

**3 TEMPORARY EVENT NOTICE - THE ASSEMBLY ROOMS, MARKET PLACE, BOSTON**

**Boston Borough Council  
Licensing Act 2003  
Temporary Event Notice  
Decision Notice**

Date of hearing	29 November 2019
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Members of Sub-Committee	Councillor J Noble Councillor T Ashton Councillor A Austin
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Applicant(s) Name	Mr Burak Erdogan
Premises Address	The Assembly Rooms, Market Place, Boston
Date TENs Received	14 November 2019
Details of Application	Temporary Event Notice – 30 November 2019 from 2100hrs until 0500hrs the following day.

**The Parties:**

The premises user Mr Erdogan has submitted a Temporary Event Notice for 30 November 2019 from 2100hrs until 0500hrs the following day for the sale of alcohol for consumption on the premises, late night refreshment and for regulated entertainment at The Assembly Rooms, Market Place, Boston.

Objection notices have been received from the Chief Officer of Police and Environmental Health.

**Policy and Guidance:**

In reaching its decision, the sub-committee has considered the statutory guidance issued under S182 of the Licensing Act 2003 and Boston Borough Council's Statement of Licensing Policy.

**Licensing Objectives:**

The sub-committee has found that the licensing objectives of the prevention of crime and disorder, public safety, prevention of public nuisance and protection of children from harm are relevant to this application.

**Decision:**

The sub-committee has decided to impose the premises licence conditions (as detailed on pages 55-57 of the report, with the exception of Annex 2, (e), paragraph 4) on the Temporary Event Notice (TEN) applied for.

**Reasons:** The reasons for the sub-committee reaching this decision in relation to the Temporary Event Notice (TEN) are as follows:

The sub-committee has read and heard all of the information before them.

The sub-committee is aware of and has taken into account any implications that may arise from the Human Rights Act 1998.

The sub-committee in reaching its decision has had due regard for its public sector equality duty under section 149 of the Equality Act 2010 and consider that in reaching their decision that they have fulfilled their duty under the Act.

The sub-committee was made aware that this application has been submitted because although the premises is licensed, the Premises Licence Holder will not allow the applicant to utilise it, and only use the premises as a venue. Therefore the applicant had to apply for a TEN to be able to run his event night. The sub-committee was informed that a previous TEN had been granted with the premises licence conditions attached in September, and heard from the applicant and Lincolnshire Police how there had been no issues or incidents associated with the event.

The applicant confirmed to the sub-committee how this event will be for over 18's only, how everyone will be ID'd and how he had undertaken a risk assessment and fire risk assessment. When questioned he further confirmed that signage will be displayed at the premises encouraging patrons to leave respectfully and SIA door staff will be employed.

Mr Davis appeared on behalf of Environmental Health, and informed the sub-committee that

there had been no issues relating to public nuisance when the premises had been operating regularly, and how he put this down to the raft of conditions attached to the premises licence, such as those to do with keeping windows closed, regulating use of the outside area etc. Mr Davis stressed to the sub-committee that he considered it vital for the promotion of the licensing objective of “the prevention of public nuisance” that the same conditions were attached to the TEN.

Additionally, Lincolnshire Police echoed the comments of Mr Davis; they too considered it vitally important that there were conditions attached to the TEN especially considering the applicant is not the Premises Licence Holder but acknowledged that he is the Designated Premises Supervisor; the conditions being imposed would provide them with enforcement powers should they be required. The police explained how otherwise the TEN would operate without any conditions, and detailed how conditions requiring CCTV, door staff, staff training etc. are valuable tools to assist with the promotion of the licensing objectives, and to also assist the applicant with ensuring that he can run the event responsibly and safely, without issue.

In reaching its decision the sub-committee took into account all that they have read and heard, the s182 Guidance, and have regard for the licensing objectives, and were pleased to note that the previous TEN had been run successfully. Having regard for the comments of Lincolnshire Police and Mr Davis on behalf of Environmental Health, the sub-committee is minded to agree that the incident-free success of the applicant’s previous event under a TEN was in part to the imposition of the premises licence conditions.

Hearing from the applicant at the hearing, the sub-committee noted his experience at running licensed premises, but feel the premises licence conditions offer him a framework to base the running of this event on, and consider them vital if he is to run another successful event without issue and to the promotion and safeguarding of the licensing objectives.

Accordingly, taking all of the above into consideration the sub-committee have decided to grant the TEN but to impose upon it the premises licence conditions (with the exception of Annex 2 (3) paragraph 4).

The sub-committee would also like to take the opportunity to remind the applicant of the comments made by both Lincolnshire Police and Mr Davis regarding submitting relevant documentation (including risk assessments) to them in a timely fashion, to allow them to be scrutinised.

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Signed:

Fiona White  
Licensing & Land Charges Manager  
On behalf of the Licensing Sub-Committee  
2 December 2019

PRESCRIBED FORM OF NOTICE (CONDITIONS ON A TEMPORARY EVENT  
NOTICE) AND STATEMENT OF CONDITIONS

The prescribed form for a notice (conditions on a temporary event notice) is as follows:

Boston Borough Council, Municipal Buildings, West Street, Boston

Notice (Conditions on a Temporary Event Notice) – Permitted Temporary Activities

**On 14 November 2019 the licensing authority received from you, Burak Erdogan a temporary event notice (“the notice”) in respect of proposed temporary licensable activities due to take place on 30 November 2019 until 0500hrs the following day at The Assembly Rooms, Market Place, Boston. The licensing authority has received an objection under section 104(2) of the Licensing Act 2003 (“the Act”). The licensing authority has decided not to give you a counter notice under section 105 of the Act and instead is imposing one or more conditions on the notice in accordance with section 106A(2) of the Act.**

**The attached statement (“statement of conditions”) sets out the condition(s) which has/have been imposed on the notice.**

The objection which applies is indicated by an “X” in the following table.

<b>Objection</b>	<b>Insert “X” as applicable</b>
<b>A chief officer of police for any police area in which the premises are situated is satisfied that allowing the premises to be used in accordance with the notice would undermine a licensing objective.</b>	X
<b>A local authority exercising environmental health functions for the area in which the premises are situated is satisfied that allowing the premises to be used in accordance with the</b>	X

<b>notice would undermine a licensing objective.</b>	
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A copy of this notice will be sent to the chief of police and the local authority exercising environmental health functions for the area in which the premises specified in the temporary event notice you gave is situated.

The Licensing Act 2003 does not make provision for you to appeal against this counter notice.

Under section 136 of the Licensing Act 2003, a person commits an offence if he carries on a licensable activity on or from any premises otherwise than under and in accordance with an authorisation; or if he knowingly allows a licensable activity to be so carried on. A person convicted of such an offence is liable to imprisonment for a term not exceeding six months or to an unlimited fine, or to both.

<b>SIGNATURE</b>	On behalf of the licensing authority	<b>DATE</b>	2 December 2019
<b>Name of Officer signing</b>	Fiona White		

The prescribed form for a statement of conditions is as follows:

**The condition(s) is/are:**

**The Licensing Act 2003 (Mandatory Licensing Conditions) (Amendment) Order 2014**

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.

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

3. (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.

4. 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.”

**Conditions set out in the The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2014**

- (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) In this condition:—
- (a) “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

- (iii) duty were charged on the date of the sale or supply of the alcohol, and 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;
- (b) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- (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 would not be a whole number of pennies, the permitted price shall be taken to be the price rounded up to the nearest penny.
- (4) Where the permitted price 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, 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

## **ANNEX 2 - CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE**

### **a) General**

1. All point of sale staff will be given induction training and receive ongoing refresher training relating to all four licensing objectives.
2. Records of the initial training and refresher training will be kept for a minimum of 12 months and will be signed by the employee and trainer immediately upon completion. These records will be kept on the premises and made available for inspection when required.

### **b) The Prevention of Crime and Disorder**

1. An incident book shall be kept at the premises in which details of incidents

relating to the premises shall be recorded.

2. The incident book shall contain the following details:
    - i) Time, date and location of incident.
    - ii) Nature of incident
    - iii) Action taken
  3. Each entry shall be signed by the Designated Premises Supervisor or other responsible person employed at the premises and so authorised by the Designated Premises Supervisor.
  4. The incident book shall be made available to the Police upon request.
  5. Each entry shall be retained for a period of 12 months from date of completion.
  6. With the exception of VIP areas and during private functions, when being used as a nightclub, all pint vessels shall be polycarbonate.
  7. A tamper proof CCTV system shall be installed, maintained in working order and operated at the premises in liaison with and to the satisfaction of Lincolnshire Police and shall be used to record during all hours that the premises are open to the public.
  8. There shall be sufficient cameras to provide full coverage of all public areas.
  9. Any outside area used for consumption of alcohol shall be fully covered by CCTV.
  10. The images recorded by the CCTV system shall be retained in unedited form for a period of not less than 28 days and must be endorsed with the accurate time and date.
- c) Public Safety**
1. There shall be provided at the premises, door supervisors, who are registered with the Security Industry Authority (SIA) to such a number as the management of the premises consider are sufficient to control the entry of persons to the premises and for the keeping of order in the premises when they are used for a licensable activity.
  2. A log book shall be maintained at the premises, in which shall be recorded the following details:
    - i) The door supervisors name;
    - ii) His/her SIA licence number
    - iii) The time and date he/she starts and finishes duty
  3. Each entry in the log book shall be signed by the door supervisor

4. The log book shall be available for inspection on demand by an authorised officer of the Council, the Security Industry Authority or a Police Officer.
5. Each door supervisors licence number will be verified by the Designated Premises Supervisor or their agent using the SIA website on the occasion of each door supervisors initial employment at the premises. Thereafter a weekly check shall be carried out to ensure the licence status remains unchanged. This verification check will be recorded and signed appropriately by the Designated Premises Supervisor or their agent.

**d) The Prevention of Public Nuisance**

1. Signs shall be placed at all exits from the premises in a place where they can be seen and easily read by the public, requiring customers to leave the premises and the area quietly.
2. First floor windows will remain closed during all operational hours and after 21.00 hours on the ground floor.
3. No bottles or glasses will be permitted out of the premises whilst any nightclub operation is taking place.
4. No emptying of bottles to outside bins shall be carried out between 23.00 hours and 08.00 hours the following day on any day of the week.
5. No outside area on the Haven side of the Assembly Rooms, including any patio or balcony located between the rear of the Assembly Rooms and The Haven, to be used by any customers between 22.00 hours and 08.00 hours the following day on any day of the week.

**e) The Protection of Children from Harm**

1. There shall be in place for the premises a written policy to prevent the sale or supply of alcohol to persons under 18 years of age. That policy shall require any person who appears to be under the age of 25 years to produce one of the following forms of identification:
  - i) Full UK photo driving licence
  - ii) Passport
  - iii) A recognised proof of age card accredited under the Proof of Age Standards Scheme (PASS)
2. Clear, prominent and unobstructed signage informing customers of the proof of age scheme in operation will be displayed at all entry points to the premises and at points of sale.
3. After 21.00 hours, entry will be restricted to those aged 18 years or over and ID will be checked upon entry in accordance with the Challenge 25 policy.

<b>SIGNATURE</b>	On behalf of the licensing authority	<b>DATE</b>	2 December 2019
<b>Name of Officer signing</b>	Fiona White		