

LICENSING SUB-COMMITTEE		DATE 24 August 2022
TITLE Temporary Event Notice for Tamar’s Restaurant, 12 Spray Street, Woolwich, London SE18 6AG – Consideration of objections to Notice by the Metropolitan Police (Greenwich) Licensing Team.		ITEM NO. 4
PROVISION UNDER WHICH HEARING IS HELD: Section 105(2)(a), Licensing Act 2003		
LEAD OFFICER Director of Housing & Safer Communities	WARD Woolwich Arsenal <i>formerly</i> Woolwich Riverside	

I. Decision Required

- 1.1 The Sub-Committee is required to consider an Objection Notice given by the Metropolitan Police (Greenwich) Licensing Team relating to a Temporary Event Notice (hereinafter generally referred to as a “TEN”) for the sale of alcohol, provision of regulated entertainment, and provision of late night refreshment submitted by the proposed premises user, Mr Falabomi Lambo, in respect of Tamar’s Restaurant, 12 Spray Street, Woolwich, London SE18 6AG, for a “Summer Carnival” for 55 people.

2. Background

- 2.1 The Licensing Authority may, if it considers it appropriate, take the following steps to promote the four licensing objectives of the Prevention of Crime & Disorder; the Prevention of Public Nuisance; Public Safety; and the Protection of Children from Harm:
- a. Issue a Counter Notice to prevent the temporary event from taking place; or,
 - b. Issue a Notice and impose conditions by issuing a ‘Statement of Conditions’. *The conditions imposed must only be from an existing Premises Licence* in respect of the same premises or part of the same premises for which the temporary event notice is submitted. In this case, The Courtyard does not hold a premises licence; or,
 - c. If no Counter Notice is given, it must give the premises user, the Chief Officer of Police and Environmental Health, (EH) a Notice of the decision.

- 2.2 In any case where a Counter Notice or a Notice and a 'Statement of Conditions', is issued, the Licensing Authority must:
- a. Give the premises user the Counter Notice and a notice stating the reasons for its decision; and,
 - b. Give the party making the objection a copy of both of the Notices.

3. Summary of the Temporary Event Notice and Responsible Authority Objections.

- 3.1 The TEN was submitted by Mr Falabomi Lambo, holder and Designated Premises Supervisor in respect of the premises licence attached to Tamar's Restaurant (refer 4.2 below), and received by the Licensing Authority on 12 August 2022. It was formally circulated for statutory consultation the same day. The TEN relates to the licensable activities of On-Sale & Supply of Alcohol, Regulated Entertainment (music & dance), and late night refreshment (the provision of hot food &/or hot drink after 23:00 hours).
- 3.2 The event is proposed to commence at 20:00 hours on Friday 26 August 2022 and conclude at 03:00 the following day, Saturday 27th. A copy of the TEN is attached at **Appendix A**.
- 3.3 The Metropolitan Police Service (Greenwich Licensing) submitted an objection notice in respect of the TEN within the required three working days of formal circulation, and this was e-mailed to the Licensing Authority on 16 August 2022. Mr Lambo was copied with that e-mail and was further notified of it by Licensing the following day, 17th. The objection was made in line with the Prevention of Crime & Disorder and Prevention of Public Nuisance licensing objectives. A copy of that objection is attached at **Appendix B**.

4. Location & Operating History of the Premises

- 4.1 The premises are located at the Woolwich New Road end of Spray Street, near to the DLR station and across from General Gordon Square / the Beresford Square marketplace. It falls within both the Woolwich town centre Cumulative Impact Zone and the ambit of Woolwich's Public Spaces Protection Order. A map of the area is attached at **Appendix C**.
- 4.2 The premises formerly operated as Favourite Inn, but that closed circa 2013 and the owner/operator subsequently died. It remained empty until Mr Lambo acquired the site in early 2021. He successfully applied for a new premises

licence, granted 13 May 2021 (together with a Pavement Licence issued by our Street Trading & Markets team to authorise two tables & four chairs in an outside customer area). A copy of the current premises licence for Tamar's Restaurant is attached at **Appendix D**.

- 4.3 On the night of Saturday / Sunday 9-10 July 2022, the premises was observed by the RBG Digital Evidence team, by way of town centre CCTV cameras, operating beyond its licensed hour of midnight. Footage captured Tamar's still open after 04:00 hours, with many people milling outside and entering / exiting the premises with drinks and drinks containers.
- 4.4 A copy of the footage is submitted in line with the Police objection attached at *Appendix B*.
- 4.5 On 13 August 2022, following a visit to the premises to meet with Mr Lambo to discuss the 9/10th July incident and request in-house CCTV – which was not forthcoming – PC Darryl Crossman issued a formal warning letter, a copy of which is attached at **Appendix E**.
- 4.6 Mr Lambo has previously been granted one Temporary Event Notice for Tamar's. This was to mark the end of Ramadan and covered 6-7 May 2022, between 17:00 hours and the following 03:00, for 60 people. The licensable activities authorised by that TEN are the same as those sought in the current application. There were no reported issues on that occasion.

5. Relevant Considerations

- 5.1 A Temporary Event Notice can be given by an individual known as a 'premises user' and authorises the user to conduct one or more licensable activities at the premises for no more than 168 hours (seven days). TENs are designed to authorise *ad hoc* events for up to 499 persons.
- 5.2 Temporary Event Notices permit licensable activities to take place subject to the following rules:
 - a. The number of times a person (the 'premises user') may give a TEN is 50 times per calendar year for a personal licence holder and five times per year non-personal licence holders;
 - b. The number of times a person (the 'premises user') may give a 'late' TEN notice is 10 times per calendar year for a personal licence holder and twice per year for non-personal licence holders;

- c. The number of times a TEN may be given in respect of any particular premises is 20 (*formerly 15*)* times in a calendar year;
- d. The length of time a temporary event may last for these purposes is 168 hours;
- e. The maximum aggregate duration of the periods covered by TENs at any individual premises is 26 (*formerly 21*)* days per calendar year;
- f. The scale of the event in terms of the maximum number of people attending at any one time is 499, including all event support staff; and
- g. If a TEN has been given for the same premises, by the same premises user, and would have effect *within* 24 hours before the start of the event period under the current proposal, or *within* 24 hours after the end of that period, the TEN given would be void and any licensable activities carried on under it would therefore be unlicensed.

*The provisions referred to at 'c' and 'e' have been increased by legislation for 2022 & 2023.

- 5.3 TENs can be used to extend the hours licensable activities take place, to add licensable activities not currently catered for, or to hold licensable activities at premises not currently licensed.
- 5.4 The 'premises user' must give the TEN to the relevant Licensing Authority and also send a copy to (1) the Chief Officer of Police and (2) to the local authority exercising Environmental Health functions. Upon receipt of a TEN, the Licensing Authority is required to issue an acknowledgement of the TEN.
- 5.5 The purpose of the notification requirement is to enable the Licensing Authority to check that the limitations set down in the Act, as set out in 6.2 of the report, are being observed and to intervene if they are not.
- 5.6 If the Police or Environmental Health, as Relevant Persons, are satisfied that allowing the premises to be used in accordance with the TEN will undermine the licensing objectives, they may object to a TEN to the Licensing Authority, explaining the reason(s) why.
- 5.7 However, at any time before a hearing is held, the Chief Officer of Police or Environmental Health may, with the agreement of the premises user, modify the TEN to address the concerns. Once the TEN has been modified, the Licensing Authority must be sent a copy of the modified notice by the Police or the local authority exercising Environmental Health functions.

- 5.8 Alternatively, where an objection is made requesting that conditions are imposed from an existing premises licence or club premises certificate in respect of the same premises for which the TEN has been made; and the premises user agrees to impose those conditions; and if all parties agree that a hearing is unnecessary, the Licensing Authority may issue a notice (Conditions on a Temporary Event Notice) and a statement of conditions without a formal hearing before the Licensing Authority's Sub-Committee.
- 5.9 If there are no objections by the Police Environmental Health; or a TEN has been modified; or a notice, viz 'Conditions on a Temporary Event Notice and a Statement of Conditions', has been served, the Licensing Authority has no power under the Act to stop permitted temporary events taking place once they have started. However, a Local Authority may have powers under other legislation, for example, to deal with statutory noise nuisance.
- 5.10 The Chief Officer of Police has the power to seek court orders to close premises for up to 24 hours in a geographical area that is experiencing, or likely to experience, disorder. Police also have the power to close down instantly, for up to 24 hours, premises in respect of which a TEN has effect, that are:
- Disorderly;
 - Likely to become disorderly; or,
 - Are causing disturbance by excessive noise from the premises.

Such orders may only be made where it is necessary in the interests of public safety in cases of disorder or to prevent nuisance in the case of noise coming from the premises.

6. Policy and Statutory Considerations

- 6.1 In making their decision, the Sub-Committee must have regard to the following:
- The promotion of the Licensing Objectives;
 - The Licensing Act 2003;
 - The Statutory Guidance issued by the Secretary of State in accordance with Section 182 of the Act;
 - The representations, including supporting information, presented by all the parties; and
 - The Royal Borough of Greenwich Statement of Licensing Policy.
- 6.2 The 2003 Act only permits imposition of conditions on an existing premises licence or club premises certificate for the premises.

Royal Borough of Greenwich Council Statement of Licensing Policy dated 7th January 2021

- 6.3 The Statement of Licensing Policy states at 16.3: “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. “Working days” exclude the day the notice is received and the first day of the event. TENs 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.”
- 6.4 The Statement of Licensing Policy states at 16.6: “The Police and Environmental Health have a period of three working days from when they are given the notice in which they may object to it on grounds related to the promotion of one or more of the four licensing objectives.”
- 6.5 The Statement of Licensing Policy states at 16.7: “For standard TENs, where an objection is given, there is provision under the legislation for the Police or Environmental Health to agree with the premises user to modify the TEN in terms of activities sought and times permitted, or where there is a pre-existing premises licence, for conditions from that licence to apply to the activities authorised by the TEN. If all parties are in agreement, the objection(s) may be treated as “withdrawn” and the licensable activities shall be authorised. If agreement cannot be reached, the notice will be deferred to the Authority’s Licensing Sub-Committee to determine whether or not to uphold the objection(s), or whether to allow the event to proceed, with or without conditions, as the Sub-Committee deem appropriate.”
- 6.6 The Sub-Committee is reminded to have regard to the Policy in general when making their decision.

Statutory Guidance under Section 182 of the Act (updated as of April 2018)

- 6.7 Section 7.11 of the Guidance states: “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.”

- 6.8 Section 7.6 of the Guidance states: “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. 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).”
- 6.9 Section 7.28 of the Guidance states: “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 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.”
- 6.10 Section 7.35 of the Guidance states: “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.”

- 6.11 Section 7.37 of the Guidance states: “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.”

The Licensing Act 2003 Regulations

- 6.12 The Sub-Committee must have regard to the Hearings Regulations published by the Government under the Licensing Act 2003.

Human Rights Act 1998

- 6.13 Human Rights Act provides that: “Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No-one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

The term “possession” includes a Licence as well as a home and the things it contains.

- 6.14 The Act further provides:

“(1) it is unlawful for a public authority to act in a way which is incompatible with a Convention right.

(2) Subsection (1) does not apply to an act if:

(a) as the result of one or more provisions of primary legislation, the authority could not have acted differently; or

(b) in the case of one or more provisions of, or made under, primary legislation which cannot be read or given effect in a way which is

compatible with the Convention rights, the authority was acting so as to give effect to or enforce those provisions.”

7. Legal Considerations

7.1 The Police or Environmental Health may object to a TEN if satisfied that allowing the premises to be used in accordance with the TEN would undermine one or more of the licensing objectives.

8. Appeal Rights

8.1 Right of appeal to the magistrates’ court is available to the premises user, the Police, and Environmental Health.

9. Background Papers

Royal Borough of Greenwich Council’s Statement of Licensing Policy dated 7 January 2021;

Guidance published by the Government under Section 182 of the Licensing Act 2003, updated as of April 2018;

Licensing Act 2003 and subsequent Regulations;

Premises file.

10. Appendices

Appendix A	Temporary Event Notice.
Appendix B	Metropolitan Police objection (PC Darryl Crossman) dated 16 August 2022.
Appendix C	Map of the area.
Appendix D	Copy of premises licence.
Appendix E	Greenwich Police Licensing (PC Darryl Crossman) warning letter dated 13 August 2022.

Date of Report	17 August 2022
Report Author	Steve Cox
Email Address	steve.cox@royalgreenwich.gov.uk
Telephone Number	020 8921 4752
Reporting To	Jane Dyer
Email Address	jane.dyer@royalgreenwich.gov.uk
Telephone Number	020 8921 8162