

LICENSING ACT SUB COMMITTEE

Licensing Act 2003 Notification of Temporary Event – The Crafty Scholar, 33-37 Church Street, Lancaster Determination of Application Following Relevant Representation 17th August 2017

Report of Licensing Enforcement Officer

PURPOSE OF REPORT

Hearing held under Section 105(2)(a) of the Licensing Act 2003 - Counter Notice following an objection by Lancashire Constabulary.

The report is public

RECOMMENDATIONS

The Sub Committee is requested to determine in the light of the representations made and having regard to the Council's Statement of Licensing Policy, the Licensing Act 2003 and any Regulations made under that Act, as well as Government Guidance, whether to grant the application as requested, impose any conditions on the licence, or to reject the whole application. Members are reminded that they should state the reasons for their decision.

1.0 Introduction

Details of Temporary Event Notice

On the 7th August 2017 a Temporary Event Notice (TEN) under Section 100 of the Licensing Act 2003 was served upon Lancaster City Council by Mr Adrian Miles Hulme in respect of the premises known as The Crafty Scholar, 33-37 Church Street, Lancaster, for events to take place from 03:00 to 06:00 hours on 27th August 2017. The notice stated that the events were to include the provision of late night refreshment and the sale by retail of alcohol. A copy of the TEN is attached at Appendix 1.

For members' information the premises already has the benefit of a premises licence issued under the Licensing Act 2003. A copy of the licence is attached at Appendix 2. The premises licence permits various types of regulated entertainment indoors and the sale by retail of alcohol on & off the premises:-

Sunday - Tuesday 10.00 to 00.00
Wednesday - Saturday 10.00 to 03.00

Late Night Refreshment:-

Sunday - Tuesday 23:00 to 00:00
Wednesday - Saturday 23:00 to 03:00

Provision of Films:-

Sunday – Tuesday 07:00 to 00:00
Wednesday – Saturday 07:00 to 03:00

Details of the objection

On 7th August 2017, in accordance with Section 104(2) of the Licensing Act 2003 as amended by the Police Reform and Social Responsibility Act 2011, Lancashire Constabulary has submitted an immediate objection on the grounds of prevention of crime and disorder.

A copy of the objection is attached at Appendix 3.

Notice of Hearing

In accordance with the relevant Regulations, the parties have been given Notice of the Hearing. A copy of the Notice is attached for Members' attention at Appendix No. 4.

Legal background to Objection

Under Section 104(2) of the Licensing Act 2003, the Chief Officer of Police or a Local Authority exercising environmental health functions may object to a TEN on the basis that use of the premises in accordance with the notice would undermine any of the licensing objectives. Members will be aware that these are:-

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance and
- the protection of children from harm

If the police and/or local authority exercising environmental health functions believe that allowing the premises to be used in accordance with the TEN will undermine the licensing objectives, they must give the premise user and the licensing authority an objection notice. The objection notice must be given within three working days of their receipt of the TEN.

If the licensing authority receives an objection notice from the police or local authority exercising environmental health functions that is not withdrawn, it must hold a hearing to consider the objection (unless all parties agree that this is unnecessary) within 7 working days beginning with the day after the end of the period within which a chief officer of police or the local authority exercising environmental health functions may give a notice under section 104(2)

Matter for Decision

The Sub-Committee is requested to consider the objection submitted by Lancashire Constabulary.

In accordance with Section 105(2) of the Licensing Act 2003, the Sub-Committee must take such of the following steps as it considers necessary for the promotion of the licensing objectives:

- (a) impose one or more of the existing licence conditions on the TEN (insofar as such conditions are not inconsistent with the event)
- (b) determine that the event would undermine the licensing objectives and serve a counter notice
- (c) allow the licensable activities to go ahead as stated in the notice.

The matter for decision, therefore, is which of these steps should be taken.

Government Guidance under Section 182 of the Licensing Act 2003

Members may wish to note that paragraph 2.1 of the Guidance issued by the Government under Section 182 of the Licensing Act 2003 states that Licensing Authorities should look to the Police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).

Relevant Parts of the Council's Statement of Licensing Policy

With regard to the prevention of crime and disorder, the Policy provides as follows:

9. The prevention of crime and disorder

- 9.1 The central concerns of licensing in relation to law and order are acts of violence and vandalism brought about by consumption of alcohol and the use of licensed premises as part of a distribution network for illegal drugs.
- 9.2 It is not the function of licensing to impose good practice in the adoption of wider crime reduction measures, such as those for securing premises outside of trading hours. It is also not a purpose of licensing to require that measures be put in place to enhance the opportunities for gathering evidence in relation to crime of a general nature. However, the Licensing Authority recognises that CCTV cameras at premises have an important role in preventing crime and disorder.
- 9.4 The Licensing Authority's starting point is to seek a reduction in crime and disorder throughout the area, consistent with its statutory duty under section 17 of the Crime and Disorder Act 1998. Licences may be granted if applicants can demonstrate that a positive reduction in crime and disorder will result, or that it will not increase, as a result of the application being granted.
- 9.5 Where there are relevant representations, the Licensing Authority will generally not grant a licence where it is likely that the premises will be used for unlawful purposes or where it is considered that the use of the premises is likely to cause an increase in

crime and disorder in the area or the premises and this cannot be prevented by the imposition of conditions. When addressing crime and disorder, the applicant should identify any particular issues which are likely to adversely affect the promotion of the objective to prevent crime and disorder, taking account the location, size and likely clientele of the premises, and the type of entertainment (if any) to be provided. Such steps as are required to deal with these issues should be included within the applicant's operating schedule, and may include:

- Use of CCTV inside and outside the premises. The Lancashire Constabulary has produced suggested minimum requirements for CCTV and these are available from the Lancashire Constabulary or from the Licensing Authority's administrative staff
- Use of metal detection or other search equipment or procedures
- Crime and disorder risk assessment in relation to the proposed activities
- Measures to prevent the use or supply of illegal drugs and procedures for searching customers
- Ensuring that all staff are appropriately trained
- Ensuring that all staff involved in the management of the premises have the capability, responsibility and training to supervise other staff and to ensure that the premises are operated in such a manner as to prevent crime and disorder
- Employment of sufficient security staff where appropriate, controlling admission, monitoring capacity within the premises as a whole and in separate rooms/levels and patrolling the interior and exterior of the premises (any such staff must be licensed by the Security Industry Authority). The Licensing Authority recognises that there is a greater need for security staff in some premises than in others. For example there will be a greater need for security staff in a town centre nightclub than in a village pub. It will be for the applicant to consider the appropriate number of doorstaff required for the particular premises.
- Ensuring that a register of doorstaff and their working times is maintained
- Participation in Pub Watch, Best Bar None or other relevant schemes and using radio links/pages as a means of connecting to other licensed premises.
- Use of plastic or polycarbonate glasses and bottles, where appropriate, or toughened glass. Applicants are advised that the Government believes that a risk-based, rather than blanket, approach to requiring licensed premises to use safer alternatives is the best way to tackle the problem of glass-related injuries
- Wherever possible, agreed protocols with police and other organisations and a commitment to co-operate and provide such evidence as the Police require.
- Adopting the "Night Safe Initiative" and "Safer Clubbing Guide" as statements of best practice
- Following the trade codes of practice, for example BBPA and Portman Group, and not carrying out any irresponsible drinks promotions
- Providing a suitable environment for customers having regard to the activities going on in the premises, in particular appropriate levels of seating
- Ensuring that there are sufficient transport facilities available to ensure that customers can leave the premises safely and swiftly.
- Maintaining an incident log
- The steps the applicant has taken to prevent crime and disorder issues from occurring in any open air parts of the premises, beer gardens, smoking shelters or areas that are used on an ad-hoc basis by patrons with the management consent for smoking, due to location, control within and management of such areas.

It should be noted that this list is not intended to be exhaustive. It may be appropriate for the applicant to consider other steps. Equally, the Licensing Authority recognises that not all the items in the list will be applicable to all premises.

Following the receipt of relevant representations, the Licensing Authority will not normally allow a person to be specified as a designated premises supervisor where that is likely to undermine the prevention of crime and disorder by reason of that person's known past conduct. A person is likely to be considered unsuitable if he has previous unspent convictions for a relevant offence, notwithstanding that he may have been granted a personal licence. However, each case would be considered on its own merits in the light of representations received.

Natural Justice and Human Rights

Members are reminded that they must follow the rules of natural justice, and must also consider human rights implications.

In particular, in accordance with Article 6, all parties are entitled to a fair hearing.

Consideration also needs to be given to the right to respect for private and family life and home, contained within Article 8, although this is a qualified right, and interference is permitted where this is in accordance with the law, or is necessary in a democratic society in the interests of public safety or the prevention of crime and disorder, or for the protection of the rights and freedoms of others. Article 1 of the First Protocol provides that every person is entitled to the peaceful enjoyment of his possessions, although again this right is qualified in the public interest.

Conclusion

Members should consider the objection to the TEN and any steps they consider necessary for the promotion of the licensing objectives.

CONCLUSION OF IMPACT ASSESSMENT (including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)	
None.	
FINANCIAL IMPLICATIONS	
Financial Services have not been consulted as there are no financial implications.	
LEGAL IMPLICATIONS	
Legal implications are contained within the report. In accordance with Section 181 and Schedule 5 of the Licensing Act 2003, the parties have a right of appeal to the Magistrates' Court within 21 days	
BACKGROUND PAPERS	Contact Officer: David Eglin Telephone: 01524 582387 E-mail: deglin@lancaster.gov.uk Ref: DWE
None	