

Report for: Special Licensing Sub Committee 23rd June 2022
Item number:

Title: TEMPORARY EVENT NOTICE

Report authorised by : Daliah Barrett-Licensing Team Leader – Regulatory Services.

Ward(s) affected Tottenham Hale

**Report for Key/
Non Key Decision:** Not applicable

1. Describe the issue under consideration

- 1.2 Authorisation from the Council is required for the sale or supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment.
- 1.3 While most large-scale or permanent businesses will hold Premises Licences to authorise their activities, the Act also provides a light-touch mechanism for smaller, infrequent events, known as Temporary Event Notices.
- 1.4 An individual (known as the “premises user”) may give notice of a proposal to use premises for a temporary event, engaging in one or more licensable activities for a period of no more than 168 consecutive hours. The Licensing Sub-Committee is required to consider any objection notice received, and must give the premises user a counter-notice under section 105 of the Licensing Act 2003 if it considers it appropriate for the promotion of a licensing objective to do so. The temporary event may not proceed if a counter-notice has been issued.

2. Proposals/reason

- 2.1 The Licensing Sub-Committee has responsibility for exercising many of the Council's powers in respect of the Licensing Act 2003. Consideration by the Committee of the notice(s) appended to this report is required because the notice(s) have attracted an objection from the Police and or Council's Noise Team RA.
- 2.2 Details of the notice are set out in the Appendix to this report. The statutory consultation requirement set out in paragraph 3 below has been complied with by the premises user(s), and has resulted in the Noise Team RA and/or the Police giving an objection notice to the licensing authority.
- 2.3 The premises user, the Police and the Public Protection Team have been invited to attend the hearing
- 2.4 The fee for giving a temporary event notice is prescribed within the Licensing Act 2003.

3. Consultation requirements

- 3.1 The premises user is required to give a copy of any temporary event notice to the Police and the Council's ASB Noise Team no later than 10 working days before the first day of the proposed event. If either body is satisfied that allowing the premises to be used in accordance with the notice would undermine any of the licensing objectives,

they must give an objection notice to the licensing authority and to the premises user within three days of receiving the copy of the notice. It is also possible to give a late TEN with between 5 and 10 working days notice, however if an objection notice is given the event cannot proceed.

- 3.2 An applicant's failure to comply with the above consultation requirements would invalidate the notice. All notices set out in the appendix of this report have complied with the consultation requirements.
- 3.3 The Act does not make provision for further consultation with any other responsible authorities nor interested parties, and there is no requirement for the premises user to publicise their notice.

4 **Legal and Democracy**

4.1 The authorisation of premises for the supply of alcohol, regulated entertainment and late night refreshment fall within the provisions of the Licensing Act 2003.

4.2 When carrying out its licensing functions, the Sub-Committee shall act with regard to the Council's Licensing Policy, Statutory Guidance, and with a view to promoting the Licensing Objectives. The objectives are:

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

4.3 The Sub-Committee must ensure that all licensing decisions have:

- a direct relationship to the promotion of one or more of the 4 licensing objectives;
- regard to the statement of licensing policy;
- regard to the Secretary of State's Guidance;
- there must not be a 'blanket policy' to the extent that it is applied so rigidly that an exercise of discretion in each individual case is precluded.

4.4 Applications must be considered with regard to the principles of fair process and the Human Rights Act.

4.5 The purpose of Haringey's Statement of Licensing Policy is to make clear to applicants and relevant representatives the considerations that will be taken into account when determining applications. It is also intended to guide the Licensing Committee when considering licensing applications; however the Licensing Committee must consider each application on its own merit and only allow exceptions to its own policy where the circumstances of the application justify it.

4.6 Subject to both the Council's Statement of Licensing Policy and Statutory Guidance having been properly considered a Sub Committee may depart from them if there are good reasons for doing so. Full reasons must be given and Sub-Committees should be aware that such departures could give rise to an appeal or judicial review.

4.7 Section 105(2)(b) of the Act requires that the licensing authority must, having regard to the objection notice, give the premises user a counter notice under this section if it considers it, "appropriate for the promotion of a licensing objective to do so." The temporary event may not proceed if a counter-notice has been given.

4.8 Section 106A(2) of the Act provides that the licensing authority may impose one or more

conditions on the standard TEN if:

- a) it considers it appropriate for the promotion of the licensing objectives to do so;
- b) the conditions are also imposed on a premises licence or club premises certificate that has effect in respect of or in any part of the same premises as the TEN;
- c) the conditions would not be inconsistent with the carrying out of licensable activities under the TEN.

- 4.9 It is considered inappropriate for officers involved in the administration of notices to make recommendations. However, the Committee may choose whether to have regard to any representations made by police officers or Council's ASB Noise Team if they believe that using the premises in accordance with the TEN will undermine the licensing objectives.
- 4.10 At any time prior to the hearing, the police or the Council's ASB Noise Team may, with the agreement of the premises user, modify the temporary event notice by making changes to the notice. The objection notice shall be treated as having been withdrawn from the time the temporary event notice is modified. The premises user may also withdraw the notice completely at any time up until 24 hours prior to the proposed start time of the notice.
- 4.11 In accordance with the provisions of Part 3 of Schedule 5 of the Act, where the licensing authority gives a counter-notice under section 105, the premises user may appeal against the decision. Where the authority does not give a counter-notice, the person giving the objection notice may appeal against the decision. In both cases, appeals must be made to a Magistrates Court within 21 days of receiving notification of the decision – however, no appeal can be brought less than 5 working days prior to the first proposed event day.

SPECIAL LICENSING SUB-COMMITTEE 23rd June 2022

Report title: Clasic Restaurant -502-508 High Road Tottenham High Road London N17

Applicant: Ms Cotlogut

Application type: Temporary Event Notices (TEN)

Application date: 10th June 2022

Ward – Tottenham Hale

Premises Type – Snooker Hall now being used as a banqueting hall

1 Application Summary

1.1 This is an application relating to TENs contested by The Metropolitan Police and the Councils ASB Noise Team RA for a counter-notice to be issued against the Temporary Event Notice.

1.2 Policy implications

1.3 The Licensing Objectives engaged by this application are:

- a. Prevention of crim and Disorder
- b. Prevention of Public Nuisance
- c. Public Safety

1.4 Application – App A.

1.5 On 10th June 2022 Ms Cotlogut gave the Licensing Authority a Temporary Event Notice (TEN) under section 100 of the Licensing Act 2003. The notice giver seeks permission to host the event at a venue called Clasic Restaurant situated at 502-508 High Road Tottenham London N17. The premises is unlicensed and subject to a prosecution under the Licensing Act 2003.

1.6 The TENs seek to authorise the following licensable activities:

- a. The provision of regulated entertainment; and,
- b. Late night refreshment.
- c. Sale by Retail of Alcohol (on sales)

The applicant is applying for the dates 24th June to 25th June starting 2000 hrs and ending 0330 Hrs (24th) for 300 people, to carry out the licensable activities.

1.7 The TEN's has received an objection notices from the Metropolitan Police and ASB Noise Team. The objections engage with the licensing objectives of the prevention of crime and disorder, the prevention of public nuisance and public safety. The Police note that Ms Cotlogut and her partner Mr Mandachi have continued to use the venue for unauthorised licensable activity .

2 Background

- 2.1 The premises is situated behind McDonalds on High Road Tottenham N17. It consist of a large hall located upstairs on the first floor. The premises was previously a snooker hall but is now being operated as an entertainment venue and restaurant. We are advised that there is Planning permission in place for this use and the applicant has been provided with details to engage with Planning on this matter.
- 2.2 The premises has come to the attention of the Council and Police due to unauthorised activity found to be taking place onsite. These matters are now subject to enforcement/prosecution action.
- 2.3 Mr Cotlogut and her partner Mr Mandachi continues to operate the venue without a valid Licence. Police and Local Authority Enforcement have provided numerous guidance and information to Ms Cotlogut and Mr Mandachi about the need to ensure they were compliant with the law. At the worst point Mr Mandachi took steps to actively block and obstruct officers from entering the venue to investigate the unlawful activity. At one event in February 2022 fighting broke out and an attendee received an injury to their face. There were further events being promoted at this point and the Council took the step to serve a letter of intent to apply for a Closure Order if Mr Mandachi and Ms Cotlogut failed to cancel the then proposed events.
There is now an active prosecution case against Mr Mandachi and Ms Cotlogut for the incidents of unauthorised events at the venue.

3 Representations

- 3.1 The application is opposed as the applicant has not demonstrated that they would comply with relevant law or conditions put in place with regards to promoting or upholding the licensing objectives.

4 Licensing Officer comments

- 4.1 The part of the Statutory Guidance (May 2018) relevant to this application and The representation are Chapters:
- 7) Temporary Event Notices;
 - 9) Determining Applications; and,
 - 15) Regulated Entertainment.
- 4.2 The parts of the statement of Licensing policy that are relevant to this application are:
- Section: 9.4
 - 14.1
 - 16
 - 20.9

5 Conclusion:

- 5.1 Section 106A(2) of the Act provides that the licensing authority may impose one or more

conditions on the standard TENs if:

- It considers it appropriate for the promotion of the Licensing Objectives to do so;
- The conditions are also imposed on a premises licence or club premises certificate that has effect in respect of any or in any part of the same premises as the TEN;
- The Conditions would not be inconsistent with the carrying out of licensable activities under the TEN.

5.2 Members have three options when determining the Notice,

- To issue a Counter Notice
- To impose conditions on the TEN where those are already imposed on the premises licence.
- To refuse to issue a Counter Notice.

6. **Section 17 of the Crime and Disorder Act 1998** states:

“Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those function on, and the need to do all that it reasonably can to prevent crime and disorder in its area”.

7 Human Rights

While all Convention Rights must be considered, those which are of particular relevance to the application are:

- Article 8 – Right to respect for private and family life.
- Article 1 of the First Protocol – Protection of Property
- Article 6(1) – Right to a fair hearing.
- Article 10 – Freedom of Expression

8 Use of Appendices

Appendix 1 – Application document

Appendix 2 – Representation from Met Police & ASB Noise Team

Background papers: Section 82 Guidance

Haringey Statement of Licensing policy