

Committee	Licensing Sub-Committee
Officer Contact	David Reed, Licensing Service 01895 277433
Papers with report	Appendix 1 - Temporary Event Notice Application (Standard) Appendix 2 – Anti-Social Behaviour & Environment Team (ASBET) objection Appendix 3 - Premises licence Appendix 4 – Supporting email from Police Appendix 5 – Supporting info from ASBET
Ward(s) affected	Ruislip

1.0 SUMMARY

- 1.1 To consider an application for a standard Temporary Event Notice (hereinafter referred to as TEN) submitted by Mr Maulik Valand for an event between 6th May and 7th May 2023 at Kho Kho, 101-103 High Street, Ruislip, HA4 8JN. A hearing is required following an objection from Adam Stitson representing London Borough of Hillingdon's Anti-Social Behaviour & Environment Team (hereinafter referred to as ASBET).

2.0 RECOMMENDATION

That the Licensing Sub Committee assess all evidence pertinent to the application and make a decision on whether to support the objection or not.

The Licensing and Appeals Sub-Committee has the following options when issuing the Decision Notice:

- i) Approve the notification as made;
- ii) Refuse the notification and issue a Counter Notice/Decision Notice preventing the notification from taking effect; or
- iii) Approve the notification and impose one or more of the conditions in existence on the current premises licence relating to the premises.

Please note, that should the Sub-Committee decide to impose conditions on the Temporary Event Notice, a Notice (Statement of Conditions) (s. 106A(3)) needs to be given.

Attention is hereby drawn that on the dates the applicant has applied for, additional hours are due to be authorised by the Home Secretary to mark the occasion of the King's Coronation. Standard Hours for Sale of Alcohol and Late-Night Refreshment are to be increased by 2 hours, from 2300 to 0100hrs nationally; however, enabling legislation is yet to be ratified.

3.0 INFORMATION

3.1 On 29th March 2023, a Temporary Event Application was submitted electronically online. The application, from Mr Maulik Valand, was for the following licensable activities:

1. The provision of regulated entertainment
2. The provision of late-night refreshment

The applicant describes the event as a '*Coronation celebration and also to test the improvements made at the premises to restrict sound leakage.*'

The TEN is being sought from 23:00 hours on 6th May 2023 to 01:30 hours on 7th May 2023.

A copy of the application is attached as **Appendix 1**

4.0 CONSULTATION

4.1 The TEN was forwarded to the Police Licensing Officer and ASBET on 30th March 2023 for consultation. There is a statutory 3 working days' consultation period for TENs.

5.0 OBJECTION

5.1 On 30th March 2023, a notice of objection was received from ASBET due to concerns relating to the likelihood of disturbance to local residents. The ASBET objection is attached as **Appendix 2** with further supporting information contained in **Appendix 5**

5.2 The Police are supporting ASBET's objection. Please see **Appendix 4**.

6.0 BACKGROUND INFORMATION

Premises Licence Holder

6.1 The premises licence holder is Raaj Hospitality Ltd, The Long Lodge, 265-269 Kingston Road, London, SW19 3NW. The premises licence is attached as **Appendix 3**.

Designated Premises Supervisor

6.2 The designated premises supervisor (hereinafter referred to as the DPS) is Mr Maulik Mahendrabhai Valand. He holds a personal licence, number 22/05143/LAPER, with London Borough of Newham.

Description of the premises

6.3 Kho Kho is located on Ruislip High Street in a mixed residential/commercial area. There is residential accommodation on South Road to the rear of the premises and also above some of the shops on the High Street, including directly above the premises. The premises operates as a restaurant and bar, with an outside smoking area to the front of the premises.

6.4 Current Licensable Activities & Opening Hours

<u>Activity</u>		<u>Permitted</u>
Sale of Alcohol:	Consumption on the premises	✓
	Consumption off the premises	
Regulated Entertainment:	Plays	
	Films (Indoors)	
	Live Music (Indoors)	
	Recorded Music (Indoors)	
	<i>Entertainment of a similar description</i>	
	Indoor Sporting Events	
	Boxing/Wrestling	
Late Night Refreshment (Indoors)		✓

	Sale of Alcohol	Regulated Entertainment	Late Night Refreshment	Opening hours
Monday	10:00-00:00	N/A	23:00-00:30	10:00-00:30
Tuesday	10:00-00:00	N/A	23:00-00:30	10:00-00:30
Wednesday	10:00-00:00	N/A	23:00-00:30	10:00-00:30
Thursday	10:00-00:00	N/A	23:00-00:30	10:00-00:30
Friday	10:00-01:30	N/A	23:00-02:00	10:00-02:00
Saturday	10:00-01:30	N/A	23:00-02:00	10:00-02:00
Sunday	10:00-00:00	N/A	23:00-00:30	10:00-00:30

6.5 Non-standard Timings and seasonal variations

In addition to the hours detailed above, Licensable Activities may be provided as per the details below:

25th January Burns Night 10:00hrs -02:00hrs the following day
 14th February 10:00hrs -02:00hrs the following day
 1st March St David's Day 10:00hrs -02:00hrs the following day
 17th March St Patricks Day 10:00hrs -02:00hrs the following day
 23rd April St Georges Day 10:00hrs -02:00hrs the following day
 Diwali 10:00hrs -02:00hrs the following day
 31st October Halloween 10:00hrs -02:00hrs the following day

5th November Guy Fawkes Night 10:00hrs-02:00hrs the following day
 30th November St Andrews Day 10:00hrs -02:00hrs the following day
 24th December Christmas Eve 10:00hrs -03:00hrs the following day
 26th December Boxing Day 10:00hrs -02:00hrs the following day
 31st December New Year's Eve 10:00hrs -03:00hrs the following day
 Sundays preceding Bank Holiday Monday 10:00hrs -02:00hrs the following day
 Premises open to the Public for an additional 30 minutes after the terminal hour for licensable activity.

6.6 Previous TEN Applications

Records show that the following Temporary Event Notice application have been submitted for Kho Kho in the past two years:

Type of TEN	Event dates	Submitted electronically on	Status
Late TEN	03/12/2022 - 04/12/2022 23:00 – 01:00	25/11/2022	Refused
Late TEN	23/12/2022 – 25/12/2022 11:00 – 01:00	15/12/2022	Refused
Late TEN	30/12/2022 – 01/01/2023 23:00 – 01:00	20/12/2022	Refused

7.0 OFFICERS OBSERVATIONS

Mediation

7.1 Mr Valand was contacted on 30th March 2023 via email and advised that the TEN application had attracted an objection from ASBET on public nuisance grounds. A telephone call was also made to the number provided on the application form, which was answered by Mr Walia, the manager of the premises, advising him of the objection.

The email and phone call advised that the applicant could contact Mr Stitson to discuss the objection directly, and a contact email was provided.

As of the time of writing, no contact has been received from the applicant.

Complaints

7.2 There have been numerous complaints regarding noise nuisance from the premises dating back several years and continuing to the present.

Date	Noise Problem
17/06/2019	Loud extractor fan Reported to the Council online
03/07/2019	Loud extractor fan Reported to the Council online

25/03/2021	Loud music and gatherings impacting on residents. Reported to council online
19/05/2021	Noise Abatement Notice served for nuisance relating to extractor fan.
16/10/2021	Loud music being played contrary to Noise Abatement Notice. Reported to the Council online. Officers attended and witnessed breach of Notice.
23/10/2021	Loud music reported, Officers attended and witnessed further breaches of Notice.
06/11/2021	Unlawful fireworks display reported. Officers witnessed professional, display-grade fireworks detonated in inappropriate residential area with insufficient safety precautions.
07/11/2021	Report from resident complaining that after the fireworks display on the night prior, drummers performed, causing a further noise nuisance
19/02/2022	Officers attended premises regarding noise complaint and gave verbal warning about statutory noise nuisance.
13/05/2022	Officers attended premises regarding noise complaint and gave verbal warning about statutory noise nuisance.
14/05/2022	Officers attended premises regarding noise complaint and gave verbal warning about statutory noise nuisance. Noise nuisance was witnessed by Officers.
21/05/2022	Officers attended premises regarding noise complaint and gave verbal warning about statutory noise nuisance. Noise nuisance was witnessed by Officers.
17/07/2022	Complaint received about extractor fan noise. Officers attended and witnessed the noise.
30/10/2022	Complaint received via contact centre regarding loud amplified music.
23/12/2022	Complaint received by OOH Noise Team. Officers attended and witnessed a Statutory Nuisance

The premises was subject to a Review of Premises Licence after ASBET felt that the management of the premises was not upholding the Licensing Objective of Preventing Public Nuisance; whereupon the Sub-Committee deemed it appropriate to remove Regulated Entertainment (Live and Recorded Music) from the Premises Licence for the venue. This was in part due to the repeated noise complaints and breaches of Noise Abatement Notices. The decision notice was issued on 20/01/2022 confirming the removal of Regulated Entertainment from the Premises Licence.

The premises appealed the decision; however, on the day of the appeal hearing (25/11/2022), the appellants withdrew their appeal. As such, the decision of the Sub-Committee was upheld and came into force, removing Regulated Entertainment from the Premises Licence.

7.3 Section 182 Guidance

Police and environmental health intervention

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).

7.9 “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.

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.

7.32 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.

7.38 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.

7.4 Statement of Licensing Policy:

12.1 Licensing Sub Committees will be mindful that licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of nuisances impacting on people living, working or sleeping in the vicinity of the premises. When addressing public nuisance the applicant should identify any particular issues that are likely to affect adversely the promotion of the licensing objective to prevent public nuisance. They should then include in the operating schedule how they will deal with those matters. The concerns mainly relate to noise nuisance from within the premises or from the use of any outside areas, light pollution, smoke and noxious smells. This may also include patrons outside a premises and the dispersal of customers. Due regard will be given to the impact these may have and the Licensing Authority will expect operating schedules to satisfactorily address these issues.

19.6 A Licensing Sub-Committee will also sit to hear cases where the police and/or the Council's Noise and Nuisance officers have opposed a Temporary Event Notice on the basis that, should the event go ahead, one or more of the licensing objectives would not be promoted.

8.0 LEGAL IMPLICATIONS

8.1 Where it is proposed to use premises for one or more licensable activities during a period not exceeding 168 hours (7 days), an individual may give to the licensing authority notice of that proposal a Temporary Event Notice ("TEN"). The Police and the Council's Environmental Health Authority ("EHA") are required to object to temporary event notices where it is considered that the proposed temporary event would undermine the licensing objectives.

- 8.2 The purpose of the hearing is for the licensing authority to consider whether, having regard to the objections, the licensing objectives would be undermined if the temporary event were to be permitted. The applicant and any objectors may agree modifications to the temporary event notice in order to overcome objections, and if so agreed, the relevant objections are deemed to have been withdrawn. If all objections are withdrawn, the event may proceed in accordance with the temporary event notice.
- 8.3 The procedure to be followed by the licensing authority on receipt of a TEN depends on whether the notice is a "Standard" TEN or a "Late" TEN. 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. There is no mechanism for a hearing or application of any existing licence conditions in relation to a "Late" TEN.
- 8.4 When considering an objection following an application for a standard TEN the Sub-Committee shall carry out its functions with a view to taking steps it considers appropriate for promoting the licensing objectives. The licensing objectives are;
- Prevention of crime and disorder
 - Public Safety
 - Prevention of public nuisance
 - Protection of children from harm

Members should note that each objective is of equal importance. There are no other licencing objectives and the four objectives are paramount considerations at all times.

- 8.5 An application for a standard TEN may be made pursuant to s.100A the Licensing Act 2003, and with regard to The Licensing Act 2003 (Permitted Temporary Activities) (Notices) Regulations 2005.
- 8.6 Where an objection is made to the Licensing Authority by a relevant person i.e. the police or authority responsible for minimising or preventing the risk of pollution of the environment/harm to human health (EHA), a hearing must be held to determine the objection, unless all are agreed that such a hearing is unnecessary s.105(2)(a) Licencing Act 2003.
- 8.7 The Sub-Committee must ensure that all licensing decisions:
- Have a direct relationship to the promotion of one or more of the four licensing objectives
 - Have regard to the Council's statement of licensing policy
 - Have regard to the Secretary of State guidance
- 8.8 The Sub-Committee having regard to matters that have been raised through the objection notice from a relevant person/s will provide a counter notice or a decision notice where it considers it appropriate for the promotion of the licensing objective on a case-by-case basis s.105(3) Licencing Act 2003.
- 8.9 The Sub-Committee may make the following decisions:
- Approve the notification as made;
 - Refuse the notification and issue a Counter Notice/Decision Notice preventing the notification from taking effect; or
 - Approve the notification and impose one or more of the conditions in existence on the current premises licence relating to the premises.

8.10 The sub-committee can only impose conditions on the TEN if section 106A(2) of the Licensing Act 2003 is satisfied, which states:

“The relevant licensing authority may impose one or more conditions on a 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.”*

8.11 Any notice issued by the licensing authority under sections 105 or 106A of the Licensing Act 2003 must be given in the prescribed format and no later than twenty-four hours prior to the commencement of the event period stated in the notification.

Appeal

8.12 In the case of decisions on Standard TENs, where a Counter Notice is issued by the Licensing Authority, all parties to the hearing have the right to appeal the decision of the Sub-Committee to the Magistrates' Court within a period of 21 days beginning with the day on which the premises user was notified by the Licensing Authority of the decision (Schedule 5 Part 3 Paragraph 16 Licensing Act 2003).

8.13 No appeal may be brought later than five working days before the day on which the event specified in the TEN begins. No appeal may be made where a counter notice is issued following an objection to a Late Temporary Event Notice.