

Committee :	Date	Classification	Report No.	Agenda Item No.
<b>Licensing Sub Committee</b>	20 August 2013	<b>Unclassified</b>	LSC 13/134	

Report of <b>David Tolley</b> <b>Head of Consumer and Business Regulation</b>	Title: <b>Licensing Act 2003 Temporary Event Notice</b>
Originating Officer: <b>Kathy Driver</b> <b>Principal Licensing Officer</b>	Ward affected: <b>Whitechapel</b>

## 1.0 Summary

Applicant: Mr. Bernard Bakpa

Address of Premises: Car Park rear of Rhythm Factory  
16-18 Whitechapel Road  
London E1 1EW

Objectors: Environmental Protection  
Metropolitan Police

## 2.0 Recommendations

2.1 That the Licensing 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 This is an application for a Standard Temporary Event Notice.
- 3.2 Enclosed is a copy of the application. (**See Appendix 1**).
- 3.3 The applicant has described the application as dance party with pay bar including the sale of alcohol and regulated entertainment.
- 3.4 The premises that has been applied for is:  
Car park at rear of Rhythm Factory, 16-18 Whitechapel road, London E1 1EW
- 3.5 The dates that have been applied for are as follows:  
24<sup>th</sup> August 2013 from 12:00 hours to 22:00 hours
- 3.6 A map showing the relevant premises and immediate area is included as **Appendix 2**. Maps have also been provided as part of the application.
- 3.7 The applicant has provided the following documents in relation to this application:  
Security Plan – **Appendix 3**  
Residents Letter – **Appendix 4**  
Photo of position of stage area – **Appendix 5**
- 3.8 The applicant has made reference to the DEFRA Guidance for Local Authorities in relation to noise, I therefore enclose a copy in **Appendix 8**

### 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: 12 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 6**.

5.2 Environmental Protection objections are contained in **Appendix 7**.

## 6.0 **Advice to Members**

6.1 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.

6.2 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.

- 6.3 Members can consider any of the licensing objectives. Other matters can also be dealt with elsewhere by primary legislation.
- 6.4 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.
- 6.5 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.

## 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

<b>Appendix 1</b>	A copy of the application
<b>Appendix 2</b>	Maps of the area
<b>Appendix 3</b>	Security Plan
<b>Appendix 4</b>	Residents Letter
<b>Appendix 5</b>	Stage area
<b>Appendix 6</b>	Police Objection
<b>Appendix 7</b>	Environmental Protection objection
<b>Appendix 8</b>	DEFRA guidance