



Agenda for a meeting of the Bradford District Licensing Panel to be held on Monday, 16 July 2018 at 1.00 pm in Committee Room 3 - City Hall, Bradford

Members of the Committee – Councillors

CONSERVATIVE	LABOUR
Ellis Smith	M Slater

Notes:

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- If any further information is required about any item on this agenda, please contact the officer named at the foot of that agenda item.

From:

Michael Bowness

Interim City Solicitor

Agenda Contact: Claire Tomenson

Phone: 01274 432457

E-Mail: claire.tomenson@bradford.gov.uk

To:

A. PROCEDURAL ITEMS

1. DISCLOSURES OF INTEREST

(Members Code of Conduct - Part 4A of the Constitution)

To receive disclosures of interests from members and co-opted members on matters to be considered at the meeting. The disclosure must include the nature of the interest.

An interest must also be disclosed in the meeting when it becomes apparent to the member during the meeting.

Notes:

- (1) Members may remain in the meeting and take part fully in discussion and voting unless the interest is a disclosable pecuniary interest or an interest which the Member feels would call into question their compliance with the wider principles set out in the Code of Conduct. Disclosable pecuniary interests relate to the Member concerned or their spouse/partner.*
- (2) Members in arrears of Council Tax by more than two months must not vote in decisions on, or which might affect, budget calculations, and must disclose at the meeting that this restriction applies to them. A failure to comply with these requirements is a criminal offence under section 106 of the Local Government Finance Act 1992.*
- (3) Members are also welcome to disclose interests which are not disclosable pecuniary interests but which they consider should be made in the interest of clarity.*
- (4) Officers must disclose interests in accordance with Council Standing Order 44.*

2. INSPECTION OF REPORTS AND BACKGROUND PAPERS

(Access to Information Procedure Rules – Part 3B of the Constitution)

Reports and background papers for agenda items may be inspected by contacting the person shown after each agenda item. Certain reports and background papers may be restricted.

Any request to remove the restriction on a report or background paper should be made to the relevant Strategic Director or Assistant Director whose name is shown on the front page of the report.

If that request is refused, there is a right of appeal to this meeting.

Please contact the officer shown below in advance of the meeting if you wish to appeal.

(Claire Tomenson - 01274 432457)

B. BUSINESS ITEMS

3. 35B THE ARCADE, NORTH STREET, KEIGHLEY

1 - 22

The Assistant Director Waste, Fleet and Transport Services will present a report (**Document “C”**) which requests consideration of a Temporary Event Notice for an event to be held at 35B The Arcade, North Street, Keighley. The event includes the sale of alcohol, provision of regulated entertainment and the provision of late night refreshment.

Members are invited to consider the information and documents referred to in this report and, after hearing interested parties, determine the related application.

(Melanie McGurk – 01274 431873)

THIS AGENDA AND ACCOMPANYING DOCUMENTS HAVE BEEN PRODUCED, WHEREVER POSSIBLE, ON RECYCLED PAPER

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Report of the Assistant Director Waste, Fleet & Transport Services to the meeting of the Bradford District Licensing Panel to be held on 16 July 2018.

C

Subject:

Consideration of an objection notice received from Environmental Health regarding a Temporary Event Notice for 35B The Arcade, North Street, Keighley.

Summary statement:

Consideration of a Temporary Event Notice for an event to be held at 35B The Arcade, North Street, Keighley. The event includes the sale of alcohol, provision of regulated entertainment and the provision of late night refreshment as follows;

20 July 2018 from 18.00 through to 08.00 hours on 21 July 2018

21 July 2018 from 12.00 through to 08.00 hours on 22 July 2018

22 July 2018 from 12.00 to 22.00 hours

John Major
Assistant Director
Waste, Fleet & Transport Services

Report Contact Melanie McGurk
Senior Licensing Officer
Phone: (01274) 431873
E-mail: melanie.mcgurk@bradford.gov.uk

Portfolio:

Neighbourhoods & Community Safety

Overview & Scrutiny Area:

Corporate

1. SUMMARY

A Temporary Event Notice has been served for the sale of alcohol, provision of regulated entertainment and provision of regulated entertainment at a proposed event to be held at 35B The Arcade, North Street, Keighley. The proposed dates and times of the event are:

20 July 2018 from 18.00 through to 08.00 hours on 21 July 2018
21 July 2018 from 12.00 through to 08.00 hours on 22 July 2018
22 July 2018 from 12.00 to 22.00 hours

The hours were amended from the original application after consultation with West Yorkshire Police.

The Environmental Health Officer has submitted an objection notice to the Temporary Event Notice.

2. BACKGROUND

2.1 The premises user

Mr Daren Medley.

A copy of the notice is attached at Appendix 1.

An extract from the Guidance issued under section 182 of the Licensing Act 2003 regarding Temporary Event Notices is attached at Appendix 2.

2.3 Counter notice received

Environmental Health

The Environmental Health Officer has submitted a notice objecting to the proposed event on public nuisance grounds, as the premises is located in close proximity to residential properties and combined with the hours applied for, gives rise to the strong likelihood of noise complaints being made.

A copy of the Environmental objection notice is attached at Appendix 3.

3. OTHER CONSIDERATIONS

- 3.1 The Licensing Act 2003 facilitates the holding of temporary events at premises that are not otherwise licensed for licensable activities. Proposed events must involve no more than 499 people at any one time. There are also limits on the number of temporary events that can take place at any premises or can be organised by a premises user in a calendar year.
- 3.2 The Police and Environmental Health can object to a temporary event notice where they believe that allowing the event would undermine the licensing objectives. The Police and Environmental Health have 3 working days from receipt of the notice to serve an objection notice specifying the relevant issues.

- 3.3 On receipt of a valid objection notice from the Police or Environmental Health, the Council must hold a hearing to decide whether to uphold the relevant objection. The hearing must take place at least 24 hours before the event.

If the objection notice is upheld, the Council can serve a Counter Notice preventing the event from taking place. If the objection notice is not upheld the event can take place without further formality.

4. FINANCIAL & RESOURCE APPRAISAL

There are no apparent finance or resource implications.

5. RISK MANAGEMENT AND GOVERNANCE ISSUES

There are no apparent risk management or governance implications.

6. LEGAL APPRAISAL

Referred to in part 3 above.

7. OTHER IMPLICATIONS

7.1 EQUALITY & DIVERSITY

The Council has to comply with the public sector equality duty in Section 149 Equality Act 2010.

7.2 SUSTAINABILITY IMPLICATIONS

There are no apparent sustainability implications.

7.3 GREENHOUSE GAS EMISSIONS IMPACTS

There are no apparent implications.

7.4 COMMUNITY SAFETY IMPLICATIONS

There are no apparent community safety implications.

7.5 HUMAN RIGHTS ACT

The following rights are applicable:

Article 1 - Right to peaceful enjoyment of possessions subject to the state's right to control the use of property in accordance with the general interest. The Council's powers set out in the recommendations fall within the states right. A fair balance must be struck between the public and the applicant's rights.

Article 6 - A procedural right to a fair hearing. As a counter notice preventing the event is an option, adherence to the Panels' usual procedure of affording a hearing

to the premise user is very important. If the decision is to issue a counter notice, then reasons must be given.

7.6 TRADE UNION

None

7.7 WARD IMPLICATIONS

Ward Councillors have been notified of the meeting.

7.9 IMPLICATIONS FOR CORPORATE PARENTING

There are no apparent implications for Corporate Parenting.

7.10 ISSUES ARISING FROM PRIVACY IMPACT ASSESSMENT

There are no apparent data protection or information security implications.

8. NOT FOR PUBLICATION DOCUMENTS

None

9. OPTIONS

9.1 Members may:

- (a) Uphold the Environmental Health objection and then serve a Counter Notice on the premises user preventing the event.
- (b) Decide not to uphold the Environmental Health objection, therefore allow the event to take place.

9.2 Should the premises user or Environmental Health feel aggrieved at any decision with regard to the Notice they may appeal to the Magistrates Court no more than 5 days before the event is due to take place.

10. RECOMMENDATIONS

Members are invited to consider the information and documents referred to in this report and, after hearing the parties, determine the related notice.

11. APPENDICES

- 1. Temporary Event Notice.
- 2. Extract from the Government Guidance.
- 3. Objection Notice from Environmental Health dated 5 July 2018.

12. BACKGROUND DOCUMENTS

Licensing Act 2003 and statutory guidance, Plan.

Licensing Team, 3rd Floor Argus Chambers, Bradford, BD1 1HX**Temporary Event Notice**

Before completing this notice, please read the guidance notes at the end of the notice. If you are completing this notice by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink or typed. Use additional sheets if necessary. You should keep a copy of the completed notice for your records. You must send at least one copy of this notice to the licensing authority and additional copies must be sent to the chief officer of police and the local authority exercising environmental health functions for the area in which the premises are situated. The licensing authority will give to you written acknowledgement of the receipt of the notice.

I, the proposed premises user, hereby give notice under section 100 of the Licensing Act 2003 of my proposal to carry on a temporary activity at the premises described below.

1. The personal details of premises user (Please read note 1)			
1. Your name			
Title	Mr <input checked="" type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other (please state)		
Surname	Medley		
Forenames	Daren		
2. Previous names: (Please enter details of any previous names or maiden names, if applicable. Please continue on a separate sheet if necessary).			
Title	Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other (please state)		
Surname			
Forenames			
3. Your date of birth	Day	Month	Year
4. Your place of birth			
5. National Insurance Number			
6. Your current address: (We will use this address to correspond with you unless you complete the separate correspondence box below).			
35B, The Arcade, North Street,			
Post town	Keighley	Post code	BD212SL
7. Other contact details			
Telephone numbers:			
Daytime			
Evening (optional)			
Mobile (optional)			
FAX NUMBER (optional)			
E-Mail Address (if available)			

8. Alternative address for correspondence (if you complete the detail below, we will use this address to correspond with you)	
35B, The Arcade, North Street	
Post town Keighley	Post code BD212SL
9. Alternative contact details (if applicable)	
Telephone numbers:	
Daytime	
Evening (optional)	
Mobile (optional)	
FAX NUMBER (optional)	
E-Mail Address (if available)	

2. The premises	
Please give the address of the premises where you intend to carry on the licensable activities or if it has no address give a detailed description (including the Ordnance Survey references). (Please read note 2)	
35B, The Arcade, North Street, Keighley, BD212SL	
Does a premises licence or club premises certificate have effect in relation to the premises (or any part of the premises)? If so please enter the licence or certificate number below	
Premises licence number	
Club premises certificate number	
If you intend to use only part of the premises at this address or intend to restrict the area to which this notice applies, please give a description and details below. (Please read note 3)	
Please describe the nature of the premises below. (Please read note 4)	
Shop set as a rum bar, in a gated Victorian arcade off North Street, Keighley, with access from (a no through road) Temple Row at rear.	
Please describe the nature of the event below. (Please read note 5)	
Friday, Pre recorded amplified music for a sunshine evening, sound system in the back street, bbq, friends and family vibe. Sound system indoors as night falls with a DJ. Saturday, pre recorded amplified music with a DJ. Sunday, pre recorded amplified music. All with bar.	

3. The licensable activities		
Please state the licensable activities that you intend to carry on at the premises (please tick all licensable activities you intend to carry on). (Please read note 6)		
The sale by retail of alcohol		<input checked="" type="checkbox"/>
The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club		<input type="checkbox"/>
The provision of regulated entertainment (Please read note 7)		<input checked="" type="checkbox"/>
The provision of late night refreshment		<input checked="" type="checkbox"/>
Are you giving a late temporary event notice? (Please read note 8)		<input type="checkbox"/>
Please state the dates on which you intend to use these premises for licensable activities. (Please read note 9)		
Friday 20th July 2018 Saturday 21st July 2018 Sunday 22nd July 2018		
Please state the times during the event period that you propose to carry on licensable activities (please give times in 24 hour clock). (Please read note 10)		
Friday 1800hrs to 2400hrs Saturday 0000hrs to 0800hrs, 1200hrs to 2400hrs Sunday 0000hrs to 2200hrs 08.00 then 12.00 to 22.00 hrs		
Please state the maximum number of people at any one time that you intend to allow to be present at the premises during the times when you intend to carry on licensable activities, including any staff, organisers or performers. (Please read note 11)	120	
If the licensable activities will include the supply of alcohol, please state whether the supplies will be for consumption on or off the premises, or both (please mark an "X" next to the appropriate box). (Please read note 12)	On the premises only	<input checked="" type="checkbox"/>
	Off the premises only	<input type="checkbox"/>
	Both	<input type="checkbox"/>
Please state if the licensable activities will include the provision of relevant entertainment. If so, please state the times during the event period that you propose to provide relevant entertainment. (Please read note 13)		

4. Personal licence holders (Please read note 14)		
Do you currently hold a valid personal licence? (Please tick)	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
If "Yes" please provide the details of your personal licence below.		
Issuing licensing authority	Bradford Metropolitan District Council	
Licence number	092902	
Date of issue	25/01/18	
Any further relevant details		

5. Previous temporary event notices you have given (Please read note 15 and tick the boxes that apply to you)		
Have you previously given a temporary event notice in respect of any premises for events falling in the same calendar year as the event for which you are now giving this temporary event notice?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
If answering yes, please state the number of temporary event notices (including the number of late temporary event notices, if any) you have given for events in that same calendar year	Two	
Have you already given a temporary event notice for the same premises in which the event period:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
a) ends 24 hours or less before; or		
b) begins 24 hours or less after;		
the event period proposed in this notice?		

6. Associates and business colleagues (Please read note 16 and tick the boxes that apply to you)		
Has any associate of yours given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If answering yes, please state the total number of temporary event notices (including the number of late temporary event notices, if any) your associate(s) have given for events in the same calendar year.		
Has any associate of yours already given a temporary event notice for the same premises in which the event period:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
a) ends 24 hours or less before; or		
b) begins 24 hours or less after;		
the event period proposed in this notice?		
Has any person with whom you are in business carrying on licensable activities given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If answering yes, please state the total number of temporary event notices (including the number of late temporary event notices, if any) your business colleague(s) have given for events in the same calendar year.		
Has any person with whom you are in business carrying on licensable activities already given a temporary event notice for the same premises in which the event period:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
a) ends 24 hours or less before; or		
b) begins 24 hours or less after;		

Melanie McGurk

From: Bradford Licensing <bradford.licensing@westyorkshire.pnn.police.uk>
Sent: 05 July 2018 14:22
To: Licensing Team
Subject: RE: TEN 35B The Arcade [NOT PROTECTIVELY MARKED]

Classification: NOT PROTECTIVELY MARKED

Afternoon.

I have been speaking to Daren Pedley regarding his TEN. He has agreed that he will have a break in the event on Sunday 22/07/17 between 08.00hrs and 12.00hrs as he will be doing the day before.

Please can this be amended on the TEN?

Thanks
Kevin

From: Licensing Team [<mailto:Licensing@bradford.gov.uk>]
Sent: 04 July 2018 16:16
To: Bradford Licensing <bradford.licensing@westyorkshire.pnn.police.uk>; EH Admin <eh.admin@bradford.gov.uk>
Subject: TEN 35B The Arcade

Regards

Licensing Team

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Britannia House, 3rd Floor Argus Chambers, Bradford, BD1 1HX

City of Bradford Metropolitan District Council
Department of Place

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7. Temporary Event Notices (TENs)

- 7.1 This Chapter covers the arrangements in Part 5 of the 2003 Act for the temporary carrying on of licensable activities which are not authorised by a premises licence or club premises certificate.

General

- 7.2 The system of permitted temporary activities is intended as a light touch process, and as such, the carrying on of licensable activities does not have to be authorised by the licensing authority on an application. Instead, a person wishing to hold an event at which such activities are proposed to be carried on (the “premises user”) gives notice to the licensing authority of the event (a “temporary event notice” or “TEN”).
- 7.3 The TEN must be given to the licensing authority in the form prescribed in regulations made under the 2003 Act. The form requires the user to describe key aspects of the proposed event, including the general nature of the premises and the event, the licensable activities intended to be carried on at the proposed event, including whether they will include any relevant entertainment as defined in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (i.e. displays of nudity designed to sexually stimulate any member of the audience including, but not limited to, lap dancing and pole dancing). Under the 2003 Act ‘premises’ can mean any place. Events authorised under a TEN will therefore not always be in a building with a formal address and can take place, for example, in public parks and plots within larger areas of land. In all cases, the premises user should provide a clear description of the area in which they propose to carry on licensable activities, including whether the premises are, for example, an open field or a beer tent. Local authorities and “relevant persons” (see below) may wish to make enquiries where appropriate to satisfy themselves of the exact location for where a TEN is being given.
- 7.4 Unless it is sent electronically, it must be sent to the relevant licensing authority, to the police and “local authority exercising environmental health functions” (“EHA”) at least ten working days before the event. A premises user may also give a limited number of “late TENs” to the licensing authority less than 10 working days before the event to which they relate, although certain restrictions apply (see paragraphs 7.12-7.14). “Working day” under the 2003 Act means any day other than a Saturday, Sunday, Christmas Day, Good Friday or Bank Holiday. For limited purposes in relation to a TEN, the 2003 Act defines a “day” as a period of 24 hours beginning at midnight.
- 7.5 If a TEN is sent electronically via GOV.UK or the licensing authority’s own facility, the licensing authority must notify the police and EHA as soon as possible and no later than the first working day after the TEN is given.
- 7.6 The police or EHA (“relevant persons” for the purposes of TENs) may intervene to prevent such an event taking place by sending an objection to the licensing authority, which the licensing authority must consider on the basis of the statutory licensing objectives and decide whether the event should go ahead. A relevant person may also intervene by agreeing a modification of the proposed arrangements directly with the TENs user (see paragraph 7.36). If a relevant person sends an objection, this may

result in the licensing authority imposing conditions on a TEN but only where the venue at which the event is to be held has an existing premises licence or club premises certificate. When giving a TEN, the premises user should consider the promotion of the four licensing objectives. The licensing authority may only otherwise intervene if the statutory permitted limits on TENs would be exceeded (see paragraphs 7.15-7.22).

- 7.7 A TEN does not relieve the premises user from any requirements under planning law for appropriate planning permission where it is required.

Standard and late temporary event notices

- 7.8 There are two types of TEN: a standard TEN and a late TEN. These are subject to different processes: a standard notice is given no later than ten working days before the event to which it relates; and a late notice is given not before nine and not later than five working days before the event.

Standard temporary event notices

- 7.9 "Ten working days" (and other periods of days which apply to other requirements in relation to TENs) exclude the day the notice is received and the first day of the event.
- 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.
- 7.11 Although ten clear working days is the minimum possible notice that may be given, licensing authorities should publicise their preferences in terms of advance notice and encourage premises users to provide the earliest possible notice of events planned by them. Licensing authorities should also consider publicising a preferred maximum time in advance of an event by when TENs should ideally be given to them.

Late temporary event notices

- 7.12 Late TENs are intended to assist premises users who are required for reasons outside their control to, for example, change the venue for an event at short notice. However, late TENs may, of course, be given in any circumstances providing the limits specified at paragraph 7.15 are not exceeded.
- 7.13 Late TENs can be given up to five working days but no earlier than nine working days before the event is due to take place and, unless given electronically to the licensing authority, must also be sent by the premises user to the police and EHA. A late TEN given less than five days before the event to which it relates will be returned as void and the activities to which it relates will not be authorised.
- 7.14 A key difference between standard and late TENs is the process following an objection notice from the police or EHA. Where an objection notice is received in relation to a standard TEN the licensing authority must hold a hearing to consider the objection, unless all parties agree that a hearing is unnecessary. If the police, EHA or both give an objection to a late TEN, the notice will not be valid and the event will not go ahead as there is no scope for a hearing or the application of any existing licence conditions.

Limitations

- 7.15 A number of limitations are imposed on the use of TENs by the 2003 Act:
- the number of times a premises user may give a TEN is 50 times in a calendar year

for a personal licence holder and five times in a calendar year for other people;

- the number of times a premises user may give a late TEN is limited to 10 times in a calendar year for a personal licence holder and twice for other people. Late TENS count towards the total number of permitted TENS (i.e. the limit of five TENS a year for non-personal licence holders and 50 TENS for personal licence holders). A notice that is given less than ten working days before the event to which it relates, when the premises user has already given the permitted number of late TENS in that calendar year, will be returned as void and the activities described in it will not be authorised.
- the number of times a TEN may be given for any particular premises is 15 times in a calendar year;
- the maximum duration of an event authorised by a TEN is 168 hours (seven days);
- the maximum total duration of the events authorised by TENS in relation to individual premises is 21 days in a calendar year;
- the maximum number of people attending at any one time is 499; and
- the minimum period between events authorised under separate TENS in relation to the same premises (not including withdrawn TENS) by the same premises user is 24 hours.

7.16 Any associate, relative or business partner of the premises user is considered to be the same premises user in relation to these restrictions. The 2003 Act defines an associate, in relation to the premises user, as being:

- the spouse or civil partner of that person;
- a child, parent, grandchild, grandparent, brother or sister of that person;
- an agent or employee of that person; or
- the spouse or civil partner of a person listed in either of the two preceding bullet points.

7.17 A person living with another person as their husband or wife, is treated for these purposes as their spouse. 'Civil partner' has its meaning in the Civil Partnership Act 2004.

7.18 A TEN that is given may be subsequently withdrawn by the TEN user by giving the licensing authority a notice to that effect no later than 24 hours before the beginning of the event period specified in the TEN. Otherwise, the TEN will be included within the limits of TENS allowed in a given calendar year, even if the event does not go ahead.

7.19 Once these limits have been reached, the licensing authority should issue a counter notice (permitted limits) if any more are given. Proposed activities that exceed these limits will require a premises licence or club premises certificate.

7.20 TENS may be given in respect of premises which already have a premises licence or club premises certificate to cover licensable activities not permitted by the existing authorisation.

7.21 In determining whether the maximum total duration of the periods covered by TENS at any individual premises has exceeded 21 days, an event beginning before midnight and continuing into the next day would count as two days towards the 21-day limitation.

7.22 There is nothing in the 2003 Act to prevent notification of multiple events at the same time, provided the first event is at least ten working days away (or five working days

away in the case of a late TEN). For example, an individual personal licence holder wishing to exhibit and sell beer at a series of farmers' markets may wish to give several notices simultaneously. However, this would only be possible where the limits are not exceeded in the case of each notice. Where the events are due to take place in different licensing authority (and police) areas, the respective licensing authorities and relevant persons would each need to be notified accordingly.

Who can give a temporary event notice?

Personal licence holders

- 7.23 A personal licence holder can give a TEN at any premises on up to 50 occasions in a calendar year. This limit is inclusive of any late TENs given in the same year. The use of each TEN must of course observe the limits described above, including the limit of 15 TENs in respect of each premises in a calendar year.

Non-personal licence holders

- 7.24 The 2003 Act provides that any individual aged 18 or over may give a TEN to authorise the carrying on of all licensable activities under the Licensing Act 2003, whether or not that individual holds a personal licence. Such an individual will not, therefore, have met the requirements that apply to a personal licence holder under Part 6 of the 2003 Act. Where alcohol is not intended to be sold, this should not matter. However, many events will involve a combination of licensable activities and the 2003 Act limits the number of notices that may be given by any non-personal licence holder to five occasions in a calendar year (inclusive of any late TENs in the same year). In every other respect, the Guidance and information set out in the paragraphs above applies.

Role of the licensing authority

- 7.25 The licensing authority must check that the limitations set down in Part 5 of the 2003 Act are being observed and intervene if they are not (see paragraph 7.15). For example, a TEN would be void unless there is a minimum of 24 hours between events notified by the same premises user, or an associate or someone who is in business with the relevant premises user in respect of the same premises. This is to prevent evasion of the seven day (or 168 hour) limit on such events and the need to obtain a full premises licence or club premises certificate for more major or permanent events. In addition, for these purposes, a TEN is treated as being from the same premises user if it is given by an associate.
- 7.26 Where the application is not within the statutory parameters described earlier, the licensing authority will issue a counter notice to the premises user.
- 7.27 Where the TEN is in order, the relevant fee paid and the event falls within the prescribed limits, the licensing authority will record the notice in its register and send an acknowledgement to the premises user (which may be given electronically). The licensing authority must do so, no later than the end of the first working day following the day on which it was received (or by the end of the second working day if it was received on a non-working day), unless an objection notice is received beforehand from the police or EHA on the basis of any of the four licensing objectives (see paragraphs below).
- 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.

- 7.29 Premises users are not required to be on the premises during the event authorised by the TEN, but they will remain liable to prosecution for certain offences that may be committed at the premises during the period covered by it. These include, for example, the offences of the sale of alcohol to a person who is drunk; persistently selling alcohol to children and allowing disorderly conduct on licensed premises.
- 7.30 In the case of an event authorised by a TEN, failure to adhere to the requirements of the 2003 Act, such as the limitation of no more than 499 being present at any one time, would mean that the event was unauthorised. In such circumstances, the premises user would be liable to prosecution.
- 7.31 Section 8 of the 2003 Act requires licensing authorities to keep a register containing certain matters, including a record of TENs received. Under Schedule 3 of the 2003 Act, the licensing authority must also keep a record of such matters including any notice of withdrawal of a TEN, any counter notice to a TEN given following an objection by a relevant person and any TEN received following modification. If requested to do so, a licensing authority must supply a person with a copy of the information contained in any entry in its register. Each licensing authority must also provide facilities for making the information contained in the entries in its register available for inspection by any person during office hours and without payment. Licensing authorities may wish to consider bringing TENs to the attention of local councillors and residents by making their register available online or including relevant details of a TEN when it is received, along with notice of licence applications on the authority's website. There is no requirement to record all the personal information given on a TEN.

Police and environmental health intervention

- 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.

- 7.35 Such cases might arise because of concerns about the scale, location, timing of the event or concerns about public nuisance – even where the statutory limits on numbers are being observed. The premises user who signs the form is legally responsible for ensuring that the numbers present do not exceed the permitted limit at any one time. In cases where there is reason to doubt that the numbers will remain within the permitted limit the premises user should make clear what the nature of the event(s) is and how they will ensure that the permitted persons limit will not be exceeded. For example, where notices are being given for TENs simultaneously on adjacent plots of land it may be appropriate for door staff to be employed with counters. In each case it is important that licensing authorities and relevant persons can consider whether they believe that the premises user intends to exceed the 499 person limit, or will be unable to control or know whether the limit will be exceeded. Where the planned activities are likely to breach the statutory limits or undermine the licensing objectives, it is likely to be appropriate for the police or EHA to raise objections.
- 7.36 However, in most cases, where for example, alcohol is supplied away from licensed premises at a temporary bar under the control of a personal licence holder, (such as at weddings with a cash bar or small social or sporting events) this should not usually give rise to the use of these powers.

Modification

- 7.37 As noted above, the police or EHA (as “relevant persons”) may contact the premises user to discuss their objections and try to come to an agreement which will allow the proposed licensable activities to proceed. The TEN can be modified (for example, by changing the details of the parts of the premises that are to be used for the event, the description of the nature of the intended activities or their duration). The other relevant person has to agree for the modification to be made. There is no scope under the 2003 Act for the modification of a late TEN.

Applying conditions to a TEN

- 7.38 The 2003 Act provides that only the licensing authority can impose conditions to a TEN from the existing conditions on the premises licence or club premises certificate at the venue. The licensing authority can only do so:
- if the police or the EHA have objected to the TEN;
 - if that objection has not been withdrawn;
 - if there is a licence or certificate in relation to at least a part of the premises in respect of which the TEN is given;
 - and if the licensing authority considers it appropriate for the promotion of the licensing objectives to impose one or more conditions.
- 7.39 This decision is one for the licensing authority alone, regardless of the premises user's

views or willingness to accept conditions. The conditions must be notified to the premises user on the form prescribed by regulations.

Duty of premises users to keep and produce TENs

- 7.40 Where a TEN is not prominently displayed at the premises, the police and licensing officers have the right under sections 109(5) and (6) of the 2003 Act to request the premises user (or relevant nominated person who has the TEN in their custody) to produce the TEN for examination. If the police do not intervene when a TEN is given, they will still be able to rely on their powers of closure under the Anti-social Behaviour, Crime and Policing Act 2014³.

³ For further guidance on the closure power under the 2014 Act, please refer to:

www.gov.uk/government/uploads/system/uploads/attachment_data/file/352562/ASB_Guidance_v8_July2014_final__2_.pdf

Appendix 3

Melanie McGurk

From: Neil Winchcombe
Sent: 05 July 2018 14:58
To: Licensing Team
Cc: 'kevin.lord@westyorkshire.pnn.police.co.uk'
Subject: Application for T.E.N at 35 B The Arcade, North Street, Keighley, BD21 3SL

I write with reference to the above T.E.N application received by this Department earlier today.

The applicant is asking for a T.E.N notice to cover the period Friday 20th July 2018 to Sunday 22nd July 2018.

I have concerns over the hours requested i.e. from 18.00 hrs to 24.00 hrs on Friday 20/07 and then from 00.00 to 08.00 a.m. and 12.00 p.m. to 24.00 on Saturday 21/07 and then 00.00 to 22.00 on Sunday 22/07

The applicant wants to provide music in various forms ranging from amplified music and a sound system in the back street to amplified music and a D.J both indoors and outdoors.

The premises is located in very close proximity to residential properties including no's 1 to 14 The Arcade, 43 North Street, there may be other residential properties such as flats above shops located nearby.

In my opinion, the type of regulated entertainment applied for combined with the hours applied for, gives rise to the strong likelihood of noise complaints being made to this Department.

I therefore object to this application.

Neil Winchcombe

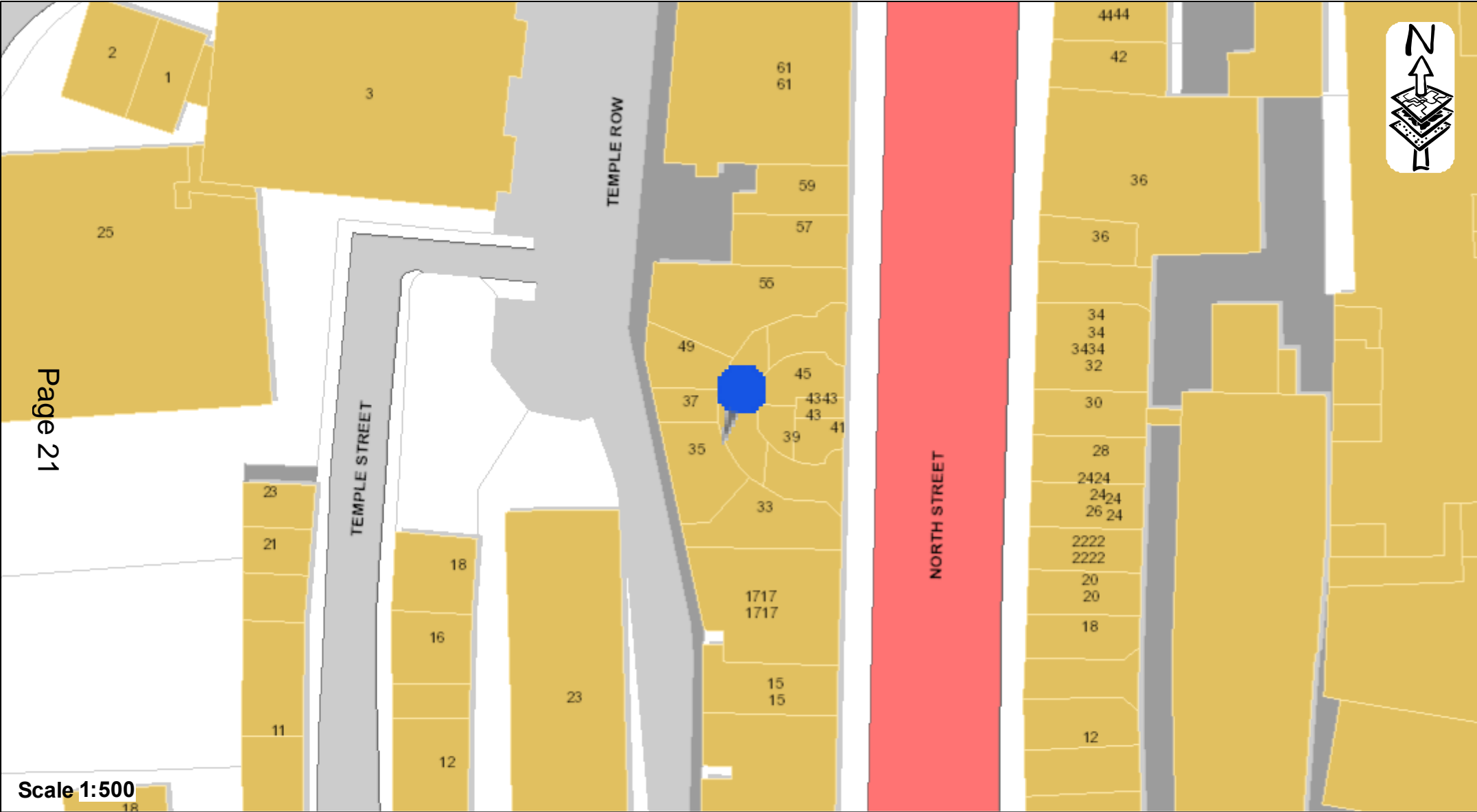
Environmental Health Officer, Pollution Team, Environmental Health Services

Tel: 01274 431154 • Mob: 07582 100728 •
5th Floor, Britannia House, Broadway,
Bradford, BD1 1HX

City of Bradford Metropolitan District Council
Department of Environment & Sport

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