

LICENSING ACT 2003

4 **APPLICATION FOR A GRANT OF A TEMPORARY EVENTS NOTICE -
BAMBOO GARDEN, FORE STREET, EXETER**

1 - 16

To consider the report of the Head of Environmental Health Services.

(Report to follow)

Membership of the Sub-Committee will be drawn from the following members of the Licensing Committee:-

Councillors Noble (Chair), Branston, Cole, Mrs Danks, Gale, Mitchell, Newby, Shiel, R Smith, Sterry, Wadham and Winterbottom

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Exeter City Council

REPORT TO LICENSING SUB-COMMITTEE HEARING: 8 December 2008

APPLICATION BY: Devon and Cornwall Constabulary.

**APPLICATION; Raising objection to the grant of a
Temporary Event Notice [TEN]**

REPORT BY Principal Licensing Officer

PART I

1. THE APPLICATION BEING OPPOSED

1.1 Premises user and applicant for the TEN Mr Nick Parkinson

Premises: Bamboo Garden [formerly Blue Dragon Oriental Bar]
Fore Street Exeter.

1.2 The Devon and Cornwall Constabulary have raised
objection under the provisions of section 104 of the
Licensing Act 2003 [The Act].

1.3 The application is for a club night with live music, dancing
and alcohol from 09.00 to 04.00 on the 13 -14 December
2008. A copy of the application is attached **pages 5-9**

1.4 The premises user seeks to provide a night of
entertainment at the premises which is primarily a
restaurant but has a licence that permits music, dancing
the sale of alcohol and late night refreshment until 02.00
each day. A summary of the licence is attached **pages
10-11**

Hours of Licensable Activities

1.5 The premises seek to provide the activities requested
between the hours of 02.00 and 04.00 on the night of
Saturday 13 December into Sunday 14 December **page 6**

PART II

2.0 RELEVANT REPRESENTATIONS

2.1 Representations based on crime and disorder, have been
received via e-mail from the Police **page 12** raising

concerns. They state that "the hours requested will result in increased issues of disorder, given the close proximity to other late night venues". The Police have indicated they will attend to speak to the objection.

- 2.2 The applicant for the TEN, Mr Parkinson has also indicated that he will be in attendance.

PART III

3. RELEVANT LICENSING POLICY CONSIDERATIONS **Licensing Objectives**

- 3.1 The statement of licensing Policy at section 2, particularly paragraphs 2.2 addresses some of the concerns raised in the representations and states:
- 3.2 The Licensing Authority has a duty under the Act to carry out its licensing functions with a view to promoting the four licensing objectives and in this instance the prevention of crime and disorder only.
- 3.3 The Licensing Policy recognises that the licensing function is only one means of securing the delivery of the above objectives and should not therefore be seen as a panacea for solving all problems within the community.
- 3.4 When making a licensing decision the licensing authority is also bound to apply certain legislation:

Legislation

- Section 17 Crime and Disorder Act 1998
- The European Convention on Human Rights, which is applied by the Human Rights Act 1998
- The Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000

PART IV

4. RELEVANT STATUTORY PROVISIONS AND OFFICIAL GUIDANCE CONSIDERATIONS

- 4.1 Official Guidance issued under section 182 of the Act at section 7 addresses the specific issues raised in connection

with this application and states at paragraph 7.26 "In most cases where alcohol is supplied at a temporary bar under the control of a Personal Licence holder this should not give rise to the use of these police powers". **Pages 13-14**

PART V

5. OBSERVATIONS

- 5.1 The Committee are asked to determine the contested matters that relate to the application for a TEN as set out in **pages 5-9**. The Committee is obliged to determine this application with a view to upholding the Licensing Act 2003 objectives, which is in this case Prevention of Crime and disorder.
- 5.2 The Committee is obliged to have regard to Council's own Licensing Policy and the Statutory Guidance at **pages 13-14** in making its decision.
- 5.3 The Committee must also have regard to the representations made and the evidence it hears in reaching its decision.
- 5.4 The Committee must take such of the following steps, if any, as it considers necessary for the promotion of the licensing objectives.
 - Grant the application for a TEN as submitted;
 - Modify conditions by altering, omitting or adding them;
 - Reject the whole or part of the application.
- 5.6 The Committee should be mindful that in making their decision, whether to modify conditions or to reject the whole or part of the application, it must be necessary to do so to promote the licensing objectives, not just because it considers it desirable to do so.

**N.B This application must be determined by no later than
09/12/2008**

A handwritten signature in cursive script, appearing to read 'I. King', is positioned above the title 'Principal Licensing Officer'.

Author:

Principal Licensing Officer

Date: 02-12-08

Reference:

007 316/2614

Temporary Event Notice

Information on the Licensing Act 2003 is available on the website of the Department for Culture, Media and Sport (http://www.culture.gov.uk/alcohol_and_entertainment/default.htm) or from your local licensing authority.

Before completing this notice please read the guidance notes at the end of the notice. If you are completing this notice by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written or typed in black ink. Use additional sheets if necessary.

You should keep a copy of the completed notice for your records. You must send two copies of this notice to the licensing authority and an additional copy must be sent to the chief officer of police for the area in which the premises are situated. The licensing authority will endorse one of the two copies and return it to you as an acknowledgement of receipt.

I, the proposed premises user, hereby give notice under section 100 of the Licensing Act 2003 of my proposal to carry on a temporary activity at the premises described below.

1. The personal details of premises user (Please read note 1)			
1. Your name			
Title	Mr <input checked="" type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other (please state)		
Surname	PARKINSON		
Forenames	VICK		
2. Previous names (Please enter details of any previous names or maiden names, if applicable. Please continue on a separate sheet if necessary)			
Title	Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other (please state)		
Surname			
Forenames			
3. Your date of birth	14/08/84	Day 14	Month 08 Year 1984
4. Your place of birth	PEMBURY, KENT		
5. National Insurance Number	JH 76 0042C		
6. Your current address (We will use this address to correspond with you unless you complete the separate correspondence box below)			
FLAT 5, 7 STEPKOTE HILL EXETER			
Post town	EXETER	Post code	EX11BD
7. Other contact details			
Telephone numbers Daytime	07737229380		
Evening (optional)			
Mobile (optional)			
Fax number (optional)			
E-Mail Address (optional)	nickparkinson01@hotmail.com		
8. Alternative address for correspondence (If you complete the details below, we			

nickparkinson01@hotmail.com

will use this address to correspond with you)	
Post town	Post code
9. Alternative contact details (if applicable)	
Telephone numbers: Daytime	
Evening (optional)	
Mobile (optional)	
Fax number (optional)	
E-Mail Address (optional)	

2. The premises

Please give the address of the premises where you intend to carry on the licensable activities or if it has no address give a detailed description (including the Ordnance Survey references)
(Please read note 2)

Bamboo Garden,
152 Fore Street
Exeter

If you intend to use only part of the premises at this address or intend to restrict the area to which this notice applies, please give a description and details below. (Please read note 3)

Please describe the nature of the premises below. (Please read note 4)

A club night with dj's playing amplified music from 9pm-4am.
At a 100 capacity venue. ~~At~~ Bamboo Garden will provide
2 security staff who will be at the venue throughout the evening.
The event will be on the evening of saturday 13th December 2008

Please describe the nature of the event below. (Please read note 5)

Bamboo garden is a 100 capacity licensed premises that serves as both a restaurant, a bar and a music venue

3. The licensable activities	
Please state the licensable activities that you intend to carry on at the premises (please mark an "X" next to the licensable activities you intend to carry on). (Please read note 6)	
The sale by retail of alcohol	<input checked="" type="checkbox"/>
The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club	<input checked="" type="checkbox"/>
The provision of regulated entertainment	<input checked="" type="checkbox"/>
The provision of late night refreshment	<input type="checkbox"/>
Please state the dates on which you intend to use these premises for licensable activities. (Please read note 7)	
Saturday 13 th December 2008 → Sunday 14 th December	
Please state the times during the event period that you propose to carry on licensable activities (please give times in 24 hour clock). (Please read note 8)	
7pm Saturday 13 th December → 1am Sunday 14 th December	
Please state the maximum number of people at any one time that you intend to allow to be present at the premises during the times when you intend to carry on licensable activities, including any staff, organisers or performers. (Please read note 9)	100
If the licensable activities will include the supply of alcohol, please state whether the supplies will be for consumption on or off the premises, or both (please mark an "X" next to the appropriate box). (Please read note 10)	On the premises only <input checked="" type="checkbox"/>
	Off the premises only <input type="checkbox"/>
	Both <input type="checkbox"/>

4. Personal licence holders (Please read note 11)		
Do you currently hold a valid personal licence? (Please mark an "X" in the box that applies to you)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If "Yes" please provide the details of your personal licence below.		
Issuing licensing authority		

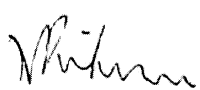
Licence number	
Date of issue	
Date of expiry	
Any further relevant details	

5. Previous temporary event notices you have given (Please read note 12)		
Have you previously given a temporary event notice in respect of any premises for events falling in the same calendar year as the event for which you are now giving this temporary event notice? (Please mark an "X" in the box that applies to you)	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
If answering yes, please state the number of temporary event notices you have given for events in that same calendar year	2	
Have you already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice? (Please mark an "X" in the box that applies to you)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

6. Associates and business colleagues (Please read note 13)		
Has any associate of yours given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice? (Please mark an "X" in the box that applies to you)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If answering yes, please state the total number of temporary event notices your associate(s) have given for events in the same calendar year		
Has any associate of yours already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice? (Please mark an "X" in the box that applies to you)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Has any person with whom you are in business carrying on licensable activities given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice? (Please mark an "X" in the box that applies to you)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If answering yes, please state the total number of temporary event notices your business colleague(s) have given for events in the same calendar year.		
Has any person with whom you are in business carrying on licensable activities already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice? (Please mark an "X" in the box that applies to you)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

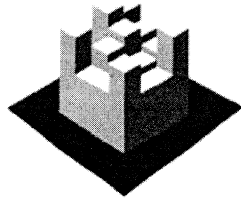
7. Checklist (Please read note 14)	
I shall (Please mark the appropriate boxes with an "X")	
Send two copies of this notice to the licensing authority for the area in which the premises are located	<input checked="" type="checkbox"/>
Send a copy of this notice to the chief officer of police for the area in which the premises are located	<input checked="" type="checkbox"/>
If the premises are situated in one or more licensing authority areas, send two copies of this notice to each additional licensing authority	<input type="checkbox"/>
If the premises are situated in one or more police areas, send a copy of this notice to each additional chief officer of police	<input type="checkbox"/>
Make or enclose payment of the fee for the application	<input checked="" type="checkbox"/>
Sign the declaration in Section 9 below	<input checked="" type="checkbox"/>

8. Condition (Please read note 15)
It is a condition of this temporary event notice that where the relevant licensable activities described in Section 3 above include the supply of alcohol that all such supplies are made by or under the authority of the premises user.

9. Declarations (Please read note 16)	
The information contained in this form is correct to the best of my knowledge and belief.	
I understand that it is an offence:	
(i) to knowingly or recklessly make a false statement in connection with this temporary event notice and that a person is liable on conviction for such an offence to a fine up to level 5 on the standard scale; and	
(ii) to permit an unauthorised licensable activity to be carried on at any place and that a person is liable on conviction for any such offence to a fine not exceeding £20,000, or to imprisonment for a term not exceeding six months, or to both.	
Signature	
Date	22/11/08
Name of Person signing	MICK PARKINSON

For completion by the Licensing Authority

10. Acknowledgement (Please read note 17)	
I acknowledge receipt of this temporary event notice.	
Signature	On behalf of the Licensing Authority
Date	
Name of Officer signing	



Exeter City Council

Licensing Authority
Exeter City Council
Civic Centre
Paris Street
Exeter
EX1 1RQ

Tel: 01392 265702
Fax: 01392 265853
e-mail: licensing@exeter.gov.uk

Licensing Act 2003

Premises Licence Summary

EXE-P00328

Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

Blue Dragon Oriental Buffet Limited

Lower Ground Floor, 163 Fore Street, Exeter, Devon, EX4 3AT.

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

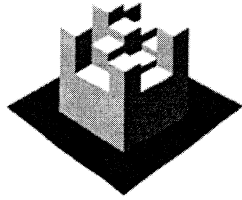
LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- a performance of live music
- any playing of recorded music
- entertainment of a similar description to that falling within a performance of live music, any playing of recorded music or a performance of dance
- entertainment facilities for making music
- entertainment facilities for dancing
- entertainment of a similar description to that falling within entertainment facilities for making music or dancing
- provision of late night refreshment
- the sale by retail of alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
E. Performance of live music (Indoors)	Monday to Sunday	11:00am	2:00am
F. Playing of recorded music (Indoors)	Monday to Sunday	11:00am	2:00am
H. Entertainment of a similar description to that falling within E, F, or G (Indoors)	Monday to Sunday	11:00am	2:00am
I. Provision of facilities for making music (Indoors)	Monday to Sunday	11:00am	2:00am
J. Provision of facilities for dancing (Indoors)	Monday to Sunday	11:00am	2:00am
K. Provision of facilities for entertainment of a similar description to that falling within I or J (Indoors)	Monday to Sunday	11:00am	2:00am
L. Late night refreshment (Indoors & Outdoors)	Monday to Sunday	11:00pm	2:00am
M. The sale by retail of alcohol for consumption ON and OFF the premises	Monday to Sunday	11:00am	2:00am





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Licensing Act 2003

Premises Licence Summary

EXE-P00328

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Sunday	11:00am	2:30am

WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

- M. The sale by retail of alcohol for consumption ON and OFF the premises

NAME, (REGISTERED) ADDRESS OF HOLDER OF PREMISES LICENCE

Blue Dragon Oriental Buffet Limited
39 Station Road, Hendon, London, NW4 4PN.

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

NAME OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

Peter (Yuk Shan) LAI

STATE WHETHER ACCESS TO THE PREMISES BY CHILDREN IS RESTRICTED OR PROHIBITED

No person under the age of 18 shall be permitted in the bar area.



Received via e-mail from Devon and Cornwall Constabulary. 8 -11-2008

I would confirm that there are police representations to the above which has been received at this office today.

There are concerns under the crime and disorder objective that the hours requested, given the location, will result in increased issues of disorder given the close proximity to other late night venues and the increased number of patrons utilising the facilities at this time of year.

John Bean
Alcohol Related Crime Reduction Officer

these purposes, a notice is treated as being from the same premises user if it is given by an associate. The 2003 Act defines an associate as being:

- the spouse or civil partner of that person;
- child, parent, grandchild, grandparent, brother or sister of that person;
- an agent or employee of that person;
- the spouse or civil partner of a person listed in either of the two previous bullet points.

7.20 A person living with another person as their husband or wife is treated for these purposes as their spouse. 'Civil partner' is defined by the Civil Partnership Act 2004.

7.21 Where the application is not within the statutory parameters described earlier, the licensing authority will issue a counter notice to the person giving the notice – the premises user. Where the temporary event notice is in order, the fee prescribed by the Secretary of State paid, the event falls within the limitations in the Act, and there has been no police intervention on crime prevention grounds, the licensing authority will record the notice in its register and send an acknowledgement to the premises user.

7.22 Licensing authorities may not seek to attach any terms, conditions, limitations or restrictions on the carrying on of licensable activities at such events under the authority of a temporary event notice. It is however desirable for licensing authorities to provide local advice about proper respect for the concerns of local residents; of other legislative requirements regarding health and safety, noise pollution or the building of temporary structures; of other necessary permissions, for example, with regard to road closures or the

use of pyrotechnics in public places; with regard to local bye-laws; and the need to prevent anti-social behaviour by those attending. Premises users are not required to be on the premises for the entire duration of the event, but they will remain liable to prosecution for certain offences that may be committed at the premises during the temporary event if the event is not adequately managed/supervised including the laws governing sales of alcohol to minors. These matters may be covered in the licensing authority's statement of licensing policy.

7.23 In the case of an event proceeding under the authority of a temporary event notice, failure to adhere to the requirements of the 2003 Act, such as the limitation of no more than 499 being present at any one time, would mean that the event was unauthorised. In such circumstances, the premises user would be liable to prosecution.

7.24 Section 8 of the Act requires licensing authorities to keep a register containing certain matters, including a record of temporary notices received. Licensing authorities should be aware that there is no requirement to record all the personal information given on a temporary event notice, and should avoid recording certain details, such as national insurance numbers, which may give rise to identity fraud.

POLICE INTERVENTION

7.25 The second and more important reason for the notification requirement is to give the police the opportunity to consider whether they should object to the event taking place on the grounds that it would undermine the crime prevention objective.

- 7.26 Such cases might arise because of concerns about the scale, location or timing of the event. However, in most cases, where alcohol is supplied away from licensed premises at a temporary bar under the control of a personal licence holder, (e.g. at weddings or small social, community, charitable or sporting events) this should not give rise to the use of these police powers. If the police do not intervene, they will still be able to rely on their powers of closure under Part 8 of the 2003 Act should disorder or noise nuisance arise subsequently.
- 7.27 The police may issue an objection notice within 48 hours of being notified. This 48 hour period includes weekends and other non "working days" such as bank holidays. The licensing authority must consider the objection at a hearing before a counter notice can be issued, but it must restrict its consideration to the crime prevention objective. It may not, for example, uphold a police objection notice on grounds of public nuisance or an objection notice given more than 48 hours after the temporary event notice is given. At the hearing, the police and the premises user may be heard by the relevant licensing committee. A hearing would not be necessary if the objection notice is withdrawn by the police.
- 7.28 The possibility of police intervention is another reason why event organisers should be encouraged by local publicity not to rely on giving the minimum amount of notice and to contact local police licensing officers at the earliest possible opportunity about their proposals.
- 7.29 The police may withdraw their objection notice at any stage if the proposed premises user agrees to modify the proposal to meet their concerns. For example, if the premises user agrees to modify the period during which alcohol may be sold. The licensing authority will then be sent or delivered a copy of the modified notice by the police as proof of their agreement, but they can subsequently withdraw it.

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