

North Yorkshire Council

Statutory Licensing Sub-Committee

13 October 2023

Little Angel – Temporary Event Notice

Report of the Corporate Director – Environment

1.0 PURPOSE OF REPORT

- 1.1 This report asks the Sub-Committee to consider a Temporary Event Notice in respect of a proposed event at the Little Angel, 18 Flowergate, Whitby, YO21 3BA from 27 October 2023 to 28 October 2023.

2.0 BACKGROUND

- 2.1 A premises licence is currently in effect for the Little Angel in Whitby authorising the sale of alcohol, the provision of various forms of regulated entertainment and the provision of late-night refreshment until 02:00hrs from Monday to Saturday and until 01:00hrs on Sundays. The licence is subject to a condition stating that “*no customer shall be permitted to use the external area labelled on the plan ‘Beer Garden’ after 22.30*”. A copy of the premises licence is attached at Appendix A.
- 2.2 Temporary Event Notices (TENs) may be submitted to authorise licensable activities to take place at events involving no more than 499 people at any one time. A premises user may notify the licensing authority of an event and, provided certain requirements have been complied with, the proposed activities will be authorised by the notice.
- 2.3 On 2 October 2023, Mr Richard Natriss submitted a standard temporary event notice to North Yorkshire Council by electronic means seeking to authorise the use of the Little Angel’s beer garden for the sale of alcohol between 22.30hrs and 23.59hrs on 27 and 28 October 2023. Such an authorisation would enable the sale of alcohol to take place without being subject to restrictions applied by the premises licence.
- 2.4 Licensing officers are satisfied that the temporary event notice has been served within the statutory parameters and a copy is attached at Appendix B.

3.0 OBJECTION TO TEMPORARY EVENT NOTICE

- 3.1 Only North Yorkshire Police and the Council’s Environmental Health Service (“relevant persons” for the purposes of TENs) may intervene to prevent such an event taking place by sending an objection to the licensing authority.
- 3.2 In accordance with section 100A of the Licensing Act 2003, the licensing authority served a copy of the temporary event notice on North Yorkshire Police and the Council’s Environmental Health Service on 2 October 2023.

- 3.3 In accordance with section 104 of the Licensing Act 2003, Tim Croot (Environmental Health Officer) submitted an objection notice on 3 October 2023 to the licensing authority, the premises user and North Yorkshire Police. The objection notice raises concerns relating to public nuisance arising from the use of the rear beer garden. A copy of the objection notice is attached at Appendix C.
- 3.4 On 4 October 2023, Tim Croot provided the licensing authority with a report of a noise nuisance investigation dated 12 September 2022. The report established that music and noise from patrons in the external areas of the Little Angel amounted to a statutory nuisance, which ultimately led to the service of three Noise Abatement Notices on 23 September 2022. The investigation report is attached at Appendix D.
- 3.5 According to the Environmental Health Officer, the Noise Abatement Notices were withdrawn following a variation of the premises licence to prohibit the use of the beer garden by customers after 22.30hrs.
- 3.6 The objection notice at Appendix B indicates that the activities proposed by Mr Natriss' temporary event notice would effectively override the licence conditions pertaining to the beer garden and would likely cause a public nuisance
- 3.7 On 4 October 2023, Mr Natriss sent an email to the Environmental Health Officer and the licensing authority to draw attention to a number of measures that have been put in place to prevent public nuisance and to confirm that SIA registered security personnel will be employed for the event. Mr Natriss' submissions are attached at Appendix E.
- 3.8 On 6 October 2023, Tim Croot provided the licensing authority with a witness statement in support of his objection notice. The witness statement is attached at Appendix F. Exhibits to the witness statement will be made available at the hearing along with some recordings made during the noise investigation.
- 3.9 The Council's Environmental Health Service and Mr Natriss may make representations at the hearing.
- 3.10 The four licensing objectives set out in the Licensing Act 2003 are:
- the prevention of crime and disorder;
 - public safety;
 - the prevention of public nuisance;
 - the protection of children from harm.
- 3.11 The Sub-Committee must carry out its functions with a view to promoting the licensing objectives.

4.0 ALTERNATIVE OPTIONS CONSIDERED

- 4.1 All of the Sub-Committee's options are outlined in paragraph 11.0. No alternative options are available.

5.0 FINANCIAL IMPLICATIONS

- 5.1 No financial implications have been identified.

6.0 LEGAL IMPLICATIONS

- 6.1 The premises user may appeal against the decision if the Sub-Committee decides to issue a counter-notice. The Environmental Health Service may appeal against the decision if the Sub-Committee decides not to issue a counter-notice. In both cases, appeals must be made to a Magistrates' Court within 21 days of receiving notification of the decision.
- 6.2 Any other relevant legal implications have been considered elsewhere in the report.

7.0 EQUALITIES IMPLICATIONS

- 7.1 No equalities implications have been identified.

8.0 CLIMATE CHANGE IMPLICATIONS

- 8.1 No climate change implications have been identified.

9.0 POLICY IMPLICATIONS

- 9.1 According to paragraph 3.8 of the relevant Statement of Licensing Policy (adopted by the former Scarborough Borough Council), "the Council has a duty under Article 8 of the European Convention on Human Rights to protect the rights of its residents to privacy and family life. The Council also acknowledges the rights of businesses in its area to operate, but this must be balanced against the rights of residents not to be disturbed by unreasonable noise and nuisance caused by licensed premises".
- 9.2 Chapter 7 of the statutory Home Office Guidance issued in August 2023 under section 182 of the Licensing Act 2003 relates specifically to temporary event notices and is attached at Appendix G.

10.0 REASONS FOR RECOMMENDATIONS

- 10.1 In accordance with section 105 of the Licensing Act 2003, the licensing authority must hold a hearing to consider the objection notice unless all parties agree that a hearing is unnecessary. The Sub-Committee must, having had regard to the objection notice, take one of the steps in paragraph 11.0 as appropriate for the promotion of the licensing objectives.

11.0 RECOMMENDATION(S)

- To allow the proposed activities to go ahead as stated in the notice; or
- To allow the proposed activities to go ahead as stated in the notice subject to one or more of the conditions already imposed on the existing premises licence (attached at Appendix A); or
- To issue a counter notice on the basis that the proposed activities would undermine the licensing objectives.

APPENDICES:

- Appendix A – Premises Licence
Appendix B – Temporary Event Notice

Appendix C – Objection Notice
Appendix D – Environmental Health Officer’s Investigation Report
Appendix E – Premises User’s Submissions
Appendix F – Environmental Health Officer’s Witness Statement
Appendix G – Home Office Guidance Extracts

BACKGROUND DOCUMENTS:

Licensing Act 2003 Statement of Licensing Policy

Karl Battersby
Corporate Director – Environment
County Hall
Northallerton
9 October 2023

Report Author – Simon Fisher, Licensing and Procurement Manager
Presenter of Report – Simon Fisher, Licensing and Procurement Manager

Note: Members are invited to contact the author in advance of the meeting with any detailed queries or questions.

Licensing Act 2003

Premises Licence**PL0496****LOCAL AUTHORITY**

North Yorkshire Council
Licensing Services
Town Hall
St Nicholas Street
Scarborough
YO11 2HG

Part 1 - Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION**Little Angel Inn**

18 Flowergate, Whitby, North Yorkshire, YO21 3BA.

Telephone 01947 602514

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- an indoor sporting event
- a performance of live music
- any playing of recorded music
- entertainment of a similar description to that falling within a performance of live music, any playing of recorded music or a performance of dance
- provision of late night refreshment
- the supply of alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
C. Indoor sporting event	Monday to Saturday	10:00am	2:00am
	Sunday	10:30am	1:00am
	Christmas Eve A further additional hour		
	Boxing Day A further additional hour		
	New Year's Eve From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day		
	Non Standard Timings: A further additional hour following every Friday, Saturday, Sunday & Monday for each May, Spring/Whitsun & August Bank Holiday weekend.		
	Non Standard Timings: A further additional hour following every Thursday, Friday, Saturday, Sunday & Monday for Easter Bank Holiday weekend.		
E. Performance of live music (Indoors)	Monday to Saturday	10:00am	2:00am
	Sunday	10:30am	1:00am
	Christmas Eve A further additional hour		
	Boxing Day A further additional hour		



Activity (and Area if applicable)	Description	Time From	Time To
E. Performance of live music (Indoors)	continued ... New Year's Eve From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day Non Standard Timings: A further additional hour following every Friday, Saturday, Sunday & Monday for each May, Spring/Whitsun & August Bank Holiday weekend. Non Standard Timings: A further additional hour following every Thursday, Friday, Saturday, Sunday & Monday for Easter Bank Holiday weekend.		
F. Playing of recorded music (Indoors)	Monday to Saturday Sunday Christmas Eve A further additional hour Boxing Day A further additional hour New Year's Eve From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day Non Standard Timings: A further additional hour following every Friday, Saturday, Sunday & Monday for each May, Spring/Whitsun & August Bank Holiday weekend. Non Standard Timings: A further additional hour following every Thursday, Friday, Saturday, Sunday & Monday for Easter Bank Holiday weekend.	10:00am 10:30am	2:00am 1:00am
H. Entertainment of a similar description to that falling within E, F, or G (Indoors)	Monday to Saturday Sunday Christmas Eve A further additional hour Boxing Day A further additional hour New Year's Eve From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day Non Standard Timings: A further additional hour following every Friday, Saturday, Sunday & Monday for each May, Spring/Whitsun & August Bank Holiday weekend. Non Standard Timings: A further additional hour following every Thursday, Friday, Saturday, Sunday & Monday for Easter Bank Holiday weekend.	10:00am 10:30am	2:00am 1:00am
I. Late night refreshment (Indoors)	Monday to Saturday Sunday Christmas Eve A further additional hour Boxing Day A further additional hour New Year's Eve From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day Non Standard Timings: A further additional hour following every Friday, Saturday, Sunday & Monday for each May, Spring/Whitsun & August Bank Holiday weekend. Non Standard Timings: A further additional hour following every Thursday, Friday, Saturday, Sunday & Monday for Easter Bank Holiday weekend.	11:00pm 11:00pm	2:00am 1:00am
J. Supply of alcohol for consumption ON and OFF the premises	Monday to Saturday Sunday Christmas Eve A further additional hour	10:00am 10:30am	2:00am 1:00am

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES continued ...

Activity (and Area if applicable)	Description	Time From	Time To
J. Supply of alcohol for consumption ON and OFF the premises continued ...	Boxing Day A further additional hour		
	New Year's Eve From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day		
	Non Standard Timings: A further additional hour following every Friday, Saturday, Sunday & Monday for each May, Spring/Whitsun & August Bank Holiday weekend.		
	Non Standard Timings: A further additional hour following every Thursday, Friday, Saturday, Sunday & Monday for Easter Bank Holiday weekend.		

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Saturday	10:00am	3:00am
Sunday	10:30am	2:00am
Christmas Eve A further additional hour		
Boxing Day A further additional hour		
New Year's Eve From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day		
Non Standard Timings: A further additional hour following every Friday, Saturday, Sunday & Monday for each May, Spring/Whitsun & August Bank Holiday weekend.		
A further additional hour following every Thursday, Friday, Saturday, Sunday & Monday for Easter Bank Holiday weekend.		

WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

- J. Supply of alcohol for consumption ON and OFF the premises

Part 2**NAME, (REGISTERED) ADDRESS, TELEPHONE NUMBER AND EMAIL (WHERE RELEVANT) OF HOLDER OF PREMISES LICENCE**

Punch Partnerships (PTL) Ltd
pubsupport@starpubs.co.uk

Elsley Court, 20-22 Great Tichfield Street, London, W1W 8BE.

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

Punch Partnerships (PTL) Ltd

03512363

NAME, ADDRESS AND TELEPHONE NUMBER OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

Richard NATTRISS

ADDRESS: REDACTED
Telephone REDACTED

PERSONAL LICENCE NUMBER AND ISSUING AUTHORITY OF PERSONAL LICENCE HELD BY DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES FOR THE SUPPLY OF ALCOHOL

Licence No. PA1581

Issued by Scarborough



MANDATORY CONDITIONS APPLICABLE TO ALL PREMISES LICENCES & CLUB PREMISES CERTIFICATES UNDER THE LICENSING ACT 2003.**Requirement for a Designated Premises Supervisor**

1. No supply of alcohol may be made under the premises licence-
 - (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
 - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

Exhibition of films

1. Where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.
2. Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation by that body.
3. Where
 - (a) The film classification body is not specified in the licence, or
 - (b) The relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question, admission of children must be restricted in accordance with any recommendation made by that licensing authority.
4. In this section “children” means any person aged under 18; and “film classification body” means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c39) (authority to determine suitability of video works for classification)

Door Supervisors and Security Staff to be licensed by the SIA

1. Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, each such individual must be licensed by the Security Industry Authority, with the following exceptions:
 - (a) Premises where the premises licence authorises plays or films.
 - (b) Any occasion mentioned in paragraph 8(3)(b) or (c) of Schedule 2 to the Private Security Industry Act 2001 (premises being used exclusively by a club premises certificate, under a temporary event notice authorising plays or films under a gaming licence), or
 - (c) Any occasion within paragraph 8(3)(d) of Schedule 2 to the Private Security Industry Act 2001.

Age verification policy

1. The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
2. The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
3. The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either:
 - (a) a holographic mark, or
 - (b) an ultraviolet feature.

Minimum price of alcohol

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
2. For the purposes of the condition set out in paragraph 1
 - (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979
 - (b) "permitted price" is the price found by applying the formula -

$$P = D + (D \times V)$$
 where -
 - (i) P is the permitted price,
 - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
 - (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence
 - (i) the holder of the premises licence.
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
 - (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
 - (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.
3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

The following conditions apply where the licence or certificate authorises "on" or "on and off" sales**No irresponsible drinks promotions**

1. The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
2. In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises:
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to:
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);

- (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
- (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
- (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
- (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

Free water

1. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

Small measures to be available

1. The responsible person must ensure that;
 - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures:
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
 - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
 - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

ANNEX 2 - CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE

1. All staff shall be trained at induction on the need to create an environment to prevent any crime and disorder and drugs awareness and the dangers of excessive alcohol shall be core elements.
2. No bottles or cans shall be placed into receptacles outside the premises between 20:00 and 08:00 the next day
3. No customer shall be permitted to use the external area labelled on the plan "Beer Garden" after 22.30. After this time customers will be permitted to smoke outdoors in the area labelled on the plan "Raised Deck Area".
4. A noise management plan must be produced by the premises to the licensing authority for review and approval within 2 months of the grant or refusal of planning permission. In the event of any appeal being lodged the noise management plan must be produced by the premises to the licensing authority for review and approval within 2 months of the grant or refusal of planning permission.
5. The approved noise management plan must be fully implemented and complied with. It must be reviewed by the premises at least annually (and also after complaints) and agreed with the licensing authority.
6. There shall be a Premises Log Book (in the form of a diary) that will record details of any incidents of crime and disorder.
7. Taxi numbers shall be prominently displayed for customer use to aid dispersal.
8. The exterior of the premises shall be inspected regularly to prevent litter.

9. The jukebox volume shall be controlled by the licensee and the volume maintained at a level appropriate for conversation.
10. There shall be notices at the exits requesting customers to leave the premises quietly and to respect the neighbours.

Conditions agreed in negotiation with North Yorkshire Police

1. The DPS shall participate in the local Pub Watch Scheme, to include the use of a Pub Watch radio and adoption of the 'Banned from One, Banned from All' scheme.
2. North Yorkshire Police may require Door Supervisors to be in place on selected Bank Holidays and when there are any other special events in the town.
3. A Drugs box shall be installed on the premises.

Conditions agreed in negotiation with North Yorkshire Fire & Rescue Service

1. The Management shall monitor on a regular basis the number of customers on the premises, particularly at busy times, e.g. at weekends.

ANNEX 3 - CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY

1. A colour digital CCTV system shall be installed within the premises and shall be operational and recording at all times when the premises is trading/ open to the public.
2. The CCTV equipment shall have constant date/ time generation which must be checked on a daily basis for accuracy.
3. CCTV cameras shall be installed to provide adequate cover of all public areas, including the external area of the premises (excluding toilets).
4. The CCTV system must be capable of providing quality images of good evidential value. Recordings must be kept for a minimum of 21 days.
5. It is the responsibility of the management to ensure that there are sufficient members of staff available during the hours of operation of the CCTV system to be able to download evidence from the system at the request of the police or any other responsible authority.
6. A responsible authority (under the Licensing Act 2003) may at any time request a recording and the DPS must ensure that a copy of any requested recording is provided to the responsible authority within 24 hours of the request being made.
7. The cameras which provide identification images should be lit to provide true colour rendition.
8. Sufficient lighting shall be installed at all exits to enable clear CCTV coverage and to promote public safety.
9. Empty drinking vessels and bottles shall be removed from public areas of the premises on a frequent basis whilst the premises is open to the public.
10. Alcohol purchased on the premises shall not be removed from the premises in open containers.
11. The outer rear door of the premises shall be self closing and shall be kept closed at all times during the provision of regulated entertainment and, in any event, after 11.00pm, save for access and egress to and from the external area of the premises.

ANNEX 4 - PLANS

Attached

DO NOT SCALE FROM THIS DRAWING.
ALL DIMENSIONS MUST BE CHECKED ON SITE
PRIOR TO CONSTRUCTION.



LICENCE PLAN

revisions/issue
FIRST ISSUE - 12/01/2018



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DESIGN STUDIO

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DESIGN FOR HOME HOSPITALITY AND LEISURE
HOME, LIFESTYLE, ARCHITECTURE, INTERIORS

client Little Angel (Whitby) Ltd

project Improvements to External Beer Garden
Little Angel, Flowergate, Whitby

title	Licence Plan	
date	January 2018	drawn SED
scale	1:100@A3	drawing no 17-10-08

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FIRE EXIT

ground floor plan

FIRE PRECAUTIONS KEY TO SYMBOLS

	SIGNS + NOTICES TO BS 5499/PART 1 FIRE ALARM TO BS 5839/PART 1 EMERGENCY LIGHTING TO BS 5266/PART 1		FIRE EXTINGUISHER: WATER		CCTV LOCATION
	ALARM CALL POINT		FIRE EXTINGUISHER: DRY POWDER		WALL MOUNTED TV
	AUDIBLE WARNING		FIRE EXTINGUISHER: CARBON DIOXIDE		FIXED SEATING
	VISUAL WARNING		INDICATOR PANEL		
	FIRE BLANKET		SIGN: FIRE EXIT KEEP CLEAR		
	SIGN: FIRE EXIT		SIGN: 30 MINUTE FIRE RESISTING WITH INTUMESCENT SMOKE SEALS		



Scarborough
Application for a Temporary Event Notice
Licensing Act 2003

For help contact
licensing.services@scarborough.gov.uk
 Telephone: 01723 232323

* required information

Section 1 of 0

You can save the form at any time and resume it later. You do not need to be logged in when you resume.

System reference

Not Currently In Use

This is the unique reference for this application generated by the system.

Your reference

October Goth Week 2023

You can put what you want here to help you track applications if you make lots of them. It is passed to the authority.

Are you an agent acting on behalf of the applicant?

Yes No

Put "no" if you are applying on your own behalf or on behalf of a business you own or work for.

Applicant Details

First name

Richard

Family name

Nattriss

E-mail address

[REDACTED]

Main telephone number

[REDACTED]

Include country code.

Other telephone number

[REDACTED]

Indicate here if you would prefer not to be contacted by telephone

Are you:

- Applying as a business or organisation, including as a sole trader
 Applying as an individual

A sole trader is a business owned by one person without any special legal structure. Applying as an individual means you are applying so you can be employed, or for some other personal reason, such as following a hobby.

Continued from previous page...

Your Address

Address official correspondence should be sent to.

Building number or name	<input type="text"/>
Street	<input type="text"/>
District	<input type="text"/>
City or town	<input type="text"/>
County or administrative area	<input type="text"/>
Postcode	<input type="text"/>
Country	<input type="text" value="United Kingdom"/>

Section 2 of 0

APPLICATION DETAILS [\(See also guidance on completing the form, general notes and note 1\)](#)

Have you had any previous or maiden names?

- Yes No

Your date of birth

dd mm yyyy

Applicant must be 18 years of age or older

National Insurance number

This box need not be completed if you are an individual not liable to pay UK national insurance.

Place of birth

Correspondence Address

Is the address the same as (or similar to) the address given in section one?

- Yes No

If "Yes" is selected you can re-use the details from section one, or amend them as required. Select "No" to enter a completely new set of details.

Building number or name	<input type="text" value="The Little Angel"/>
Street	<input type="text" value="18 Flowergate"/>
District	<input type="text"/>
City or town	<input type="text" value="Whitby"/>
County or administrative area	<input type="text" value="North Yorkshire"/>
Postcode	<input type="text" value="YO21 3BA"/>
Country	<input type="text" value="United Kingdom"/>

Continued from previous page...

Additional Contact Details

Are the contact details the same as (or similar to) those given in section one?

If "Yes" is selected you can re-use the details from section one, or amend them as required. Select "No" to enter a completely new set of details.

Yes No

E-mail

Telephone number

Other telephone number

Section 3 of 0

THE PREMISES

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

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). [\(See also guidance on completing the form, note 2\)](#)

Does the premises have an address?

Yes No

Address

Is the address the same as (or similar to) the address given in section one?

If "Yes" is selected you can re-use the details from section one, or amend them as required. Select "No" to enter a completely new set of details.

Yes No

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Does a premises licence or club premises certificate have effect in relation to the premises (or any part of the premises)?

Neither Premises licence Club premises certificate

Premises licence number

Location Details

Provide further details about the location of the event

Continued from previous page...

If you intend to use only part of the premises at this address or intend to restrict the area to which this notice applies, give a description and details below ([see also guidance on completing the form, note 3](#))

Beer Garden Only

Describe the nature of the premises below ([see also guidance on completing the form, note 4](#))

Public House

Describe the nature of the event below ([see also guidance on completing the form, note 5](#))

Additional hours for customers to use the beer garden from 22:30 to 23:59 on Friday 27th and Saturday 28th October. No music will be played in the beer garden during these hours. Security will be employed in this area to make sure the customers enjoy a quiet drink and do not become loud.

Section 4 of 0

LICENSABLE ACTIVITIES

State the licensable activities that you intend to carry on at the premises ([see also guidance on completing the form, note 6](#)):

- The sale by retail of alcohol
- The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club
- The provision of regulated entertainment
- The provision of late night refreshment
- The giving of a late temporary event notice

Late notices can be given no later than 5 working days but no earlier than 9 working days before the event.

[\(See also guidance on completing the form, note 7\).](#)

Event Dates

There must be a period of at least 10 working days between the date you submit this form and the date of the earliest event when you will be using these premises for licensable activities.

State the dates on which you intend to use these premises for licensable activities

[\(see also guidance on completing the form, note 8\)](#)

Event start date

/ /
dd mm yyyy

The maximum period for using premises for licensable activities under the authority of a temporary event notice is 168 hours or seven days.

Event end date

/ /
dd mm yyyy

Continued from previous page...

State the times during the event period that you propose to carry on licensable activities (give times in 24 hour clock) [\(see also guidance on completing the form, note 9\)](#)

22:30 until 23:59 on Friday 27th October 2023
22:30 until 23:59 on Saturday 28th October 2023

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 [\(see also guidance on completing the form, note 10\)](#)

150

Note that the maximum number of people cannot exceed 499.

If the licensable activities will include the supply of alcohol, state whether the supplies will be for consumption on or off the premises, or both [\(see also guidance on completing the form, note 11\)](#):

- On the premises only
- Off the premises only
- Both

Section 5 of 0

PERSONAL LICENCE HOLDERS [\(See also guidance on completing the form, note 12\)](#)

Do you currently hold a valid personal licence? Yes No

Provide the details of your personal licence below.

Issuing licensing authority

Licence number

Date of issue / /
dd mm yyyy

Date of expiry / /
dd mm yyyy

Any further relevant details

Section 6 of 0

PREVIOUS TEMPORARY EVENT NOTICES [\(See also guidance on completing the form, note 13\)](#)

Continued from previous page...

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 No

Have you already given a temporary event notice for the same premises in which the event period:

- a) Ends 24 hours or less before; or
b) Begins 24 hours or less after the event period proposed in this notice?
- Yes No

Section 7 of 0

ASSOCIATES AND BUSINESS COLLEAGUES ([See also guidance on completing the form, note 14](#))

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 No

Has any associate of yours already given a temporary event notice for the same premises in which the event period:

- a) Ends 24 hours or less before; or
b) Begins 24 hours or less after the event period proposed in this notice?
- Yes No

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 No

Continued from previous page...

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 No

- a) Ends 24 hours or less before; or
- b) Begins 24 hours or less after the event period proposed in this notice?

Section 8 of 0

CONDITION

It is a condition of this temporary event notice that where the relevant licensable activities described in Section 4 above include the supply of alcohol that all such supplies are made by or under the authority of the premises user.

[\(See also guidance on completing the form, note 16\)](#)

PAYMENT DETAILS

This fee must be paid to the authority. If you complete the application online, you must pay it by debit or credit card.

This formality requires a fixed fee of £21

DECLARATION

The information contained in this form is correct to the best of my knowledge and belief and I understand that it is an offence: (i) to knowingly or recklessly make a false statement in connection with this temporary event notice and that a person is liable on conviction for such an offence to a fine up to level 5 on the standard scale; and (ii) to permit an unauthorised licensable activity to be carried on at any place and that a person is liable on conviction for any such offence to a fine not exceeding 20,000 pounds, or to imprisonment for a term not exceeding six months, or to both.

Ticking this box indicates you have read and understood the above declaration

This section should be completed by the applicant, unless you answered "Yes" to the question "Are you an agent acting on behalf of the applicant?"

Full name

Capacity

Date / /
dd mm yyyy

Once you're finished you need to do the following:

1. Save this form to your computer by clicking file/save as...
2. Go back to <https://www.gov.uk/apply-for-a-licence/temporary-event-notice/scarborough/apply-1> to upload this file and continue with your application.

Don't forget to make sure you have all your supporting documentation to hand.

OFFICE USE ONLY

Applicant reference number	<input type="text" value="October Goth Week 2023"/>
Fee paid	<input type="text"/>
Payment provider reference	<input type="text"/>
ELMS Payment Reference	<input type="text"/>
Payment status	<input type="text"/>
Payment authorisation code	<input type="text"/>
Payment authorisation date	<input type="text"/>
Date and time submitted	<input type="text"/>
Approval deadline	<input type="text"/>
Error message	<input type="text"/>
Is Digitally signed	<input type="checkbox"/>

APPENDIX C

RE: 02/10/2023 TEN Consultation - the Little Angel Public House - TEN application 04...



Tim Croot

To Licensing Services (SCA); 'NYPLicensing@northyorkshire.pnn.police.uk'
Cc 'Chadwick, Deborah'

Reply

Reply All

Forward



Tue 03/10/2023 11:06

OFFICIAL - SENSITIVE

Dear all,

Re: Objection to TEN's for The little Angel PH - TEN application 042227 – Extension of use of beer garden 22.30- 00:00hrs 27-28.10.2023

I wish to advise you that on behalf of North Yorkshire Council's Environmental Health Service, I wish to formally object to this application. The grounds for this objection relate to one of the four licensing objective being:

Public Nuisance – arising from talking loudly, shouting, singing and swearing in rear beer garden being audible at such a level as to cause a public nuisance to people living in the vicinity

History

This premises was served with three Noise Abatement Notices (NAN) on the 23 September 2023 – [copy available if required.](#)

In particular one of them specifically related to the beer garden. This was based on extensive recordings and observations carried out over a number of weeks where it was established that such activity was causing a nuisance. Noise from patrons was a problem the later into the evening.

The premises license holder agreed to a variation in the premises licence such that the beer garden would only be used until 22:30hrs.

It was on this basis that the NAN for the beer garden was subsequently withdrawn, as such controls would prevent a nuisance.

To permit TENS applications for extending the use of the beer garden, will in effect bypass this legal agreement and likely cause a public nuisance.

As such I must object to this TEN.

Regards

Tim Croot

Note: Tim Croot subsequently provided a correction to the above email confirming that the Noise Abatement Notices were served on 23 September 2022 (as opposed to 23 September 2023).

OFFICIAL



Report of the Environmental Health Officer-

Noise Nuisance Investigation-

Noise – music, noise from patrons in beer garden and bins emptying– The Little Angel PH, 17-18 Flowergate, Whitby, YO21 3BA

Report dated: 12 September 2022

Author: Tim Croot BSc (hons) PGdip MCIEH CEnvH MIOSH

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1 Introduction

Complaint history

Noise complaints were first received from a complainant (referred to as complainant one) in April 2022. The complainant was alleging that noise could be heard coming from the Little Angel Public House, 17-18 Flowergate, Whitby, YO21 3BA. Specifically loud music coming from inside the pub, noise from patrons in the beer garden and bins being emptied late at night. It was very disturbing to the complainant and was very loud and disruptive as could go on late into the night.

The complainant stated that they live in the vicinity of the premises and that since the end of the Second lockdown (May 2021) the operators of The Little Angel made some changes to the premises. In particular the complainant noticed the outside rear beer garden had been altered to include a canvas roof *, additional lighting, additional seating and improved surroundings making it more attractive to sit and drink in especially late into the evening (*later removed).

The complainant reported that this led to more patrons staying longer in the rear beer garden and later into the evening/night. This also meant more noise coming from within the pub when the back door was opened more frequently. The combined increase in noise from the patrons and increase noise from music in the pub had caused stress and anxiety for the complainant. Loud music was coming from both DJs and live artists. They claimed that they could not open their windows and could not get to sleep at a reasonable time. Bins (especially bottle bins) were also being emptied late at night.

The complainant was sent some diary sheets log/sheets and the operators sent an initial advisory letter on the 27 April 2022. Letter is appendix one.

A second complaint (referred to as complainant two) was made on the 30 April 2022.

On the 5 May 2022 Mr Croot (Environmental Health Officer) held a telephone call with the Director/Designated Premises Supervisor (DPS) Mr Richard Nattriss. An email was subsequently sent by Mr Croot on the 5 May 2022. Appendix two.

Mt Nattriss replied on the 12 May 2022 indicating that there was a problem with the “sound control” and “noise limits” and he stated that he had asked if they could be reset by the acoustic consultant. Appendix three.

On the 27 May 2022 complainant one returned complete diary sheets (attached as appendix four). They indicated an ongoing problem with music, patrons and bottle bin emptying.

A third complaint (referred to as complainant three) was made on the 11 June 2022.

Mr Croot sent a follow up email to the operator Mr Nattriss on the 24 June 2022 (attached as appendix four).

On the 27 June 2022 Mr Richard Taylor (solicitor acting on behalf of Mr Nattriss) contacted Mr Croot, asking if he could be provided with the names of the complainants so that he could ‘liaise and work with them directly’. (Appendix five).

Mr Croot replied on the 4 July 2022 advising that he could not disclose the names of the complainants but would pass on his clients details if they wanted them.

Planning were notified on the 9 August 2022 that Environmental health were investigation noise nuisance and that they may want to investigate the use of the beer garden.

Site profile and existing legislative controls of the site

Town and Country Planning Act 1990

The Little Angel Public House, is located in Flowergate, Whitby. This location is a mix of commercial and domestic premises (flats above some shops and houses located nearby). The premises has operated as a public house for many years and the building was showing on a map from as early as 1768. It is a grade II listed building – listed entry number 1281253 and was first registered as such on 4 Dec 1972.

In 2007 it was **refused** planning permission for change of use to smoking shelter, retractable canopy and side landscaped beer garden (ref: 07/00779/FL). Whilst the proposed side landscaping didn’t related to the current beer garden, the position of the proposed smoking

shelter did relate to the existing rear beer garden. Comments from Environmental Health were “*that the door to the rear area be fitted with an automatic closing device*” [in the event that planning consent by approved (which it wasn’t)].

In 2018 it was **granted** planning permission for Erection of timber pergola and fixed seating to beer garden (ref: 18/00243/FL). Comments from Environmental health were “*that it is was noted that the plans show a ‘pop – up’ bar in the beer garden. The use of this, by inference should only be on an occasional basis to avoid excessive disturbance to nearby residences.*”

Food Safety Act 1990

A food registration form received from the operator Mr Natriss of the premises on the 12 January 2016 has stated that the premises is a Pub – No catering.

Licensing Act 2003

The premises license is held by *Punch Partnerships (PTL) Ltd* (bought out by Star Pubs and Clubs which is a Heinken company in 2020) and is leased out to ***Little Angel (Whitby) Limited*** for whom Mr Richard Natriss is one of the two directors and who is also the Designated Premises Supervisor (DPS).

Music (live and recorded) is permitted internally until 02:00hrs Monday to Saturday and 01:00hrs Sunday. Other variations allowed for seasonal events.

The outer rear door must be self closing and shall be kept closed at all times during the provision of regulated entertainment and in any event, after 23:00hrs, save for access and egress to and from the external area of the premises.

The licensable areas includes the outdoor beer garden/seating areas but excludes live and recorded music (indoors only).

Site location and character of the neighbourhood

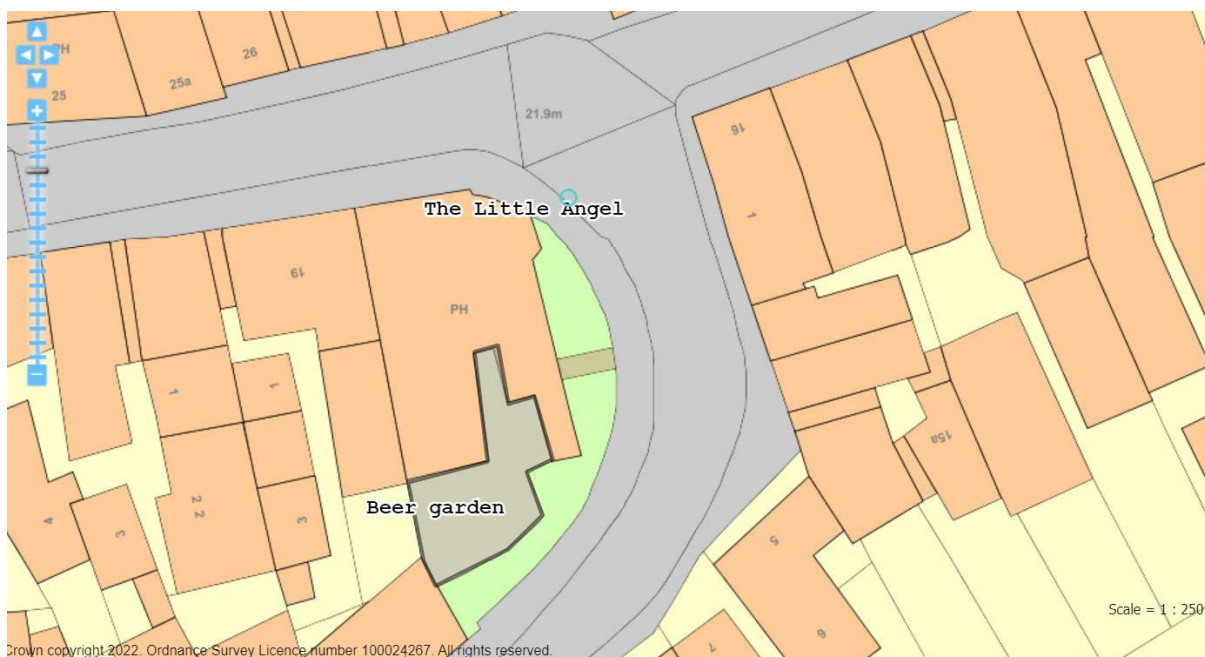
The location concerned is on the peripheral of a conservation area (the boundary goes down the centre of Flowergate) and as previously stated the building itself is grade II listed.

The premises is located on the corners of flowergate and Brunswick Street, on top of a hill.

It is surrounded by residential premises on three side and these are both flats above shops and houses.

The rear beer garden is located within an area confined and 'boxed in' on two sides by other premises (some of which are residential premises). Figure one shows the location of the pub (including its beer garden). Some of the residential premises windows have 'direct line of site' to the beer garden, as they are above the position of beer garden.

Figure one



The beer garden is surrounded by a medium/low fence on two sides which provides little protection from noise. Figure two below shows the layout of the rear beer garden prior to removal of the canvas roof in 2022. The structures are still in situ but without the canvas.

Figure two



The premises has a double set of front doors with a lobby and a single door at the rear where no lobby exists.

There are some other commercial premises in the vicinity including a pub and other commercial uses. Figure three below shows the general street layout at the front.

Figure three



The rear of the premises and beer garden is show in figure four below (*note this predates the additional roof structure fitted circ 2020 after the google 2018 street photo*). Note the position of the beer garden in respect to other residential premises nearby.

Figure four



Operational details of the premises

The premises website www.littleangelwhitby.co.uk describes the premises as a “Proper Pub” which has award winning cask ales. The ‘about us’ page figure five -states that they have the best bands from around the country with people singing, cheering. High calibre local entertainers, a famous jukebox and Karaoke nights

The website also explains that they have specialised weekends such as “Home of the Goths”, steampunk and 60’s weekends. Music both live and recorded is there for an integral part of the business. Figure five below shows this information.

DJs are hold on a Friday and Saturdays from 2pm – 9pm. Live music then is provided from 9pm – finishing times not advertised but license allows until 2am.

Figure five

Entertainment is provided most evenings with three widescreen TVs showing all big sporting events. Live music is provided by high calibre local entertainers. We also have a famous jukebox (with over 4 million songs) which comes into its own on event weeks. Karaoke nights are a hit, with customers travelling from miles away just to enjoy the happy atmosphere that fills the pub, it really is second to none. Quiz night brings a different crowd, they're in it to win it, come and see if you're clever enough!

Known around the world as the original 'Home of the Goths', the pub has its own vibrant atmosphere on both of these famous festival weeks. It is also proving very popular on folk week, scooter weekend, soul weekend, northern soul weekend, Steampunk events, pirate weekend, 60's weekend and so much more, with bank holidays proving to be equally as busy.

All in all the pub provides a quality experience for anybody who chooses to have a drink with us, whether a quite pint outside in our covered beer garden or a lively Saturday night with friends and family, it is a pleasure to see you coming through our doors, we hope you love the pub as much as we do.

2. Relevant Guidance for the investigation into noise nuisance

The noise sources under investigation are:

- 1. Loud music coming from within the premises (both recorded and live)**
- 2. Patrons shouting/laughing in the rear beer garden**
- 3. Bins being emptied late at night**

These three noise sources each will have their own characteristics both in frequency, duration, impact, source intensity and intrusive in nature.

There isn't one single set of guidelines/standards that can be used when assessing whether each of these noise source are a nuisance or in combination to be a nuisance.

Instead that are a number of notes and standards on which to refer.

The noise sources however do not occur in isolation from each other and as such the noise sources maybe assessed as a combined nuisance where is applicable.

Notes and standards referred with in the report and assessment criteria

World Health Organization (WHO)

WHO speech intelligibility and moderate annoyance daytime and evening – 35 dB(A)

WHO sleep disturbance (night time 11pm – 7am where applicable)- 30 dB(A)

Institute of Acoustics (IOA) – Good Practice Guide on the Control of Noise from Pubs and Clubs- 2.4

-for premises where entertainment takes place on a regular basis, music and associated sources should not be audible inside noise-sensitive property at any time. Regular should be determined locally

-for premises where entertainment take place less frequently, music and associated sources should not be audible inside noise-sensitive property between 23:00hrs and 7:00hrs. For other times, appropriate criteria need to be developed which balance the rights of those seeking and providing entertainment, with those who may be disturbed by the noise.

Background (residual) noise level and its relevance to the assessment

The assessment includes a reference to the background/residual level, which relates to the noise environment when the specific noise source is absent.

The background (residual) level more accurately reflects impact of the noise source since it demonstrates the difference between the likely noise environment in the complainants property when the specific source is absent or audible.

3. Noise Monitoring and results

Round one noise monitoring

The complainant was offered noise monitoring for an initial period of a week between the 15 and 22 July 2022. Noise monitoring was undertaken at the complainants house. The equipment was a Norsonic 140 Noise nuisance recorder S/N 1403678.

The equipment was positioned approx. 0.5m from the nearest reflective surface and 1.5m floor. The noise meter was calibrated at the start and end of the noise monitoring period and no significant calibration drift was noted. However on collection it was found that there was a mechanical failure of the microphone and so a second round of noise monitoring was therefore offered and accepted by the complainant.

Round two monitoring

The complainant was offered noise monitoring for a second period of a week between the 27 July and 3 August 2022. Noise monitoring was undertaken at the complainants house. The equipment was a Norsonic Nor140 Noise sound analyser S/N 140609.

The equipment was positioned approx. 0.5m from the nearest reflective surface and 1.5m from the floor. The noise meter was calibrated at the start and end of the noise monitoring period and no significant calibration drift was noted.

The complainant was asked to make recordings of noise they heard coming from the premises and to keep a record of noise on a log sheet.

The complainant made a number of recordings of noise from the premises. The time history and results of that second round of noise monitoring are contained in appendix seven.

Summary analysis was carried out on the recordings is given below.

Figure six below summaries the noise sources recorded.

	A	B	C	D	E	F	G	H	I
1	NOR140 8181849 220727 0001								
2	Source	Calculation interval (absolute time) 27/07/2022 17:17:10.000 - 03/08/2022 15:09:08.000	Effective duration Max: (Profile)	LAFmax Profile, Ch1 [dB]	Time of Max	Average: LAeq Profile, Ch1 [dB]	L 10.0%: LAeq Profile, Ch1 [dB]	L 90.0%: LAeq Profile, Ch1 [dB]	Min: LAFmin Profile, Ch1 [dB]
3	Music	27/07/2022 17:17:10.000 - 03/08/2022 15:09:08.000	00:05:55.000 (3)	44.2 dB	02/08/2022 22:43:16.000	34.5 dB	37.3 dB	30.6 dB	27.8 dB
4	Music and patrons	27/07/2022 17:17:10.000 - 03/08/2022 15:09:08.000	01:35:29.000 (60)	64.4 dB	29/07/2022 23:05:02.000	44.4 dB	47.2 dB	37.1 dB	26.4 dB
5	Bins being emptied	27/07/2022 17:17:10.000 - 03/08/2022 15:09:08.000	00:03:32.000 (16)	77.1 dB	01/08/2022 20:03:26.000	50.2 dB	45.9 dB	24.0 dB	20.4 dB
6	background	27/07/2022 17:17:10.000 - 03/08/2022 15:09:08.000	00:17:59.000 (15)	51.8 dB	01/08/2022 20:05:09.000	34.4 dB	40.1 dB	22.0 dB	19.4 dB
7	Patrons in beer garden	27/07/2022 17:17:10.000 - 03/08/2022 15:09:08.000	00:08:30.000 (8)	56.2 dB	01/08/2022 21:07:14.000	38.0 dB	41.5 dB	25.8 dB	20.6 dB
8									

Notes:

*The background (residual) level was obtained from a combined section of 15 audible recordings where the specific noise from the premises was absent.

The background (residual) level more accurately reflects impact of the noise source since it demonstrates the difference between the likely noise environment in the complainants property when the specific source is absent as opposed to audible.

The background readings were all made between 20:06hrs – 00:15hrs to be representative of when each of the noise sources is likely to have occurred. A total of 15 separate 3 mins background recordings were made, with 3 of them being after 23:00hrs

Results

Music only

Only three (3) of the recordings contained sections where only music was being played which could be individually assessed and these all took place on Tuesday 2nd August 2022 when I understand it could have only been a duke box/karaoke and not live music or DJ.

There were sections where the music got significantly louder and this could be when the back door was opened. The overall LAeq is significantly above the L90 background (residual) sound level given the sections where the bass went from being barely noticeable to intrusive. This occurred for 5mins 55 secs over the weekly installation.

The music emanating from the pub when no patrons outside was LAeq of 34.5 (dB) (5min:55sec), LAFmin of 27.8 (dB) (and LAFmax of 44.2 (dB) respectively, compared to the background reading which was LA90 (18mins) of 22.0 (dB) and LAFmax of 51.8 (dB).

Music and patrons

The majority of the recordings (60) were a combination of loud music and patrons in the beer garden.

The earliest recording was made @ 20:36hrs and the latest recording @ 00:05hrs.

In each of the recordings the music was both perceptible and intrusive. The repetitiveness of the bass music and frequency it was being produced at was such that it was very

intrusive. There was no marked noticeable decrease or increase throughout the majority of the recordings, unlike those recorded of the music on its own on the 2nd August 2022. This may indicate that the rear door was being kept permanently in the open position.

In each of the recordings the patrons in the rear beer garden were clearly noticeable and indeed on many of the recordings it was clearly possible to hear exactly what the context of the conversations were. At times the patrons were loud, laughing and shouting.

The two noise sources could not be calculated separately. The overall L90 LAeq for combined noise sources was significantly above the L90 background residual sound level.

The combined results for the music and patrons in the beer garden was **LAeq of 44.4 (dB) (1hr:35mins), LAFmin of 26.4 (dB) and LAFmax of 66.4 (dB)** respectively, compared to the **background reading** which was **LA90 (18mins) of 22 (dB) and LAFmax of 51.8 (dB)**.

These occurred for 1hr 35 minutes over the weekly installation.

28 of these recordings were made after 23:00hrs which is defined as the night time period.

Patrons in beer garden without music

There were an additional 8 recordings of noise of patrons in the beer garden without the music.

The noise from the patrons was both intrusive and disruptive. The conversations of the patrons could be clearly heard and in some cases excessive laughing and shouting was noted even after midnight in the beer garden.

The results of noise from patrons in the beer garden was **LAeq of 38.0 (dB) (8mins:30secs), LAFmin of 20.6 (dB) and LAFmax of 56.2 (dB)** respectively, compared to the background reading which was **LA90 (18mins) of 22 (dB) and LAFmax of 51.8 (dB)**.

These occurred for 8 mins 30 second over the weekly installation.

7 of these recordings were made after 23:00hrs which is defined as the night time period.

Bins being emptied

Finally 16 recordings were made of bins being emptied at the back of the premises.

The sound of the bins being emptied made me 'jump' when it happened, especially the sounds of the bottles being emptied later at night. It would have been highly noticeable, disruptive and intrusive.

The results of bins being emptied was **L_{Aeq} of 50.2 (dB) (3mins:32sec)**, **L_{AFmin} of 20.4 (dB)** and **L_{AFmax} of 77.1 (dB)** respectfully, compared to the background reading which was **L_{A90} (18mins) of 22 (dB)** and **L_{AFmax} of 51.8 (dB)**.

These occurred for 3 mins 32 secs over the weekly installation.

10 of these recordings were made after 23:00hrs which is defined as the night time period.

The time history and results of that second round of noise monitoring are contained in appendix seven.

Round three monitoring

The complainant was offered further noise monitoring for a third period of two days between the 3 August and 4 August 2022. Noise monitoring was undertaken at the complainants house. The equipment was a Norsonic Nor140 Noise sound analyser S/N 140609.

The equipment was positioned approx. 0.5m from the nearest reflective surface and 1.5m from the floor. The noise meter was calibrated at the start and end of the noise monitoring period and no significant calibration drift was noted.

The complainant was asked to make recordings of noise they heard coming from the premises and to keep a record of noise on a log sheet.

The complainant made a number of recordings of noise from the premises. The time history and results of that third round of noise monitoring are contained in appendix eight.

Summary analysis was carried out on the recordings is given below.

Figure seven below summaries the noise sources recorded.

	A	B	C	D	E	F	G	H	I
1	NOR140 8181849 220803 0001								
2	Source	Calculation interval (absolute time) 03/08/2022 15:50:59.000 - 04/08/2022 23:21:26.000	Effective duration (Profile)	Max: L _{AFmax} Profile, Ch1 [dB]	Time of Max	Average: L _{Aeq} Profile, Ch1 [dB]	L 10.0%: L _{Aeq} Profile, Ch1 [dB]	L 90.0%: L _{Aeq} Profile, Ch1 [dB]	Min: L _{AFmin} Profile, Ch1 [dB]
3	Music and patrons	03/08/2022 15:50:59.000 - 04/08/2022 23:21:26.000	00:23:47.000 (9)	66.5 dB	03/08/2022 22:39:09.000	46.9 dB	49.6 dB	40.0 dB	27.9 dB
4	patrons talking/shouting	03/08/2022 15:50:59.000 - 04/08/2022 23:21:26.000	00:05:48.000 (7)	62.3 dB	03/08/2022 23:47:39.000	37.6 dB	38.2 dB	28.8 dB	27.1 dB
5	Glass emptying	03/08/2022 15:50:59.000 - 04/08/2022 23:21:26.000	00:00:13.000 (2)	67.1 dB	03/08/2022 20:39:12.000	53.6 dB	61.1 dB	30.3 dB	28.5 dB
6	Music no patrons outside	03/08/2022 15:50:59.000 - 04/08/2022 23:21:26.000	00:03:52.000 (6)	43.6 dB	04/08/2022 22:15:37.000	33.0 dB	35.2 dB	29.7 dB	25.5 dB
7									

Notes:

*The background (residual) level was obtained from a combined section of 4 audible recordings where the specific noise from the premises was absent.

The background (residual) level more accurately reflects impact of the noise source since it demonstrates the difference between the likely noise environment in the complainants property when the specific source is absent as opposed to audible.

The background readings were all made between 20:06hrs – 00:15hrs to be representative of when each of the noise sources is likely to have occurred. A total of 15 separate 3 mins background recordings were made, with 3 of them being after 23:00hrs

Results

Music only

Six (6) of the recordings contained sections where only music was being played which could be individually assessed and these all took place on Thursday 4th August 2022 when I understand it could have only been a duke box/karaoke and not live music or DJ.

There were no sections where the music got significantly louder and this could be that the back door was not being used. The overall LAeq was not significantly above the L90 background (residual) sound level.

The music emanating from the pub when no patrons outside was LAeq of 33.0 (dB) (3mins:52secs), LAFmin of 25.5 (dB) and LAFmax of 43.6 (dB) respectfully, compared to the background reading which was LA90 (18 mins) of 22.0 (dB) and LAFmax of 51.8 (dB).

Music and patrons

The majority of the recordings (9) were a combination of loud music and patrons in the beer garden.

The earliest recording was made @ 21:02hrs and the latest recording @ 23:30hrs.

In each of the recordings the music was both perceptible and intrusive. The repetitiveness of the bass music and frequency it was being produced at was such that it was very intrusive. There was no marked noticeable decrease or increase throughout the majority of the recordings, unlike those recorded of the music on its own on the 2nd August 2022. This may indicate that the rear door was being kept permanently in the open position.

In each of the recordings the patrons in the rear beer garden were clearly noticeable and indeed on many of the recordings it was clearly possible to hear exactly what the context of the conversations were. At times the patrons were loud, laughing and shouting.

The two noise sources could not be calculated separately. The overall L90 LAeq for combined noise sources was significantly above the L90 background residual sound level.

The combined results for the music and patrons in the beer garden was LAeq of 46.9 (dB) (23mins:47secs), LAFmin of 26.4 (dB) and LAFmax of 66.4 (dB) respectfully, compared to the background reading which was LA90 (18 mins) of 22.0 (dB) and LAFmax of 51.8 (dB).

These occurred for 23 minutes 47 secs over the two day installation.

4 of these recordings were made after 23:00hrs which is defined as the night time period.

Patrons in beer garden without music

There were an additional 7 recordings of noise of patrons in the beer garden without the music.

The noise from the patrons was both intrusive and disruptive. The conversations of the patrons could be clearly heard and in some cases excessive laughing and shouting was noted even after midnight in the beer garden.

The results of noise from patrons in the beer garden was LAeq of 37.6 (dB), LAFmin of 27.1 (dB) and LAFmax of 62.3 (dB) respectfully, compared to the background reading which was LA90 (18 mins) of 22 (dB) and LAFmax of 51.8 (dB).

These occurred for 5 mins 48 seconds over the two day installation period.

5 of these recordings were made after 23:00hrs which is defined as the night time period.

Bins being emptied

Finally 2 recordings were made of bins being emptied at the back of the premises.

The sound of the bins being emptied made me 'jump' when it happened, especially the sounds of the bottles being emptied later at night. It would have been highly noticeable, disruptive and intrusive.

The results of bins being emptied was LAeq of 53.6 (dB), LAFmin of 28.5 (dB) and LAFmax of 67.1 (dB) respectfully, compared to the background reading which was LA90 (18mins) of 22 (dB) and LAFmax of 51.8 (dB).

These occurred for 13 secs over the two day installation period.

1 of these recordings were made after 23:00hrs which is defined as the night time period

The time history and results of that third round of noise monitoring are contained in appendix eight.

Round four monitoring

The complainant was offered noise monitoring for a fourth period of 5 days between the 5 August and 9 August 2022. Noise monitoring was undertaken at the complainants house. The equipment was a Norsonic Nor140 Noise sound analyser S/N 140609.

The equipment was positioned approx. 0.5m from the nearest reflective surface and 1.5m from the floor. The noise meter was calibrated at the start and end of the noise monitoring period and no significant calibration drift was noted.

The complainant was asked to make recordings of noise they heard coming from the premises and to keep a record of noise on a log sheet.

The complainant made a number of recordings of noise from the premises. The time history and results of that fourth round of noise monitoring are contained in appendix nine.

Summary analysis was carried out on the recordings is given below.

Figure eight below summaries the noise sources recorded.

	A	B	C	D	E	F	G	H	I
1	NOR140 8181849 220804 0001								
2	Source	Calculation interval (absolute time) 04/08/2022 23:22:10.000 - 09/08/2022 15:09:13.000	Effective duration Max: (Profile)	LAFmax Profile, Ch1 [dB]	Time of Max	Average: LAeq Profile, Ch1 [dB]	L 10.0%: LAeq Profile, Ch1 [dB]	L 90.0%: LAeq Profile, Ch1 [dB]	Min: LAFmin Profile, Ch1 [dB]
3	Music and patrons	04/08/2022 23:22:10.000 - 09/08/2022 15:09:13.000	00:32:11.000 (31)	60.6 dB	06/08/2022 22:45:49.000	43.7 dB	47.3 dB	35.0 dB	26.9 dB
4	patrons talking/shouting	04/08/2022 23:22:10.000 - 09/08/2022 15:09:13.000	00:12:31.000 (19)	58.4 dB	07/08/2022 00:14:11.000	38.0 dB	41.7 dB	28.6 dB	23.5 dB
5	Glass emptying	04/08/2022 23:22:10.000 - 09/08/2022 15:09:13.000	00:00:34.000 (3)	70.6 dB	05/08/2022 21:48:58.000	53.8 dB	58.9 dB	39.3 dB	31.3 dB
6									

Notes:

*The background (residual) level was obtained from a combined section of 4 audible recordings where the specific noise from the premises was absent.

The background (residual) level more accurately reflects impact of the noise source since it demonstrates the difference between the likely noise environment in the complainants property when the specific source is absent as opposed to audible.

The background readings were all made between 20:06hrs – 00:15hrs to be representative of when each of the noise sources is likely to have occurred. A total of 15 separate 3 mins background recordings were made, with 3 of them being after 23:00hrs

Music and patrons

The majority of the recordings (31) were a combination of loud music and patrons in the beer garden.

The earliest recording was made @ 14:09hrs and the latest recording @ 23:29hrs.

In each of the recordings the music was both perceptible and intrusive. The repetitiveness of the bass music and frequency it was being produced at was such that it was very intrusive. There was occasional sporadic marked noticeable decrease or increase in the recordings but only occasionally. This may indicate that the rear door was being kept open most of the time but occasionally closed.

In each of the recordings the patrons in the rear beer garden were clearly noticeable and indeed on many of the recordings it was clearly possible to hear exactly what the context of the conversations were. At times the patrons were loud, laughing and shouting.

The two noise sources could not be calculated separately. The overall L90 LAeq for combined noise sources was significantly above the L90 background residual sound level.

The combined results for the music and patrons in the beer garden was **LAeq of 43.47 (dB)**, **LAFmin of 26.9 (dB)** and **LAFmax of 60.6 (dB)** respectfully, compared to the background reading which was LA90 (18mins) of **22 (dB)** and **LAFmax of 51.8 (dB)**.

These occurred for 32 minutes over the 5 day installation period.

9 of these recordings were made after 23:00hrs which is defined as the night time period.

Patrons in beer garden without music

There were an additional 19 recordings of noise of patrons in the beer garden without the music.

The noise from the patrons was both intrusive and disruptive. The conversations of the patrons could be clearly heard and in some cases excessive laughing and shouting was noted even after midnight in the beer garden.

The results of noise from patrons in the beer garden was **LAeq of 38.0 (dB)**, **LAFmin of 23.5 (dB)** and **LAFmax of 58.4 (dB)** respectfully, compared to the background reading which was **LA90 (18mins) of 22 (dB)** and **LAFmax of 51.8 (dB)**.

These occurred for 12 mins 31 second over the 5 day installation period.

8 of these recordings were made after 23:00hrs which is defined as the night time period.

Bins being emptied

Finally 3 recordings were made of bins being emptied at the back of the premises.

The sound of the bins being emptied made me 'jump' when it happened, especially the sounds of the bottles being emptied later at night. It would have been highly noticeable, disruptive and intrusive.

The results of bins being emptied was **LAeq of 53.8 (dB)**, **LAFmin of 31.3 (dB)** and **LAFmax of 70.6 (dB)** respectfully, compared to the background reading which was **LA90 (18mins) of 22 (dB)** and **LAFmax of 51.8 (dB)**.

These occurred for 34 secs over the 5 days installation period.

1 of these recordings were made after 23:00hrs which is defined as the night time period.

The time history and results of that fourth round of noise monitoring are contained in appendix nine.

4. Onsite observations

On the 22 July 2022 @ 16:30hrs Tim Croot Environmental Health Officer (EHO) undertook an observational visit during the installation of some noise monitoring equipment. where he witnessed noise music with bass emanating from the premises and patrons in the beer garden. He made several recordings on the Norsonic Nor140 Noise sound analyser S/N 140609. Mr Croot also made some observations in his notebook.

Notebook notes state {*" Visit to comp concerning The Little Angel Public House. Lots of people noise audible in the outside structure. Sounds like there are 10-20 people in the open structure, shouting, laughing very loudly"*} Notebook pages contained in appendix ten.

On the 29 July 2022 @ 20:28hrs Tim Croot Environmental Health Officer (EHO) and Kevin Chin Licensing Manager undertook an observational visit to the complainants address. A Norsonic sound level meter was still also onsite (see round two monitoring for the results).

Mr Croot and Mr Chin went into the complainant top floor bedroom to listen to any noise coming from the pub, as well as making recordings on the Norsonic sound level meter which was still in situ. Mr Croot also made some observations in his notebook.

Notebook notes state {*"20:33hrs music started to get louder level. Quite brief so could be a sound check. People noise (patrons) from the pub noticeable. Low level music (likely from inside the pub) audible but only at a low level. 21:00hrs music starting but not extremely loud until door open. Jaws music getting louder. 21:11hrs comps window is closed. Music still audible even with the window closed. People noise (patrons) also audible from the beer garden. Got the complainant to play music on her own laptop at a very reasonable level. The music from the pub was still clearly audible and competing clearly with the complainants own music. Another recording made at 21:21hrs."*}

Later on the 29 July 2022 @22:5hrs the two officers returned to the complainants property to undertake further observations. Mr Croot also made some observations in his notebook.

Notebook notes state {*"22:56hrs recording made. Even during conversations with the complainant I could clearly hear the conversation in the beer garden. 23:05hrs music inside the pub restarting. 23:13hrs music clearly audible."*}

Mr Chin and Mr Croot both separately entered the pub and confirmed that the rear door was in the open position each time they visited the premises. Notebook photocopies is given as appendix ten.

5. Complainant Observations

The complainant(s) will be asked to complete a witness statement and exhibit a summary of their diary sheets with their statement if required.

The complainant's diary sheets are not attached to this report but will be available if they are required to be disclosed.

6. Discussion and Comments

There is clear evidence that some of the music (both live and recorded) emanating from The Little Angel Public House is both clearly audible (especially the bass) and intrusive.

The music is particularly noticeable on days when the rear door is either left in the open position or is regularly closed and opened (the level goes up and down and is clearly noticeable).

There is evidence that on at least one night officers attended and undertook observations the rear door was found to be in the opened position.

The level of the music in one of the complainants bedrooms was at times so loud as to be heard over the complainants on music playing and interrupted conversations with officers.

One of the complainants had to resort to keeping windows closed even in the very hot weather and had caused them disruption and stress.

There is also clear evidence that patrons using the pub beer garden late into the evening/night time caused disturbance/interruption and annoyance to local residents.

At the end of lockdown the rear garden was improved with the installation of a pergola, lighting and general improved seating creating a more attractive place and ambience such that patrons stay late and in significant numbers. This was clearly evidenced on the recordings. The levels of the shouting/laughing was such that it could be easy audible in the complainants bedroom and easy to follow what was being said.

There is also repeated evidence of beer bottles being emptied late at night.

Round one monitoring

The recording made over the week of 15- 22 July 2022 the equipment failed and so no usable recording were made. However one of the complainants kept a diary sheet record and these will be available for disclosure.

Round two monitoring

Music only

The recording made over the week of 27 July- 3 August 2022 showed that the music emanating from the pub when no patrons outside was LAeq of 34.5 (dB), LAFmin of 27.8 (dB) and LAFmax of 44.2 (dB) respectfully, compared to the background reading which was LA90 (18mins) of 22.0 (dB) and LAFmax of 51.8 (dB).

Music and patrons

The combined results for the music and patrons in the beer garden was LAeq of 44.4 (dB), LAFmin of 26.4 (dB) and LAFmax of 66.4 (dB) respectfully, compared to the background reading which was LA90 (18mins) of 22 (dB) and LAFmax of 51.8 (dB).

These occurred for 1hr 35 minutes over the weekly installation.

The noise from the patrons was both intrusive and disruptive. The conversations of the patrons could be clearly heard and in some cases excessive laughing and shouting was noted even after midnight in the beer garden.

The results of noise from patrons in the beer garden was LAeq of 38.0 (dB), LAFmin of 20.6 (dB) and LAFmax of 56.2 (dB) respectfully, compared to the background reading which was LA90 (18mins) of 22 (dB) and LAFmax of 51.8 (dB).

Bins being emptied

The sound of the bins being emptied made me 'jump' when it happened, especially the sounds of the bottles being emptied later at night. It would have been highly noticeable, disruptive and intrusive.

The results of bins being emptied was LAeq of 50.2 (dB), LAFmin of 20.4 (dB) and LAFmax of 77.1 (dB) respectfully, compared to the background reading which was LA90 (18mins) of 22 (dB) and LAFmax of 51.8 (dB).

These occurred for 3 mins 32 secs over the weekly installation.

Notes and standards referred with in the report and assessment criteria

World Health Organization (WHO)

WHO speech intelligibility and moderate annoyance daytime and evening – 35 dB(A)

WHO sleep disturbance (night time 11pm – 7am where applicable)- 30 dB(A)

Figure nine

Noise type	No: recordings evening time target breached LAeq 35dB(A)	No: recordings night time target breached LAeq 30dB(A) >23:00hrs
Music	1	-
Music and patrons	31	27
Patrons only	1	6
Emptying of bins*	3	10

- Note LAmxF was not considered appropriate for this noise source, as this is not an individual line source event, the emptying of the bins occurs in several phases and is not of character similar to passing aircraft or trains.

IOA - Good Practice Guide on the Control of Noise from Pubs and Clubs- 2.4 – states that for premises which operated regularly (The Little Angel PH is open a number of nights) then **no** music should be audible inside a noise sensitive property.

Round three monitoring

Music only

The recording made over the two days of 3 August- 4 August 2022 showed that the music emanating from the pub when no patrons outside was LAeq of 33.0 (dB), LAFmin of 25.5 (dB) and LAFmax of 43.6 (dB) respectfully, compared to the background reading which was LA90 (18mins) of 22.0 (dB) and LAFmax of 51.8 (dB).

Music and patrons

The combined results for the music and patrons in the beer garden was LAeq of 46.9 (dB), LAFmin of 27.9 (dB) and LAFmax of 66.5 (dB) respectfully, compared to the background reading which was LA90 (18mins) of 22 (dB) and LAFmax of 51.8 (dB).

These occurred for 23 minutes over the two days installation.

The noise from the patrons was both intrusive and disruptive. The conversations of the patrons could be clearly heard and in some cases excessive laughing and shouting was noted even after midnight in the beer garden.

The results of noise from patrons in the beer garden was LAeq of 37.6 (dB), LAFmin of 27.1 (dB) and LAFmax of 62.3 (dB) respectfully, compared to the background reading which was LA90 (18mins) of 22 (dB) and LAFmax of 51.8 (dB).

These occurred for 5mins 48 secs over the two days installation

Bins being emptied

The sound of the bins being emptied made me 'jump' when it happened, especially the sounds of the bottles being emptied later at night. It would have been highly noticeable, disruptive and intrusive.

The results of bins being emptied was LAeq of 53.6 (dB), LAFmin of 28.5 (dB) and LAFmax of 77.1 (dB) respectfully, compared to the background reading which was LA90 (18mins) of 22 (dB) and LAFmax of 51.8 (dB).

These occurred for 13 secs over the two days installation.

Notes and standards referred with in the report and assessment criteria

World Health Organization (WHO)

WHO speech intelligibility and moderate annoyance daytime and evening – 35 dB(A)

WHO sleep disturbance (night time 11pm – 7am where applicable)- 30 dB(A)

Figure ten

Noise type	No: recordings evening time target breached LAeq 35dB(A)	No: recordings night time target breached LAeq 30dB (A) >23:00hrs
Music only	1	-
Music and patrons	5	4
Patrons only	1	5
Emptying of bins*	1	1

- Note L_{maxF} was not considered appropriate for this noise source, as this is not an individual line source event, the emptying of the bins occurs in several phases and is not of character similar to passing aircraft or trains.

IOA - Good Practice Guide on the Control of Noise from Pubs and Clubs- 2.4 – states that for premises which operated regularly (The Little Angel PH is open a number of nights) then no music should be audible inside a noise sensitive property.

Round four monitoring

Music and patrons

The combined results for the music and patrons in the beer garden was LAeq of 43.7 (dB), LAFmin of 26.9 (dB) and LAFmax of 60.6 (dB) respectfully, compared to the background reading which was LA90 (18mins) of 22 (dB) and LAFmax of 51.8 (dB).

These occurred for 32 minutes over the five day installation.

The noise from the patrons was both intrusive and disruptive. The conversations of the patrons could be clearly heard and in some cases excessive laughing and shouting was noted even after midnight in the beer garden.

The results of noise from patrons in the beer garden was LAeq of 38.0 (dB), LAFmin of 20.6 (dB) and LAFmax of 56.2 (dB) respectfully, compared to the background reading which was LA90 (18mins) of 22 (dB) and LAFmax of 51.8 (dB).

These occurred for 12 mins over the four day installation.

Bins being emptied

The sound of the bins being emptied made me 'jump' when it happened, especially the sounds of the bottles being emptied later at night. It would have been highly noticeable, disruptive and intrusive.

The results of bins being emptied was LAeq of 53.9 (dB), LAFmin of 31.3 (dB) and LAFmax of 70.6 (dB) respectfully, compared to the background reading which was LA90 (18mins) of 22 (dB) and LAFmax of 51.8 (dB).

These occurred for 34 secs over the four day installation.

.

Notes and standards referred with in the report and assessment criteria

World Health Organization (WHO)

WHO speech intelligibility and moderate annoyance daytime and evening – 35 dB(A)

WHO sleep disturbance (night time 11pm – 7am where applicable)- 30 dB(A)

Figure eleven

Noise type	No: recordings evening time target breached LAeq 35dB (A)	No: recordings night time target breached LAeq 30dB(A) >23:00hrs
Music and patrons	16	9
Patrons only	10	8
Bins being emptied*	2	1

- Note L_{max}F was not considered appropriate for this noise source, as this is not an individual line source event, the emptying of the bins occurs in several phases and is not of character similar to passing aircraft or trains.

IOA - Good Practice Guide on the Control of Noise from Pubs and Clubs- 2.4 – states that for premises which operated regularly (The Little Angel PH is open a number of nights) then no music should be audible inside a noise sensitive property.

Kevin Chin and Tim Croot both confirmed that on the 22 July 2022 the source of the noise (music) and patrons laughing/shouting as coming from The Little Angel Public House. No other significant noise was witnessed from any other premises in the same street or streets immediately to the locality of the premises concerned.

The observation visit undertaken on the 22 July 2002 found that the music combined with the patrons from the Little Angel Public House was audible from inside the complainants property even when the music was turned on at a reasonable level in the complainants own property. The bass is particularly noticeable and so is the patrons voices.

6. Recommendations

There is clear evidence of music, noise from patrons in the beer garden and emptying of bins late at night emanating from the Little Angel PH, with audio recording made by the complainant using the noise monitoring equipment at a level intrusive. This amounts to a statutory nuisance.

In addition observational visits have been undertaken.

Officers witnessed music and patrons as being very perceptive and intrusive – even audible over the complainants music and conversations at times.

It will now be necessary to report the findings to the operator of the PH -Little Angel (Whitby) Limited, licensing and the premises licence owners.

The license should also be ‘called in’ for review as the hours of use of the rear beer garden are such that patrons can be in the beer garden late at night.

Additional conditions for keeping two sets of doors closed (once any are installed) should also be amended to the licence for the music control.

A sound limiter may also be required.

Structural works are likely to be required to the rear of the building to contain the music sufficiently (including a new lobby/secondary door and given that it is a listed building – listed building consent will be required. Sufficient time must be given in any abatement notice served for this matter.

A noise consultant maybe required but a ‘simple 80 notice’ should be served on the duty holders allowing them the opportunity and discretion to decide what are the most appropriate steps. Notice should simply read “*abate the nuisance arising from the playing of live and recorded music in a loud manner, patrons in the rear beer garden late at night and emptying of bins*”. No steps or works required should be listed.

Advice/consent/review by legal of abatement notice wording maybe necessary.

8. Conclusions

A 7 days consultation period should now begin prior to the decision to serve a notice now that a nuisance has been determined. The premises license holders have confirmed in writing that there is a lease on the site and therefore the duty holder is Little Angel (Whitby) Limited.



Report Author: T Croot Date.....12.09.2022

Appendix to be attached separately due to size of files.

Re: FW: 02/10/2023 TEN Consultation - the Little Angel Public House - TEN applicatio...



Richard Natriss

To: Tim Croot

Cc: 'Chadwick, Deborah'; 'NYPLicensing@northyorkshire.pnn.police.uk'; Licensing Services (SCA); Simon Fisher

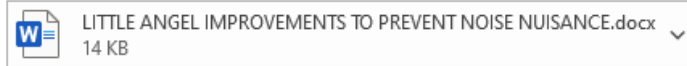
Reply

Reply All

Forward



Wed 04/10/2023 14:19



Dear Mr Croot

Thank you for your email putting forward your thoughts on the matter.

It is my understanding that a TEN is there specifically where a premises would like to operate outside the agreed conditions of its Premises Licence, and no mention that this would not be allowed ever again has been discussed. Every venue should have the right to apply for a TEN as long as they are putting the correct measures in place to control it.

To this end we are only asking to trade until midnight on two night (a total of 3 hours), our previous licence was until the early hours so we are not trying to go back to our previous conditions.

We are only choosing this weekend as we know from over a decade of experience that the Goth community is an older and more respectful clientele. They are there to talk, to meet friend, chat about family etc having not seen each other for six months. They will not be aloud to be noisy, rowdy, singing and dancing.

I am not asking to extend the music time or volume, and have proposed to employ an SIA member of security to be in this area during the period. This together with the windows being glazed and a new roof being put on next week will, I believe, prevent any noise nuisance.

Over the last 15 years I have operated many many TENS at many venues and I have an unblemished history of running them, having always gone above and beyond with control measures. Please speak with the Police Licencing Officer and your own Licencing Department for evidence.

I have also been good to my word and subsequent to your noise tests and our meeting we have made over 20 improvements to prevent nuisance to residents a copy of which has been attached.

may I please ask you to reconsider and withdraw your objection.

Regards

Richard Natriss

LITTLE ANGEL IMPROVEMENTS TO PREVENT NOISE NUISANCE

- 1 Only use the bins between 9am and 8pm
- 2 Reduce the hours in the beer garden (except for smoking) to 10.30pm
- 3 Tripple glaze all the windows to the East elevation
- 4 Double glaze all the windows to the North elevation
- 5 Install sound seals on doors
- 6 Construct rear acoustic porch
- 7 Install Air conditioning
- 8 All external doors to remain closed during live music
- 9 Install acoustic sound limiter and dedicated sockets for bands
- 10 Only employ bands who use electronic drum kits to control the volume
- 11 Only employ bands who use electronic drum kits to control the bass from the kick drum
- 12 Stop performance of live music at 11.30pm
- 13 Reduce the volume of music outside to 'background level' by setting the amp at 24bd
- 14 Reglaze window to remove extract vent
- 15 Employ additional security when live music is played to control the access/ingress via the rear doors
- 16 Monitor the external levels (via DB meters on phones and listening)
- 17 Remove the Sub speaker from the inhouse sound system
- 18 Turn down the amps on the in house sound system to prevent DJs / Karaoke host from being too loud
- 19 Install signage to inform customers of closure of beer garden at 10.30pm
- 20 Prevent music being played outside after 10.30pm by installing a timer device on the power supply
- 21 Keep the rear bin store locked to prevent customers using the bin store
- 22 Employed sound engineer for advice on how to prevent noise breakout

North Yorkshire Council
STATEMENT OF WITNESS

Criminal Justice Act 1967 s.9
Criminal Procedure Rules r.16.2

STATEMENT OF TIMOTHY CROOT

Age of Witness "over 18" OVER 18

Occupation of Witness: ENVIRONMENTAL HEALTH OFFICER

This statement (consisting of 7 pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the

6 October 2023

Signature



I am Timothy Lee Croot and I am employed by North Yorkshire Council as an Environmental Health Officer. I specialize in Environmental Protection within the Commercial Regulatory Services team.

This deal investigates statutory nuisances and other matters related to public health. I joined the team in 2021. I hold a BSc (Hons) in Environmental Health and Post Graduate Diploma in Occupational Health, Safety and the Environment.

I am also a chartered member of both the Chartered Institute of Environmental Health (CIEH) and Institute of Occupational Safety and Health (IOSH). I have over 25 years experience in the field of Environmental Health and of these significant experience in the field of Environmental regulations and protection.

I have previously investigated numerous complaints of nuisance including noise and other nuisances. This includes larger councils including Birmingham and Northampton.

I have also have extensive experience of working with licensing departments and the licensed premises trade in ensuring compliance of a variety of Environmental regulations. I also have extensive experience of responding to planning consultations related specifically to noise and working with noise specialists.

Signature.....



STATEMENT OF WITNESS
(Criminal Justice Act 1967 s.9:
Criminal Procedure Rules r.16.2)

Continuation of Statement of TIMOTHY CROOT Continuation sheet No.2

Signature 

In April 2022, I was notified by email of a complaint alleging noise issues from the Little Angel Public House. The complaint was logged on our database called 'Uniform' and the complaint issued to me to investigate. I contacted the complainant to discuss their concerns.

They advised me that they were concerned that the pub had started using the beer garden later into the night, as since lockdown they have installed a pagoda and lighting. The result of which they informed me was both substantially more people staying late in the beer garden and the music being more audible. This the complainant suggested because the back door to the beer garden was either opened more when people entered the beer garden or kept open all the time. The complainant also said that they could hear beer bottles or cans being emptied late at night which was very loud and disruptive. They said that they were having to keep windows closed, as the noise was too loud and kept them awake late at night.

As a result I asked them to complete some diary sheets. {I identify these as exhibit XX/XX*}.

A letter was also sent to the operator of the Little Angel Public House. I exhibit this as TC/1.

A second complainant contacted the council in late April 2022 and reported that they could hear loud music with bass from their location. This was much further away than complainant one. They stated that they had checked and confirmed that the source of the noise was the Little Angel Public House and not some other address.

*{Redacted/not included}

Signature 

STATEMENT OF WITNESS
(Criminal Justice Act 1967 s.9:
Criminal Procedure Rules r.16.2)

Continuation of Statement of TIMOTHY CROOT Continuation sheet No. 3

Signature 

On the 5 May 2022 I recieved a telephone call with the Director/Designated Premises Supervisor (DPS) Mr Richard Natriss. He said that he would ensure beer bottles are not emptied late at night and that the music issues would be looked at. He stated that he had a noise limiter fitted and would get that checked out as well. I subsequently sent by an email on the 5 May 2022. I exhibit this as TC/2.

Mt Natriss replied on the 12 May 2022 indicating that there was a problem with the "sound control" and "noise limits" and he stated that he had asked if they could be reset by the acoustic consultant. I exhibit this as TC/3.

On the 27 May 2022 complainant one returned complete diary sheets {I identify as exhibit XX/XX*}. They indicated an ongoing problem with music, patrons and bottle bin emptying.

A third complaint (referred to as complainant three) was made on the 11 June 2022.

I sent a follow up email to the operator Mr Natriss on the 24 June 2022 (exhibit TC/4).

On the 27 June 2022 Mr Richard Taylor (solicitor acting on behalf of Mr Natriss) contacted me, asking if he could be provided with the names of the complainants so that he could 'liaise and work with them directly'. (exhibit TC/5).

I replied on the 4 July 2022 advising that he could not disclose the names of the complainants but would pass on his clients details if they wanted them.

{*Redacted/not included}

Signature..... 

STATEMENT OF WITNESS
(Criminal Justice Act 1967 s.9:
Criminal Procedure Rules r.16.2)

Continuation of Statement of TIMOTHY CROOT Continuation sheet No. 4

Signature 

Planning were notified by me on the 9 August 2022 that Environmental Health were investigating noise nuisance and that they may want to investigate the use of the beer garden.

I installed noise monitoring equipment in complainants one property between 15 and 22 July 2022. I then installed noise monitoring for a second time between 27 July and 3 August 2022. I installed noise monitoring for a third time between 3 August and 4 August 2022 and stayed a fourth time between 5 August and 9 August 2022. The results of these recordings is contained in my officers report exhibit TC/6.

I also undertook two site observations.

These took place on the 27 and 29 July 2022. The details of the observations are contained within my officers report previously exhibit as TC/6.

There are three distinct noise sources and these are: (I) Music coming from within the premises, (II) patrons in the rear beer garden – shouting, singing and laughing and (III) bottles or cans being emptied into exterior bins late at night.

Each of these noise sources are in sufficient number, quantity duration and patterns to each be an identifiable nuisance

Continued.....

Signature 

STATEMENT OF WITNESS
(Criminal Justice Act 1967 s.9:
Criminal Procedure Rules r.16.2)

Continuation of Statement of TIMOTHY CROOT Continuation sheet No. 5

Signature 

During my observational visits at the complainants property, I clearly heard some of the music emanating from The Little Angel Public House, even with the complainants own windows closed. Even when they had their own music playing in their own property the music from the Little Angel Public House was still audible. There were also some sections of music recorded where no patrons were being noisy and it was found that the music at this point was still excessively above the background noise level. It would have kept we awake at night. The bass was particularly apprant but also some of the singing on microphones. The level could clearly also be heard increasing at times, likely to be linked when the back door was being opened. The level, frequency and character of the music was such that in my opinion this activity amounted to a nuisance.

The recordings contained sections where the patrons in the rear beer garden were shouting, singing and laughing late into the night and sometimes beyond the time as which the music had stopped in the pub. This occurred past midnight on several occasions and would have been intrusive and districitve. I could clearly hear the contents on most of the conversations of the patrons when the music had stopped. Some of the conversations were really loud and would have been highly distruptive and intrusive. The activity in my opinion amounted to a nuisance.

The emptying of beer bottles or cans late at night was very loud, very intrusive and due to the type of noise highly distruptive. The activity in my opinion amounts to a nuisance.

Each activity is in my opinion a statutory nuisance.

Continued....

Signature 

STATEMENT OF WITNESS

(Criminal Justice Act 1967 s.9:

Criminal Procedure Rules r.16.2)

Continuation of Statement of TIMOTHY CROOT Continuation sheet No.6

Signature



Three noise abatement notices were served on the 23 September 2022 on Little Angel (Whitby) Limited for which Mr Natriss is the director. I exhibit these as 22/00041/EHN101/EHTC – arising from the tipping of empty bottles or cans into the external bins, 22/00040/EHN101/EHTC – arising from patrons talking, shouting, laughing and singing in the rear beer garden and 22/00039/EHN101/EHTC – arising from the playing of live and recorded music at such a level it is clearly audible residential property.

Mr Natriss appealed all three noise abatement notices to the magistrates court on the 6 October 2022. A hearing was subsequently set for June 2023.

In the meantime complainants continued to report issues of music emanating from inside the premises and people noise from the rear beer garden.

Complainant 1 continued to use the Noise App facility and I produce a report TC/NOISEAPP/1. In particular I refer to recordings made by the complainant on Saturday 29 October 2022. This was during the last Goth Weekend of 2022. The recordings contain noise of very loud raised voices and shouting during that particular event.

In addition the complainant has made a total of 195 (one hundred and ninety five) recordings of noise from the premises, a significant number of these were for noise from people in the garden.

Continued.....

Signature.....



STATEMENT OF WITNESS

(Criminal Justice Act 1967 s.9:

Criminal Procedure Rules r.16.2)

Continuation of Statement of TIMOTHY CROOT Continuation sheet No.7

Signature 

A court hearing was set. However Mr Natriss has subsequently withdrawn those appeals following legal agreements. For each notice they were:

For notice 22/00041/EHN101/EHTC – to only empty bins before 8pm- agreed by variation to premises licence.

For notice 22/00040/EHN101/EHTC- to close the rear beer garden at 22:30hrs- agreed by variation to premises licence

For notice 22/00039/EHN101/EHTC- to undertake specific works to the building and produce a suitable and sufficient noise management plan and that it has been implemented in full.

A site visit is still required to determine if sufficient works have been undertaken to deal with the music and complaints of music have continued albeit at a reduced frequency.

However since the agreement to only use the beer garden until 22:30hrs was implemented, no complaints of issues with noise from the beer garden have been found not to be a significant problem.

To permit the application for a TENs, will in effect bypass this legal agreement and will likely lead to late night noise from shouting, laughing and singing likely to be a public nuisance.

Signature 

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 clear working days but no earlier than nine clear 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 (for the 2022 to 2023 calendar years this will increase from 15 to 20);
- 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 (for the 2022 to 2023 calendar years this will increase from 21 to 26 days);
- the maximum number of people attending at any one time is 499 (including any staff and any other persons); 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 (26) days, an event beginning before midnight and continuing into the next day would count as two days towards the 21 (26) -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 (subject to a maximum of 10) given in the same year. The use of each TEN must of course observe the limits described above, including the limit of 15 (20) 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 – subject to a maximum of 2 - 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 or certificate 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 (or appeals) 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