

Report to:	Licensing Sub Committee A
Report of:	Director of Regulation and Enforcement
Date of Meeting:	Monday 15th April 2024
Subject:	Licensing Act 2003 Temporary Event Notice
Premises:	Courtyard Areas @ The Rainbow, 160 High Street, Bordesley, Birmingham, B12 0LD
Ward affected:	Bordesley & Highgate
Contact Officer:	David Kennedy, Principal Licensing Officer licensing@birmingham.gov.uk

1. Purpose of report:

To consider the objection notice to the Temporary Event Notice (TEN), which seeks to permit the provision of regulated entertainment to operate from 9:00pm until 2:00am on 20th April 2024 – 21st April 2024 in the Courtyard Areas of the premises.

2. Recommendation:

To consider the objection that has been made and to determine the notice, having regard to:

- The submissions made by all parties
- The Statement of Licensing Policy
- The Public Sector Equality Duty
- The s182 Guidance

3. Brief Summary of Report:

A Temporary Event Notice was submitted by Nicholas Rendall and received on 3rd April 2024 in respect of the Courtyard Areas of The Rainbow, 160 High Street, Bordesley, Birmingham, B12 0LD.

An objection notice has been received from Environmental Health.

4. Compliance Issues:

When carrying out its licensing functions, a licensing authority must have regard to the guidance issued by the Secretary of State under section 182 of the Licensing Act 2003.

4.1 Consistency with relevant Council Policies, Plans or Strategies:

The report complies with the City Council’s Statement of Licensing Policy and the Council’s Corporate Plan to improve the standard of all licensed persons, premises and vehicles in the City.

5. Relevant background/chronology of key events:

A Temporary Event Notice was submitted on 3rd April 2024 by Nicolas Rendall in respect of the Courtyard Areas of The Rainbow, 160 High Street, Bordesley, Birmingham, B12 0LD, which was served on the responsible authorities on 4th April 2024.

The Temporary Event Notice is attached at Appendix 1.

An objection notice has been received from Environmental Health, which is attached at Appendix 2.

The current premises licence is attached at Appendix 3. It should be noted that a condition on the current Premises Licence restricts the use of the Courtyard areas to the playing of background music only from 9pm daily.

Site location plans are attached, see Appendix 4.

Under the licensing system of TENs, no actual permission is required to carry out a licensable activity on a temporary basis. An applicant must merely give notice of his intentions to operate a licensable activity to the licensing authority.

However, the police or local authority exercising environmental health functions may intervene to prevent such events taking place or agree a modification of the proposed arrangements, and their intervention may in some cases result in the licensing authority imposing conditions on each TEN.

Where TENs are submitted, and objection notice(s) are maintained, the licensing authority must consider the objection(s) at a hearing before a counter notice, or a notice including a statement of conditions can be issued relating to each TEN.

When giving TENs, consideration should be given to the following four licensing objectives:

1. The prevention of crime and disorder
2. public safety
3. The prevention of public nuisance; and
4. The protection of children from harm

If the TENs are in connection with licensable activities at licensed premises, the licensing authority may also impose one or more of the existing licence conditions on the TENs if it considers that this is appropriate for the promotion of the licensing objectives.

6. List of background documents:

Temporary Event Notice, attached at Appendix 1.
Objection notice from Environmental Health, Appendix 2.
Current premises licence, Appendix 3.
Site location plans, Appendix 4.

7. Options available

Allow the proposed temporary licensable activities as stated in the TEN
Impose conditions on a TEN to promote the licensing objectives
Refuse the proposed temporary licensable activities as stated in the TEN

Temporary Event Notice

Before completing this notice please read the guidance notes at the end of the notice. If you are completing this notice by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink or typed. Use additional sheets if necessary.

You should keep a copy of the completed notice for your records. You must send at least one copy of this notice to the licensing authority and additional copies must be sent to the chief officer of police and the local authority exercising environmental health functions for the area in which the premises are situated. The licensing authority will give to you written acknowledgement of the receipt of the notice.

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

1. The personal details of premises user (Please read note 1)			
1. Your name			
Title	Mr <input checked="" type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other (please state)		
Surname	Rendall		
Forenames	Nicholas		
2. Previous names (Please enter details of any previous names or maiden names, if applicable. Please continue on a separate sheet if necessary)			
Title	Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other (please state)		
Surname			
Forenames			
3. Your date of birth		Day	Month
4. Your place of birth			
5. National Insurance Number			
6. Your current address (We will use this address to correspond with you unless you complete the separate correspondence box below)			
Post town Birmingham		Post code	
7. Other contact details			
Telephone numbers Daytime			
Evening (optional)			
Mobile (optional)			
Fax number (optional)			
E-Mail Address (optional)			

8. Alternative address for correspondence (If you complete the details below, we will use this address to correspond with you)	
Savannah Courtenay Flint Bishop LLP Pinnacle House 2 Prospect Place	
Post town Derby	Post code DE24 8HG
9. Alternative contact details (if applicable)	
Telephone numbers: Daytime	
Evening (optional)	
Mobile (optional)	
Fax number (optional)	
E-Mail Address (optional)	

2. The premises
Please 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) (Please read note 2)
Rainbow 160 High Street Bordesley Birmingham B12 0LD
Does a premises licence or club premises certificate have effect in relation to the premises (or any part of the premises)? If so, please enter the licence or certificate number below.
Premises Licence Number 3438/3
Club premises certificate number
If you intend to use only part of the premises at this address or intend to restrict the area to which this notice applies, please give a description and details below. (Please read note 3)
The courtyard area of the premises.
Please describe the nature of the premises below. (Please read note 4)

The premises operates as a PUB in Birmingham
Please describe the nature of the event below. (Please read note 5)
Music event at premises.

3. The licensable activities		
Please state the licensable activities that you intend to carry on at the premises (please tick all licensable activities you intend to carry on). (Please read note 6)		
The sale by retail of alcohol	<input type="checkbox"/>	
The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club	<input type="checkbox"/>	
The provision of regulated entertainment (Please read note 7)	<input checked="" type="checkbox"/>	
The provision of late night refreshment	<input type="checkbox"/>	
Are you giving a late temporary event notice?(Please read note 8)	<input type="checkbox"/>	
Please state the dates on which you intend to use these premises for licensable activities. (Please read note 9)		
20/04/2024 into the early hours of 21/04/2024		
Please state the times during the event period that you propose to carry on licensable activities (please give times in 24 hour clock). (Please read note 10)		
21:00pm on 20th April until 02:00am on 21st April		
Please 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. (Please read note 11)	Less than 499	
If the licensable activities will include the supply of alcohol, please state whether the supplies will be for consumption on or off the premises, or both (please tick as	On the premises only	<input type="checkbox"/>
	Off the premises only	<input type="checkbox"/>

appropriate). (Please read note 12)	Both	<input type="checkbox"/>
Please state if the licensable activities will include the provision of relevant entertainment. If so, please state the following times during the event period that you propose to provide relevant entertainment. (including but not limited to lap dancing and pole dancing) (Please read note 13)		
NONE		

4. Personal licence holders (Please read note 14)		
Do you currently hold a valid personal licence? (Please tick)	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
If "Yes" please provide the details of your personal licence below.		
Issuing licensing authority	Birmingham City Council Licensing Authority	
Licence number	8729/1	
Date of issue		
Any further relevant details		

5. Previous temporary event notices you have given (Please read note 15 and tick the boxes that apply to you)		
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 <input checked="" type="checkbox"/>	No <input type="checkbox"/>
If answering yes, please state the number of temporary event notices (including the number of late temporary event notices, if any) you have given for events in that same calendar year	2	

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 b) begins 24 hours or less after the event period proposed in this notice?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
--	---------------------------------	---

6. Associates and business colleagues (Please read note 16 and tick the boxes that apply to you)		
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 <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If answering yes, please state the total number of temporary event notices (including the number of late temporary event notices, if any) your associate(s) have given for events in the same calendar year		
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 b) begins 24 hours or less after the event period proposed in this notice?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
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? (Please mark an "X" in the box that applies to you)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If answering yes, please state the total number of temporary event notices (including the number of late temporary event notices, if any) your business colleague(s) have given for events in the same calendar year.		
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: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

7. Checklist (Please read note 17)		
I have (Please tick the appropriate boxes)		
Sent at least one copy of this notice to the licensing authority for the area in which the premises are situated	<input checked="" type="checkbox"/>	
Sent a copy of this notice to the chief officer of police for the area in which the premises are situated	<input checked="" type="checkbox"/>	

Sent a copy of this notice to the local authority exercising environmental health functions for the area in which the premises are situated	<input checked="" type="checkbox"/>
If the premises are situated in one or more licensing authority areas, sent at least one copy of this notice to each additional licensing authority	<input type="checkbox"/>
If the premises are situated in one or more police areas, sent a copy of this notice to each additional chief officer of police	<input type="checkbox"/>
If the premises are situated in one or more local authority areas, sent a copy of this notice to each additional local authority exercising environmental health functions	
Make or enclose payment of the fee for the application	<input checked="" type="checkbox"/>
Sign the declaration in Section 9 below	<input checked="" type="checkbox"/>

8. Condition (Please read note 18)

It is a condition of this temporary event notice that where the relevant licensable activities described in Section 3 above include the supply of alcohol that all such supplies are made by or under the authority of the premises user.

9. Declarations (Please read 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 months, or to both.

Signature

Flint Bishop

Date

03/04/2024

Name of Person signing

Solicitors for and on behalf of the applicant

From: Peter R Brown **On Behalf Of** Pollution Team
Sent: Friday, April 5, 2024 11:54 AM
To: Licensing Online
Cc: bw licensing
Subject: RE: TEN - The Rainbow

Dear Licemsing

Environmental Health objects to this TEN on the following grounds:

A current premises licence condition restricts the volume of music in the courtyard area after 21.00 to a 'background level' only. This condition is designed to prevent late night adverse impact on residents or other noise sensitive receptors. This application is for a five hour extension of this curfew time and is considered unacceptable and likely to lead to a failure to uphold the public nuisance licensing objective. It is noted that the applicant has an alternative indoor area available where there is no such restriction on music volume.

Regards

Peter Brown
Environmental Health Officer

City Operations Directorate
1-3 Ashted Lock Way
Birmingham
B7 4AZ

LICENSING ACT 2003**PREMISES LICENCE**

Premises Licence Number:

3438 / 4

Part 1 - Premises details:

Postal address of premises, or if none, ordnance survey map reference or description	
Rainbow 160 High Street Bordesley	
Post town:	Post Code:
Birmingham	B12 0LD
Telephone Number:	
N/A	

Where the licence is time limited the dates

N/A

Licensable activities authorised by the licence

B	Films
E	Live music
F	Recorded music
G	Performances of dance
H	Anything of similar description to that falling within (live music), (recorded music) or (performances of dance)
L	Late night refreshment
M3	Sale of alcohol by retail (both on & off the premises)

The times the licence authorises the carrying out of licensable activities

Sunday - Thursday	10:00	-	04:00	B ,E ,F ,G ,H ,M3
	23:00	-	04:00	L
Friday - Saturday	10:00	-	06:00	B ,E ,F ,G ,H ,M3
	23:00	-	05:00	L

From 10:00 until 06:00 on the Sunday and Monday for each May Bank Holiday, Spring/Whitsun Bank Holiday and every August Bank Holiday weekend.

From 10:00 until 06:00 on the Thursday, Sunday and Monday for the Easter Bank Holiday weekend, Christmas Eve and Boxing Day.

From the start of permitted hours New Years Eve to the close of permitted hours of New Years Day

The opening hours of the premises

Sunday - Thursday	10:00	-	04:30
Friday - Saturday	10:00	-	06:30

From 10:00 until 06:30 on the Sunday and Monday for each May Bank Holiday, Spring/Whitsun Bank Holiday and every August Bank Holiday weekend.

From 10:00 until 06:30 on the Thursday, Sunday and Monday for the Easter Bank

Holiday weekend, Christmas Eve and
Boxing Day.
From the start of permitted hours New
Years Eve to the close of permitted hours of
New Years Day

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

On and Off Supplies

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence Punch Partnerships (PTL) Limited Elsley Court 20-22 Great Titchfield Street	
Post town: London	Post Code: W1W 8BE
Telephone Number: N/A	
Email N/A	

Registered number of holder for example company number or charity number (where applicable) 03512363
--

Name, address, telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol Nicholas Rendall	
Post town:	Post Code:
Telephone Number: N/A	

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol	
Licence Number 8729	Issuing Authority BIRMINGHAM CITY COUNCIL

Dated 18/08/2021

SHAID YASSER
Senior Licensing Officer
For Director of Regulation and Enforcement

Annex 1 – Mandatory Conditions

No supply of alcohol may be made under the premises 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 retail sale or supply of alcohol made under this licence must be made or authorised by a person who holds a personal licence.

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 paragraph, 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 fee 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 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, the 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; (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of 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 is adopted in respect of 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 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— (a) a holographic mark, or (b) an ultraviolet feature.

The responsible person must ensure that— (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures— (i) beer or cider: ½ pint; (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and (iii) still wine in a glass: 125 ml; (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.”

(1) 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. (2) 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 enables 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. (3) 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. (4) 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 14 days beginning on the second day.

The admission of children under the age of 18 to film exhibitions permitted under the terms of this licence shall be restricted in accordance with any recommendation made: (a) By the British Board of Film Classification (BBFC), where the film has been classified by that Board, or (b) By the Licensing Authority where no classification certificate has been granted by the BBFC, or, where the licensing authority has notified the licence holder that section 20(3)(b) (s74(3)(b) for clubs) of the Licensing Act 2003 applies to the film.

Each individual assigned to carrying out a security activity must be licensed by the Security Industry Agency.

Annex 2 – Conditions consistent with operating schedule

2a) General conditions consistent with the operating schedule

A 30 minute drinking up time on top of the last permitted sale of alcohol to allow customers to use the toilet facilities and disperse from the premises.

Locations of fire safety and other safety equipment subject to change in accordance with the requirements of the responsible authorities following a risk assessment.

2b) Conditions consistent with, and to promote the prevention of crime and disorder

Toilet cubicles are designed conducive to the detection of drug use.

The premises will operate a strict entrance policy.

A zero tolerance drugs policy will be implemented at the premises. Any person who is considered to be under the influence of drugs or excessive alcohol is not permitted entry on the premises.

Customers will be randomly searched upon entry to the premises.

The premises risk assessment will be made available to any of the responsible authorities immediately on request. For any event outside the premises normal operating practice or for any externally promoted event (whether fully external or partially external) the premises will have a bespoke risk assessment which will be made available immediately on request of any of the responsible authorities.

The premises will notify west midlands police central licensing team of all events which they risk assess of being medium risk a minimum of 28 days prior to the event. This will be accompanied by a risk assessment which is to be agreed with West Midlands Police licensing team. The notification and risk assessment requirement will also apply to all new promoters at the premises.

The premises fire risk assessment (which will include each floors occupancy figures) will be made available to any of the responsible authorities on request.

CCTV will be installed / update to the recommendations and specifications of west midlands police central licensing team. CCTV will record for a minimum of 28 days, display the correct time & date stamp, be downloadable and made immediately available to any of the responsible authorities on request. CCTV will record throughout the whole of the licensable activity.

If for any reason the CCTV hard drive needs to be replaced the old / previous hard drive will be kept on the premises for a minimum of 28 days and made immediately available to any of the responsible authorities on request.

Each day prior to carrying out licensable activity the CCTV will be checked to ensure that it is working. This checked will be documented, timed, dated and signed by the person checking

A profile of all door staff deployed at the premises will be kept by the premises. This will include a copy of their SIA badge and a copy of photographic ID. If photographic ID is not available then a utility bill less than 3 months will be acceptable. Door staff will sign on and off duty. Profiles and signing in / out sheets will be held on the premises for a minimum of 3 months and made available to West Midlands Police immediately on request.

Door staff will be deployed as per the risk assessment.

All staff training regarding their responsibilities within the licensing act will be documented and sign by both the trainer and trainee. These training documents will be made immediately available to any of the responsible authorities on request.

The premises will have a documented vulnerability policy which will be made immediately available to any of the responsible authorities on request.

Any event that attracts under 18's will be classed as high risk and the premises will have a bespoke risk assessment and vulnerability policy for that event. The risk assessment and vulnerability policy will be sent to west midlands police central licensing team a minimum of 28 days prior to the event.

2c) Conditions consistent with, and to promote, public safety

No enforceable conditions identified from operating schedule.

2d) Conditions consistent with, and to promote the prevention of public nuisance

Customers will be supervised upon exit from the premises during the late evening and early morning hours.

Notices will be erected asking for customers to leave the premises quietly and to respect the neighbours.

Doors and windows will be closed during the provision of regulated entertainment except for access to and egress from the premises.

The premises licence holder shall submit in writing for approval a noise management plan (NMP) to Environmental Protection Unit of Birmingham City Council before the site begins trading. The NMP shall include a risk assessment and outline the measures to be adopted to reduce the noise impact of activities associated with the premises including any music, deliveries, recycling and refuse collections, smoking areas, customers, dispersal, parking and taxi pick up. All operational controls and management actions required by the approved noise management plan shall be instigated at all times, and all staff shall be adequately trained in their role in implementing the plan.

Background music only shall be played on the first floor of the premises.

Background music only shall be played after 9pm in the external court yard/ covered court yard areas.

2e) Conditions consistent with, and to promote the protection of children from harm

A challenge 21 policy will be implemented whereby those who appear to be under the age of 21 and are attempting to purchase alcohol will be asked to provide identification. The only type of identification that will be accepted is a photo driving licence, passport or PASS accredited identification. Staff will be trained in this policy and records will be kept.

Annex 3 – Conditions attached after hearing by licensing authority

3a) General committee conditions

N/A

3b) Committee conditions to promote the prevention of crime and disorder

N/A

3c) Committee conditions to promote public safety

N/A

3d) Committee conditions to promote the prevention of public nuisance

N/A

3e) Committee conditions to promote the protection of children from harm

N/A

Annex 4 – Plans





