

East Herts Council Report

Licensing Sub-Committee

Date of Meeting: 13 March 2020

Report by: Jonathan Geall, Head of Housing and Health

Report title: Application for a new premises licence by Wanasee Ltd (Stone Valley South) for events at Hillside Farm, Hillside Lane, Great Amwell, Ware, Hertfordshire, SG12 9SH

Ward(s) affected: Great Amwell

Summary

- An application for a new premise licence has been received and representations against the application have been made by responsible authorities and interested parties. Where representations have been received against an application and not withdrawn there must be a Licensing Sub-Committee to decide that application. The report is to inform that decision.

RECOMMENDATIONS FOR LICENSING SUB-COMMITTEE

(a) The application for a new premises licence be decided.

1.0 Proposal(s)

- 1.1 Members of the Licensing Sub-Committee should determine the application to review a premise licence through consideration of the information contained in this report and appendices combined with submissions made at the Licensing Sub-Committee hearing.

2.0 Background

2.1 Under the Licensing Act 2003 and the council's policy 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.

2.2 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.

2.3 The Licensing Objectives are:

- Prevention of Crime and Disorder
- Public Safety
- Prevention of public nuisance; and
- Protection of children from harm.

3.0 Reason(s)

3.1 The application for a New Premise Licence was submitted by Wannasee Ltd on 30th December 2019. The application has been correctly advertised and consulted upon as required by legislation and regulations.

3.2 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 on two occasions per year.

3.3 The application requests the supply of alcohol for consumption on and off the premises, late night refreshment and regulated entertainment.

Day	Licensable Activity	Hours applied for
Fri - Sun	Supply of alcohol for consumption on and off the premises	11:00 – 23:00
Fri - Sun	Late Night Refreshment	23:00 – 00:00
Fri - Sun	Recorded Music	11:00 – 23:00
Fri - Sun	Live Music	11:00 – 23:00
Fri - Sun	Performance of Dance	11:00 – 23:00

- 3.4 The times are restricted to one weekend in May and one weekend in August each year. A weekend being defined as Friday, Saturday and Sunday.
- 3.5 The application requests the opening hours to be from 11:00 each day until 23:30.
- 3.6 A redacted copy of the application form for a new premise licence is attached as **Appendix 'A'**.
- 3.7 Section 18 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. These steps are:
- An Event Management Plan (EMP) will be produced and available to all responsible authorities, including the Safety Advisory Group. The EMP will be finalised no later than 10th April Each year. This plan will seek to satisfy all requirements and concerns of each authority.
 - The EMP is to include policies on drugs, prohibited items, searches and a security policy. There shall also be a “Leave No Trace” Policy and Challenge “25” in place.
 - The EMP with also include a Noise Management Plan
 - A Traffic Management Plan (TMP) will be produced and implemented to be standards required by Hertfordshire County Council. The TMP will be finalised no later than 10th

April Each year.

- The premises are accessible only to Ticket Holders.
- A suitable sized team of SIA Licenced Personnel are to be deployed within the premises at all times, Body Worn Cameras to be used throughout the licensed period by the Security Team.
- The capacity of the premises will be set at 3,000 persons.

3.8 During the 28 day statutory public consultation period a number of valid representations were received. These included representations from Herts Police and Environmental Health (Responsible Authority's) and five valid objections from local residents (interested parties). These representations are attached as **Appendix 'B'**.

3.9 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.

3.10 Environmental Health has suggested three steps to the applicant which would mitigate their concerns:

- 1) Noise levels to be limited to 65dB LAeq(15min) not less than 1m from the façade of any noise sensitive dwellings, with 70dB LAeq(15min) in the 63Hz and 125Hz octave bands
- 2) A detailed noise management plan with measures agreed by the local authority no less than 3 weeks prior to the event taking place. The plan must include as a minimum:
 - Detailed site layout plan
 - Event schedule, including timings and details of the music e.g. Live / recorded
 - Identify and risk rate all the noise sources
 - Identification of receptors

- Prediction of sound levels at relevant locations on and off site
 - Noise monitoring strategy
 - Communication strategy
 - Complaints response procedure
 - Accountability management plan including contact details
- 3) That the noise monitoring carried out at the event along with any complaint logs etc. are provided to the council no later than 14 days following to close of the event in the form of a post event noise monitoring report. The report should outline the level of compliance with the agreed noise levels, detailed monitoring logs including times, locations and levels as well as any complaints and subsequent alterations to the noise levels.
- 3.11 The representations made by the Police are that the documents provided by the applicant lack significant detail in places meaning the event would be likely to undermine all of the licensing objectives.
- 3.12 The Police raise concerns with regard to the lack of a draft Event Management Plan (EMP) and missing information.
- 3.13 The Police have suggested 30 conditions and these are attached with the Polices representation at **Appendix 'C'**.
- 3.14 Five representations were received from people living in the vicinity of the site for the proposed festival. The main concerns of the residents are the use of Hillside Lane Noise, Traffic, possible anti-social behaviour and potential crime and disorder. The representations engage the public safety and prevention of public nuisance licensing objectives.
- 3.15 Two representations request that a condition be attached that no access to the site be allowed from Hillside Lane, Great

Amwell for the promotion of public safety and prevention of public nuisance.

- 3.16 One representation quotes issues with public nuisance from the noise created by last year's events. However this representation also states that this was not brought to the event organiser's attention at the time so they did not have the opportunity to address the matter or take it into consideration before making their initial application.
- 3.17 Planning issues are referenced as part of one representation but as Members will be aware these matters are governed under a separate regime so are not relevant to this application.
- 3.18 A plan of the area in which the premises is located is attached as **Appendix 'D'**. This can be used to illustrate the location of the premises in relation to residents and other Businesses.

Policy and Guidance

- 3.19 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'.
- 3.20 The proposed premises are a field and as such they are not in a Town Centre locations so are classed as being in 'Other areas'.
- 3.21 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:

May be limited to midnight

3.22 Section 7.0 of the Policy contains information on how the Licensing Authority considers applications under the prevention of crime and disorder licensing objective. Paragraph 7.2 states *"The Licensing Authority will expect the applicant to demonstrate how they will prevent disorderly conduct, prevent sale of alcohol to a person who is drunk, and prevent the obtaining of alcohol for a person who is drunk on the licensed premises, and how the licence holder will exercise these duties so as to prevent or reduce the risk of anti-social behaviour by customers occurring elsewhere after they have left the premises."*

3.23 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;*

This list is not exhaustive and the Licensing Authority remains aware of its obligation to consider each case on its merits."

3.24 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.

3.25 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;
- this Guidance;
- its own statement of licensing policy.

3.26 Paragraphs 9.42-9.44 deal with how to determine actions that are appropriate for the promotion of the licensing objectives.

3.27 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.

3.28 Chapter 11 of the guidance deals with reviews and paragraphs 11.16 – 11.23 are particularly relevant as it deals with the

powers the licensing authority has to determine the application.

Officer observations

- 3.29 As stated in the Guidance the authority's decision should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.
- 3.30 The concerns relating to the likelihood of noise nuisance and traffic congestion appears to be valid and one representation quotes their experience of the last Stone Valley South event held at the same location.
- 3.31 The applicant has provided both an incomplete Event Management Plan (EMP) incorporating a Noise Management Plan and an incomplete Traffic Management Plan with their application. Members may wish to ask the applicant what the reasons for this are?
- 3.32 If Members believe that the application would not undermine any of the licensing objectives then the application should be granted as requested.
- 3.33 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.
- 3.34 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.

- 3.35 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.
- 3.36 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.
- 3.37 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.
- 3.38 Members may wish to seek the opinion of the applicant on each of the requested conditions to clarify which are agreeable so that the hearing can focus on those which are disputed.
- 3.39 When considering the Police proposed conditions there are a number of questions that need answering:
- Condition 2 states that the dates for the events need to be provided 5 months in advance. If this condition were imposed then the applicant would need to notify the responsible authorities of dates of the August 2020 event today or the first three weekends of August 2020 would be excluded;
 - Condition 6 says that information on ticket sales should be supplied immediately upon request. Is immediately appropriate and proportionate. Is it more reasonable to say the information should be supplied within 24 hours?
 - Condition 12.6 says: "Fire safety plan – in line with conditions set by Herts Fire and Rescue. However the Licensing Authority is not aware of conditions agreed

between Hertfordshire Fire & Rescue Service and the applicant.

- Condition 12.9 says “Waste management plan – in line with conditions set by Environmental Health. However Environmental Health’s representation does not tackle the matter of waste management.
- Condition 12.12 relates to the requirement for a drugs policy. It states that persons should be ejected or refused entry and then detained if they are suspected of dealing drugs. The condition also says that the Police must be contacted prior to ejection but this may not be practical in a similar way that ejecting someone and then detaining them may be less practical than detaining them on site. Members may wish to clarify what the police are asking the licence holder to agree so that the condition can be simplified.
- Condition 23 relates to the quantity of alcohol permitted but does not detail if this is per person or where the alcohol is being taken to. Is this the amount allowed into the licensed area, to be taken from the licensed area to the campsite or to be bought onto the campsite from outside?

3.40 For conditions to be enforceable they need to be clear, unambiguous and free from subjective terms. If a condition cannot be enforced then it should not be placed on any granted licence.

3.41 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.

3.42 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.

- 3.43 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 stated on the application form in the "General Description of the premises" section rather than in the "Operating Schedule" so to be placed on any granted licence it must either be offered by the applicant or imposed by the Sub-Committee when making its decision.

4.0 Options

4.1 The actions open to the Licensing Sub-Committee are:

- grant the application if they feel the application would promote and not undermine the licensing objectives; or
- grant the application as sought but at the same time impose additional conditions or amend the times for the supply of alcohol.; or
- if Members believe that there is evidence that shows that there are no steps that can be taken to ensure that the application sought would promote the licensing objectives then the application should be refused.

4.2 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.

5.0 Risks

5.1 A decision on the application must be made and any decision

made can be appealed at the Magistrate's Court. Therefore the Licensing Sub-Committee should ensure that when giving their decision on the application that they give clear reasons on how and why they have made their decision.

6.0 Implications/Consultations

6.1 As with any application for a new premise licence / variation of premise licence or review of a premise licence there is a 28 day public consultation.

Community Safety

The report details the four licensing objectives, these objectives are detailed in paragraph 2.3, therefore Community Safety will be considered when determining the application.

Data Protection

Where the appendices have shown personal data this has been redacted.

Equalities

Consideration will be made to the Equality Act 2010 and the Public Sector Equality Duty.

Environmental Sustainability

No

Financial

There will be a cost to the Licensing Sub-Committee hearing, this will be covered by the existing budget.

There may also be a cost if the decision of the Licensing Sub-Committee is appealed to the Magistrates Court.

Health and Safety

No

Human Resources

No

Human Rights

As with all applications and Council functions ,the Human Rights Act 1998 has been considered in this report and will be considered during the Licensing Sub-Committee hearing.

Legal

All statutory requirements have been considered in preparing this report.

Specific Wards

Yes – Great Amwell

7.0 Background papers, appendices and other relevant material

- 7.1 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
- 7.2 East Herts Statement of Licensing Policy 2016 –
https://cdn-eastherts.onwebcurl.com/s3fs-public/documents/Statement_of_Licensing_Policy.pdf
- 7.3 Night Time Economy (NTE) Position Statement –
https://cdn-eastherts.onwebcurl.com/s3fs-public/documents/Night_Time_Economy_NTE_Position_Statement.pdf
- 7.4 Appendix 'A' – Application for a New Premise Licence.
- 7.5 Appendix 'B' – Representations against the application.

7.6 Appendix 'C' – Draft Police suggested conditions.

7.7 Appendix 'D' – Map showing location of the premises.

Contact Member

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