

July 2012

Thomas & Thomas E News

Olympics

With just about a month to go, it is still not too late to apply for a time-limited Premises Licence or probably more likely, Temporary Event Notices. As previously reported, a premises (or part of a premises) can apply for up to 21 days in any one year.

Since Environmental Health Officers became responsible authorities in respect of TEN applications, we have started to receive objections. The type of issue obviously tends to revolve around noise and public safety. In most cases, conditions have been agreed where possible. However, going forward, we anticipate that the requirements of officers will become more onerous. This should obviously be borne in mind when planning events and submitting applications. If conditions cannot be agreed, there may need to be a hearing which would obviously have an impact on whether an event can take place. It is also becoming common practice for councils to require existing premises licence conditions apply to the TEN period and certainly in Westminster, the police and EHO's have been asking for additional and more stringent conditions after midnight.

Operation Condor – Metropolitan Police Licensing Visits

Following some well publicised activity earlier in the year, this operation will now take place again this weekend, starting from Friday through to Sunday. Metropolitan Police will be visiting licensed premises throughout London to detect licensing and other related offences. See [Operation Condor](#) for further details.

<http://content.met.police.uk/News/Update-re-Operation-Condor/1400006887964/1257246745756>

All operators should be extremely careful to make sure that all their procedures are in place. For example:

- Ensuring that the premises licence summary and letter of delegation is displayed in a prominent place.
- Ensuring the nominated manager or person has access and is in position of a full and certified copy or original of the premises licence.
- Ensuring all key staff are aware of their obligations under the Licensing Act and particularly the conditions of the premises licence.
- Ensuring all means of escape are kept clear.
- Ensuring that necessary notices are displayed.

Sexual entertainment venues

Westminster Council has now concluded the application process for the first batch of transitional applications. Applications need to be determined by 1 October. Similarly, other councils, including Lambeth, have now adopted the legislation and the second appointed date has passed when transitional applications need to be submitted.

Hole in ground?

Novus Leisure (trading as A3D2 Ltd) were recently unsuccessful in attempting to “swap” a licence from one location to another. They were the licence holders for premises previously known as Cheers in Regent Street. Their application was to extend the licence at Jewel in Piccadilly Circus, subject to the surrender of the Cheers licence. However, the council, magistrates’ court and indeed High Court found that it was not possible to “swap” a licence in these particular circumstances as the premises in question was already a ‘hole in the ground’ and would ultimately be redeveloped for a different licensed use. The outcome still means that applications can be made in relation to the same premises for uses which previously existed but the City Council is now much more wary as regards swapping licences where the use being swapped is being redeveloped in any event.

Near or far?

One of the recent changes to the Licensing Act is in terms of vicinity. Previously, a person making a representation (with the exception of a responsible authority) needed to be in the vicinity of a premises. That requirement has been removed by the recent amendments to the Act. However, the Government guidance makes it very clear that a representation is only relevant if it relates ***to the likely effect of the grant of a licence on the promotion of at least one of the licensing objectives.***

We have recently acted for Westfield on an application where local Pubwatch alleged that they were directly affected by the impact of applications being granted within the Westfield development. The licensing authority however found that there was no such likely impact. Therefore, whilst vicinity as a test has been dispensed with, persons making representations still need to show that there is some likely impact on the premises that is being licensed.

Live Music Act

The much welcomed Live Music Act is due to come into force in October . The new Act will mean the following activities do not require a Licence:

1. unamplified live music taking place between 08:00 and 23:00; and
2. amplified live music between 08:00 and 23:00 before audiences of no more than 200.

The Act also provides an exemption to comply with existing Licence conditions relating to live music, providing the premises complies with points 1 or 2 above.

Early Morning Restriction Orders & Late Night Levies

The final phase of the changes to the Licensing Act are expected later this year. The Government are currently consulting on the implementation of the new powers, which are:

1. Prohibition of the sale of alcohol in certain areas by way of **Early Morning Restriction Orders** anytime between midnight and 6am.

2. The ability for Licensing Authorities to charge a **Late Night Levy** on premises trading anytime between midnight and 6am.

Recent work that we have carried out

We are delighted to announce that Robin Birley's new restaurant at 5 Hertford Street is now open. We have also been assisting the House of St Barnabas as regards its planning and licensing applications, together with Westfield Shopping Centres and many other instructions, far too many to mention but nonetheless appreciated.

... and finally

We are very pleased to confirm that Amy Catlin, formerly Senior Licensing Officer at Camden Council, will be joining us with effect from Monday. Amy will be a very useful member of the team with a unique insight into the workings of the Licensing Act.

If you have any queries in respect of the above or any other matter, please do contact one of the Partners:

Alun Thomas

E: athomas@tandtp.com

T: 020 7042 0412

M: 07956 805464

Thomas O'Maoileoin

E: tomaioileoin@tandtp.com

T: 020 7042 0414

M: 07786 966173