

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

**EXECUTIVE MANAGEMENT TEAM'S
REPORT TO**

Licensing Sub-Committee
Wednesday 10 May 2023 - 10:00am

Report Title: Three temporary event notices given for the same premises which have received a relevant representation from a responsible body.

Submitted by: Regulatory Services – Service Director

Portfolios: Finance, Town Centres and Growth

Ward(s) affected: Clayton

Purpose of the Report

To inform the sub-committee of three temporary event notices which have been given for the same licensed premises, which have received a relevant representation from Environmental Health.

Recommendation

In accordance with the Licensing Act 2003, the statutory guidance and the Council's own Statement of Licensing Policy the Sub-Committee may consider the Premises Licence related to this premises and must have regard to the four licensing objectives, as below, when making its decision:

- (i) The Prevention of Crime and Disorder
- (ii) Public Safety
- (iii) The Prevention of Public Nuisance
- (iv) The Protection of Children from Harm

Reasons

Three temporary event notices were received online on the 25th April 2023 from Mr John Rushton for extensions to the licence of the premises 85 Secret Garden, 81-85 Clayton Road, Newcastle-under-Lyme, ST5 3NE. As part of the notice process, the police and environmental health can act as responsible authorities. A relevant representation was received from the Council's environmental health department, in regards to the licensing objective of prevention of public nuisance for all three notices.

1. **Background**

1.1 Three standard temporary event notices (TEN) were given in regards to the licensed premises 85 Secret Garden, 81-85 Clayton Road, Newcastle-under-Lyme, Staffordshire, ST5 3NE. This premises has been licensed since the 12th April 2018 with a premises licence reference of 17523. A copy of the current premises licence, which includes a plan of the premises, is attached as **Appendix A**.

1.2 On the 25th April 2023 Mr Glyn Cross, acting as an agent for Mr John Rushton, submitted three temporary events for private parties to allow an extension of the licensable hours as follows:

Date of Event	Time of Extension	NULBC Reference
19 to 20 May 2023	00:00-02:00	21614
23 to 24 June 2023	00:00-02:00	21615
21 to 22 July 2023	00:00-02:00	21617

The temporary event notices are attached as 21614 **Appendix B**, 21615 **Appendix C** and 21617 **Appendix D**.

1.3 On the 27th April an email was sent to Mr Cross to confirm that the extensions were only relevant to the early hours of the 20th May, 24th June and 22nd July following events that would be covered by the premises licence on the preceding days. A copy of the email is attached as **Appendix E**.

1.4 The temporary event notices were distributed to the police and environmental health as relevant authorities on the 25th April 2023 and an objection was raised by environmental health later that day. This was followed by a formal objection on the 28th April 2023 on the grounds of public nuisance in regards to all three events. The objection is attached as **Appendix F**.

1.5 There is one complaint 142887 on record, regarding the licensed premises, from 18th May 2021 in relation to concerns over the use of the outside area and changes to the layout of the premises following an article in the local press. The matter was resolved with a variation to the licence which was completed in November 2022. Conditions and a noise management plan were agreed with the environmental health department as part of that application and now form part of the licence as can be seen in Appendix A.

1.6 According to the record in the year to date another temporary event notice reference 21533 was given with no objections or complaints on the 11th to 12th March 2023 for an event that ran until 02:00 hours. The notice is attached as **Appendix G**. There were also three temporary events in the year 2022 that concluded at 01:00 hours. The references and dates for these events were 21219 on the 16th to 17th July 2022, 21356 on the 29th to 30th October 2022 and 21382 on the 4th to 5th November 2022. Again, no objections or complaints can be seen in relation to these events.

1.7 A copy of a location plan of the premises and its local surrounds is attached as **Appendix H**. Whilst the premises is within a row of shops, there are several households to the rear of the premises and adjacent to the carpark and side access to the premises. It is located in the Clayton Ward.

1.8 No objection has been received from Staffordshire Police.

2. **Issues**

2.1. The Licensing Act 2003 requires the Council to carry out its various licensing functions so as to promote the following four licensing objectives;

- (i.) The Prevention of Crime and Disorder
- (ii.) Public Safety
- (iii.) The Prevention of Public Nuisance
- (iv.) The Protection of Children from Harm

2.2. The Licensing Act 2003 requires the Council to publish a “Statement of Licensing Policy” that set out the policies the Council will generally apply to promote the licensing objectives when making decisions on applications made under the Act. Copies of the Council’s Statement of Licensing Policy and the Government’s Statutory Guidance will be available at the Licensing Sub-Committee hearing.

2.3. In making their decision on the three notices the Sub-Committee are obliged to have regard to the Statutory Guidance and the Council’s own Statement of Licensing Policy. The Sub-Committee must also have regard to the representations made and the evidence heard at the hearing. However, the Sub-Committee must disregard any representations that do not relate to the promotion of the four licensing objectives.

3. **Proposal**

3.1 The Sub-Committee, where it considers that action under its statutory powers is appropriate, may take any of the following steps for the promotion of the four licensing objectives. The steps available to the Sub-Committee are listed in Section 5.1 of this report.

3.2 For this purpose the conditions of the notice are modified if any condition is added. The conditions imposed must be on the premises licence that has effect in respect of the same premises, or any part of the same premises, as the temporary event notice, and the conditions should not be inconsistent with the carrying out of the licensable activities under the temporary event notice.

3.3 The Sub-Committee are asked to note that they may not modify the conditions or take any other steps merely because they consider it desirable to do so. Any action taken must be appropriate in order to promote the licensing objectives.

4. **Reasons for Preferred Solution**

4.1 To ensure that the Council promote the licensing objectives in accordance with their statutory duty.

5. **Options Considered**

5.1 The relevant options considered in relation to the three event notices are:

- (a) to issue counter notices in regards to each of the three notices;
- (b) to modify the notices in each of the three notices by adding relevant conditions from the premises licence;
- (c) to grant the notices as submitted.

5.2 The Sub-Committee must make a separate decision for all three Temporary Event Notices.

6. **Legal and Statutory Implications**

6.1 To power to offer a counter notice to a temporary event notice is Section 105 of the Licensing Act 2003 and to modify the notice by adding conditions from the premises licence is Section 106A of the Licensing Act 2003.

6.2 Hearings will be carried out in a fair, proportionate and consistent manner in line with:

Article 6(1) guarantees an applicant a fair hearing
Article 14 guarantees no discrimination

6.3 Premises User has the right to appeal the decision/s at the Magistrates Court and if successful could apply for the award of costs. However it is unlikely given the short timeframe between the hearing date and proposed events dates that an appeal could be heard by the Court.

7. **Equality Impact Assessment**

7.1 Not Applicable

8. **Financial and Resource Implications**

8.1 Not applicable unless an appeal is submitted

9. **Major Risks**

9.1 As above

10. **UN Sustainable Development Goals (UNDSG)**

10.1



11. **Key Decision Information**

11.1 Not Applicable

12. **Earlier Cabinet/Committee Resolutions**

12.1 The Licensing Committee has previously resolved to have regards to its Licensing Policy.

13. **List of Appendices**

13.1 Appendix A – Copy of Premises Licence including plan
Appendix B – TEN 21614 for 19-20/05/2023
Appendix C – TEN 21615 for 23-24/06/2023
Appendix D – TEN 21617 for 21-22/07/2023
Appendix E – Email confirming for single night only
Appendix F – Environmental Health objection
Appendix G – TEN 21533 for 11-12/03/2023
Appendix H - Location plan of the premises

14. **Background Papers**

14.1 Licensing Policy 2021-2025

14.2 Licensing Act 2003 Statutory Guidance