LICENSING SUB-COMMITTEE
26 September 2018

Title: Licensing Act 2003 – Deuce Lounge, 20-22 London Road, Barking, IG11 8AG – Temporary Event Notice

Report of the Director of Law and Governance

Open Report

Wards Affected: Abbey

Report Author:
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Summary

A Temporary Event Notice (TEN) has been given by Mr. Ayodele Oshin in respect of the Deuce Lounge, 20-22 London Road Barking. Mr. Oshin is the DPS of the Deuce Lounge.

A representation against the event has been given by the Metropolitan Police under the grounds of the prevention of crime and disorder and public nuisance.

The matter is being put to the Licensing Sub-Committee for determination at a public hearing.

Recommendation

That the Sub-Committee considers the content of this report and appendices, together with any oral submissions given at the hearing, and determines the application.

Reason(s)

Under the Licensing Act 2003 the Council, as Licensing Authority for the area, has a duty to consider and determine each valid application submitted.

1. Introduction and Background

1.1 The Licensing Act 2003 (the “Act”) established the national licensing regime for:

- The sale and supply of alcohol
- Regulated entertainment
- Late night refreshment

1.2 Under the Act, any person wishing to use any premises to provide one or more of the above licensable activities must firstly obtain a premises licence from the local licensing authority for the area or give a Temporary Event Notice.

1.3 Temporary Event Notices may be given by any person, these authorise any licensable activity for short periods, subject to limits on the total number of hours and days they can be
given for each calendar year. They can only be given where the total number of persons to be present is less than 499. There is no public consultation process but the Police and Environmental Health, as responsible authorities are informed of the notice and can make a representation if they are of the opinion that the activities specified in the notice will have a negative impact on one or more of the licensing objectives.

1.4 To date in this calendar year there have been no other TENs given in respect of the Deuce Lounge and the numerical limits on the number of TENs that may be given have not been breached.

1.5 The relevant licensing objectives are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

1.6 If there are no objections from the Police or Environmental Health the activities as set out in the TEN proceed.

1.7 Following receipt of a valid representation the Licensing Sub-Committee must hold a hearing to determine if a counter notice should be given. Any counter notice has the effect of cancelling the TEN.

1.8 At any time prior to the hearing, the Police or the Council’s Environmental Team may, with the agreement of the premises user, modify the temporary event notice by making changes to the notice. The objection notice shall be treated as having been withdrawn from the time the temporary event notice is modified. The premises user may also withdraw the notice completely at any time up until 24 hours prior to the proposed start time of the notice.

1.9 Upon consideration of a TEN, the Sub-Committee may decide to take any of the following steps

- To allow the TEN to proceed.
- To issue a counter notice that has the effect of cancelling the TEN
- To impose conditions on the TEN, but these conditions can only be those already in place on any premises licence held in respect of the premises. No other conditions or restrictions may be imposed.

1.9 There is a premises licence in place for Deuce Lounge.

2. Issues

The Temporary Event Notice Under Consideration

2.1 On the 12th September 2018 Mr. Oshin gave a Temporary Event Notice to use the Deuce Lounge, 20-22 London Road Barking IG11 8AG. A copy of the notice is attached at Appendix A.

2.2 The notice is to allow the sale by retail of alcohol, the provision of late-night refreshment and the provision of regulated entertainment from Sunday 30th September to Monday 1st October between the hours of 03:00 and 05:00. On Sunday 30th the premises are open from the previous night until 03:00, this notice would have the effect of extending the premises licence until 05:00 on the morning of Sunday 30th September. On Monday 1st October the premises are licensed from the previous night until 01:30 and may be open
until 02:00. This means that the premises would have to close at 02:00 and then re-open using the TEN between 03:00 and 05:00. The number of persons to be present is 120.

2.3 The current licence (Appendix B) permits the following licensable activities and hours:

**Supply of alcohol (on the premises only)**

- Sunday to Wednesday: 12.00 Midday – 01.30
- Thursday to Saturday: 12.00 Midday – 03.00

Christmas Day, Christmas Eve, Boxing Day, New Year’s Eve, New Year’s Day, Easter Monday, Easter Sunday and all other Bank holidays: 12:00 Midday – 04:00

**Recorded music indoors only**

- Sunday to Wednesday: 12.00 Midday – 01.30
- Thursday to Saturday: 12.00 Midday – 03.30

Christmas Day, Christmas Eve, Boxing Day, New Year’s Eve, New Year’s Day, Easter Monday, Easter Sunday and all other Bank holidays: 12:00 Midday – 04:30

**Live music indoors only**

- Every last Friday & Saturday of each month of the year
- All Bank Holidays: 22:00 – 03:00

**Late night refreshment**

- Sunday to Wednesday: 23.00 - 01:30
- Thursday to Saturday: 23.00 - 03:30

Christmas Day, Christmas Eve, Boxing Day, New Year’s Eve, New Year’s Day, Easter Monday, Easter Sunday and all other Bank holidays: 23:00 – 04:30

**Performance of dance / Provision of facilities for dancing**

- Sunday to Wednesday: 13:00 to 01:30
- Thursday to Saturday: 13:00 to 03:30

Christmas Day, Christmas Eve, Boxing Day, New Year’s Eve, New Year’s Day, Easter Monday, Easter Sunday and all other Bank holidays: 13:00 – 04:30

**The opening hours of the premises**

- Sunday to Wednesday: 12.00 Midday – 02:00
- Thursday to Saturday: 12.00 Midday – 04:00

Christmas Day, Christmas Eve, Boxing Day, New Year’s Eve, New Year’s Day, Easter Monday, Easter Sunday and all other Bank holidays: 12:00 Midday – 05:00

2.4 The Designated Premises Supervisor since December 2017 is Mr. Ayodele Oshin

2.5 Representations
2.6 The Metropolitan Police object to this TEN on the grounds of crime and disorder following previous incidents they believe are linked to the Deuce Lounge. They also observe that the hours given for Monday 1\textsuperscript{st} October do not directly follow on from the hours on the premises licence. A copy of the Police representation is attached at Appendix C to this report.

2.7 The Premises Operating History

2.8 The premises are situated on the ground floor of a three-story building, with retail units on both sides. There appears to be residential accommodation on the first and second floors. The current premises was granted in September 2015.

Local Area

2.9 A map of the local area is attached as Appendix D. The location of the application premises is marked on the map.

3. Options Appraisal

3.1 The Sub-Committee is advised that the hearing is of a quasi-judicial nature and representations from all parties, both written and verbal, will form part of the matters that are to be considered.

3.2 The Sub-Committee is required to consider each application on its own individual merits with all relevant matters taken into account. Findings on issues of fact should be on the balance of probability.

3.3 Having considered the application, the representations and all relevant submissions, the Sub-Committee must decide what action is appropriate to promote the licensing objectives. In doing so the Sub-Committee must decide which of the steps to take, as set out in section 1.8 of this report.

3.4 In reaching its decision, the Sub-Committee must have regard to:

- The Act
- Secondary regulations
- The Guidance issued to Local Licensing Authorities by the Home Office (current version April 2017)

3.5 If any party is aggrieved by the decision of the Sub-Committee, they have the right to appeal the decision to the Magistrates Court. Appeals may be made within 21 days of notification of the Sub-Committee’s decision.

4. Consultation

4.1 The only consultation required for a TEN is that it is copied to the Police and Environmental Health. This has been done.

5. Legal Implications

Implications completed by: Simon Scrowther, Litigation Lawyer, Corporate Legal
5.1 The London Borough of Barking and Dagenham, as Licensing Authority under the Licensing Act 2003 and subordinate legislation, is empowered to determine applications of this nature.

5.2 Notice must be given of the Licensing Authority’s decision on this matter.

**Background Used in the Preparation of the Report:**

- Licensing Act 2003
- Home Office Guidance to Local Licensing Authorities
- London Borough of Barking and Dagenham Statement of Licensing Policy 2017-2022

**List of appendices:**

- **Appendix A** - Copy of the TEN given in respect of The Deuce Lounge 20-22 London Road Barking IG11 8AG.
- **Appendix B** - Premises licence held in respect of the Deuce Lounge 20-22 London Road Barking IG11 8A.
- **Appendix C** - Representation from the Metropolitan Police.
- **Appendix D** - Map of the local area