

July 2013

Thomas & Thomas E News

Late Night Levy in the City

The Corporation of London have issued a formal consultation as to whether they should institute a late-night levy. Their proposals are that a levy should either effect premises operating after midnight or 1.00 am. It would take effect from 1 April 2014.

If resolved, a late-night levy will include few exceptions and any premises selling alcohol in the effective area after the times in question would be subject to the levy, which could be in the region of £4,000 to £5,000 per annum. It might also be an indication of a tightening of policy and approach in the City which could have a knock on effect to other nearby boroughs. Operators in or near the City of London should consider making an appropriate response to the consultation (before 6 September 2013) setting out their views or contact one of the partners to discuss.

For more information on the Late Night Levy and Early Morning restriction Order regimes, please see our previous E News: Levy & EMROs.

New Home Office Guidance – Deregulation of Regulated Entertainment

The Home Office has just published new Licensing Act 2003 Guidance: June 2013 Guidance. The new guidance reflects recent deregulation of entertainment. The following types of entertainment taking place between **08.00-23.00** no longer require a Licence:

- a **performance of a play** in the presence of any audience of no more than 500 people;
- an **indoor sporting event** (but not boxing or wrestling) in the presence of any audience of no more than 1,000 people;
- most **performances of dance** (not striptease) in the presence of any audience of no more than 500 people; and
- **live music**, where the live music comprises:
 - a performance of unamplified live music;
 - a performance of live amplified music in a workplace with an audience of no more than 200 people; or
 - a performance of live music on licensed premises which takes place in the presence of an audience of no more than 200 people.

Relaxation on CCTV

The Department for Communities and Local Government is set to draft a new code to licensing authorities to relax CCTV requirements. The move follows criticism in the trade that strict CCTV conditions are automatically imposed on Licences without proper consideration whether it is appropriate to do so. This could help 'softer' licensed uses in London, such as cafes and restaurants, avoid costly CCTV requirements.

Temporary Town Centre Planning Uses

As you will have seen in our last article (May E News), the Government has allowed temporary permitted developments of certain uses (including A1) to A3 for a temporary period of two years.

We are told that only a limited number of operators are using this new law. This is probably because if a premises is borderline A1/A3, all a lawful use of A3 for two years would achieve is confirming to the local authority that the use, at least in the mind of the operator, is A3, rather than A1. This may cause difficulties if a permanent change of use is not granted at the end of the 2 year period.

The relaxation is probably more useful to pop-up uses where the use is temporary, rather than tenants wishing to take the chance and “upgrade” to A3 with an assumption that a permanent change of use might be granted following the temporary period. It must also be remembered that consent for extract and shop front may be required which could be contentious.

In other planning news, Westminster are looking to tighten their policy in relation to entertainment uses outside the Stress Area (but inside the Central Activities Zone). Any new applications for entertainment uses over 500m² in these areas will not generally be granted. Stress Area Policies look set to remain as strict as ever!

Hemming v Westminster – Off to the Supreme Court for Licence Fees?

In May we reported on the success of a group of sex shop’s over Westminster in the Court of Appeal about the levels of Sex Establishment Licence fees they were charged: May E News. We understand Westminster have sought permission from the Supreme Court to challenge the Court of Appeal’s decision. The Court of Appeal held that Westminster could only charge licensees the costs of the authorisation procedures and could not recover enforcement costs through the licensing process.

The potential impact of the judgment is wide ranging. It is believed it could impact on other licensing fees or indeed fees charged by other regulators.

Smoking News

Smoking in Private Members’ Clubs

A new private members’ smoking Bill has just had its first reading in Parliament. If passed, the Bill would allow members to smoke in a ventilated room within a club, providing a majority of the members approved.

At present it is not clear whether it would apply to clubs holding Club Premises Certificates only, or whether clubs holding a Premises Licence would also benefit from the proposed legislation. The Bill will likely attract adverse attention and has a long way to go before it becomes law. The next reading is not until November.

Specialist Tobacconist Advertising Restrictions

Regulations will become law on 1 October 2013 that:

1. Restrict any tobacco advertisement being visible from outside a specialist tobacconist.
2. Require any tobacco advertisement inside a specialist tobacconist to include specified health warnings and details of the NHS smoking helpline.

Moan of the Month

Regular readers will have noticed us (well mainly Alun) bemoaning the proliferation of off-licences in the West End, including supermarkets offering cut-price alcohol. It's not, in our view, just a matter of social policy but a real issue for restaurants and bars. Off-licences are able to discount drinks with their patrons consuming alcohol in parks, open spaces, both making a public nuisance and undermining your trade. It's time to shout about it.

What we've been up to

- Licensing Danny Meyer's first **Shake Shack** restaurant in the UK: Shake Shack.
- Licensing the **Shuffle Film Festival** curated by **Danny Boyle** at the former St Clements' Hospital site: Shuffle.
- Continuing to advise Polpo, including the new **Ape & Bird Public House** in Seven Dials and the relocation of **Florence Knight's Polpetto** in Soho.
- Assisting **Harvey Nichols** in their successful application to Licence their new roof top terrace and extension of hours.
- Obtaining 24 hour licences at the Shard for **Aqua, Hutong** and **Oblivion**.

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

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