

EAST HERTS COUNCIL

LICENSING SUB-COMMITTEE – 20 MAY 2019

REPORT BY HEAD OF HOUSING AND HEALTH

APPLICATION FOR NEW PREMISE LICENCE FOR STONE VALLEY SOUTH, HILLSIDE FARM, HILLSIDE LANE, GREAT AMWELL, WARE, HERTFORDSHIRE, SG12 9SH

WARD(S) AFFECTED: GREAT AMWELL

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**Purpose/Summary of Report**

- An application for a premises licence under the Licensing Act 2003 has been received. A number of objections to the application have been received from Responsible Authorities and Interested Parties as such the decision falls to a Sub-Committee of the Licensing Committee. The report is to inform that decision.

<b><u>RECOMMENDATIONS FOR LICENSING SUB-COMMITTEE: That:</u></b>	
<b>(A)</b>	<b>THE APPLICATION FOR A NEW PREMISES LICENCE BE DETERMINED</b>

1.0 Background

1.1 Under the Licensing Act 2003 an application for a new or variation to a licence or certificate is granted by officers under delegated authority if no valid representations are received.

1.2 Where valid representations are received the Licensing Authority's discretion is engaged. A Licensing Sub-Committee has the delegated authority to determine applications for new and varied Licences and Certificates. This decision must be made whilst having regard to the Licensing Objectives, the

Licensing Authority's own Statement of Licensing Policy and to statutory guidance issued by the Secretary of State under section 182 of the Licensing Act.

1.3 The Licensing Objectives are:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the Protection of children from harm.

1.4 In determining this application, the Sub-Committee must have regard to the representations and take such steps as it considers appropriate for the promotion of licensing objectives. The steps available to the Sub-Committee are:

- grant the application;
- if considered appropriate for the promotion of the four licensing objectives, impose conditions;
- amend the application; or
- reject the whole or part of the application.

2.0 Report

2.1 The valid application submitted by Wannasee Ltd, was received by the licensing authority on 22<sup>nd</sup> March 2019. The application was correctly advertised and consulted upon as required.

2.2 The application has been made to allow a festival called "Stone Valley South" to take place at the venue in fields adjacent to Hillside Farm, Hillside Lane, Great Amwell.

2.3 The application requests that a new premises licence be granted from Friday 24<sup>th</sup> May 2019 to Sunday 26<sup>th</sup> May 2019 and for Friday through to Sunday on one weekend in May in subsequent years.

2.4 The application seeks approval for a number of licensable activities as set out below:

<b>Requested Activity</b>	<b>Requested Day</b>	<b>Requested Time</b>	<b>Location</b>
Live Music	Friday - Sunday	12:00 – 23:00	Outdoors
Recorded Music	Friday - Sunday	12:00 – 23:00	Outdoors
Performance of Dance	Friday - Sunday	12:00 – 23:00	Outdoors
Late Night Refreshment	Friday - Sunday	23:00 – 00:00	Outdoors
Supply of Alcohol	Friday - Sunday	11:00 – 23:00	For consumption on and off the premises
Opening times	Friday - Sunday	11:00 – 23:30	

2.5 Part M of the application form asks the applicant to describe any additional steps they intend to take to promote the four licensing objectives as a result of the application. The applicant has stated a number of controls that will be put in place. This includes that the applicant has created an Event Management Plan (EMP), site risk assessments, a security plan, the commissioning of a Noise Management Plan, a Traffic Management Plan, a Challenge 25 policy, use of SIA Security Personnel and NVQ trained stewards, use of Medical personnel including Paediatric Pre-Hospital Care. A redacted copy of the application form and plans provided are attached as **Essential Reference Paper ‘B’**.

2.6 As part of the application the applicant has provided a number of protocols / plans. This includes the Event Management Plan, Noise Management Plan and Traffic Management plan. These protocols and plans are attached as **Essential Reference Paper ‘C’**

2.7 During the 28 day statutory public consultation period a number of valid representations were received. These

included representations from Herts Police and Environmental Health both acting as a Responsible Authority and thirty five valid objections from interested parties including Great Amwell Parish Council and residents who live in the local area. These representations are attached as **Essential Reference Paper 'D'**.

- 2.8 On the last day of the public consultation the Licensing Authority received ten comments supporting the application. In all these cases the comments were either that they simply supported the application with only a few comments. All of the comments did not make any reference to the licensing objectives and were not from neighbours of the premises.
- 2.9 The representation raised by Environmental Health is that the noise from the event will lead to disturbance and as such would undermine "The prevention of public nuisance" licensing objective.
- 2.10 Environmental Health has suggested three steps to the applicant which would mitigate their concerns:
1. A detailed noise management assessment including frequency band analysis is carried out; and
  2. A detailed noise management plan with measures agreed by the local authority no less than 3 weeks prior to the event taking place, which considers and details how each of the noisy activities will be managed; and
  3. To apply for a time limited one year licence instead the current application in order to prove the event can run well without undermining the licensing objectives. EHDC staff would monitor the event and if the event did not undermine any of the licensing objectives then a further application for a permanent licence could be submitted.

- 2.11 The representation raised by the Police are that the documents provided by the applicant lack significant detail in places and meaning the event would be likely to undermine all of the licensing objectives.
- 2.12 Concerns from the Police are that they raise concerns with regard to the information within the Event Management Plan (EMP) and missing information. This includes:
- The Traffic Management plan which is currently insufficient.
  - The Medical Plan was due to be produced by 1<sup>st</sup> April and Fire Plans by 1<sup>st</sup> May 2019. (These have not been provided to the Licensing Authority at the time of writing this report.)
  - The Crowd Management and Stewarding Plans are also missing information.
- 2.13 The Police have stated that they have not seen a camping policy /procedure. It should be noted that the application for the premise licence is for the Event Field and does not include the camping area.
- 2.14 The Police have requested that due to the lack of information that the application for a new premise licence be refused as the application, if granted, would be likely to undermine all the licensing objectives.
- 2.15 The representation from the Police states that "Should the Committee be minded to grant the application then Hertfordshire Police would request certain conditions are attached to the Licence. A list of conditions is to follow this submission." At the time of writing the report the Police have stated that they are not as yet in a position to produce conditions as the information received is insufficient.
- 2.16 Great Amwell Parish Council has made representations against the application. To summarise this objection The Parish

Council states that they are concerned about anti-social behaviour, noise and litter along with the increased traffic generation. The Parish Council also requests that the application is refused.

2.17 As stated Thirty five representations were received from people living in the vicinity of the proposed site for the festival. The main concerns of the residents are Noise, Traffic, possible anti-social behaviour and potential crime and disorder.

### 3.0 Policy and Guidance

3.1 Section 4 of the East Herts Statement of Licensing Policy details definitions of premises and location and operation of premises (differentiating between Town Centre locations and other areas). Under this section of the policy the operation of Stone Valley South does not fit cleanly into any of the premise definitions as this is a festival and is requesting a number of different licensable activities. The best fit would be 'Other Entertainment Venue'.

3.2 The premises falls within a field and as such the location is classed as 'other area'. The table at 4.3 of the policy details this authorities approach to hours for licensed premises when it has received relevant representations to an application. Notwithstanding that each application is considered on its own merits the following hours would normally be granted to an 'Other Entertainment Venue' in this type of location when valid and relevant representations have been received:

*As other entertainment venues not listed, the policy states "Will generally be allowed licensable activities to midnight only (other than for special occasions)"*

3.3 Section 9 of the East Herts Statement of Licensing policy relates to the prevention of public nuisance. Specifically section 9.3 of the policy states:

The Licensing Authority will expect applicants to demonstrate they have considered:

- (1) the proximity of residential accommodation;
- (2) the type of use proposed, and the likely numbers of customers;
- (3) proposed hours of operation and the frequency of activity;
- (4) the steps taken or proposed to be taken by the applicant to prevent noise and vibration escaping from the premises, including music, noise from ventilation equipment, and human voices. This may include the installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices;
- (5) the steps taken or proposed to be taken by the applicant to prevent disturbance by customers arriving at or leaving the premises. This will usually be of greater importance between 10 p.m. and 7 a.m. than at other times of the day;
- (6) the steps taken or proposed to be taken by the applicant to prevent queuing (either by pedestrian or vehicular traffic). If some queuing is inevitable then queues should be diverted away from neighbouring premises or be otherwise managed to prevent disturbance or obstruction;
- (7) the steps taken or proposed to be taken by the applicant to help ensure patrons and staff leave the premises quietly;
- (8) the arrangements made or proposed for parking by patrons, and the effect of parking by patrons on local residents;
- (9) the provision for public transport in the locality (including taxis and private hire vehicles) for patrons;
- (10) the level of likely disturbance from associated vehicle movements;
- (11) the use of smoking shelters, gardens and other open-air areas;
- (12) the location of delivery and collection areas and delivery/collection times;
- (13) the appropriate placing of external lighting, including security lighting;
- (14) refuse storage and litter (including fly posters and illegal placards);
- (15) the history of nuisance complaints against the premises,

particularly where statutory notices have been served on the present licensees;  
(16) the applicant's past success in controlling anti-social behaviour and preventing nuisance;  
(17) odour nuisance, e.g. cooking smells;  
(18) any other relevant activity likely to give rise to nuisance;  
(19) any representations made by the Police, or other relevant agency or representative;  
(20) This list is not exhaustive and the Licensing Authority remains aware of its obligation to consider each case on its merits."

3.4 Paragraph 9.37 and 9.38 of the revised Guidance issued under section 182 of the Licensing Act 2003 states:

*As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation and should be allowed sufficient time to do so, within reasonable and practicable limits.*

3.5 In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:

- the steps that are appropriate to promote the licensing objectives;
- the representations (including supporting information) presented by all the parties;
- the Revised Guidance issued under section 182 of the Licensing Act 2003 ; and
- its own statement of licensing policy.

- 3.6 Paragraphs 9.42-9.44 deal with how to determine actions that are appropriate for the promotion of the licensing objectives.
- 3.7 If Members are minded to impose conditions to mitigate concerns regarding the undermining of the licensing objectives then Chapter 10 of the guidance deals with conditions attached to premises licences. Paragraphs 10.8-10.10, 10.13-10.15 would be particularly relevant.
- 4.0 Officer observations
- 4.1 The concerns relating to the likelihood of noise nuisance and traffic congestion appears to be valid.
- 4.2 The applicant has provided both an Event Management Plan (EMP) incorporating a Noise Management Plan and Traffic Management Plan (although at the time of application and at the time of writing this report these are incomplete).
- 4.3 If Members believe that the application would not undermine any of the licensing objectives then the application should be granted as requested.
- 4.4 As stated in the Guidance the authority's decision should be evidence based, justified as being appropriate for the promotion of the licensing objective's and proportionate to what it is intended to achieve.
- 4.5 Members should consider if they believe the applicant has provided evidence that the licence if granted would promote and not undermine the licensing objectives. This evidence should be balanced against the evidence given by those making representations that the licensing objective would be undermined.
- 4.6 If Members believe that there is evidence that the granting of the licence would not promote the licensing objectives then it

is within their remit to take the action they believe is appropriate and proportionate to address their concerns. Members can attach conditions or take any steps they believe appropriate to promote the licensing objectives including: limiting the days of the event, limiting the hours for licensable activities or even refusing the application in its entirety.

- 4.7 Put in its simplest terms what are the minimum measures that can be put in place to address the concerns? Refusal of the application should be the last option considered.
  - 4.8 In considering additional conditions Members should decide whether these steps would in fact address their concerns if the decision was made to grant hours the hours requested.
  - 4.9 Aside from adding conditions it is open to Members to limit the hours of operation under the licence but clear reasons for this step would need to be given. However if simply limiting the hours beyond those requested does not mitigate Members' concerns regarding the promotion of the licensing objectives then the option to also impose appropriate and proportionate conditions is available.
  - 4.10 When the Licensing Sub-Committee gives its decision to those in attendance it should be made clear to all parties how much weight has been attached to each submission and why and what evidence Members have relied upon when reaching their decision.
  - 4.11 Officers would suggest that if a licence is to be granted a condition is attached stipulating that no alcohol sold under the licence will be permitted to leave the perimeter of Hillside Farm itself. This reflects the applicant's intention and is stipulated in their application.
- 5.0 Implications/Consultations

5.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

#### Background Papers

East Herts Statement of Licensing Policy 2016 -

<https://www.eastherts.gov.uk/article/35119/Licensing-Policy>

Revised Guidance issued under section 182 of the Licensing Act 2003 (April 2018) -

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/705327/Revised\\_guidance\\_issued\\_under\\_section\\_182\\_of\\_the\\_Licensing\\_Act\\_2003\\_April\\_2018\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705327/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_April_2018_.pdf)

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