

**NEWCASTLE-UNDER-LYME BOROUGH COUNCIL**

**EXECUTIVE MANAGEMENT TEAM'S  
REPORT TO CABINET**

**18 March 2020**

**Report Title:** Use of loud speakers in the street after 9pm  
**Submitted by:** Darren Walters – Environmental Health Business Manager  
**Portfolios:** Environment and Recycling  
**Ward(s) affected:** All

**Purpose of the Report**

1. To ask Cabinet to adopt Schedule 2 of the Noise and Statutory Nuisance Act 1993 so that the Council can issue consents to permit the use of loud speakers in the street after 9pm.

**Recommendation**

**That Cabinet:-**

- 1) Adopts Schedule 2 of the Noise and Statutory Nuisance Act 1993 for application across the borough or Newcastle-under-Lyme
- 2) Delegates to the Executive Director of Operational Services, in conjunction with the Portfolio Holder Environment and Recycling, authority to amend the council's policies to set out a framework against which applications for consent will be determined.

**Reasons**

Any amplified performance on the street after 21:00 hours is prohibited under The Control of Pollution Act 1974. To enable such performances to take place the Council needs to adopt this enabling legislation. Once adopted, the council can consider and determine applications accordingly.

1. **Background**

- 1.1. The Council has recently been in discussion with organisers of town centre events where there is a desire to provide entertainment to audiences after 9pm, by way of loud speakers to be situated within an appropriately licensed area of the town centre under the appropriate provisions of the Licensing Act 2003. Although the provision of amplified entertainment is regulated under the Licensing Act 2003, a separate consent under schedule 2 of the Noise and Statutory Nuisance Act 1993 is required to be in place to lawfully operate a loud speaker after 9pm in street. A "street" is defined as a highway and any other road, footway, square or court which is for the time being open to the public.

2. **Issues**

- 2.1. Legislation concerning the use of loud speakers in the street is principally controlled under The Control of Pollution Act 1974 as amended by the Noise and Statutory Nuisance Act 1993. Subject to certain legal provisions, the use of loud speakers within a street, square, court, and

footway is prohibited after 9pm and before 8am the following morning, unless an appropriate consent is in place.

- 2.2. Where a loud speaker is operated after 9pm, otherwise than in accordance with a consent an offence is committed which on conviction carries an unlimited fine in the magistrate's court.
- 2.3. There is no record of the Council having adopted schedule 2 of the Noise and Statutory Nuisance Act 1993 to allow the Council to lawfully consent to the operation of a loud speaker in a "street" after 9pm.
- 2.4. This means that amplified entertainment such as amplified music, amplified vocals, and street cinema's and the like cannot be permitted by the Council to take place in the "street" after 9pm. Clearly, this affects the vitality of areas of the Borough like the town centre where there are aspirations to promote and grow the night time economy through the provision of a range of events across the calendar year.

### 3. **Proposal**

- 3.1. That Cabinet adopts Schedule 2 of the Noise and Statutory Nuisance Act 1993 so that it applies to the administrative area of the Council.

### 4. **Reasons for Proposed Solution**

- 4.1. To provide a mechanism to consent to the appropriate operate of loud speakers in the street to support a range of events and activities that will take place after 9pm. Where a consent is not in place it will still be an offence (subject to legal exemptions) to operate a loud speaker in the street between the hours of 9pm and 8am.

### 5. **Options Considered**

- 5.1. That only other option is not to adopt Schedule 2. This will mean that town centre and other "street" based events could not lawfully include the use of loudspeakers in the street after 9pm.

### 6. **Legal and Statutory Implications**

- 6.1. These are covered in the main body of the report. Members should be aware that the resolution does not take effect until a period of one calendar month after the decision of Cabinet to adopt Schedule 2. There is a requirement to advertise the fact that Schedule 2 has been adopted by way of advert in a newspaper circulated in the area for two consecutive weeks prior to the adoption coming into effect.
- 6.2. The council should promulgate a framework against which applications for consent will be considered, including a mechanism to appeal against refusal, so that prospective applicants can be clear on the council's policy, how it determines applications, whether an application is likely to be successful and what conditions the Council might apply to any consent granted. Once a framework has been developed and agreed this will be made clear on the Council's website.
- 6.3. The scheme of delegation in the Constitution already gives authority to the Head of Environmental Health to determine applicants for consent, so no amendments or additions are required in that regard

### 7. **Equality Impact Assessment**

- 7.1. None identified.

8. **Financial and Resource Implications**

- 8.1. The operation of the consent procedure can be accommodated within existing service resources. Officers are routinely involved in discussions with event organisers regarding a range of issues concerning the operation and management of events under existing regulatory requirements especially under the Licensing Act 2003 where entertainment noise management is a relevant consideration both pre and post 9pm for events likely to attract more than 500 people at any one time.

Given the above and the small number of events anticipated likely to require consent, it is not currently proposed to charge for consent applications. . However, this will be kept under review.

9. **Major Risks**

None identified

10. **Sustainability and Climate Change Implications**

None identified

11. **Key Decision Information**

N/A

12. **Earlier Cabinet/Committee Resolutions**

N/A

13. **List of Appendices**

None.

14. **Background Papers**

None.