

LICENSING COMMITTEE

Report Title	Tomi's Kitchen, 126 Deptford High Street, SE8 4NS		
Key Decision	No		Item No. 3
Ward	New Cross		
Contributors	Community Services – Crime, Enforcement & Regulation Service Head of Law		
Class	Part 1	Date 10 December 2019	

Proposal: Temporary Event Notice (TEN)

Legislation: Licensing Act 2003

Premises: Tomi's Kitchen, 126 Deptford High Street, SE8 4NS

Applicants: Sylvester Odiase

This matter is required to be heard within a short timescale to meet the statutory requirements.

The notice was served in accordance with section 100 of the Licensing Act 2003.

1. Notice Content & Objection

1.1 The Temporary Event Notice is for the Sale of Alcohol, Regulated Entertainment and Late Night Refreshment from 22:00 on 27 December 2019 to 03:00 on 28 December 2019.

1.2 The event are described as a 'birthday party'.

2. The notice was received by the Licensing Authority on 27 November 2019 and served on the Metropolitan Police (MPS) and the London Borough of Lewisham Crime, Enforcement and Regulation Service (formerly known as Environmental Enforcement). Objections were received from Steve Phillips of the Crime, Enforcement and Regulation Service within the specified time limit in accordance with section 104 of the Licensing Act 2003 (objection received on the 29 November 2019). The objection received was in relation to the licensing objective of prevention of public nuisance.

3. Legal and Human Rights Implications

- 3.1 Where an objection notice is received following a Temporary Event Notice, a licensing authority is required to hold a hearing. In this case the Licensing Authority is required to consider whether the proposed temporary event will promote the crime prevention and public nuisance licensing objectives.
- 3.2 The licensing authority is a public authority under the Human Rights Act 1998. Therefore the Licensing Authority is under a duty to act compatibly with Convention Rights in the exercise of their function. Article 6 (1) of the Convention provides that everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial hearing established by law.
- 3.3 The right to give a Temporary Event Notice falls within the scope of civil rights and obligations in Article 6 (1) as it relates, in this case, to a Premises Licence holder's right to pursue commercial activity. This right is a qualified right therefore it may be interfered with if it is appropriate to protect the general interest of the community.

4. Equalities Implications

- 4.1 The Equality Act 2010 includes a new public sector equality duty (the equality duty or duties) the duty covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race or religion or belief, sex and sexual orientation.
- 4.2 In summary the Council must, in the exercise of its functions, have due regard to the need to-
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
 - advance equality of opportunity between people who share a protected characteristic and those who do not
 - foster good relations between those who share a protected characteristic and those who do not
- 4.3 As with the case with the original separate duties, the new duty continues to be a "have regard duty" and the weight to attach to it is a matter for the committee bearing in mind the relevance and proportionality. It is not an absolute requirement to eliminate discrimination, advance equality of opportunity or foster good relations.

5. Determination of objection notice

- 5.1 After having regard to all the representations heard, Members must take such steps as they consider appropriate to promote the prevention of crime and disorder and public nuisance. Therefore the Licensing Committee may;
1. Decide no action is appropriate to promote the licensing objectives therefore the temporary event may go ahead.
 2. 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 standard temporary event notice, and
 - c. the conditions would not be inconsistent with the carrying of licensable activities under the standard temporary event notice
 3. Issue a counter notice if it considers it is appropriate to promote the licensing objectives, therefore the temporary event may not go ahead.
- 5.2 There is a right of appeal to the Magistrates Court against a decision either to give a counter notice or to allow the temporary event to go ahead.

Background Papers

<u>Short Title of Document</u>	<u>Date</u>	<u>Appendix</u>
<u>Applicant</u> Applications rec'd	27.11.19	
<u>CER Service Objection</u> Objection rec'd	29.11.19	

Should you require any further information on this report please contact Lisa Hooper at the Crime, Enforcement & Regulation Service on 020 8314 6324