



Classification	Item No.
Open / Closed	

Meeting:	Licensing Hearings Sub-Committee
Meeting date:	3 August 2023
Title of report:	THIS REPORT RELATES TO AN OBJECTION NOTICE BEING RECEIVED FROM GREATER MANCHESTER POLICE IN RESPECT OF A TEMPORARY EVENT NOTICE.
Report by:	Executive Director (Operations)
Decision Type:	Council
Ward(s) to which report relates	East

Executive Summary:

This report relates to an objection notice being given to the Licensing Authority, by Greater Manchester Police pursuant to section 104(2) of the Licensing Act 2003, in respect of a proposed temporary event to be held at Kavern Klub, 107 The Rock, Bury, BL9 0ND between the hours of 12noon to 03.00 hours on the 18 August 2023.

Recommendation(s)

That:

- To give a counter notice to the Temporary Event Notice giver pursuant to section 105(2)(b) of the Licensing Act 2003, if the Local Authority considers it necessary for the promotion of the Licensing Objectives– (preventing the event from taking place).
- Not to give a counter notice and to provide the Police and the notice giver with a copy of the decision and reasons.

Key considerations

1.0 INTRODUCTION

- 1.1 The Licensing Act 2003 and the Licensing Act 2003 (Hearings) Regulations is the relevant legislation.
- 1.2 The Panel will make a decision on the day of the hearing and the parties will be notified subsequently of the decision and the reasons for it by letter from the Licensing Office.

2.0 BACKGROUND

- 2.1 The Temporary Event Notice has been given by Mrs Pauline Makuwere, 27 Owlwood Drive, Little Hulton, Salford, Worsley, M38 0FG. The date of the event that the Temporary Event Notice covers is the 18 August 2023 between the hours of 12 noon to 03.00 hours for the retail sale of alcohol, the provision of regulated entertainment and late-night refreshment.
- 2.2 Greater Manchester Police have complied with all the necessary procedural requirements laid down by the Act.
- 2.3 Under the provisions of section 104(2) of the Act, where the chief officer of police is satisfied that allowing the premises to be used in accordance with the Temporary Event Notice would undermine the Crime Prevention Objective, he must give a notice stating the reasons why he is so satisfied.
- 2.4 Greater Manchester Police, in their capacity as a Responsible Authority, will give their reasons for their representation in respect of the Temporary Event Notice where they are satisfied that the representation would undermine the Prevention of Crime and Disorder. Representation is attached at Appendix 1.

3.0 GUIDANCE TO LICENSING AUTHORITY

- 3.1 The Secretary of State Guidance issued under section 182 of Licensing Act 2003 (December 2022 – updated 12 January 2023) states as follows:
 - 7.10 The police and EHA have a period of three working days from when they are given the notice to object to it on the basis of any of the four licensing objectives.
 - 7.28 If the licensing authority receives an objection notice from the police or EHA that is not withdrawn, it must (in the case of a standard TEN only) hold a hearing to consider the objection (unless all parties agree that this is unnecessary). The licensing committee may decide to allow the licensable activities to go ahead as stated in the notice. If the notice is in connection with licensable activities at licensed premises, the licensing authority may also impose one or more of the existing licence conditions on the TEN (insofar as such conditions are not inconsistent with the event) if it considers that this is appropriate for the promotion of the licensing objectives. If the authority decides to impose conditions, it must give notice

to the premises user which includes a statement of conditions (a "notice (statement of conditions)") and provide a copy to each relevant party. Alternatively, it can decide that the event would undermine the licensing objectives and should not take place. In this case, the licensing authority must give a counter notice.

7.32 The system of permitted temporary activities gives police and EHAs the opportunity to consider whether they should object to a TEN on the basis of any of the licensing objectives.

7.33 If the police or EHA believe that allowing the premises to be used in accordance with the TEN will undermine the licensing objectives, they must give the premises user and the licensing authority an objection notice. The objection notice must be given within the period of three working days following the day on which they received the TEN.

7.34 Where a standard TEN was given, the licensing authority must consider the objection at a hearing before a counter notice can be issued. At the hearing, the police, EHA and the premises user may make representations to the licensing authority. Following the hearing, the licensing authority may decide to impose conditions which already apply to an existing premises licence or club premises certificate at the venue, or issue a counter notice to prevent the event going ahead. As noted above, there is no scope for hearings in respect of late TENs and if objections are raised by the police or EHA in relation to a late TEN, the notice will be invalid and the event will not go ahead.

4.0 OBSERVATIONS

4.1 After hearing the representation and evidence presented, Members are obliged to determine the application with a view to promoting the licensing objectives and having regard to the Authority's Licensing Policy and National Guidance.

Community impact/links with Community Strategy

Not Applicable

Equality Impact and considerations:

Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*

- (b) *advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*
- (c) *foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*

The public sector equality duty requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services.

Equality Analysis	<i>Please provide a written explanation of the outcome(s) of either conducting an initial or full EA.</i>
<i>The Licensing Service have considered the Equality Act 2010 and due to each application being dealt with on its own merits there is no positive or negative on any of the protected characteristics.</i>	

Assessment of Risk:

The following risks apply to the decision:

Risk / opportunity	Mitigation
There are no specific issues from the report other than potential costs/risks associated with legal appeals.	

Consultation:

Not Applicable

Legal Implications:

Yes, under the legislation the Council is required to determine representations. The report is in accordance with the appropriate legislation.

Financial Implications:

The cost of the licensing function are funded through the fees and charges levied by the Council. There may be additional costs if appeals are lodged with the Magistrates and Crown Courts.

Report Author and Contact Details:

For further information on the details of this report, please contact:

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Background papers:

Temporary Event Notice
Police Objection Notice

Please include a glossary of terms, abbreviations and acronyms used in this report.

Term	Meaning
EHA	Environmental Health Authority
Police	Greater Manchester Police
TEN	Temporary Event Notice

Appendix One

Bury Metropolitan Borough Council

The Licensing Act 2003

Responsible Authority Representation Form

<i>Section 1 - Application Details</i>	
<p>We object to the following Application:</p> <p>Kavern Klub 107 The Rock Bury BL9 0ND</p>	
<p>Type of application.</p> <p>Temporary Event Notice</p>	
<p>Application Number (if known):</p>	

<i>Section 2 – Responsible Authority's Details</i>			
<p>Responsible Authority's Details:</p> <p>Please tick appropriate box:</p> <table border="1"><tr><td><input checked="" type="checkbox"/></td><td>Police</td></tr></table>		<input checked="" type="checkbox"/>	Police
<input checked="" type="checkbox"/>	Police		

<input type="checkbox"/>	Fire Authority
<input type="checkbox"/>	Planning Authority
<input type="checkbox"/>	Health and Safety
<input type="checkbox"/>	Environmental Health Service
<input type="checkbox"/>	Child Protection
<input type="checkbox"/>	Weights and Measures
<input type="checkbox"/>	Licensing Authority
<input type="checkbox"/>	Immigration
<input type="checkbox"/>	Public Health Department
Full name:	Peter Eccleston
Job Title:	Bury District Licensing Officer
Tele number:	07774219071 / 0161 856 2256
Email:	peter.eccleston@gmp.police.uk
Address:	
<p>Bury Police Station Dunster Road Bury BL9 0RD</p>	

Section 3 – Representations	
<input checked="" type="checkbox"/>	We object to the application being granted at all
<input type="checkbox"/>	We object to the application being granted in its current form *
<p>*If you choose this option remember to tell us in section 3B what changes you would like to see.</p>	

You need to complete the boxes below as fully as possible. If you do not then the Licensing Sub-Committee may not understand why you have made a representation (objection).

Please attach supporting documents/further pages as necessary. Please number all extra pages and add the applicant's name and your name to each page.

Section 3A – The Objectives

**To prevent
crime and
disorder**

Please accept this as a formal representation from Greater Manchester Police with regards to a Temporary Events Notice in relation to the Kavern Club between the times of 12:00hrs on the 18th August and 03:00hrs on the 19th August 2023.

Currently, Kavern Klub has a premises license however there is no Designated Premises Supervisor following the resignation of the former on the 17th July 23.

The applicant has requested that this event concludes in the early hours of the morning and given this is a town centre premises, with no management in place to promote the licensing objectives and very little detail on the TEN to suggest how those objectives will be promoted.

As such, the granting of this TEN's is likely to undermine the licensing objectives as many customers will be suffering the effects of alcohol increasing the potential for crime and disorder.

Public safety

To prevent public nuisance	
The protection of children from harm	

Section 3B – Suggestions/Further information

Signed.....P. Eccleston.....

dated 25/07/2023

N.B if you do make a representation, you will be expected to attend the Licensing Sub-Committee hearing and any subsequent appeal proceedings.