

Committee :	Date	Classification	Report No.	Agenda Item No.
Licensing Sub Committee	12 November 2013	Unclassified	LSC 32/134	

Report of: David Tolley Head of Consumer and Business Regulation	Title: Licensing Act 2003, Temporary Event Notice for Subway, 222 Brick Lane, London E1 6SA
Originating Officer: Andrew Heron Licensing Officer	Ward affected: Weavers

1.0 Summary

Applicant:**Mohammed Alam**

Address of Premises: **Subway**
 222 Brick Lane
 London
 E1 6SA

Objectors: **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

Andrew Heron
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3.0 **Background**

- 3.1 There are three separate applications for standard Temporary Event Notices. Enclosed are copies of the applications in **Appendices 1-3**.
- 3.2 The applicant has described the nature of the application as follows:
 - Late Night Refreshment
- 3.3 The premises that has been applied for is: Subway, 222 Brick Lane, London E1 6SA
- 3.4 The dates for the first application that have been applied for are as follows: 22nd to 24th November 2013, please see **Appendix 1**.
- 3.5 The dates for the second application that have been applied for are as follows: 29th November to 1st December 2013, please see **Appendix 2**.
- 3.6 The dates for the second application that have been applied for are as follows: 6th to 8th December 2013, please see **Appendix 3**.
- 3.7 The times for all three applications that have been applied for are as follows:
From 23:00 hours to 04:00 hours.
- 3.8 A map showing the relevant premises and immediate area is included as **Appendix 4**.

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. 168hrs) 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 objection to all three applications is contained in **Appendix 5**.

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 Cumulative Impact Policy

- 7.1 The Council is aware that the majority of late night licensed premises is concentrated within one area of the Borough, Brick Lane Area, and has therefore declared a Cumulative Impact Zone with effect from 1st November 2013.
- 7.2 It recognises that because of the number and density of licensed premises selling alcohol, on and off the premises and the provision of late night refreshment (sale of hot food after 11pm), there might be exceptional problems of nuisance, disturbance and/or disorder outside or away from those licensed premises as a result of their combined effect.
- 7.3 The extract from the Licensing Policy and map of the Zone is attached in **Appendix 6**.

8.0 Legal Comments

- 8.1 The Council's legal officer will give advice at the hearing.

9.0 Finance Comments

- 9.1 There are no financial implications in this report.

10.0 Appendices

- Appendix 1** A copy of the application for 22nd to 24th November 2013
- Appendix 2** A copy of the application for 29th November to 1st December 2013
- Appendix 3** A copy of the application for 6th to 8th December 2013
- Appendix 4** Maps of the area
- Appendix 5** Representation of the Metropolitan Police
- Appendix 6** Cumulative Impact Policy