
Licensing & Regulatory Sub-Committee

7 February 2023

Name of Cabinet Member:

Not applicable

Director Approving Submission of the report:

Director of Street Scene and Regulatory Services

Ward(s) affected:

St Michael's

Title: Application for a Temporary Event Notice under the Licensing Act 2003

Is this a key decision?

No

Executive Summary:

The purpose of this report is to consider an application for a Temporary Event Notice under the Licensing Act 2003 for Kasbah, Primrose Hill Street, Coventry, CV1 5LY.

Recommendations:

The Sub-Committee is recommended to consider whether to:

1. Grant the application as requested.
2. Grant the application subject to such conditions that are necessary to promote the Licensing Objectives.
3. Refuse the application wholly or in part where it is necessary in order to promote the Licensing Objectives

List of Appendices included:

1. Temporary Event Notice application
2. Representation
3. Current Premises Licence
4. Location Plan
5. Hearing Procedure Note
6. Relevant Hearing Briefing Note

Other useful background papers:

Section 182 Licensing Act 2003 Guidance

It is a statutory obligation of the Sub-Committee to take into account the Government's Guidance to the Licensing Act 2003 before reaching a decision.

Statement of Licensing Policy

The Council will have regard to the policy when making a decision on applications made under the Act.

Other Useful documents

None

Has it been or will it be considered by Scrutiny?

Not applicable

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

No

Will this report go to Council?

Not applicable

Report title: Temporary Event Notice Application

1. Context (or background)

- 1.1 The Licensing Act 2003 requires Coventry City Council, as the Licensing Authority, to carry out its various licensing functions so as to promote the following four Licensing Objectives:
 - The Prevention of crime & disorder
 - The Protection of public safety
 - The Prevention of public nuisance
 - The Protection of children from harm
- 1.2 A Temporary Event Notice application for Kasbah, Primrose Hill Street, Coventry was received on 25 January 2023. The application is requesting the sale/supply of alcohol (on sales only) and Regulated Entertainment on Saturday 1 April 2023 at 14:00hrs – 22:00hrs for an event to take place in the outdoor area of the premises. There is a current Premise Licence in place and a condition on the operating schedule that states “no outside amplified music”. Any conditions attached to a Premises Licence do not apply to a Temporary Event Notice, unless volunteered by the applicant or imposed by the Sub - Committee.
- 1.3 The applicant for the Temporary Event Notice is the Designated Premises Supervisor named on the Premises Licence.
- 1.4 A representation has been received from the Environmental Protection Team in relation to the Prevention of Public Nuisance objective. (Appendix 2). The representation states that an event of this nature could breach the noise abatement notice currently in place for the premises and be a breach of the Planning Condition which prohibits the playing of amplified music in the outside space.
- 1.5 The Licensing Act 2003 requires the Council to publish a ‘Statement of Licensing Policy’ which sets out the policies the Council will have regard to and apply to promote the Licensing Objectives when making a decision on applications made under the Act. The Policy will be available at the hearing for reference purposes.
- 1.6 It is essential that the Sub-Committee takes into account the government’s guidance to the Licensing Act before reaching a decision. The applicant, Responsible Authorities, or any other persons, should bring to the Sub-Committee’s attention any relevant paragraphs. However, it is suggested good practice for Members of the Sub-Committee to read the relevant paragraph(s) of the guidance prior to the hearing.

2. Options considered and recommended proposal

2.1 There are three courses of action available to the Sub-Committee in relation to this application:

- (i) Grant the application as requested. If the Sub-Committee consider that granting the application would not undermine any of the Licensing Objectives, it should be granted in full as submitted. This would be granted subject to mandatory conditions and conditions consistent with the applicant's operating schedule, and any other conditions agreed by the applicant as part of the consultation / mediation process. Any conditions to be attached to a licence must be appropriate to promote the Licensing Objectives.
- (ii) Grant the application as above, but the Sub-Committee could impose extra conditions as it thinks fit, or make amendments to the operating schedule conditions, and/or proposed hours. This option may include adding any conditions suggested by other parties at the hearing, including the applicant. Any conditions to be attached to a licence must be appropriate to promote the Licensing Objectives.
- (iii) If the Sub-Committee concludes that no additional conditions would ensure that the Licensing Objectives would be upheld, then the whole application should be rejected.

2.2 Your officer recommends option (iii).

The reason for this recommendation is that Environmental Protection have confirmed that there is an existing noise abatement notice in place and there is an existing planning condition prohibiting the playing of amplified music in the outdoor space. The granting of the TEN would undermine the Prevention of Public Nuisance Licensing Objective.

Should the TEN be granted, any outstanding enforcement actions taken by other departments in relation to the Noise Abatement Notice & Planning Permission will still apply under other relevant legislation.

2.3 The Sub-Committee are advised that they may depart from the officer recommendation if, having heard all the evidence, they believe it is appropriate to do so. Should the Sub-Committee decide to depart from the recommendation and choose an alternative option, they must provide full reasons for this decision, based on the promotion of the Licensing Objectives. This application should be considered on its own merits and all the circumstances taken into account before a decision is made.

2.4 The Sub-Committee must also be aware that licences can be reviewed at any time by any Responsible Authority or any 'other person', if it is considered that any of the Licensing Objectives have been undermined following the grant of the Temporary Event Notice.

3. Results of consultation undertaken

3.1 As prescribed by the Licensing Act 2003, the application has been out for consultation to statutory consultees (Police and Environmental Protection) for 3 working days.

- 3.2 Responsible Authorities have received a copy of the application. Please see below responses received:

Responsible Authority	Response Received	Objections	Conditions Agreed
Police	Yes	No	-
Environmental Protection	Yes	Yes	-

- 3.3 One representation from Environmental Protection has been received (Appendix 2). The grounds for the representation is that the granting of the Temporary Event Notice would undermine the licensing objective of Prevention of Public Nuisance.

4. Timetable for implementing this decision

- 4.1 The Appeal period is 21 days beginning on the date that the Appellant(s) receive notification of the decision of the Licensing Authority.

5. Comments from Interim Chief Executive (Section 151 Officer) and Chief Legal Officer

5.1 Financial implications

There are no financial implications arising directly from this report. However, there are possible cost implications if an appeal against the decision is made to the Magistrates Court and the decision of the Sub-Committee is not upheld.

5.2 Legal implications

The Licensing Act 2003 sets out how applications for Temporary Event Notices should be dealt with where valid representations have been submitted. The Sub-Committee have to decide the outcome of the application taking into account the four Licensing Objectives.

In accordance with the provisions of the Act, if a Licensing Authority rejects in whole or in part, an application to grant a Temporary Event Notice, the applicant may appeal against the decision, to a Magistrates' court within 21 days of receiving notification of the decision.

Similarly, where a person who made relevant representations in relation to the application contends that the licence ought not to have been granted or that alternative or additional conditions should have been imposed on the licence, they may appeal against the decision, to a Magistrates' court within 21 days of receiving notification of the decision.

6. Other implications

6.1 How will this contribute to achievement of the Council's key objectives / corporate priorities (corporate plan/scorecard) / organisational blueprint or Coventry Sustainable Community Strategy

It is the Regulatory Services team's responsibility to ensure that members of the public in Coventry are not put at risk. This contributes to the Council's core aim of ensuring that citizens live longer healthier lives. The business' failure to uphold the Licensing Objectives may have an adverse effect on Public Safety and citizen's quality of life.

6.2 How is risk being managed?

If the application is not handled in line with the Licensing Act 2003, there is a risk of judicial appeals, reviews and associated costs.

6.3 What is the impact on the organisation?

None

6.4 Equalities / EIA

This decision will not affect the service provision and therefore details of the Equalities Impact Assessment are not relevant in this case.

6.5 Implications for (or impact on) climate change and the environment

None

6.6 Implications for partner organisations?

The Council recognises that the licensing function is only one means of promoting delivery of the above objectives and should not therefore be seen as a means for solving all problems within the community. The Council will therefore continue to work with the West Midlands Police, Community Safety Partnership, local people and those involved in child protection (Coventry Safeguarding Children Board) to promote the common objectives as outlined.

6.7 Human Rights Act Implications

None

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