

**NOTIFICATION OF A TEMPORARY EVENT - KOMO BAR, 21-25 COMMERCIAL WAY,  
WOKING**

**Executive Summary**

This report considers a Temporary Event Notice for the above premises.

**Recommendations**

The Committee is requested to:

**RESOLVE That** the report be considered, and the Notification be determined accordingly.

The Committee has the authority to determine the recommendation(s) set out above.

**Background Papers:**

None.

**Reporting Person:**

Matthew Cobb, Senior Licensing Officer  
Ext. 3650, E Mail: Matthew.Cobb@woking.gov.uk

**Contact Person:**

Matthew Cobb, Senior Licensing Officer  
Ext. 3650, E Mail: Matthew.Cobb@woking.gov.uk

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## Notification of a Temporary Event – Komo Bar, 21-25 Commercial Way, Woking

### 1.0 Summary of Proposal

<b>Type:</b>	Temporary Event Notice
<b>Site Address:</b>	KOMO 21-25 Commercial Way, Woking, Surrey GU21 6XR
<b>Applicant</b>	Mr Joseph David Lionel Pennefather
<b>Notification Ref:</b>	22/00333/TEN

### 2.0 Description of Premises

- 2.1 When a Premises Licence Application was applied for in August 2021, it made reference to a rebranding within the “Komo” chain, describing itself as a “high end cocktail bar.”
- 2.2 It further noted that since the rebranding on July 4<sup>th</sup> 2018, Live Music and the rather cramped environment of their old style has gone, moving to a more relaxed, customer driven environment.
- 2.3 The Woking branch of Komo was intended to be a mirror of the Guildford premises, with the addition of quality food.

### 3.0 Details of Temporary Event Notice

- 3.1 To licence the premises for
  - Saturday 10<sup>th</sup> December 2022
    - Sale by retail of Alcohol 14:00 – 18:00
    - Late Night Refreshment 14:00 – 18:00
    - Provision of Regulated Entertainment 14:00 to 18:00, a live music band, specifically a “tribute act.”
  - Thursday 15<sup>th</sup> December 2022
    - Sale by retail of Alcohol 20:30 – 23:00
    - Late Night Refreshment 20:30 – 23:00
    - Provision of Regulated Entertainment 23:30 to 23:00, a live music band, specifically a “duo performance”
  - It should be noted that the Late Night Refreshment applied for is irrelevant, as late night refreshment would only be a licensable activity if it took place between the hours of 23:00 and 05:00. This event does not so the LNR does not apply.
- 3.2 A copy of the Notification is attached as Appendix 1.

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### **4.0 Revised Guidance Issued Under Section 182 of the Licensing Act 2003**

- 4.1 The Police or Environmental Health Authority (“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.
- 4.2 A relevant person may also intervene by agreeing a modification of the proposed arrangements directly with the TEN user.
- 4.3 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.
- 4.4 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.
- 4.5 The Police and EHA have a period of three working days from when they are given the notice to object to it on the basis of any of the four licensing objectives.
- 4.6 A TEN may be granted in respect of premises which already have a Premises Licence or Club Premises Certificate to cover licensable activities not permitted by the existing authorisation.
- 4.7 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).
- 4.8 The Licensing Sub-Committee may decide to allow the licensable activities to go ahead as stated in the notice.
- 4.9 If the notice is in connection with licensable activities at a 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.
- 4.10 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.
- 4.11 Alternatively, it can decide that the event would undermine the licensing objectives and should not take place.
- 4.12 In this case, the Licensing Authority must give a counter notice.
- 4.13 Such cases might arise because of concerns about the scale, location, timing of the event or concerns about public nuisance even where the statutory limits on numbers are being observed.
- 4.14 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.
- 4.15 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.

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4.16 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.

4.17 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 regulation

### **5.0 Representations**

5.1 The Environmental Health Department have submitted an objection following concerns over noise issues.

5.2 The objection is attached as Appendix 2.

### **6.0 Explanation**

6.1 The Sub-Committee is obliged to determine this application in light of an objection from the Environmental Health Officer with a view to promoting the Prevention of Public Nuisance Licensing Objective.

6.2 The Sub-Committee may not uphold the Environmental Health Officers objection to the TENs on the grounds of any other Licensing Objective.

6.3 In making its decision, the Sub-Committee is also obliged to have regard to the National Guidance and the Council's own Licensing Policy in that it can only: -

- a) Prevent the TEN from going ahead by upholding the Environmental Health Officer's objection, or
- b) Add conditions to the TEN that are already on the Premises Licence conditions. The Sub-Committee may not add to or amend these conditions.

### **7.0 Premises Licence**

7.1 As indicated above in sections 4.9 and 6.3(b) of this report, the premises that this Temporary Event Notice is taking place on does hold a Premises Licence.

7.2 Consequently any conditions that the Licensing Sub-Committee feel would be applicable in resolving the issue and concerns raised by the Environmental Health Officer would have to come from the conditions of that Premises Licence.

7.3 The Conditions of the KOMO Premises Licence are therefore attached as Appendix 3.

### **8.0 Premises Noise History**

8.1 The Premises Licence for KOMO was initially applied for in June 2021.

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- 8.2 As part of the consultation process for the new Premises Licence, the potential for noise nuisance was identified by Environmental Health officers, who raised their concerns with the applicant: Director of 'Komo Woking Ltd,' Mr Simon Lillie.
- 8.3 On the 10 August 2021 Mr Lillie agreed to add several conditions, specifically Conditions 17 to 23, as seen in Appendix 3.
- 8.4 It should be noted that these conditions that the Premises Licence Holder agreed to all relate to noise nuisance, and an attempt to prevent it.
- 8.5 It is evident from the Environmental Health Officers objection to the current TEN that the operation of the premises has resulted in noise nuisance to local residents.
- 8.6 Ensuing discussions between Environmental Health and the Applicant have identified that the Condition relating to the Noise Limiter was never met. This is evidenced in Appendix 4.
- 8.7 In essence, it appears that despite having agreed to the condition aimed at preventing noise nuisance the premises has been operating for the last seven months (we believe the premises, despite having been licenced from August 2021, only opened in April 2022) whilst failing to comply with one of its conditions.
- 8.8 If this is the case then it is potentially a Licensing Act S.136 Offence which would be in situations where a person commits an offence if they carry on or attempts to carry on a licensable activity on or from any premises otherwise than under and in accordance with an licence.

### **9.0 Summary**

- 9.1 The Sub-Committee is asked to determine the application in one of the following ways, having regard to the promotion of the Licensing Objectives.
- a) Uphold the Environmental Health Officer's objections and to refuse the event going ahead.
- b) Permit the event to go ahead as specified in the notices in Appendix 1.
- c) Permit the event to go ahead with conditions (which must be from Appendix 3)

### **10.0 Implications**

#### Finance and Risk

- 10.1 There are no significant financial implications.
- 10.2 The risks to the Council associated with determining an application are:
- Failure to undertake its statutory responsibilities within required timescales;
  - Making a decision that may be challenged by the applicant via an appeal to the Magistrates Court with the possible consequence of costs being awarded against the Council; and
  - Making a decision that compromises Community Safety.

#### Equalities and Human Resources

- 10.3 None.

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### Legal

10.4 The Licensing Authority must act to promote the four Licensing Objectives which are:

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

10.5 The Licensing Authority must have regard to its statement of Licensing Policy and the guidance issued by the Secretary of State in carrying out its functions.

REPORT ENDS