

LICENSING SUB-COMMITTEE

Meeting: Tuesday, 23rd August, 2022
at 1.00 pm. (Drawing Room)

Present: Councillors D. Edwards, McEwan and Maddox.

Officers Present: Graham Barker (Head of Public Protection), Katherine Benson (Senior Licensing Officer), Alison Coward (Senior Environmental Protection Officer), Ivor Churcher (Commercial Team Leader - Public Protection Services), Geoff Dowker (Environmental Protection & Public Health Team Leader), Debbie Storr (Head of Legal and Governance) and Sandra Kemsley (Democratic Services Officer).

Also Present:

1 Appointment of Chairman

Nominations were requested for the appointment of Chairman of the Licensing Sub-Committee for the meeting.

Councillor Maddox moved that Councillor McEwan be appointed as Chairman for the meeting. This was duly seconded by Councillor D. Edwards and it was,

RESOLVED:- That Councillor McEwan be appointed Chairman of the Licensing Sub-Committee for the meeting.

COUNCILLOR McEWAN IN THE CHAIR

2 Apologies for Absence/Attendance of Substitute Members.

Apologies for absence had been received from Councillors Callister and Hall.

Councillors D. Edwards and Maddox had attended as substitutes.

3 Minutes

The Minutes of the Licensing Sub-Committee held on 6th January, 2022 were taken as read and confirmed.

4 Objections to Temporary Event Notice

The Senior Licensing Officer's report set out details of two objection notices for a Temporary Event Notice received for an event at Salthouse Mills, Barrow-in-Furness on 3rd September, 2022.

The supply of alcohol, provision of regulated entertainment and provision of late night refreshment were licensable activities under Section 1 of the Licensing Act 2003. Authorisation from the Council, in its role as the Licensing Authority, was required in order to carry on any of these activities at premises within the Borough.

The Licensing Act 2003 provides a clear focus on the promotion of four statutory objectives which must be addressed when licensing functions are undertaken. The licensing objectives are:-

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm.

Each objective was of equal importance. There were no other statutory licensing objectives, so the promotion of the four objectives was a paramount consideration at all times.

Part 5 of the Act provides a system of permitted temporary activities, under which licensable activities can be carried out on a temporary basis. While most large-scale or permanent businesses will hold Premises Licences to authorise their activities, the Act also provides a light-touch mechanism for smaller, infrequent events, known as Temporary Event Notices (TEN). There is a maximum of 499 people, which not only includes the audience, spectators or consumers, but also includes any staff, organisers, stewards and performers.

Under the Scheme of delegation adopted by the Council, the Licensing Sub-Committee has responsibility for the exercise of many of the functions of the Licensing Authority, including the determination of Premises Licence applications where representations had been received.

On 10th August, 2022 a Temporary Event Notice had been received from Josef Jackson (the premises user'), for Salthouse Mills, Barrow in Furness. The event was described as 'a DJ night showcasing local talent', with the following licensable activities:

- the sale by retail of alcohol;
- provision of regulated entertainment (live and recorded music).

It was intended that it would take place on 3rd September, 2022 between 13:00 - 23:00, with the maximum number of people allowed at 499. A copy of the TEN and plan had been appended to the report.

The premises, a large and predominantly disused industrial estate, does not currently hold a premises licence or club premises certificate and this was the first TEN submitted for the site.

The TEN must be given to the Licensing Authority, Police and Environmental Health ten working days before the beginning of the event period. The Licensing Authority forwarded the TEN to the Police and Environmental Health on 11th August 2022 as the TEN had been received electronically.

Following receipt of the TEN, the Police and local authority exercising Environmental Health functions may intervene 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) to prevent the occurrence of the event at which permitted temporary activities were to take place.

On 15th August, 2022 an objection notice was received from Environmental Health with concerns that the licensing objectives would be undermined. A copy of the objection notice from Environmental Health, split into two parts from Environmental Protection & Health and Safety had been appended to the report.

On 16th August 2022 a further objection notice was received from Cumbria Police, also with concerns that the licensing objectives would be undermined. A copy of the objection, also split into two parts had been appended to the report.

The Licensing Act 2003 does not make provision for further consultation with any other responsible authority nor other parties and there is no requirement for the premises user to publicise their notice.

Options available to the Sub-Committee were:-

- (a) Section 105(2)(B) of the Act requires that the licensing authority must, having regard to the objection notices, give the premises user a counter notice under this section if it considers it appropriate for the promotion of a licensing objective to do so. This will prevent the event going ahead; or
- (b) To not issue a counter notice and the event may proceed in accordance with the Temporary Event Notice. The Licensing Sub-Committee cannot make modifications to the TEN.

There is no statutory power for conditions to be imposed on a Temporary Event Notice where no premises licence is in place.

The decision taken by the Licensing Sub-Committee will take immediate effect. There is a right of appeal by the person who has given the TEN and for the relevant persons who have submitted the objection notices. However, no appeal may be brought later than 5 working days before the day on which the event period is specified in the TEN.

Officers from Environmental Health attended the meeting and reiterated their objections and drew attention to the photographs of the site included in the appendices.

The Senior Environmental Protection Officer informed the Sub-Committee that she had received noise readings but not the methodology, and that they were still high, so a maximum noise level had not been agreed. The Environmental Health Commercial Team Leader explained his concerns with reference to the photographs with the agenda papers.

A representative from the Police attended the meeting and reiterated their concerns.

A representative from Pitch Up Events, attended the meeting and addressed the Sub-Committee in response to the objections and concerns raised:

He agreed with the objections and would not want to put on an unsafe event. He circulated photographs of ongoing works –

- Pot holes – The Team had been working hard filling in pot holes in the event space and approach to the venue to prevent standing water;
- Lighting – Lighting Towers were to be used

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The Commercial Team Leader commented that the work to potholes had not been completed when he had visited the site at 11.45 am. In response it was confirmed that the works were in the process of being undertaken.

The representative from Pitch Up Events responded to concerns with regards to noise, and how it was intended to manage the noise at the event. He was confident that they could manage the event to ensure the venue was safe and that objections overcome.

The Police representative raised the issue of the height of the access bridge and how emergency services struggled to access the site.

All responded to questions raised with them at the meeting.

The site manager addressed the meeting and reported on the work being undertaken to ensure that the site was improved and that skips had been brought on to remove the waste and scrap cars. In response to questions he confirmed that the survey had not covered the effect of possible vibrations, and that the asbestos had been cleaned up over a year ago, and was happy to have further tests on any residual amounts on site.

In accordance with Regulation 14(2) of the Licensing Act 2003 (Hearings Regulations) 2005 (as amended) it was moved by Councillor McEwan and duly seconded to move into Part Two to enable a decision to be made as it was felt that holding discussions in public would, or would be likely to, inhibit substantially, the free and frank exchange of views for the purposes of deliberation. Private thinking space was essential to enable all facts, policies and legislation to be properly considered and appropriate legal advice obtained.

All parties with the exception of Councillors D. Edwards, McEwan, Maddox, Debbie Storr (Head of Legal and Governance) and Sandra Kemsley (Democratic Services Officer) withdrew and were readmitted to the meeting following the Sub-Committee's deliberations.

The Sub-Committee carefully considered the objections for a Temporary Event Notice for Salthouse Mills, Barrow-in-Furness. In considering the objections, the sub-committee took account of the Council's statement of licensing policy, the Licensing Act 2003, section 182 Guidance, the agenda papers and representations from the premises user and objectors' written and oral representations.

Having considered the objections and heard from all the parties, it was

RESOLVED:- That the Sub-Committee unanimously decided that it was appropriate for the promotion of the licensing objectives for a counter notice to be served.

The Licensing Sub-Committee gave the following reasons under section 105(3)(b) of the Licensing Act 2003 for their decision to issue a Counter Notice:

- 1) Crime and Disorder – Public Nuisance - The views of the Police have been taken into account with regards to prevention of crime and disorder and public nuisance;

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- 2) Prevention of Public Nuisance - Noise from music or persons attending in the evening and those leaving was a concern and could not be addressed with a TEN;
- 3) Public Safety – the Sub-Committee did not consider that the site was sufficiently safe and accessible for the event – there were also concerns regarding asbestos and structural safety.
- 4) A temporary event notice does not allow for conditions and therefore there were no additional controls that could be put in place by the Licensing Sub-Committee to mitigate concerns raised by the Police or the local authority.

There is a right of appeal by the person who has given the TEN and for the relevant persons who have submitted the objection notices. However, no appeal may be brought later than 5 working days before the day on which the event period is specified in the TEN.

The meeting closed at 2.08 pm.

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LICENSING SUB COMMITTEE**RECORD OF DECISION****PART ONE**

Date of Meeting: 23RD AUGUST, 2022

Agenda Item: 5 – Objections to Temporary Event Notice

- On 10th August, 2022 a Temporary Event Notice had been received from Josef Jackson (the premises user) for Salthouse Mills, Barrow-in-Furness, Cumbria, LA13 0DH.
- The event was described as a DJ night showcasing local talent, with the following licensable activities:
 - The sale by retail of alcohol; and
 - The provision of regulated entertainment (live and recorded music).
- It was intended that the event will take place on 3rd September, 2022 between the hours of 13.00 - 23.00 with the maximum number of people allowed at 499.
- The premises is a large and predominantly disused industrial estate, and does not currently hold a premises licence or club premises certificate and this is the first Temporary Event Notice submitted for the site.
- The Temporary Event notice had been given to the Licensing Authority and sent to the Police and Environmental Health.
- The Licensing Act 2003 provides a clear focus on the promotion of four statutory objectives which must be addressed when licensing functions are undertaken.
- The licensing objectives are:
 - The prevention of crime and disorder;
 - Public safety;
 - The prevention of public nuisance; and
 - The protection of children from harm.

Each objective is of equal importance. There are no other statutory licensing objectives, so that the promotion of the four objectives is a paramount consideration at all times.

Part 5 of the Act provides a system of permitted temporary activities, which licensable activities can be carried out on a temporary basis. While most large-scale or permanent businesses will hold Premises Licences to authorise their activities, the Act also provides a light touch mechanism for smaller, infrequent events, known as Temporary Event Notices. There is a maximum of 499 people, which not only includes the audience, spectators or consumer, but also includes any staff, organisers, stewards and performers.

- On 15th August, 2022 an objection notice was received from Environmental Health; split into two parts from Environmental Protection and Health and Safety with concerns that the licensing objectives would be undermined.

Noise

- As the site is currently derelict and has not been used for such an event before, the premise's user had been requested to carry out a noise survey to determine the background noise levels at locations around the venue representative of the noise sensitive premises likely to experience the large increase in noise/highest noise level as a result of the concern. This information had not been received so cannot say what level of noise would be acceptable at the nearest residences.
- The building proposed for the stage and sound equipment has no roof or windows, so the building will provide little acoustic insulation.
- The Premises User had proposed a maximum noise level of 65dB at N4 (the junction at Salthouse Road) however Longway and Dowie Close are closer so, once agreed, the maximum noise level should apply to all sensitive receptors.
- The proposed letter drop was for residents at Salthouse Road and St Lukes Avenue only, however noise will be heard from many more residences in the area.
- It was proposed that all residents within a 500m radius be informed of the event and given a phone number for the person responsible for noise on the night, rather than an email address.

Site

- The event space is located down a track accessed via St Lukes Avenue.
- The track is narrow in places, meaning taxis will find it difficult to reach the designated drop off point, past pedestrians and other taxis leaving the event.
- Concern was that as a number of people will be leaving the venue at the same time this will also cause undue disturbance to the local residents; can't see how this can be addressed due to the limited access to the site.
- The site has been subject to regular fly tipping in the past.
- A site walkover and clean up of any waste that could be hazardous to human health should be carried out before public access is granted.
- The site had been visited and found that it was not currently in a condition suitable for public access.
- Objecting on the grounds of public safety in that the site is unsuitable for members of the public –
- The floor surfaces throughout the venue are broken and uneven and present a tripping hazard to attendees.
- The ground surfaces leading into the proposed DJ/dance area are affected by pooling of surface water.
- The walled surfaces within the remains of the building are broken and uneven in places and in an unstable condition.
- The site is littered with scrap metal, discarded waste materials and scrap cars.

- On 16th August, 2022 a further objection was received from Cumbria Police also with concerns that the licensing objectives would be undermined; also split into two parts.
 - The Police are objecting on the following grounds which is public nuisance, public safety and anti-social behaviour –
 - The area is currently a problem due to an increase in anti-social behaviour, fires, inappropriate use of vehicles.
 - The ground is uneven and as previously stated unsafe which could cause a trip hazard.
 - The area is not very well lit, the access to the area is uneven making it difficult for emergency services to get to the area.
 - The area is littered with rubbish including metal which could be used as a weapon if violence was to occur.
 - The whole area is unsuitable to the public.
 - The residents of Dowie Close would certainly object due to the amplified noise from the area.
 - The Police are objecting to this on the grounds of a threat to public safety.
 - The site is not suitable for the purpose it is being put to, it is an abandoned and derelict industrial centre and there are reasonable grounds to believe that the condition of the site may be injurious to event goers.
 - Additionally the access and egress from the site is via a potholed and cobbled lane with a height restricted bridge making site access difficult for the emergency services.

The Licensing Act 2003 does not make provision for further consultation with any other responsible authority nor other parties and there is no requirement for the premises user to publicise their notice.

The Hearing:

- Officers from Environmental Health attended the meeting and reiterated their objections and drew attention to the photographs of the site included in the appendix.
- The Senior Environmental Protection Officer informed the Sub-Committee that she had received noise readings but not the methodology, and that they were still high, so a maximum noise level had not been agreed.
- The Environmental Health Commercial Team Leader explained his concerns with reference to the photographs with the agenda papers.
- A representative from the Police attended the meeting and reiterated their concerns.
- A representative from Pitch Up Events, attended the meeting and addressed the Sub-Committee in response to the objections and concerns raised:
 - He agreed with the objections and would not want to put on an unsafe event. He circulated photographs of ongoing works –

- Pot holes – The Team had been working hard filling holes in the event space and approach to the venue to prevent standing water;
- Lighting – Lighting Towers were to be used

The Commercial Team Leader commented that the work to potholes had not been completed when he had visited the site at 11.45am. In response it was confirmed that the works were in the process of being undertaken.

Mr Howden responded to concerns with regards to noise, and how it was intended to manage the noise at the event. He was confident that they could manage the event to ensure the venue was safe and that objections overcome.

The Police representative raised the issue of the height of the access bridge and how emergency services struggled to access the site.

All responded to questions raised with them at the meeting.

The site manager, addressed the meeting and reported on the work being undertaken to ensure that the site was improved and that skips had been brought on to remove the waste and scrap cars. In response to questions he confirmed that the survey had not covered the effect of possible vibrations, and that the asbestos had been cleaned up over a year ago, and was happy to have further tests on any residual amounts on site.

Sub-Committee decision:

The Sub-Committee carefully considered the objections for a Temporary Event Notice for Salthouse Mills, Barrow-in-Furness. In considering the objections, the sub-committee took account of the Council's statement of licensing policy, the Licensing Act 2003, section 182 Guidance, the agenda papers and representations from the premises user and objectors' written and oral representations.

Having considered the objections and heard from all the parties, the Sub-Committee decided that it was appropriate for the promotion of the licensing objectives for a counter notice to be served.

Reasons for decision:

The Licensing Sub-Committee gave the following reasons under section 105(3)(b) of the Licensing Act 2003 for their decision to issue a Counter Notice:

- 1) Crime and Disorder – Public Nuisance - The views of the Police have been taken into account with regards to prevention of crime and disorder and public nuisance;
- 2) Prevention of Public Nuisance - Noise from music or persons attending in the evening and those leaving was a concern and could not be addressed with a TEN;
- 3) Public Safety – the Sub-Committee did not consider that the site was sufficiently safe and accessible for the event – there were also concerns regarding asbestos and structural safety.

- 4) A temporary event notice does not allow for conditions and therefore there were no additional controls that could be put in place by the Licensing Sub-Committee to mitigate concerns raised by the Police or the local authority.

Appeal Rights

There is a right of appeal by the person who has given the TEN and for the relevant persons who have submitted the objection notices. However, no appeal may be brought later than 5 working days before the day on which the event period is specified in the TEN.

Date: 23rd August, 2022

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