



REPORT OF THE DIRECTOR OF RESILIENT COMMUNITIES TO THE

LICENSING SUB – COMMITTEE

07 SEPTEMBER 2022

Temporary Event Notice under the Licensing Act 2003

**Memoirs
2 Bradford Place
Walsall
WS1 1PL**

1.0 The Notice

1.1 Davinder Sangha has given notice, under the Licensing Act 2003, of a temporary event, to be held at the above premises. A copy of the notice is attached as **Appendix 1**.

1.2 The notice was received by the Licensing Authority on 23 August 2022. Mr Sangha served the notice.

2.0 Recommendation

2.1 Members are to consider the notice and determine whether

a) to serve a counter notice under section 105 (2)(b) if they think this to be appropriate to promote the Licensing Objectives

b) Impose conditions to the TEN from the existing conditions on the premises licence

3.0 Background

3.1 The notice describes the nature of event as a DJ event. The event will take place on the 25th September 2022. The following licensable activities will be provided at the event:

The Sale by Retail of Alcohol	02:30 – 04:30
Regulated Entertainment	02:30 – 04:30

- 3.2 The maximum number of persons attending the event, including staff, organisers or performers at any one time is stated to be 320.
- 3.3 The venue where the event is being held currently benefits from a premises licence that allows them the following licensable activities:

Licensable Activities	Days	Time
Films, Indoor Sporting Events, Live and Recorded Music, Performance of Dance,	Monday - Sunday	09:00 – 03:00
Late Night refreshment	Monday - Sunday	23:00 – 02:30
Alcohol Sale (On & Off)	Monday - Sunday	09:00 – 03:30

- 3.4 **Appendix 2** is a copy of the current premises licence.
- 3.5 Attached as **Appendix 3** is a location plan identifying the venue.

4.0 Objections

- 4.1 Only the police (Crime & Disorder) and or Environmental Health (Public Nuisance) may object to a “temporary event notice” (TEN).
- 4.2 The Police and Environmental Health must give notice of the reasons for any objection to the licensing authority and premises user within 72 hours of receiving notice of the temporary event.
- 4.3 The licensing authority must hold a meeting to consider the objection unless the premises user, the police or Environmental Health and the licensing authority agree that a hearing is unnecessary.
- 4.4 On 25th August 2022 Walsall Licensing Authority received notice of objection to the TEN from West Midlands Police. A copy is attached as **Appendix 4**.
- 4.5 This is the first TEN that has been submitted for an event to take place at Memoirs this year. Below is a table to show the Number of TENS submitted for the premises over the past few years?

YEAR	LICENSABLE ACTIVITIES	TOTAL TENS
2019	Alcohol, Regulated Entertainment	6 (4 Late)
2020	Alcohol & Regulated Entertainment	3 (1 Late)
2021	Alcohol & Regulated Entertainment	2 (1 Late)
2022	Alcohol & Regulated Entertainment	1 – Current Notice

5.0 Resource Considerations

- 5.1. **Financial:** Application fees are set by central government and are non-refundable. The Licensing Authority would have to cover the cost of any successful appeals made to magistrate's court.
- 5.2. Any decision taken by the Licensing Authority may be appealed to the Magistrates' Court. The Licensing Authority would have to bear the costs of defending such an appeal.
- 5.3. **Legal:** Any representations received must be relevant to the likely effect on the promotion of the licensing objectives in respect of the application received, namely: Prevention of Crime and Disorder, Public Safety, Prevention of Public Nuisance, Protection of Children from Harm. Representations which are not relevant must be rejected.

6.0 LICENSING ACT 2003

Objection – Section 104

- 6.1. Section 104 of the Licensing Act 2003 states:
“Where a relevant person who is given a temporary event notice is satisfied that allowing the premises to be used in accordance with the notice would undermine a licensing objective, the relevant person must give a notice stating the reasons for being so satisfied (an “objection notice”)—

- (a) to the relevant licensing authority,*
- (b) to the premises user, and*
- (c) to every other relevant person.*

The objection notice must be given before the end of the third working day following the day on which the relevant person is given the temporary event notice.

Subsection (2) does not apply at any time after the relevant person has received a copy of a counter notice under section 107 in respect of the temporary event notice.

Counter Notice, Section 105

- 6.2 This section applies where an objection notice is given under section 104(2) in respect of a standard temporary event notice.
(2)The relevant licensing authority must—
 - (a) hold a hearing to consider the objection notice, unless the premises user, the relevant person who gave the objection notice and the authority agree that a hearing is unnecessary, and
 - (b) having regard to the objection notice, give the premises user a counter notice under this section if it considers it appropriate for the promotion of a licensing objective to do so.

(3) The relevant licensing authority must—

(a) in a case where it decides not to give a counter notice under this section, give the premises user and [F19each relevant person] notice of the decision, and

(b) in any other case—

(i) give the premises user the counter notice and a notice stating the reasons for its decision, and

(ii) give each relevant person a copy of both of those notices.

(4) A decision must be made under subsection (2)(b), and the requirements of subsection (3) must be met, at least 24 hours before the beginning of the event period specified in the temporary event notice.

Modification of Standard TEN – Section 106

6.3 (1) This section applies where a relevant person has given an objection notice under section 104(2) in respect of a standard] temporary event notice (and the objection notice has not been withdrawn).

(2) At any time before a hearing is held or dispensed with under section 105(2), the relevant person may, with the agreement of the premises user and each other relevant person, modify the temporary event notice by making changes to it.

(3) Where a temporary event notice is modified under subsection (2) —

(a) the objection notice is to be treated for the purposes of this Act as having been withdrawn from the time the temporary event notice is modified, and

(b) from that time—

(i) this Act has effect as if the temporary event notice given under section 100 had been the notice as modified under that subsection, and

(ii) to the extent that the conditions of section 98 are satisfied in relation to the unmodified notice they are to be treated as satisfied in relation to the notice as modified under that subsection.

(4) A copy of the temporary event notice as modified under subsection (2) must be sent or delivered by the relevant person to the relevant licensing authority before a hearing is held or dispensed with under section 105(2).

(6) This section does not apply if a counter notice has been given under section 107.

(7) In this section “objection notice” has the same meaning as in section 104(2).

Conditions on Standard TEN Following Objection- Section 106A

6.4 (1) This section applies where—

(a) a relevant person has given an objection notice under section 104(2) in respect of a standard temporary event notice,

(b) the objection notice has not been withdrawn, and

(c) the relevant licensing authority has decided under section 105 not to give a counter notice under that section.

(2) The relevant licensing authority may impose one or more conditions on the standard temporary event notice if—

(a) the authority considers it appropriate for the promotion of the licensing objectives to do so,

(b) the conditions are also imposed on a premises licence or club premises certificate that has effect in respect of the same premises, or any part of the same premises, as the temporary event notice, and

(c) the conditions would not be inconsistent with the carrying out of the licensable activities under the temporary event notice.

(3) Where the authority decides to impose one or more conditions under subsection (2)—

(a) the authority must give the premises user notice of the decision,

(b) the notice must be accompanied by a separate statement (the “statement of conditions”) which sets out the conditions that have been imposed on the temporary event notice, and

(c) a copy of the notice and statement of conditions must be given to each relevant party.

(4) The notice and statement of conditions under subsection (3) must—

(a) be in the prescribed form,

(b) be given to the premises user in the prescribed manner, and

(c) be given no later than 24 hours before the beginning of the event period specified in the temporary event notice.

(5) Where the premises are situated in the area of more than one licensing authority, the functions conferred on the relevant licensing authority by subsection (2) must be exercised by those authorities jointly.]

7.0 SECTION 182 GUIDANCE

7.1 7.6 of the guidance:

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.

7.2 7.28: If the licensing authority receives an objection notice from the police or EHA that is not withdrawn, it must (in the case of a standard TEN only) hold a hearing to consider the objection unless all parties agree that this is

unnecessary. The licensing committee may decide to allow the licensable activities to go ahead as stated in the notice. If the notice is in connection with licensable activities at licensed premises, the licensing authority may also impose one or more of the existing licence conditions on the TEN (insofar as such conditions are not inconsistent with the event) if it considers that this is appropriate for the promotion of the licensing objectives. If the authority decides to impose conditions, it must give notice to the premises user which includes a statement of conditions (a “notice (statement of conditions)”) and provide a copy to each relevant party. Alternatively, it can decide that the event would undermine the licensing objectives and should not take place. In this case, the licensing authority must give a counter notice.

7.3 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.

7.4 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.

7.5 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.

7.1. In determining whether a representations is ‘relevant’, and may therefore be taken into account, the Sub-Committee must have regard to Sections 18(6) and 18(7) of the Licensing Act 2003, which state:

7.2 18 (6) For the purposes of this section, “relevant representations” means representations which—

- (a) are about the likely effect of the grant of the premises licence on the promotion of the licensing objectives;
- (b) meet the requirements of subsection (7);
- (c) if they relate to the identity of the person named in the application as the proposed premises supervisor, meet the requirements of subsection (9); and
- (d) are not excluded representations by virtue of section 32 (restriction on making representations following issue of provisional statement).

18 (7) the requirements of Section 18 subsection (7), referenced above, are—

- (a) that the representations were made by a responsible authority or other person] within the period prescribed under section 17(5)(c);
- (b) that they have not been withdrawn; and
- (c) in the case of representations made by a person who is not a responsible authority , that they are not, in the opinion of the relevant licensing authority, frivolous or vexatious

8.0 Associated papers

- 8 .1 Appendix 1 – Temporary Event Notice
- Appendix 2 – Notice of objection
- Appendix 3 – Location Map
- Appendix 4 – Objection from West Midlands Police