

EAST HERTS COUNCIL

LICENSING SUB-COMMITTEE – 20 MAY 2019

REPORT BY HEAD OF HOUSING AND HEALTH

PREMISES USER ALEX HUTCHINSON - 6 TEMPORARY EVENT NOTICES FOR STONE VALLEY FESTIVAL SOUTH, HILLSIDE FARM, PEPPER HILL, GREAT AMWELL, HERTFORDSHIRE, SG12 9RZ

WARD(S) AFFECTED: WARE - CHRISTCHURCH

Purpose/Summary of Report

- To consider six contested Temporary Event Notices

<u>RECOMMENDATIONS FOR LICENSING SUB-COMMITTEE: That:</u>	
(A)	THAT EACH OF THE SIX TEMPORARY EVENT NOTICES BE DETERMINED.

1.0 **Background**

1.1 The Licensing Sub-Committee has power to determine Temporary Event Notices where objections are received taking into consideration the Licensing Objectives, the Licensing Authority's Statement of Licensing Policy and the guidance issued under section 182 of the Licensing Act 2003.

1.2 The Police and Environmental Health are the only Responsible Authorities who may object on the grounds of any of the four licensing objectives.

1.3 There is no scope in law for public consultation in respect of a Temporary Event Notice.

2.0 **Report**

2.1 Six Temporary Event Notices for Stone Valley Festival South have been submitted by the premises user for between 24th May 2019 and 26th May 2019.

2.2 The premises are six separate demarked areas in a field.

2.3 The Temporary Event notices requests the following licensable activities:

Reference	Activities	Date	Time	Occupancy
SVFS1	Sale of alcohol & regulated entertainment	24/05/2019 25/05/2019 26/05/2019	11:00- 23:00 Each day	499
SVFS2	Sale of alcohol & regulated entertainment	24/05/2019 25/05/2019 26/05/2019	11:00- 23:00 Each day	499
SVFS3	Sale of alcohol & regulated entertainment	24/05/2019 25/05/2019 26/05/2019	11:00- 23:00 Each day	499
SVFS4	Sale of alcohol & regulated entertainment	24/05/2019 25/05/2019 26/05/2019	11:00- 23:00 Each day	499
SVFS5	Sale of alcohol & regulated entertainment	24/05/2019 25/05/2019 26/05/2019	11:00- 23:00 Each day	499
SVFS6	Sale of alcohol & regulated entertainment	24/05/2019 25/05/2019 26/05/2019	11:00- 23:00 Each day	499

- 2.4 Each temporary event notice also requests 'Relevant Entertainment for the following hours:
- 18:00-23:00 on the 24th May
 - 11:30-23:00 on the 25th and 26th May
- Relevant Entertainment is defined in the Local Government (Miscellaneous Provisions) Act 1982 as *any live performance or any live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means)*. Relevant entertainment therefore includes, but is not limited to, lap dancing and pole dancing.
- 2.5 Redacted copies of the Temporary Event Notices are attached to the report at **Essential Reference Paper 'B'**.
- 2.6 In support of the temporary event notices the premises user provided plans of the locations that he wishes to be covered by the authorisations. These are not required as part of the notice but have been supplied to provide clarity. The plans can be found at **Essential Reference Paper 'C'**.
- 2.7 During the consultation period, Environmental Health objected to SVFS1 (19/0838/TEN) as they believe it would undermine the prevention of public nuisance licensing objective.
- 2.8 During the consultation period the Police objected to all six temporary event notices SVFS1-6 (19/0838/TEN, 19/0839/TEN, 19/0840/TEN, 19/0841/TEN, 19/0843/TEN & 19/0844/TEN) on the grounds that each TEN would undermine the licensing objectives of Public Safety and prevention of public nuisance.

3.0 Representation

- 3.1 The Environmental Health objections relate to concerns over amplified music from the event and its potential to affect nearby residents over an extended period which they believe

would undermining of the Prevention of Public Nuisance licensing objectives. The objection is attached at **Essential Reference Paper 'D'**.

3.2 The Police objection details concerns over the traffic management plan and the potential for this to undermine the public safety licensing objective. The police have additionally commented that an existing one day car boot sale on the site already causes congestion, disruption and inconvenience to local residents and by implication that the TEN's would cause similar issues. The objection is attached at **Essential Reference Paper 'E'**.

4.0 **Officer's observations**

4.1 Following receipt of the temporary event notices contact was made with the premises user in order to clarify the details of how the TEN's would be operated in light of the fact that the licensing authority had already received a premises licence application for the same event.

4.2 The premises user confirmed that the TEN's were submitted as a contingency against the refusal of the premises licence application and that it would be his intention to withdraw the TEN's if the premises licence was granted.

4.2 He further clarified how each of the TEN's would work in practice.

- SVFS1 – Would cover the stage only with performers and workers allowed. No audience members would be in this area and no alcohol would be sold.
- SVFS2 and SVFS 3– Both cover areas of audience with no regulated entertainment or alcohol being sold in the area. The audience would be watching and listening to the entertainment from stage covered by SVFS1.
- SVFS 4 & SVFS 5 – Would cover the bar area with the sale of alcohol and no regulated entertainment.

- SVFS 6 – Covers a fairground area where there is no intention to sell alcohol or provide regulated entertainment. The notice has been given in case the Fairground turn up their music

4.4 This raised a number of questions regarding if TEN's could be used in this way to allow an audience to view entertainment from one TEN in another area. This was not the intention of the legislation but the regulations do not allow the licensing authority to serve a counter notice in these circumstances. Where it is suspected that an event will go over the capacity limit of 499 the only action open to the licensing authority is to attend the event and witness the breach of the TEN. The premises user has been informed that if the event operates under TEN's officers will be attending and enforcement action will be taken if what would amount to unauthorised licensable activity were witnessed.

4.5 The relevant sections of the Revised Guidance issued under section 182 of the Licensing Act 2003 area:

Paragraph 7.30: In the case of an event authorised by a TEN, 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.

Paragraph 7.35: Such cases might arise because of concerns about the scale, location, timing of the event or concerns about public nuisance – even where the statutory limits on numbers are being observed. The premises user who signs the form is legally responsible for ensuring that the numbers present do not exceed the permitted limit at any one time. In cases where there is reason to doubt that the numbers will remain within the permitted limit the premises user should make clear what the nature of the event(s) is and how they will ensure that the permitted persons limit will not be exceeded.

For example, where notices are being given for TENS simultaneously on adjacent plots of land it may be appropriate for door staff to be employed with counters. In each case it is important that licensing authorities and relevant persons can consider whether they believe that the premises user intends to exceed the 499 person limit, or will be unable to control or know whether the limit will be exceeded. Where the planned activities are likely to breach the statutory limits or undermine the licensing objectives, it is likely to be appropriate for the police or EHA to raise objections.

- 4.6 The licensing authority does not believe that SVFS2, SVFS3 and SVFS6 are necessary as there will be no regulated entertainment being provided in these areas. However they have been submitted and the regulations do not allow them to be rejected or counter notice to be served for this reason so they must be given due consideration as if the licensable activities requested were to be provided.
- 4.7 Although the TEN's have been submitted to allow the Stone Valley Festival South to take place each must be considered on its own merits. Decisions and reasoning should be given for each Temporary Event Notice.
- 4.8 Members must base their decision in relation to each TEN on the objections made by Environmental Health and the Police and objections were submitted on the grounds that allowing the premises to be used in accordance with the notice would undermine the Prevention of Public Nuisance and/or Public Safety licensing objectives.
- 5.0 **Options:**
- 5.1 That the Sub-Committee consider the objections given by Environmental Health and the Police in relation to each individual TEN (noting that Environmental Health has only objected to the TEN for the stage) and determine whether or not the Licensing Authority should in each case:

- issue a counter notice to the premises user, thereby refusing the notice or
- accept the notice as given.

6.0 **Implications/Consultations**

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

Background Papers

Statement of Licensing Policy -

<http://www.eastherts.gov.uk/article/10188/Licensing-Policy>

Revised Guidance issued under section 182 of the Licensing Act 2003 - <https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

Contact Member: Councillor Peter Boylan – Executive Member for Neighbourhoods
Peter.Boylan@eastherts.gov.uk

Contact Officer: Oliver Rawlings – Service Manager – Licensing & Enforcement
Contact Tel No 01992 531629
oliver.rawlings@eastherts.gov.uk

Report Author: Oliver Rawlings – Service Manager – Licensing & Enforcement
Contact Tel No 01992 531629
oliver.rawlings@eastherts.gov.uk