

# Public Document Pack

10 April 2019

Our Ref Licensing and Appeals Sub-Committee/16.04.19  
Your Ref.  
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To: Members of the Committee: Councillor Daniel Allen, Councillor Ben Lewis and Councillor Lisa Nash

You are invited to attend a

## **MEETING OF THE LICENSING AND APPEALS SUB-COMMITTEE**

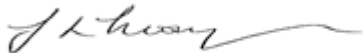
to be held in the

**FLOOR 1, ROOMS 2 AND 3, DISTRICT COUNCIL OFFICES,  
LETCWORTH GARDEN CITY**

On

**TUESDAY, 16TH APRIL, 2019 AT 10.00 AM**

Yours sincerely



Jeanette Thompson  
Service Director – Legal and Community

## **Agenda** **Part I**

<b>Item</b>		<b>Page</b>
1.	<b>HEARING PROCEDURE</b> Procedure to be followed at the Hearing.	(Pages 3 - 4)
2.	<b>APPLICATION BY DAVID ADENIREGUN FOR A TEMPORARY EVENTS NOTICES IN RESPECT OF THE RED HART, 28-29 BUCKLERSBURY, HITCHIN, HERTFORDSHIRE, SG5 1BG</b>	(Pages 5 - 38)

**NORTH HERTFORDSHIRE DISTRICT COUNCIL  
LICENSING ACT 2003  
TEMPORARY EVENT NOTICE  
HEARING PROCEDURE**

1. Chair's Welcome Introduction of: <ul style="list-style-type: none"><li>• Councillors sitting on Sub-Committee (Sub-Committee);</li><li>• legal advisor;</li><li>• licensing officer;</li><li>• Responsible Authorities; and</li><li>• the 'premises user' (the applicant).</li></ul>	
2. The Chair will outline the procedure for the hearing	
3. The Chair will ask the Legal Advisor to outline the matters for consideration during the course of the hearing	

<u>The Licensing Officer's report</u> 4. The Chair will ask the Licensing Officer if they have anything to add to their report to the Sub-Committee; if there has been any changes to the application, and if so, if both parties have been made aware of the changes. 5. The Chair will ask if there are any questions of fact of the licensing officer 6. The Sub-Committee may ask questions of the licensing officer	
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<u>The Applicant's case</u> 7. The Chair will ask the applicant to present their submissions to the Sub-Committee 8. The Chair will ask if there are any questions of fact of the applicant 9. The Sub-Committee may ask questions of the applicant	
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The Responsible Authorities submit their case

10. The Chair will ask the Responsible Authorities to present their submissions to the Sub-Committee
11. The Chair will ask the premises user if there have any questions for the Responsible Authorities
12. The Sub-Committee may ask questions of the Responsible Authorities

Closing statements

13. The Licensing Officer may make final submissions to the Sub-Committee
14. The Responsible Authorities may make final submissions to the Sub-Committee
15. The Applicant may make final submissions to the Sub-Committee

Conclusion

16. The Legal Advisor will summarise any legal points that have arisen during the hearing and will answer any legal questions from the Sub-Committee.
17. The Sub-Committee will close the hearing and retire to make a decision.
18. Where possible, the Chair will announce the Sub-Committee's decision and will give reasons for the decision.

<b>LICENSING AND APPEALS SUB-COMMITTEE</b> <b>16 APRIL 2019</b>
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<b>*PART 1 – PUBLIC DOCUMENT</b>	<b>AGENDA ITEM No.</b>
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## LICENSING ACT 2003

### NOTIFICATION BY DAVID ADENIREGUN OF A STANDARD TEMPORARY EVENT NOTICE IN RESPECT OF THE RES HART, 28-29 BUCKLESBURY, HITCHIN, HERTFORDSHIRE, SG5 1BG.

#### REPORT OF THE LICENSING OFFICER

#### 1. BACKGROUND

- 1.1 The premises currently holds a premises licence which is attached to this report as Appendix A.

#### 2. TEMPORARY EVENT NOTICE APPLICATIONS

- 2.1 The notification is for a standard temporary event notices under section 100 of the Licensing Act 2003.
- 2.2 The notification is for regulated entertainment, provision of late night refreshment and the sale of alcohol between the 4<sup>th</sup> - 6<sup>th</sup> May 2019. The notification requested hours from 16:00hrs to 01:00hrs the following morning of each day.
- 2.3 The notification is attached to this report as Appendix B.

#### NOTIFICATION PROCESS

- 3.1 On 04 April 2019, David Adeniregun submitted a notification for a standard temporary event notices.
- 3.2 David Adeniregun made his application electronically. North Hertfordshire District Council served copies of the notification to Hertfordshire Constabulary and NHDC Environmental Protection. There is no requirement to serve copies on any other responsible authority.
- 3.3 There is no requirement for public advertising of the notifications and members of the public may not submit representations.

#### 3. REPRESENTATIONS

- 4.1 Hertfordshire Constabulary and NHDC Environmental Protection have the ability to object to the notifications if they consider that they would undermine one or more of the licensing objectives.
- 4.2 Objection Notices must be received by the licensing authority no later than the end of the third working day following the day the notification is given.

- 4.3 On the 08 April 2019, NHDC Environmental Protection issued an Objection Notice under section 104 of the Licensing Act 2003 in respect of the notification. A copy of the Objection Notice is attached to this report as Appendix C.
- 4.4 David Adeniregun has been served with a copy of the Objection Notices as part of this report.
- 4.5 David Adeniregun and NHDC Environmental Protection have been invited to attend the hearing to present their respective cases. They have been advised that they may be legally represented and of the Committee Hearing procedure.

## 5. OBSERVATIONS

5.1 In determining whether or not to issue a Counter Notice for each notification, the sub-committee must have regard to the Objection Notices and take such steps as it considers appropriate for the promotion of the licensing objectives.

5.2 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 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.

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

*106(2) 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.*

5.4 The licensing authority must:

- (a) in a case where it decides not to give a Counter Notice under section 105 of the Licensing Act 2003, give the premises user, Hertfordshire Constabulary and NHDC Environmental Protection notice of the decision;
- (b) in a case where it decides to issue a Counter Notice under Section 105 of the Licensing Act 2003, give the premises user, Hertfordshire Constabulary and NHDC Environmental Protection a Counter Notice and a notice stating the reasons for the decision; or
- (c) in a case where it decides not to give a Counter Notice under section

105 of the Licensing Act 2003 but impose conditions from an existing premises licence for the same premises under Section 106A of the Licensing Act 2003, give the premises user, Hertfordshire Constabulary and NHDC Environmental Protection notice of the decision and a separate statement setting out the conditions.

- 5.5 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.
- 5.6 There is a right of appeal available to all parties to the hearing which is detailed in Schedule 5 Part 3 Paragraph 16 which states:

- 16 (1) *This paragraph applies where—*
- (a) *a standard temporary event notice is given under section 100, and*
  - (b) *a relevant person gives an objection notice in accordance with section 104(2).*
- (2) *Where the relevant licensing authority gives a counter notice under section 105(3), the premises user may appeal against that decision.*
- (3) *Where that authority decides not to give such a counter notice, the relevant person may appeal against that decision.*
- (4) *An appeal under this paragraph must be made to a magistrates' court.*
- (5) *An appeal under this paragraph must be commenced by notice of appeal given by the appellant to the designated officer for the magistrates' court within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.*
- (6) *But no appeal may be brought later than five working days before the day on which the event period specified in the temporary event notice begins.*
- (7) *On an appeal under sub-paragraph (3), the premises user is to be the respondent in addition to the licensing authority.*
- (8) *In this paragraph—*  
*“objection notice” has the same meaning as in section 104;*  
*“relevant licensing authority” has the meaning given in section 99;*

and

“relevant person” has the meaning given in section 99A.

## **6. LICENSING POLICY CONSIDERATIONS**

- 6.1 The following paragraphs from the Council's Statement of Licensing Policy 2011 may be relevant to this application. This section does not prevent the sub-committee from considering other paragraphs of the Statement of Licensing Policy where they deem it appropriate.

*D13.3 The vast majority of these events will not present any problems, for example special occasions in a pub or community hall or charitable fundraising events. A temporary event notice is a light-touch approach to these events and the Council expects that representations will only be made in exceptional circumstances where compelling evidence exists of the effect or likely effect on the licensing objectives.*

*D13.4 That said, the Council does not expect licence holders to utilise temporary event notifications as a method of avoiding restrictions imposed on an authorisation by way of conditions. The Council is aware that existing licence conditions can be transposed onto a temporary event notice where a Licensing Sub-Committee deem it appropriate based on any relevant representations.*

*D13.5 The Council acknowledges that licensed premises can, and often do, enter into informal arrangements with the police in order to ensure that the crime and disorder objective is met. Whilst a temporary event notice giver may offer conditions and/or commitments to mitigate any concerns arising from a notification, the Council is aware that they cannot be imposed on the temporary event notice and are not enforceable.*

*D13.8 For events of national significance, for example a sporting world cup, the Council encourages co-operation between licence holders and the police in order to ensure the licensing objectives are met. Voluntary agreements to employ additional door staff or to use plastic drinking vessels are two such examples. Where a police objection to a temporary event notice has been received in such circumstances, the Council is likely to issue a Counter Notice preventing the event from taking place where voluntary agreements have been sought by the police but not entered into by the applicant.*

## **7. RELEVANT EXTRACTS OF STATUTORY GUIDANCE**

- 7.1 The following paragraphs from the Guidance issued by the Home Office under section 182 of the Licensing Act 2003 (March 2015 version) may be relevant to this application. This section does not prevent the sub-committee from considering other paragraphs of the Guidance where they deem it appropriate and the determination should be based upon consideration of the full document.

1.3

*The licensing objectives are:*

- *The prevention of crime and disorder;*
- *Public safety;*
- *The prevention of public nuisance; and*
- *The protection of children from harm.*

1.4



*Each objective is of equal importance. There are no other statutory licensing objectives, so that the promotion of the four objectives is a paramount consideration at all times.*

1.5

*However, the legislation also supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in the licensing work.*

*They include:*

- Protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;*
- Giving the Police and the Licensing Authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing problems;*

2.1

*Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).*

7.5

*If a TEN is sent electronically via GOV.UK or the licensing authority's own facilities, the licensing authority must notify the Police and EHA as soon as possible and no later than the first working day after the TEN is given.*

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).*

7.7

*A TEN does not relieve the premises user from any requirement under planning law for appropriate planning permission where it is required.*

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.*

7.29

*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.*

**7.30**

*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.*

**7.32**

*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 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.*

**7.36**

*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.*

**7.37**

*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.*

**7.38**

*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.*

**7.39**

*Section 105 of the 2003 Act is clear that a Licensing Authority must hold a hearing to consider any objections from the Police or EHA unless all the parties agree that a*

*hearing is not necessary. If the parties agree that hearing is not necessary and the Licensing Authority decides not to give a counter notice on the basis of the objection, it may impose existing conditions on the TEN.*

#### **9.12**

*In their role as a responsible authority, the police are an essential source of advice and information on the impact and potential impact of licensable activities, particularly on the crime and disorder objective. The Police have a key role in managing the night-time economy and should have good working relationships with those operating in their local area. The Police should be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective, but may also be able to make relevant representations with regard to the other licensing objectives if they have evidence to support such representations. The licensing authority should accept all reasonable and proportionate representations made by the Police unless the authority has evidence that to do so would not be appropriate for the promotion of the licensing objectives. However, it remains incumbent on the Police to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing.*

### **8. LICENSING OFFICER COMMENTS**

- 8.1 The comments within this section of the report are provided by the Licensing Officer to assist the sub-committee with the interpretation of the Act, the Guidance and existing case law. It is for the Sub-Committee to determine what weight they attach to this advice.

#### **Definition of 'appropriate'**

- 8.2 The previous Statutory Guidance first issued in July 2004 and subsequently updated up until March 2015, specifically required Licensing Sub-Committees to ensure that their decisions were based on measures that were 'necessary' for the promotion of the licensing objectives. This placed a burden on the licensing authority to demonstrate that no lesser steps would satisfy the promotion of the licensing objectives and any conditions imposed on a licence would only be those necessary for the promotion of the licensing objectives with no opportunity to go any further.
- 8.3 The revised Statutory Guidance issued on 25<sup>th</sup> April 2012 and subsequently amended in October 2012, June 2013, March 2015, April 2017 and April 2018 has amended the 'necessary' test to one of 'appropriate'. This has changed the threshold which licensing authorities must consider when determining applications by requiring that they make decisions which are 'appropriate' for the promotion of the licensing objectives.
- 8.4 The Guidance explains 'appropriate' as:

#### **9.43**

*The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.*

#### **9.44**

*Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. Whilst this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would*

*impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.*

8.5 It is anticipated that, in due course, case law will provide clarity on the meaning of 'appropriate' as referred to in paragraphs 9.42 and 9.43 of the Guidance. The Sub-Committee is therefore advised to give 'appropriate' its ordinary meaning, as expanded upon by paragraph 9.43 of the Guidance, subject to the over-riding requirement on all local authority decisions of reasonableness.

8.6 This approach, of allowing the courts to provide clarity, is reflected in the following paragraphs of the Guidance:

*1.9*

*Section 4 of the 2003 Act provides that, in carrying out its functions, a licensing authority must 'have regard to' guidance issued by the Secretary of State under section 182. The requirement is therefore binding on all licensing authorities to that extent. However, the guidance cannot anticipate every possible scenario or set of circumstances that may arise and, as long as licensing authorities have properly understood the Guidance, they may depart from it if they have reason to do so as long as they are able to provide full reasons. Departure from the Guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken.*

*1.10*

*Nothing in this Guidance should be taken as indicating that any requirement of licensing law or any other law may be overridden (including the obligations placed on any public authorities under human rights legislation). The Guidance does not in any way replace the statutory provisions of the 2003 Act or add to its scope and licensing authorities should note that interpretation of the 2003 Act is a matter for the courts. Licensing authorities and others using the Guidance must take their own professional and legal advice about its implementation.*

8.7 The Sub-Committee should also be aware that their decision must be proportionate to the evidence received in respect of the application and representation. Proportionality is a key factor in assisting with the definition of 'appropriate'.

#### **Case Law**

8.8 As paragraph 2.15 of the Guidance confirms, public nuisance under the Licensing Act 2003 has a wide interpretation and it is for the Sub-Committee

to determine, based on the evidence, whether they consider these issues to be a public nuisance.

- 8.9 The Guidance states at paragraph 2.20 that conditions relating to public nuisance beyond the vicinity of the premises are not appropriate and the Council's Statement of Licensing Policy supports that view. Conditions that it would be either impracticable or impossible for the licence holder to control would clearly be inappropriate.
- 8.10 That said, if behaviour beyond the premises can be clearly linked to a premises and it is causing a public nuisance, it is wrong to say that the Licensing Act 2003 cannot address this. Whilst conditions may well be inappropriate, if the evidence deems it necessary, times and/or activities under the licence could be restricted or, indeed, the application could be refused.
- 8.11 The magistrates court case of *Kouttis v London Borough of Enfield*, 9th September 2011 considered this issue.
- 8.12 In a summary of the case provided by the Institute of Licensing it is reported that District Judge Daber considered an appeal against a decision of the local authority to restrict the hours of musical entertainment of a public house to mitigate the noise from patrons as they left the premises in response to representations from local residents. The appellant relied on the sections of the Guidance that state that "beyond the vicinity of the premises, these are matters for personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right" (para 2.38). It was also suggested that, given that certain residents were not disturbed, this did not amount to public nuisance within the meaning of para 2.33 of the Guidance as approved by Burton J in the Hope and Glory case.
- 8.13 The District Judge held that there was ample evidence of public nuisance, and that section 4 of the Act gave the licensing authority a positive duty to deal with it proportionately. In this case, no less interventionist way of dealing with the nuisance had been suggested. He held that not only was the authority not wrong, but that it was in fact right to reduce the hours as it had. The appeal was therefore dismissed.
- 8.14 As this was a decision of the Magistrates Court it would not be binding on other courts, however, it could be considered as persuasive.

## **9. APPENDICES**

- 9.1 Appendix A Current Premises Licence  
9.2 Appendix B Application form for TEN  
9.3 Appendix C NHDC Environmental Protection representation

## **10. CONTACT OFFICERS**

- 10.1 Hannah Sweetman.  
Senior Licensing Officer  
01462 474231

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# APPENDIX

## A

**Licensing Act 2003****Part A  
Format of premises licence**

North Hertfordshire District Council  
Council Offices, Gernon Road, Letchworth Garden City, Hertfordshire, SG6 3JF

Original grant date: 11 April 2018  
Current issue date: 11 April 2018

.....  
Authorised signatory

Premises licence number: 6840

**Part 1 – premises details**

Postal address of premises, or if none, ordinance survey map reference or description

Red Hart  
28 - 29, Bucklersbury, Hitchin, Hertfordshire, SG5 1BG

Where the licence is time limited the dates

This licence is granted in perpetuity

Licensable activities authorised by the licence

Section A: Performance of a Play:(Indoors)  
Section B: Exhibition of a Film:(Indoors)  
Section E: Live Music:(Indoors)  
Section F: Recorded Music:(Indoors)  
Section B: Exhibition of a Film:(Outdoors)  
Section E: Live Music:(Outdoors)  
Section F: Recorded Music:(Outdoors)  
Section I: Provision of Late Night Refreshments:(Both Indoor and Outdoor)  
Section J: Sale or Supply of Alcohol

The times the licence authorises the carrying out of licensable activities

**Section A: Performance of a Play:(Indoors)**

Day	Start Time	End Time
Monday	09:00	12:00
Tuesday	09:00	12:00
Wednesday	09:00	12:00
Thursday	09:00	12:00
Friday	09:00	12:00
Saturday	09:00	12:00
Sunday	09:00	12:00



**Section B: Exhibition of a Film:(Indoors)**

Day	Start Time	End Time
Monday	11:00	23:00
Tuesday	11:00	23:00
Wednesday	11:00	23:00
Thursday	11:00	midnight
Friday	11:00	midnight
Saturday	11:00	midnight
Sunday	11:00	23:00

**Section E: Live Music:(Indoors)**

Day	Start Time	End Time
Monday	11:00	23:00
Tuesday	11:00	23:00
Wednesday	11:00	23:00
Thursday	11:00	midnight
Friday	11:00	midnight
Saturday	11:00	01:00
Sunday	11:00	23:00

**Section F: Recorded Music:(Indoors)**

Day	Start Time	End Time
Monday	11:00	23:00
Tuesday	11:00	23:00
Wednesday	11:00	23:00
Thursday	11:00	midnight
Friday	11:00	01:00
Saturday	11:00	01:00
Sunday	11:00	23:00

**S****Section B: Exhibition of a Film:(Outdoors)**

Day	Start Time	End Time
Monday	11:00	23:00
Tuesday	11:00	23:00
Wednesday	11:00	23:00
Thursday	11:00	23:00
Friday	11:00	23:00
Saturday	11:00	23:00
Sunday	11:00	23:00

**Section E: Live Music:(Outdoors)**

Day	Start Time	End Time
Monday	11:00	23:00
Tuesday	11:00	23:00
Wednesday	11:00	23:00
Thursday	11:00	23:00
Friday	11:00	23:00
Saturday	11:00	23:00
Sunday	11:00	23:00

**Section F: Recorded Music:(Outdoors)**

Day	Start Time	End Time
Monday	11:00	23:00
Tuesday	11:00	23:00
Wednesday	11:00	23:00
Thursday	11:00	23:00
Friday	11:00	23:00
Saturday	11:00	23:00
Sunday	11:00	23:00

**Section I: Provision of Late Night Refreshments:(Both Indoor and Outdoor)**

Day	Start Time	End Time
Monday	n/a	n/a
Tuesday	n/a	n/a
Wednesday	n/a	n/a
Thursday	23:00	midnight
Friday	23:00	01:00
Saturday	23:00	01:00
Sunday	n/a	n/a

**Section J: Sale or Supply of Alcohol**

Day	Start Time	End Time
Monday	11:00	23:00
Tuesday	11:00	23:00
Wednesday	11:00	23:00
Thursday	11:00	midnight
Friday	11:00	01:00
Saturday	11:00	01:00
Sunday	11:00	23:00

**The opening hours of the premises**

Day	Start Time	End Time
Monday	09:00	23:00
Tuesday	09:00	23:00
Wednesday	09:00	23:00
Thursday	09:00	00:30
Friday	09:00	01:30
Saturday	09:00	01:30
Sunday	09:00	23:00

Where the licence authorises supplies of alcohol whether these are on and/or off supplies

**For consumption on and off the premises**

**Part 2**

Name, (registered) address, telephone number and email (where relevant) of holder of the premises licence

**Kite Hitchin Ltd  
22 Wymondley Road, Hitchin, Hertfordshire, SG4 9PN**

Registered number of holder, for example company number, charity number (where applicable)

**08772777**

Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol

**Thomas Philip Weller**

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises the supply of alcohol

**Licence Number: 1758  
Issuing authority: North Hertfordshire District Council**

## Annex 1 – Mandatory conditions

No supply of alcohol may be made under this licence:

- (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
- (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

The admission of children, that is persons under eighteen (18) years of age, to the exhibition of any film shall be restricted in accordance with any recommendation made by the British Board of Film Classification (BBFC) or by the Licensing Authority.

Any one or more individuals at the premises for the purposes of carrying out a security activity (an activity to which paragraph 2(1)(a) of Schedule 2 of the Private Security Industry Act 2001 applies and which is licensable conduct for the purposes of that Act) must:

- (a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or
- (b) be entitled to carry out that activity by virtue of section 4 of that Act.

**"Responsible person" means the holder of the premises licence, the designated premises supervisor, or any other person over the age of eighteen (18) years who has been authorised to sell alcohol at the licensed premises.**

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 condition, 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 price 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 twenty-four (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, 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.

The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than when that other person is unable to drink without assistance by reason of a disability).

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

The premises licence holder or club premises certificate holder must ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

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. The policy must require individuals who appear to the responsible person to be under eighteen (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:

- (i) a holographic mark; or
- (ii) an ultraviolet feature.

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. 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 duty were charged on the date of the sale or supply of the alcohol; and
- (iii) "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 enable 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. 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. 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 fourteen (14) days beginning on the second day.

The responsible person must ensure that:

(a) where any of the following alcoholic drinks are sold or supplied for consumption on the premises (other than alcohol drinks sold or supplied having been made up in advance ready for sale or supply in securely closed containers) it is available to customers in the following measures:

- (i) beer or cider: half pint;
- (ii) gin, rum, vodka or whisky: 25ml or 35ml; and
- (iii) still wine in a glass: 125ml;

(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.

## **Annex 2 – Conditions consistent with the operating schedule**

The designated premises supervisor (DPS) and the premises licence holder will ensure that a minimum of two (2) SIA registered door staff are on duty from 21:00hrs until closing on Friday and Saturday.

The designated premises supervisor (DPS) and the premises licence holder will ensure that closed circuit television (CCTV) is installed, in working order and shall continually record at all times whilst the premises is open to the public.

The designated premises supervisor (DPS) and the premises licence holder will ensure that closed circuit television (CCTV) cameras are installed and in working order, for the following areas:

- a) ground floor restaurant and bar
- b) first floor private function room
- c) outdoor barn
- d) beer garden

The designated premises supervisor (DPS) and the premises licence holder will ensure that viewable and un-edited copies of recordings from the closed circuit television (CCTV) system will be provided to Police no later than twenty-four (24) hours after request.

The designated premises supervisor (DPS) and the premises licence holder will ensure that all closed circuit television (CCTV) recordings will be kept for a minimum of twenty-eight (28) days.

The designated premises supervisor (DPS) and the premises licence holder will ensure that the closed circuit television (CCTV) cameras cover key and vulnerable parts of the premises, including the entry and exit points at the front and in the garden area to the rears of the premises.

The designated premises supervisor (DPS) and the premises licence holder will ensure that a minimum of two (2) persons, namely the owner/DPS and duty manager are fully trained to access and operate the closed circuit television (CCTV) system and download copies of any footage, upon request by police licensing officers, police officers, police community support officers, local authority licensing officers or trading standards officers. One of these persons will be at the premises at all times when the premises are open to the public.

The designated premises supervisor (DPS) and the premises licence holder will ensure that a refusals book is maintained and kept at the premises at all times.

The designated premises supervisor (DPS) and the premises licence holder will ensure that the refusals book will be made available for inspection upon request by police licensing officers, police officers, police community support officers, local authority licensing officers or trading standards officers.

The designated premises supervisor (DPS) and the premises licence holder will ensure that an incident book is maintained and kept at the premises at all times.

The designated premises supervisor (DPS) and the premises licence holder will ensure that the incident book will be made available for inspection upon request by police licensing officers, police officers, police community support officers, local authority licensing officers or trading standards officers.

The designated premises supervisor (DPS) and the premises licence holder will ensure that patrons are not allowed to leave the premises with any open vessels.

The designated premises supervisor (DPS) and the premises licence holder will ensure that there shall be no late night refreshment activity in the rear garden area, which starts at the end of the main building of the premises, after 23:00hrs.

The designated premises supervisor (DPS) or some other responsible person shall manage, where necessary, any entry queue, external areas of the premises and the dispersal of patrons from the premises to ensure that noisy or rowdy behaviour is prevented and therefore noise disturbance to local residents is minimised.

Clear and legible notices shall be displayed at all entrance and exit points and external areas of the premises requesting patrons to respect the needs of local residents and to keep the noise to a minimum.

The rear garden area which starts at the end of the main building of the premises shall be closed to patrons after 21:00hrs Sundays to Thursdays and after 22:00hrs Fridays and Saturdays.

No drinks shall be permitted in the external areas of the premises after 23:00hrs on Thursdays or after midnight on Fridays and Saturdays.

All windows and external doors to the premises shall be closed after 23:00hrs during regulated entertainment except for ingress, egress or in the case of an emergency.

The access door furthest to the rear of the premises shall be closed after 23:00hrs during regulated entertainment except in the case of an emergency.

Live music constituting regulated entertainment shall only take place in the function room and pizza barn until 23:00hrs.

Recorded music constituting regulated entertainment shall only take place in the function room until midnight and in the pizza barn until 23:00hrs.

Suitable environmental noise control devices shall be installed in both the ground floor of the premises and in the function room, calibrated and set to the satisfaction of the Council's Noise Control Officer. The devices must be set at an appropriate time in the presence of the aforementioned Officer. No live amplified or recorded music constituting regulated entertainment shall take place after 23:00hrs in the ground floor of the premises or in the function room until that location has said device installed and set in accordance with this condition.

Once the environmental noise control devices have been installed, calibrated and set to the satisfaction of the Council's Noise Control Officer they must not be removed, adjusted or replaced:

- a) without twenty-eight (28) days prior notification to the Council's Noise Control Officer and;
- b) without the written consent that the removal, adjustment or replacement of the devices are permitted and that documentation stating this is received from the Council's Noise Control Officer.

Following the receipt of the documentation stated above, all the requirements of the Council's Noise Control Officer must be carried out.

Use of all noise equipment for live amplified or recorded music constituting regulated entertainment taking place in either the ground floor of the premises or in the function room is not permitted after 23:00hrs until such a time that the premises licence holder has received confirmation from the Council's Noise Control Officer that it is permitted.

In the event of a malfunction of either of the environmental noise control devices, the Council's Noise Control Officer shall be notified within two (2) working days of the problem and the remedial action proposed. No live amplified or recorded music constituting regulated entertainment shall take place after 23:00hrs in the location of the malfunctioned environmental noise control device until it is properly functioning and, if appropriate, has been reset, calibrated and set to the satisfaction of the Council's Noise Control Officer and/or the Council's Noise Control Officer has received and approved the necessary documentation confirming this.

The environmental noise control devices shall be secured in a manner approved by the Council's Noise Control Officer so as to prevent unauthorised access to and tampering with the controls.

All noise equipment used for live amplified or recorded music constituting regulated entertainment taking place after 23:00hrs must be routed through one of the environmental noise control devices and this device must be operational during such licensable activities.

Deliveries and waste collections relating to premises shall only take place between 08:00hrs and 22:00hrs Monday to Saturday and 10:00hrs and 20:00hrs on Sundays.

No glass bottles shall be emptied into waste bins at the premises between 22:00hrs and 08:00hrs.

The premises licence holder and designated premises supervisor (DPS) will be members of any active local Pub Watch where such scheme exists.

The premises licence holder and designated premises supervisor (DPS) will ensure that a "Challenge 25" Policy is in operation at all times the premises is open to the public for the sale or supply of alcohol, whereby all customers who appear to staff to be under twenty-five (25) years of age will be required to produce photographic identification proving that they can lawfully purchase or consume alcohol prior to the sale or supply of alcohol taking place. Acceptable forms of proof are a valid passport, a photo card driving licence, an EU/EEA national ID card, or an industry approved proof of age card (PASS).

The premises licence holder and designated premises supervisor (DPS) will ensure that clearly legible signs are displayed at prominent locations in the premises highlighting the Challenge 25 Policy.

The premises licence holder will ensure that no children under age of sixteen (16) are allowed on the premises after 21:30hrs.

### **Annex 3 – Conditions attached after a hearing by the licensing authority**

None

### **Annex 4 – Plans**

See attached

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# APPENDIX

## B



\* required information

**Section 1 of 9**

You can save the form at any time and resume it later. You do not need to be logged in when you resume.

System reference  This is the unique reference for this application generated by the system.

Your reference  You can put what you want here to help you track applications if you make lots of them. It is passed to the authority.

Are you an agent acting on behalf of the applicant?

Yes  No

Put "no" if you are applying on your own behalf or on behalf of a business you own or work for.

**Applicant Details**

\* First name

\* Family name

\* E-mail

Main telephone number  Include country code.

Other telephone number

Indicate here if you would prefer not to be contacted by telephone

Are you:

Applying as a business or organisation, including as a sole trader

Applying as an individual

A sole trader is a business owned by one person without any special legal structure. Applying as an individual means you are applying so you can be employed, or for some other personal reason, such as following a hobby.

**Applicant Business**

Is your business registered in the UK with Companies House?  Yes  No

Note: completing the Applicant Business section is optional in this form.

Registration number

Business name  If your business is registered, use its registered name.

VAT number   Put "none" if you are not registered for VAT.

Legal status

Continued from previous page...

Your position in the business

Home country

The country where the headquarters of your business is located.

**Registered Address**

Address registered with Companies House.

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

**Section 2 of 9**

**APPLICATION DETAILS (See also guidance on completing the form, general notes and note 1)**

Have you had any previous or maiden names?

- Yes  No

\* Your date of birth  /  /   
dd mm yyyy

Applicant must be 18 years of age or older

National Insurance number

This box need not be completed if you are an individual not liable to pay UK national insurance.

Place of birth

**Correspondence Address**

Is the address the same as (or similar to) the address given in section one?

- Yes  No

If "Yes" is selected you can re-use the details from section one, or amend them as required. Select "No" to enter a completely new set of details.

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Continued from previous page...

### Additional Contact Details

Are the contact details the same as (or similar to) those given in section one?

If "Yes" is selected you can re-use the details from section one, or amend them as required. Select "No" to enter a completely new set of details.

Yes  No

E-mail

Telephone number

Other telephone number

### Section 3 of 9

### THE PREMISES

I, the proposed user, hereby give notice under section 100 of the Licensing Act 2003 of my proposal to carry out a temporary activity at the premises described below.

Give the address of the premises where you intend to carry on the licensable activities or if it has no address give a detailed description (including the Ordnance Survey references). (See also guidance on completing the form, note 2)

\* Does the premises have an address?

Yes  No

### Address

Is the address the same as (or similar to) the address given in section one?

If "Yes" is selected you can re-use the details from section one, or amend them as required. Select "No" to enter a completely new set of details.

Yes  No

\* Building number or name

\* Street

District

\* City or town

County or administrative area

\* Postcode

\* Country

\* Does a premises licence or club premises certificate have effect in relation to the premises (or any part of the premises)?

Neither  Premises licence  Club premises certificate

\* Premises licence number

### Location Details

\* Provide further details about the location of the event

The event will be held at the kite at the red hart.

Continued from previous page...

If you intend to use only part of the premises at this address or intend to restrict the area to which this notice applies, give a description and details below (see also guidance on completing the form, note 3)

This notice applies to the garden area.

Describe the nature of the premises below (see also guidance on completing the form, note 4)

Kite at the Red Hart is a premium restaurant and bar located just off the center of town. Showcasing its feature beer garden and innovating take on food and drink. The Kite prides itself on hosting vibrant events for all.

Describe the nature of the event below (see also guidance on completing the form, note 5)

The Kite at the Red Hart will be celebrating its birthday with music, food and drinks. We'll be hosting live bands and DJ's and would like to extend drinking in the garden to 01:00 am and the provision of regulated entertainment in the garden to 01:00 am. However the top of our garden will still close at the usual time of 22:00 this will not be affected.

#### Section 4 of 9

#### LICENSABLE ACTIVITIES

State the licensable activities that you intend to carry on at the premises (see also guidance on completing the form, note 6):

- The sale by retail of alcohol
- The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club
- The provision of regulated entertainment
- The provision of late night refreshment
- The giving of a late temporary event notice

(See also guidance on completing the form, note 7).

Late notices can be given no later than 5 working days but no earlier than 9 working days before the event.

(See also guidance on completing the form, note 8).

#### Event Dates

There must be a period of at least 10 working days between the date you submit this form and the date of the earliest event when you will be using these premises for licensable activities.

State the dates on which you intend to use these premises for licensable activities

(see also guidance on completing the form, note 9)

Event start date       /  /   
   dd            mm            yyyy

The maximum period for using premises for licensable activities under the authority of a temporary event notice is 168 hours or seven days.

Event end date         /  /   
   dd            mm            yyyy

Continued from previous page...

State the times during the event period that you propose to carry on licensable activities (give times in 24 hour clock)

16:00 pm - 01:00 am

(see also guidance on completing the form, note 10)

State the maximum number of people at any one time that you intend to allow to be present at the premises

during the times when you intend to carry on licensable activities, including any staff, organisers or performers

200

(see also guidance on completing the form, note 11)

Note that the maximum number of people cannot exceed 499.

If the licensable activities will include the supply of alcohol, state whether the supplies will be for consumption on or off the premises, or both

(see also guidance on completing the form, note 12):

- On the premises only  
 Off the premises only  
 Both

### Section 5 of 9

#### RELEVANT ENTERTAINMENT (See also guidance on completing the form, note 13)

State if the licensable activities will include the provision of relevant entertainment. If so, state the times during the event period that you propose to provide relevant entertainment

We will be hosting DJ's and Live bands out in our garden area.

### Section 6 of 9

#### PERSONAL LICENCE HOLDERS (See also guidance on completing the form, note 14)

Do you currently hold a valid personal licence?  Yes  No

Provide the details of your personal licence below.

Issuing licensing authority Stevenage Borough Council

Licence number SBC1158

Date of issue 15 / 10 / 2013  
dd mm yyyy

Any further relevant details

Continued from previous page...

**Section 7 of 9**

**PREVIOUS TEMPORARY EVENT NOTICES** (See also guidance on completing the form, note 15)

Have you previously given a temporary event notice in respect of any premises for events falling in the same calendar year as the event for which you are now giving this temporary event notice?

Yes  No

Have you already given a temporary event notice for the same premises in which the event period:

- a) Ends 24 hours or less before; or  Yes  No
- b) Begins 24 hours or less after the event period proposed in this notice?

**Section 8 of 9**

**ASSOCIATES AND BUSINESS COLLEAGUES** (See also guidance on completing the form, note 16)

Has any associate of yours given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice?

Yes  No

Has any associate of yours already given a temporary event notice for the same premises in which the event period:

- a) Ends 24 hours or less before; or  Yes  No
- b) Begins 24 hours or less after the event period proposed in this notice?

Has any person with whom you are in business carrying on licensable activities given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice?

Yes  No

Continued from previous page...

Has any person with whom you are in business carrying on licensable activities already given a temporary event notice for the same premises in which the event period:

Yes  No

- a) Ends 24 hours or less before; or
- b) Begins 24 hours or less after the event period proposed in this notice?

**Section 9 of 9**

**CONDITION (See also guidance on completing the form, note 18)**

It is a condition of this temporary event notice that where the relevant licensable activities described in Sections 4 and 5 above include the supply of alcohol that all such supplies are made by or under the authority of the premises user.

**PAYMENT DETAILS**

This fee must be paid to the authority. If you complete the application online, you must pay it by debit or credit card. This formality requires a fixed fee of £21

**DECLARATION (See also guidance on completing the form, note 19)**

- \* The information contained in this form is correct to the best of my knowledge and belief
- \* I understand that it is an offence:
  - (i) to knowingly or recklessly make a false statement in connection with this temporary event notice and that a person is liable on summary conviction for such an offence to a fine of any amount; and
  - (ii) to permit an unauthorised licensable activity to be carried on at any place and that a person is liable on summary conviction for any such offence to a fine of any amount, or to imprisonment for a term not exceeding six (6) months, or to both.

Ticking this box indicates you have read and understood the above declaration

This section should be completed by the applicant, unless you answered "Yes" to the question "Are you an agent acting on behalf of the applicant?"

\* Full name

\* Capacity

\* Date  /  /   
dd mm yyyy

Once you're finished you need to do the following:

1. Save this form to your computer by clicking file/save as...
2. Go back to <https://www.gov.uk/apply-for-a-licence/temporary-event-notice/north-hertfordshire/apply-1> to upload this file and continue with your application.

Don't forget to make sure you have all your supporting documentation to hand.



**OFFICE USE ONLY**

Applicant reference number	<input type="text"/>
Fee paid	<input type="text"/>
Payment provider reference	<input type="text"/>
ELMS Payment Reference	<input type="text"/>
Payment status	<input type="text"/>
Payment authorisation code	<input type="text"/>
Payment authorisation date	<input type="text"/>
Date and time submitted	<input type="text"/>
Approval deadline	<input type="text"/>
Error message	<input type="text"/>
Is Digitally signed	<input type="checkbox"/>

1 2 3 4 5 6 7 8 9 Next >

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# APPENDIX

## C

**Objection to Temporary Event Notice application- Kite at The Red Hart, 28-29  
Bucklersbury, Hitchin (licence reference LC/9077)**

I wish to object to the above Temporary Event Notice (TEN) application received on 4<sup>th</sup> April 2019 under the licensing objective 'Prevention of Public Nuisance' due to concerns about the impact of noise on nearby residents from the extension of licensable activities at the premises. The TEN seeks to extend licensable activities from 4<sup>th</sup> to 6<sup>th</sup> May 2019 as follows (quoted directly from the application form):

*"The Kite at the Red Hart will be celebrating its birthday with music, food and drinks. We'll be hosting live bands and Dj's and would like to extend drinking in the garden to 01:00 am and the provision of regulated entertainment in the garden to 01:00 am. However the top of our garden will still close at the usual time of 22:00 this will not be affected."*

The current premises licence, which has been in place just less than a year, has a number of hours restrictions and conditions related to the use of the outside areas of the premises for drinking and regulated entertainment. These restrictions and conditions were agreed with the licence applicant and were considered necessary by Environmental Protection in order to avoid causing noise disturbance to adjacent residents at the rear and to the side of the premises. The residential properties in question overlook the outside areas of the premises and are in very close proximity (approximately 25m from where the music will be taking place- see Appendix A map) and so there is a high potential for them to be disturbed by licensable activities taking place later into the night and early hours of the morning. For reference, the restrictions and conditions agreed are as follows:

- Live and recorded music (both outdoors only) until 2300 on Thursdays to Saturdays.
- The rear garden area which starts at the end of the main building of the premises shall be closed to patrons after 2100 Sundays to Thursdays and after 2200 Fridays and Saturdays.
- No drinks shall be permitted in the external areas of the premises after 2300 on Thursdays or after 0000 on Fridays and Saturdays.

A number of noise complaints have been received by nearby residents relating to music from the premises since the licence was granted. The first of these was on 2<sup>nd</sup> June 2018 regarding a DJ playing recorded music in the garden of the premises at 22:30. Subsequent noise complaints were received on the weekend of 24<sup>th</sup> to 26<sup>th</sup> August 2018 concerning loud music being played in the garden of the premises after 23:00 and on 31<sup>st</sup> August 2018 concerning loud bassy music being played within the premises after 23:00. Unfortunately, these complaints were unable to be substantiated by an officer in the Environmental Protection Team.

The regulated entertainment taking place on the weekend of 24<sup>th</sup> to 26<sup>th</sup> August 2018 was permitted under a TEN granted following a Licensing sub-committee hearing. This TEN was objected to by Environmental Protection due to concerns of a public nuisance being caused but the decision to grant the TEN was based on information available to the sub-committee at the time. Given that the event subsequently resulted in noise complaints, it is now considered that similar events such as that applied for in this TEN application are very likely to cause a public nuisance.

It is also important to highlight the frequency of the TEN applications being made for the premises to extend the times for regulated entertainment taking place in the

garden of the premises after 23:00. This will be the 5<sup>th</sup> such application in less than a year despite the licence holder claiming that these events are 'one offs'. The TEN applied for to extend regulated entertainment in the garden of the premises on 11<sup>th</sup> August 2018 until midnight was not objected to by Environmental Protection on this basis. Furthermore, the complaint detail given on the complaint received on 31<sup>st</sup> August 2018 detailed above also made reference to loud music outdoors causing noise disturbance earlier in August 2018. It is believed that this refers to the regulated entertainment taking place under the aforementioned TEN on 11<sup>th</sup> August 2018.

Ultimately, the concern is that these TEN applications are attempting to circumvent the current licence conditions which are in place to ensure the prevention of public nuisance and there is now indicative evidence to suggest that the events held under such TENs are indeed causing said public nuisance. I therefore recommend that the TEN is **not** granted.


Yours sincerely

Rory Cosgrove  
**Senior Environmental Health Officer**  
North Hertfordshire District Council  
8<sup>th</sup> April 2019

Appendix A- Map showing the premises in relation to nearby residents



 = Approximate location of musical entertainment

 = Nearest residential properties