PORTFOLIO</b>	<b>Community &amp; Environment</b>
<b>REPORT AUTHOR</b>	<b>Lisa Tempest</b>
<b>TEL NO</b>	<b>01282 425011</b>
<b>EMAIL</b>	<b>licensing@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 notice of objection received by the Licensing Authority in response to 3 Temporary Event Notices (TENs), provided at Appendix A, B & C given by Person A on 5<sup>th</sup> September 2022 in accordance with Part 5 of the Licensing Act 2003.
2. The premises is Electric Circus, 51 Bank Parade, 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 is subject to a Premises Licence PLA0444 provided at Appendix E including plan provided at Appendix F. Committee may, in respect of each 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. Unlike new or variation premises licence applications there is no provision within the TENs process for objections to be mediated out by the parties. Conditions can only be attached where a Premises Licence is in place at the premises, and only those conditions applied to the licence can be attached to the TEN. Furthermore, conditions can only be attached at a hearing. The Licensing Sub-Committee are responsible for determining such applications where objections are received.

## SUMMARY OF KEY POINTS

5. Three TENs have been received for the following dates:

Saturday 01/10/22

Saturday 15/10/22

Saturday 22/10/22

The event on 1<sup>st</sup> October 2022 is described as “40<sup>th</sup> birthday party for a private group to include the playing of recorded music by local dj’s”, the maximum number of people in attendance is 150 and the licensable activities applied for are:

- The sale by retail of alcohol from 18.00hrs to 01.00hrs
- The provision of regulated entertainment from 18.00hrs to 01.00hrs
- The provision of late night refreshment from 18.00hrs to 01.00hrs

The event on 15<sup>th</sup> October 2022 is described as “A ticketed music event which will limit the number of admissions and will be controlled with 2 doormen. Performance of live music, playing at pre-recorded music, supply of alcohol”, the maximum number of people in attendance is 150 and the licensable activities applied for are:

- The sale by retail of alcohol from 21.00hrs to 03.00hrs
- The provision of regulated entertainment from 21.00hrs to 03.00hrs
- The provision of late night refreshment from 21.00hrs to 03.00hrs

The event on 22<sup>nd</sup> October 2022 is described as “To host a reunion party for a private group to include the playing of recorded music by local dj’s”, the maximum number of people in attendance is 150, the licensable activities applied for are:

- The sale by retail of alcohol from 18.00hrs to 01.00hrs
- The provision of regulated entertainment from 18.00hrs to 01.00hrs
- The provision of late night refreshment from 18.00hrs to 01.00hrs

On each occasion the event will take place within the existing licenced area of the premises. The TENs seek to provide additional hours of trading beyond the 9pm terminal hour permitted by the Premises Licence.

On 7<sup>th</sup> September 2022 the Licensing Authority received an objection notice from Environmental Health in accordance with s104(2). The objection is provided at Appendix D.

### **Relevant extracts from the Guidance issued under Sec 182 of the Licensing Act**

7.28 If the licensing authority receives an objection notice from the police or EHA that is not withdrawn, it must (in the case of a standard TEN only) hold a hearing to consider the objection unless all parties agree that this is unnecessary. The licensing committee may decide to allow the licensable activities to go ahead as stated in the notice. If the notice is in connection with licensable activities at licensed premises, the licensing authority may also impose one or more of the existing licence conditions on the TEN (insofar as such conditions are not inconsistent with the event) if it considers that this is appropriate for the promotion of the licensing objectives. If the authority decides to impose conditions, it must give notice to the premises user which includes a statement of conditions (a “notice (statement of conditions)”) and provide a copy to each relevant party. Alternatively, it can decide that the event would undermine the licensing objectives and should not take place. In this case, the licensing authority must give a counter notice.

7.33 If the police or EHA believe that allowing the premises to be used in accordance with the TEN will undermine the licensing objectives, they must give the premises user and the licensing authority an objection notice. The objection notice must be given within the period of three working days following the day on which they received the TEN.

7.34 Where a standard TEN was given, the licensing authority must consider the objection at a hearing before a counter notice can be issued. At the hearing, the police, EHA and the premises user may make representations to the licensing authority. Following the hearing, the licensing authority may decide to impose conditions which already apply to an existing premises licence or club premises certificate at the venue, or issue a counter notice to prevent the event going ahead. As noted above, there is no scope for hearings in respect of late TENs and if objections are raised by the police or EHA in relation to a late TEN, the notice will be invalid and the event will not go ahead.

7.35 Such cases might arise because of concerns about the scale, location, timing of the event or concerns about public nuisance – even where the statutory limits on numbers are being observed. 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 cases where there is reason to doubt that the numbers will remain within the permitted limit the premises user should make clear what the nature of the event(s) is and how they will ensure that the permitted persons limit will not be exceeded. For example, where notices are being given for TENs simultaneously on adjacent plots of land it may be appropriate for door staff to be employed with counters. In each case it is important that licensing authorities and relevant persons can consider whether they believe that 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.

## **Relevant extract from Burnley Borough Councils Licensing Policy**

17.4 The police or Environmental Health may issue an objection notice because they believe the event would undermine the one or more of the four licensing objectives set out in the Act. The police or Environmental Health must issue an objection notice within three working days of being notified, but they can subsequently withdraw the notice. The issuing of such an objection notice requires the consideration of the objection by the council at a hearing in the case of a standard TEN. If an objection notice is issued in relation to a late TEN then the TEN is cancelled and licensable activities are not authorised.

### **FINANCIAL IMPLICATIONS AND BUDGET PROVISION**

6. None

### **POLICY IMPLICATIONS**

7. The Council's Licensing Policy deals with TENs at section 17. Statutory Guidance issued under s182 Licensing Act provides further information at section 7.

### **DETAILS OF CONSULTATION**

8. The statutory consultation has taken place following receipt of the TENs.

### **BACKGROUND PAPERS**

9. None

### **FURTHER INFORMATION**

**PLEASE CONTACT:**

**Lisa Tempest 01282 425011**

**ALSO:**

**Karen Davies 01282 425011**