

Committee :	Date	Classification
Licensing Sub Committee	8th August 2017	Unrestricted

Report of David Tolley Head of Environmental Health & Trading Standards	Title: Licensing Act 2003 Temporary Event Notices in relation to Shuffle Festival Tower Hamlets Cemetery, Southern Grove, E3
Originating Officer: Kathy Driver Principal Licensing Officer	Ward affected: Mile End

1.0 Summary

Applicant: Elizabeth Daish

Address of Premises: Shuffle Festival:
Lodge Bar
Chestnut Glade
Music Pavilion
Cantrell Field
Railway Yard
Soanes Centre

Objectors: Metropolitan Police
Environmental Health

2.0 Recommendations

2.1 That the Licensing Sub Committee considers the application and objections then adjudicates accordingly.

LOCAL GOVERNMENT 2000 (Section 97)
LIST OF "BACKGROUND PAPERS" USED IN THE DRAFTING OF THIS REPORT

Brief description of "background paper"

Tick if copy supplied for register

If not supplied, name and telephone number of holder

File Only

Kathy Driver
020 7364 5171

3.0 **Background**

- 3.1 These are a number of Standard Temporary Event Notices in relation to a festival known as Shuffle.
- 3.2 The festival is being held in various areas of Tower Hamlets Cemetery Park with additional spaces at Underground Car Park and Women's Workhouse, both in Southern Grove.
- 3.3 The Licensing Authority has received a total of 17 Standard Tens for the event being held between 4th August and 27th August 2017.
- A restaurant operating with alcohol for the period 4th August to 27th August excluding Monday and Tuesdays.
 - The main festival event on the weekend of August Bank Holiday of 26th and 27th August 2017.

A schedule of those TENs is attached in **Appendix 1**. See also paragraph 6 of the report on limits

- 3.4 A time limited premises licence exists for Tower Hamlets Cemetery which is limited through conditions to a maximum of 15 event days per calendar year. It is understood this licence will only be utilised on 26th and 27th August 2017. The timings of this licence are as follows:

The supply of alcohol (both on and off sales)

- Sunday to Thursday from 11:00hrs to 22:30hrs
- Friday and Saturday from 11:00hrs to 23:00hrs

The provision of regulated entertainment in the form of plays (both indoors and outdoors), films (both indoors and outdoors), live music (both indoors and outdoors), recorded music (both indoors and outdoors) and anything of a similar description.

- Sunday to Thursday from 11:00hrs to 22:30hrs
- Friday and Saturday from 11:00hrs to 23:00hrs

Opening Times:

- Sunday to Thursday from 07:00hrs to 23:00hrs
- Friday and Saturday from 07:00hrs to 23:30hrs

A copy of the licence is attached in **Appendix 2**.

- 3.5 Copies of the applications that have remaining objections are as follows:

a) **Soanes Centre**

Alcohol and Regulated Entertainment 12:00 hrs to 23:00 hrs
23rd to 27th August 2017 – See **Appendix 3**

Hours: 12:00 hrs to 23:00 hrs Wednesday to Friday
12:00 hrs to midnight Saturday & Sunday

- b) **Lodge Yard Bar**
Alcohol and Regulated Entertainment
23rd to 27th August 2017 – See **Appendix 4**
Hours: 12:00 hrs to 23:00 hrs Wednesday to Friday
12:00 hrs to midnight Saturday & Sunday
- c) **Railway Yard**
Alcohol ;Regulated Entertainment & Late Night Refreshment
26th to 27th August 2017 – See **Appendix 5**
23:00 hrs to midnight Saturday; 22:30hrs to midnight Sunday
- d) **Horse Chestnut Yard**
Alcohol and Regulated Entertainment
26th to 27th August 2017 – See **Appendix 6**
23:00 hrs to midnight Saturday; 22:30hrs to midnight Sunday
- e) **Music Pavilion/Memorial Glade**
Alcohol and Regulated Entertainment
26th to 27th August 2017 – See **Appendix 7**
23:00 hrs to midnight Saturday; 22:30hrs to midnight Sunday
- f) **Cantrell Field**
Alcohol and Regulated Entertainment
26th to 27th August 2017 – See **Appendix 8**
23:00 hrs to midnight Saturday; 22:30hrs to midnight Sunday
- g) **Womens Workhouse**
Regulated Entertainment
26th to 27th August 2017 – See **Appendix 9**
12:00 hrs to midnight
- h) **Scaffold Yard**
Alcohol and Regulated Entertainment
26th to 27th August 2017 – See **Appendix 10**
12:00 hrs to midnight

(The applicant informed the Licensing Authority that the site is now not viable, however the Application has not been withdrawn and objections remain)

- 3.6 A map showing the site and the festival plan is included as **Appendix 11**. Photos have been taken of parts of the site following a site visit; these will be provided on the night.

4.0 Temporary Event Notices

- 4.1 Temporary Event Notices (TENs) are a creation of the Licensing Act 2003. They provide a method by which licensable activities can be carried out on a temporary basis (max. 168 hrs) without a licence. The maximum number that can attend at any one time is 499. At least 10 full working days notice must be given to the licensing authority. When a TEN cannot be obtained, for example the event is over 499, then a full premises licence must be obtained, for a limited duration.
- 4.2 The licensing authority cannot oppose an application, (nor can local residents or businesses). The licensing authority must reject any application that does not meet the rules as to numbers, maximum per year etc. The limits are now as follows: 15 TEN per calendar year or 21 days. The responsible authorities that can object is the Metropolitan Police or Environmental Protection.
- 4.3 The Police and Environmental Protection can object on the grounds that allowing the event to go ahead will undermine one of the Licensing Objectives.
- 4.4 Following an objection by the relevant responsible authority one or more conditions may be imposed by the Licensing Authority
 - (a) if it 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.
- 4.5 Where the authority decides to impose one or more conditions;
 - (a) the authority must give the premises user notice of the decision;
 - (b) the notice must be accompanied by a separate statement (the "statement of conditions") which sets out the conditions that have been imposed on the temporary event notice; and
 - (c) a copy of the notice and statement of conditions must be given to each relevant party.
- 4.6 LATE TENs have been created through the Police Reform and Social Responsibilities Act 2011, a Late TEN can be made no later than FIVE working days and no earlier than NINE working days before the event. The limits to these applications are no more than 2 for a non personal licence holder or no more than 10 for a personal licence holder.
- 4.7 The Police and Environmental Protection can object to Late TENs, if an objection is made the Licensing Authority must issue a counter notice advising the event cannot take place.

5.0 **Objections**

5.1 The Police objections are contained in **Appendix 12**.

5.2 The Police have agreed the following with the applicants and therefore withdrawn their objections to:

Pond Bar

Stop serving at 22:00hrs and close to public at 22:30.

Lodge Yard bar

To employ 1 SIA on Friday & Saturday between the hours of 8pm and 11:30pm

Underground Car Park

withdrawn

Hamlets Way

Market to close at 10pm

Police withdrawal is detailed in **Appendix 13**.

5.3 Environmental Protection objections are contained in **Appendix 14**.

5.4 Environmental Health have withdrawn objections in relation to:

Pond Bar

Stop serving at 22:00hrs and close to public at 22:30.

Hamlets Way

Market to close at 10pm

EH withdrawal is detailed in **Appendix 15**

Advice to Members

5.5 The Police Reform and Social Responsibility Act 2011 have amended legislation whereby Environmental Protection alongside Police can object to Temporary Event Notice under any of the licensing objectives.

5.6 This hearing is required by the Licensing Act 2003. As always the decision is on the civil burden of proof, i.e. the balance of probability.

5.7 Members can consider any of the licensing objectives. Other matters can also be dealt with elsewhere by primary legislation.

- 5.8 Premises users are not required to be on the premises for the entire duration of 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.
- 5.9 The police or local authority exercising environmental health functions 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. If there is no agreement, the licensing authority must hold a hearing to consider the notice.

6.0 Temporary Event Notice Limits

- 6.1 Section 100 (5) (d) of the Licensing Act 2003 refers to limits on numbers: “the maximum number of persons (being a number less than 500) which the premises user proposes should, during those times, be allowed on the premises at the same time”
- 6.2 On referring to Patersons it makes reference to the above limit; “It would seem that this figure shall include members of staff and any other persons present upon the premises. There has been a suggestion that the provision could be used to licence events catering for significantly more than the permitted 500 persons by the simple expedient of arranging for the licensable activities to take place in discrete individual locations across one main site. Whilst such an arrangement has yet to come before the High Court, it is our view that such a transparent attempt to circumvent the public consultation and controls attendant upon an application for a premises licence would be likely to be interpreted as falling outside the provisions of s 100, in much the same way as efforts of certain operators to create multiple ‘premises’ under the Gambling Act 2005 (to secure the maximum benefit from their gaming machines allowance) has recently been condemned by the Gambling Commission in its amended guidance on so called ‘split premises’.”

7.0 Legal Comments

- 7.1 The Council’s legal officer will give advice at the hearing.

8.0 Finance Comments

- 8.1 There are no financial implications in this report.

9.0 Appendices

Appendix 1	Schedule of Temporary Events Notice
Appendix 2	Copy of Time Limited Premises Licence
Appendix 3	Soanes Centre TEN
Appendix 4	Lodge Yard Bar TEN
Appendix 5	Railway Yard TEN
Appendix 6	Horse Chestnut Yard TEN
Appendix 7	Music Pavilion/Memorial Glade TEN
Appendix 8	Cantrell Field TEN
Appendix 9	Womens Workhouse TEN
Appendix 10	Scaffold Yard TEN
Appendix 11	Site Maps
Appendix 12	Police Objection
Appendix 13	Police withdraw objection
Appendix 14	Environmental Protection objection
Appendix 15	Environmental Protection withdraw objection