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| <b>Committee(s):</b><br><b>Licensing Sub-Committee</b>  | <b>Hearing Date(s):</b> | <b>Item no.</b>                       |
| <b>Subject:</b><br><b>Licensing Act 2003 – Hearing to Consider an Objection to a Temporary Event Notice</b> |                         |                                       |
| <b>Name of premises:</b> Byward Kitchen & Bar<br><b>Address of premises:</b> Byward Street, EC3R 5BJ        |                         |                                       |
| <b>Report of:</b><br><b>Director of Markets and Consumer Protection</b>                                     |                         | <b>Public / <del>Non-Public</del></b> |
| <b>Ward (if appropriate): Tower</b>   |                         |                                       |

## **1 Introduction**

- 1.1 To consider and determine, by public hearing, objections against notification for two temporary events under the Licensing Act 2003.
- 1.2 Under the Licensing Act 2003 a standard temporary event notice submitted to the Licensing Authority may be objected to by the Police and/or Environment Health within three working days of its receipt. The objections can be on the grounds that one or more of the licensing objectives will be undermined.
- 1.3 A hearing to consider any objection notices has to be held within seven working days beginning with the day following the end of the period within which an objection notice may be given. The hearing must be at least 24 hours before the event is due to take place. Due to the timescales involved this report has been put forward at short notice.

## **2 Summary of Temporary Event Notices**

- 2.1 Two temporary event notices were submitted by:  
**Mark Wilson**

They were received by the City of London Licensing Authority on 29 June 2018 for events to be held in respect of the premises:

**Byward Kitchen & Bar**

**Byward Street**

**EC3R 5BJ**

2.2 Details of the proposed temporary event are as follows:

Date and time of events:

**Saturday 11 August 2018.**

**14.00 – 02.00**

**Friday 24 August 2018.**

**21.00 – 02.00**

Licensable activities sought:

**i) Sale of alcohol (on the premises only)**

**ii) Provision of late night refreshment**

Maximum number of people:

**130 (11/08) & 110 (24/08)**

**NB Both forms have stated that sale of alcohol is for on the premises only. As the notice forms have described the premises as “Byward Kitchen and Bar, Byward Street” this is interpreted as the building only. There is no mention of the Garden Terrace so alcohol sales may not take place there. Additionally, under the TEN, alcohol consumption may not take place on the terrace (see 3.1) unless the condition permitting it is imposed from the Premises Licence (as per 8.2, ii).**

2.3 A copy of the Temporary Event Notices can be seen as Appendix 1.

**NB Both forms state that there will be a DJ during the hours of the notice. However, regulated entertainment has not been selected. Recorded music may only be provided as de-regulated entertainment until 23.00.**

### **3 Licensing History of Premises**

- 3.1 A premises licence was originally issued to Beyond Food Foundation Ltd trading as Beyond Boyle on 27 August 2010. The terminal hour for alcohol sales was 23.30 on the premises only (except for consumption in the garden terrace). Licensable activity was also restricted to private hire of the venue.
- 3.2 The licence was transferred to Embankment Partnership Ltd in April 2011 where it began trading as Byward Kitchen & Bar.
- 3.3 A variation was granted to the licence in November 2011 which lifted the restriction on private events. The venue became open to the general public for the first time.
- 3.4 The licence transferred again in September 2017 to Byward London Ltd.
- 3.5 A copy of the current licence can be seen as Appendix 2. The plan can be seen as Appendix 3.

### **4 Objection notices received**

- 4.1 An objection to the temporary event notices were received from the City of London Environmental Health Office on 3 July 2018. The basis of the objection is that the proposed events are not in keeping with the usual operation of the premises and given the proximity to residential buildings would undermine the licensing objective of the 'prevention of public nuisance'.
- 4.2 A copy of the objection emails can be seen as Appendix 4.

### **5 Policy Considerations**

- 5.1 In carrying out its licensing functions, the Licensing Authority must have regard to its Statement of Licensing policy and statutory guidance issued under s 182 of the Licensing Act 2003.

## **City of London Corporation's Statement of Licensing Policy**

- 5.2 The following sections/paragraphs of the City of London Corporation's Statement of Licensing Policy, although not all directly related to the consideration of an objection to a temporary event notice, contain sections which are applicable to this report.

The boxed comment on page 19 states an overriding policy principle namely, that each application will be decided on its individual merits.

The boxed comment on page 19 also states the need to strike a fair balance between the benefits to a community of a licensed venue, and the risk of disturbance to local residents and workers.

## **Statutory Guidance**

- 5.3 The following sections/paragraphs of the statutory guidance issued under s182 of the Licensing Act 2003 are particularly applicable to this application:

Chapter 7 relates in general to Temporary Event Notices. Of particular note is paragraph 7.28 (role of licensing authority and determination at the hearing) and paragraphs 7.32 – 7.34 (objection notices and the requirement to issue a counter notice if required).

## **6 Map and Plans**

- 6.1 A map showing the location of the premises together with nearby licensed premises is attached at Appendix 5.

## **7 Summary**

- 7.1 The Licensing Authority has a duty under the Licensing Act 2003 to promote the Licensing Objectives. Each objective has equal importance. In carrying out its licensing functions, the Licensing Authority must also have regard to its Statement of Licensing Policy, any Statutory Guidance under the Licensing Act 2003 and is bound by the Human Rights Act 1998. The Corporation must also fulfil its obligations under section 17 of the Crime and Disorder Act 1998 to do all that it reasonably can to prevent crime and disorder in the City.

## **8 Options**

- 8.1 The Sub-committee must, having regard to the objection notices;
- i) Give the premises user counter notices if it considers it appropriate for the promotion of one or more of the licensing objectives to do so (which will stop the event from taking place).
- 8.2 If the Sub-committee decide not to issue counter notices it must take one of the following steps:
- ii) Allow the events to go ahead but impose one or more of the existing premises licence conditions on the temporary event notices if it considers it appropriate for the promotion of a licensing objective to do so (but only insofar as such conditions are not inconsistent with the events); or
  - iii) Allow the events to go ahead as set out in the Temporary Event Notice
- 8.3 Following a decision by the sub-committee one of more of the following actions will need to be taken at least 24 hours before the beginning of the event period specified in the temporary event notices:
- Where a counter notice is issued (option i) a copy is to be sent to the premises user, Police and Environmental Health along with a notice stating the reasons for the decision.
  - Where a counter notice is not issued but conditions have been added (option ii) the decision, along with a 'statement of conditions' must be given to the premises user, Police and Environmental Health
  - Where a counter notice is not issued (option iii) notice of the decision must be given to the premises user, Police and Environmental Health.

## **9 Recommendation**

- 9.1 It is therefore RECOMMENDED that your Sub-Committee determine these notices for temporary events in accordance with paragraph 8 of this report.

Prepared by        Andre Hewitt  
                             Licensing Officer

**Background Papers**

| <u>BACKGROUND PAPER</u>   | <u>DEPT</u> | <u>FILE</u>   |
|---|-------------|---|
| Corporation of London Statement of Licensing Policy revised January 2017.<br><br>Statutory Guidance – ‘Revised Guidance Issued Under Section 182 Of The Licensing Act 2003’. April 2017 | MCP         | 5 <sup>th</sup> Floor Walbrook Wharf<br><br><a href="#"><u>Statutory Guidance</u></a> |