

From: Jack Spiegler [mailto:JSpiegler@tandtp.com]
Sent: Tuesday, May 09, 2017 2:13 PM
To: Earis, Richard
Cc: Amy Catlin; Regen, Licensing; Kalu, Richard
Subject: Re: TENs objections: Hawker House Canada Water Retail Park Surrey Quays Road SE16 2XU

Dear Richard

Thank you for your email and telephone call.

I address the points raised in your email as follows:

Public Nuisance Objection

- Our client has agreed to formally amend TEN CMU853898 to restrict licensable activities in the outside area after 23:00. This is consistent with condition 341 of the premises licence.
- Thank you for bringing this matter to our attention. Our client is willing to discuss these concerns in more detail with a view to introducing additional measures to address the concerns raised. In the meantime, our client will investigate the points you have raised and review procedures to minimise noise from patrons dispersing from the event and ensuring they behave responsibly.

Multiple TENs

- Please see attached email from Mr Ian Jenkins from the Department for Business, Innovation and Skills/Department for Culture, Media and Sport. You will see it is the Government's view that multiple TENs within a premises is lawful, providing there is appropriate segregation between areas and the TEN capacity limits are not breached. This view is supported by your neighbouring London Borough of Lambeth.
- The TENs clearly define four distinct areas within the premises. These are described in the specific section of the TEN form which anticipates only part of a premises may be used for a TEN. Our client will ensure that the areas are appropriately controlled and capacity limits are not breached. They can achieve this by using SIA registered supervisors and staff to monitor capacity numbers and supervise admission to the different areas.
- The current TENs are proposed in the same format as those previously approved by the council and your colleagues (attached for reference).
- Thank you for your comments in respect of the relevant provisions of the Licensing Act 2003. Unless I have missed it, I cannot see where you have identified a section of the Act or section 182 guidance that expressly prohibits what our client is proposing. The purpose of section 101 is to simply prevent a TEN starting within a 24 hour period of a previous TEN ending. The section does not target our client's specific proposals. Please let me know if I have missed anything in this regard.
- While the House of Lords proposed amendments to the TEN regime, they did not state this was an unlawful practice. If it were, I have no doubt they would have done so. In addition, the House of Lords' comments relate expressly to 'adjacent plots of land', presumably to catch festivals in fields where there is no proper border or segregation between TEN areas.

This is not applicable to our client's proposals. Our client's premises facilitates clear segregation between distinct parts of the premises which will be maintained throughout the period of the TENs.

Our client is committed to cooperating with the council and environmental protection team. Please do not hesitate to contact me if you would like to discuss any additional measures you think may help to address the concerns you have raised. Alternatively, our client would be delighted to meet you to discuss this further.

Thank you for your consideration and kind regards

Jack

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From: Earis, Richard [<mailto:Richard.Earis@southwark.gov.uk>]

Sent: 08 May 2017 17:52

To: Regen, Licensing <Licensing.Regen@southwark.gov.uk>

Cc: Amy Catlin <ACatlin@tandtp.com>

Subject: TENs objections: Hawker House Canada Water Retail Park Surrey Quays Road SE16 2XU

Dear Licensing,

RE: TEN applications CMU 853898, 853899, 853900, 853905 05/06/2017-06/06/2017: Hawker House Canada Water Retail Park Surrey Quays Road SE16 2XU

I have considered the above TEN applications and I would like to object on the grounds of prevention of public nuisance for the following reasons:

- The TENs (or CMU 853898) include use of the outside area after 23.00 which is specifically prohibited on the grounds of prevention of public nuisance by condition 341 of the premises license. Use of the outside area for licensable activities after 23.00 is highly likely to result in public nuisance as a consequence of noise from patrons and regulated entertainment.
- There have been complaints received via Cllr Cryan following a similar event in December 2016 regarding (amongst other issues) noise from patrons, dispersal and urination in the street. Operation to the proposed hours increases the risk and severity of public nuisance from this premises.

I would also object to the granting of the TENs on the grounds that the application seeks to artificially circumvent the 499 person limit for TENs by splitting what is clearly a single premises, covered by a single premises license, into multiple 'areas'. In respect of this I would make the following points:

- In the event the TENs were granted the 499 person limit would still apply in each artificially constructed 'area' of the single premises. It would be impossible in practice for the premises supervisor to reasonably control movement of 2000 people through the premises so as to be assured that no single area exceeds 499 people at any time whilst licensable activities take place. The TENs would therefore be consenting something known to be unachievable in practice.
- It would be unverifiable and unenforceable for the Licensing Authority to monitor the numbers of people in each area as they are neither sufficiently precisely defined nor marked in reality in the premises. Furthermore movement of people between areas is unrestricted and so numbers will constantly ebb and flow so as to prevent any practical monitoring or enforcement by the Licensing Authority, Police etc.
- Although the Licensing Act is unhelpfully vague on the definition of premises, it is clear in this case that the whole site is a single premises as it is covered by an existing single premises license. The applicant for each of the 'area' TENs is the same person, and the same person as the wider licensed premises DPS. The 'areas' are contained within a single building under single supervision and used for a single event on the night. Irrespective of the merits of the application in relation to the licensing objectives, TENs do not allow for this situation as they are intentionally limited in scale to events up to 499 people.
- Section 101 of the Licensing Act states a TEN is void if it is concurrent with another TEN in the same premises. It states: *'(d) two temporary event notices are in respect of the same premises if the whole or any part of the premises in respect of which one of the notices is given includes or forms part of the premises in respect of which the other notice is given.'* I appreciate the applicant may claim the premises in their application refers to the 'area' shown on each plan, not to what any rational person would conclude is the premises, but

this involves a large element of semantic gymnastics. In the 'Premises' section of the application form the same premises is stated on each application (i.e. Hawker House). In reality part of the premises which is the subject of each TEN is also the subject of concurrent TEN applications. This contravenes this provision of the Act.

- Even if the definition of premises were accepted as limited to the arbitrarily specified 'areas' on the submitted TEN applications, in this case these areas do overlap on the applications as each application defines the 'licensed area' by a red line shown on each submitted plan as covering the whole premises. S.101 is still contravened in this case.
- The recent House of Lords Select Committee report on the Licensing Act covered this very issue and concluded: '*354. Where it appears that notices are being given for TENs simultaneously on adjacent plots of land, resulting in effect in the maximum number attending exceeding the 500 person limit, we would expect the police or environmental health officers to object, and the licensing authority to issue a counter-notice. We recommend that the section 182 Guidance be amended to make this clear.*' (<https://www.publications.parliament.uk/pa/ld201617/ldselect/ldlicact/146/146.pdf>)

Kind Regards,

Richard

Richard Earis

Principal Environmental Protection Officer

Environmental Protection Team

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From: [REDACTED]
Sent: Monday, January 18, 2016 11:58 AM
To: [REDACTED]
Cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
Subject: FW: Multiple Tens in a single licensed premises

Morning All

Hope you all had a good, if cold weekend. Please find below the comments from the guy who gave the talk on deregulation at the March IoL meeting.

This relates to TENs and multiple TENs in one building. In short, it agreed with what was agreed which was demarcation and segregation.

Have a good week all.

Sincerely

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

From: Ian Jenkins [<mailto:ian.jenkins@culture.gov.uk>]
Sent: 13 January 2016 20:27
To: [REDACTED]
Cc: [REDACTED]
Subject: Re: Multiple Tens in a single licensed premises

[REDACTED],

I recall a question about deregulation of entertainment in terms of multiple events in a premises. So is your question answered by paragraph 15.12 of the S182 Guidance?

"More than one entertainment activity (or for a single activity, more than one performance or event) can be held concurrently, provided that the audience for each such performance or event does not exceed the threshold at which such a performance or event becomes licensable. In some circumstances, there will be a clear distinction between performances or events; for example, their taking place in separate rooms or on separate floors. However, organisers will have to ensure that audiences do not grow or migrate, so that the audience exceeds the relevant limit for any one performance or event at any time. If there is the possibility of audience migration, it might be easier and more flexible to secure an appropriate authorisation."

See https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418114/182-Guidance2015.pdf

If instead, it is about policy on TENs, then I'm copying in Rob Turner in the Home Office.

I've changed policy area since March, so I'm copying in David Hughes in DCMS, in case you have follow-up questions re. licensing deregulation and entertainment.

Regards,

Ian

Ian Jenkins
Head of Secondary Ticketing Market Review Project
Department for Business, Innovation and Skills/Department for Culture, Media and Sport
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DCMS has new e-mail addresses without the 'gsi'. So please update your contacts to read:
ian.jenkins@culture.gov.uk

On 13 January 2016 at 18:52, [REDACTED] wrote:

Dear Mr Jenkins

In March 2015 you attended the Institute of Licensing training at Camden when you spoke about deregulation of licensing laws to allow multiple TENs application in a venue with single licence as long as they can show clear separation and demarcation.

Is this still the case please?

Sincerely

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Website [REDACTED]

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