

**NEWCASTLE-UNDER-LYME BOROUGH COUNCIL**

**CORPORATE LEADERSHIP TEAM'S  
REPORT TO**

**Licensing Sub-Committee**  
**Friday 18<sup>th</sup> August 2023 – 09:30am**

**Report Title:** A temporary event notice given for The Carlton, 48-50 Merrial Street, Newcastle-under-Lyme has received a relevant representation from a responsible body.

**Submitted by:** Service Director - Regulatory Services

**Portfolios:** Finance, Town Centres and Growth

**Ward(s) affected:** Town

**Purpose of the Report**

To inform the sub-committee of a temporary event notice given for The Carlton, 48-50 Merrial Street, Newcastle-under-Lyme that has 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 must consider the Temporary Event Notice 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**

A temporary event notice was received online on 11<sup>th</sup> August 2023 from Mr Christopher Clegg for an extension to the licence of the premises The Carlton, 48-50 Merrial Street, Newcastle-under-Lyme, ST5 2AW. 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.

1. **Background**

- 1.1 A standard temporary event notice (TEN) was given in regards to the licensed premises The Carlton, 48-50 Merrial Street, Newcastle-under-Lyme, ST5 2AW. This premises has been licensed since the August 2013 with a premises licence reference of 10295. It authorises the exhibition of film, live music, recorded music, late night refreshment and the sale of alcohol

until 01.00 hours Monday to Sunday. A copy of the current premises licence is attached as **Appendix A**.

- 1.2 The Temporary Event Notice submitted is attached to the report as **Appendix B** and is for an extension of the terminal hour to 02.00 into the morning of 28<sup>th</sup> August 2023.
- 1.3 On 11<sup>th</sup> August 2023 an objection was received from the Council's Environmental Health Department acting in their role as a responsible authority. A copy of the objection is attached as **Appendix C**. The objection states that they are currently investigating complaints of noise nuisance from the premises and that it would be inappropriate for the event to go ahead as proposed as it is considered that it would breach the licensing objective of Prevention of Public Nuisance.
- 1.4 The Licensing Manager has attempted to contact the premises user via telephone and email on both Friday 11<sup>th</sup> August and Monday 14<sup>th</sup> August. In the email correspondence a request has been sought as to whether the premises user may withdraw the TEN or wanted to proceed with a hearing to determine the matter. At the time of writing there has been no response or confirmation of receipt of the emails. The emails are attached as **Appendix D**.
- 1.5 A copy of a location plan of the premises and its local surrounds is attached as **Appendix E**. It is located in the Town Ward.
- 1.6 At the time of writing no objections have been received from Staffordshire Police who have until the end of Wednesday 16<sup>th</sup> August 2023 to do so.

## 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 TEN 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.

#### 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 notice in respect of the notice;
  - (b) to modify the notice by adding relevant conditions from the premises licence; or
  - (c) to grant the notice as submitted.
- 5.2 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 for the same premises, or any part of the premises, as the TEN, and the conditions should not be inconsistent with the carrying out of the licensable activities under the TEN.
- 5.3 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.

#### 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 The 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 (UNSDG)**

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  
Appendix B – TEN  
Appendix C – Environmental Health objection  
Appendix D – Correspondence from Licensing Manager  
Appendix E - Location plan of the premises

14. **Background Papers**

14.1 Licensing Policy 2021-2025

14.2 Licensing Act 2003 Statutory Guidance