

## **East Herts Council Report**

### **Licensing Sub-Committee**

**Date of Meeting:** 4 June 2021

**Report by:** Jonathan Geall, Head of Housing and Health

**Report title:** Application for Review of the Premises Licence for Wilkestock, Waterbridge Frogmore Hill, Watton At Stone, Hertford, Hertfordshire SG14 3RR (21/0239/PLV)

**Ward(s) affected:** Datchworth and Aston Walkern

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### **Summary**

- An application to review the above premises has been received from a Responsible Authority. Where a review application is made there must be a Licensing Sub-Committee to decide that application even where agreement is reached. The report is to inform that decision.

### **RECOMMENDATIONS FOR LICENSING SUB-COMMITTEE**

**(a) The application for review of the 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 an application for review of a licence or certificate has to be determined.

2.2 Where a valid review application is made there must be a Licensing Sub-Committee hearing to decide that application even where agreement is reached. A Licensing Sub-Committee has the delegated authority to determine applications for review of 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 valid review application was submitted by Hertfordshire Police on 16<sup>th</sup> April 2021. The application has been correctly advertised at the premises and consulted upon as required by legislation and regulations.

3.2 The application details state that the current operation of the premises undermines the Licensing Objectives of:

- Prevention of Crime and Disorder;
- Public Safety; and
- Prevention of public nuisance.

3.3 A redacted copy of the application form is attached as

**Appendix 'A'**, and a copy of the current premises licence is attached as **Appendix 'B'**.

- 3.4 The Police state that the number of people attending the events has grown from 500 to 3000 in 2019.
- 3.5 The licence allows for 3 events per year with each event being over one weekend. These have normally been a Wilkestock event, HogSozzle and a partnered event with the Dog and Whistle.
- 3.6 The review application alleges a number of issues with regards to the premises. The application states that the Police believe there have been errors and inconsistencies in the Event Management Plans (EMP's) provided by the Premises Licence Holder throughout 2017 through to 2021 such that the Police have to regularly chase for information and on some occasions this has still been missing from the final EMP. The Police also allege that issues that have previously been brought to the Premises Licence Holder's attention have not always been addressed.
- 3.7 The Police have indicated that they were in attendance during an event in July 2018 and they highlighted the following concerns in relation to:
  - seized drugs not being bagged or recorded,
  - ejections of people were not being recorded,
  - traffic issues due to two way traffic on narrow lanes,
  - inadequate signage,
  - lack of lighting in the car park,
  - no stewards in the car park or manning the road crossing,
  - cars parked inappropriately in the car park,
  - a person was ejected where there were clear medical concerns for them.
  - The Police were concerned that the event was not being run effectively and believe there was clear evidence of

drugs being taken by people at the festival.

3.8 In addition the Police witnessed what they have called “total chaos” at the end of the event as people tried to leave all at the same time. They state that people walking down unlit lanes is not only dangerous but being in isolated locations makes them vulnerable and at risk of being victims of crime. Those who decided not to walk continued to gather in the road between the festival site and the festival car park as well as in and around the car park itself which was insufficiently lit. People were getting increasingly frustrated and there were concerns that this could escalate. This situation was observed and managed by Police for nearly 2 hours while people dispersed from the site. Dispersal from the event was highlighted to Tom Wilkes (the Premises Licence Holder) as a major concern and as a result of this event Tom Wilkes was advised not to hold single day events at the location which, at the time, he informally agreed with the Police but no variation has been made to the licence to formalise this.

3.9 In December 2018 a condition was added to the premises licence by the applicant that restricted the number of day tickets to 1,750. This limit was alleged, however, to have been breached in July 2019 when 1,850 day tickets were sold. This is evidenced by an email from the event organisers included in the Police’s evidence.

3.10 The Police have provided dates and times when they allege that licence conditions have been breached. These are as follows:

<b>Event</b>	<b>Alleged Condition Breach</b>
HogSozzle 26 <sup>th</sup> – 28 <sup>th</sup> May 2017	2, 3, 4, 5, 20, 21,
HogSozzle 24 <sup>th</sup> – 26 <sup>th</sup> May 2019	3, 6 , 20, 21, 22, 31

Back and Beyond 6 <sup>th</sup> - 7 <sup>th</sup> July 2019	6, 8d
Wilkestock 30 <sup>th</sup> Aug - 2 <sup>nd</sup> Sept 2019	3, 6, 20,21, 22, 31 2 of Annex 3

3.11 The Police have listed a number of reasons why the review hearing has been sought by the Police now and not instigated earlier, these being:

- 1) *Over the years the specific people from each responsible authority involved in the events has changed. This has resulted in a lack of continuity and knowledge and has allowed Tom Wilkes to avoid addressing concerns. Having worked personally with Tom Wilkes and those acting for him since the end of 2016, PS Ramirez and Sarb Minichiello between them, now have the continuity of information and can clearly see the issues.*
- 2) *Police are always keen to work with event organisers and support them to run safe events that have a minimal impact on the local communities. Having started working with Tom Wilkes for the 2017 events, PS Ramirez wanted to ensure that Tom Wilkes was given the opportunity to develop his events and resolve the concerns. However the level of support and guidance given to Tom Wilkes over the years has been far in excess of support given to any other event in East Herts and no significant progress has been made.*
- 3) *The events held prior to 2017 did not according to Police records have more than 1000 people attending. Due to the events being smaller the level of Police attention given to the events would have been minimal. As the events have grown the risks have also grown and the change from camping festivals to single day events has added to the risks involved.*
- 4) *Following the 2019 events it was clear that there was a need to collate the information about the events and properly review what had occurred each year in order to fully assess the concerns. Due to COVID resources were deployed to other concerns during 2020. At the end of 2020 Tom Wilkes applied*

*for a new licence for events in 2021. As a result of this application it was felt that the risk of Tom Wilkes holding further events needed to be addressed. The information from 2018 and 2019 events was collated and the concerns became fully apparent. Following on from this work it was clear that the Police needed to act and instigate a review of the licence rather than continuing to let ever growing events take place under the management of Tom Wilkes.*

- 5) As a result of Tom Wilkes' application in December 2020 for a new premise licence a hearing was held. As a result of this hearing Police were informed by 9 local residents of ongoing issues around the current events held at the location. The full extend of this information was not known by Police until January 2021.*
- 6) The Police have reviewed the EMP for the July 2021 events and again there is key information missing and risks that have not been identified and addressed by the organisers, this is despite the same concerns being highlighted at the hearing just 3 months ago in January 2021.*

3.12 The Police have summarised their concerns raised in relation to events held at Waterbridge as:

- 1) A lack of confidence in the organisers of the events held at Waterbridge to plan and manage events that effectively promote the licensing objectives*
- 2) Inability of the organisers to identify and address risks without the intervention of the responsible authorities resulting in public safety issues*
- 3) The organisers have repeatedly failed to take on board the concerns of the responsible authorities and implement plans to address concerns resulting in public safety and public nuisance issues and an increased risk of crime and disorder*
- 4) Concerns about the site being used for larger events especially when run as single day events with large numbers of day ticket sales resulting in the issues being further exacerbated*
- 5) Regular failure to comply with the conditions on the licence*

*that are set to ensure the licensing objectives are met*

6) *A significant negative impact on the local community that has not been addressed over the years.*

3.13 The Police have requested that the Wilkestock Licence issued to Mr Tom Wilkes be revoked.

3.14 During the statutory 28 day consultation period eleven further representations were received in support of the review application made by the Police:

- one from a local councillor
- ten from local residents

These representations are attached as **Appendix 'C'**.

3.15 The representation from the local councillor reports that he has received a number of complaints from residents regarding the premises alleging traffic problems, noise, litter and antisocial behaviour.

3.16 The other interested parties have stated that they are concerned in regards to both vehicular and pedestrian traffic problems, the safety of people walking to and from the site, rubbish and noise.

3.17 During the 28 day consultation period a further 95 representations / comments were received in support of the premises that related to the licensing objectives. These were from both residents and non-residents of Watton at Stone. Some of these comments are from staff and customers of the venue.

These representations are attached as **Appendix 'D'**.

3.18 The representations in support of the licence holder and his events cover a wide variety of matters. In general they support

that these are safe well run events where the issues described by the Police have not been witnessed by those making representations.

- 3.19 A further 250 comments were received in support of the premises but these did not relate to the licensing objectives so have not been included in the report.
- 3.20 Members of the Sub-Committee must decide how much weight they attach to these comments.
- 3.21 To assist members in making a decision a map showing the location of the site is attached as **Appendix 'E'**.

### **Policy and Guidance**

- 3.22 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.*

- 3.23 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.

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

3.25 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.

3.26 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**

3.27 The Police have alleged licence breaches in 2017, 2018 and 2019. At the time of these breaches the Police had six months to prosecute for the offences which they chose not to do, although they have stated their reasoning, as detailed in paragraph 3.11 above.

3.28 In relation to the event of July 2018 that the traffic management plan and dispersal policy of the EMP was not sufficient / robust enough for the number of people leaving the event at the end of the event.

3.29 During Safety Advisory Group meeting of 19<sup>th</sup> April 2021 the event organiser made it clear that the events in July 2021 are three single day events. This would therefore use up all licensed event days for 2021. If further events are required then another authorisation will need to be sought for

Licensable Activities to take place.

- 3.30 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.
- 3.31 Members should consider all of the evidence submitted by the applicant (Hertfordshire Constabulary), the representations submitted in support of the review application, the evidence submitted by premise licence holder and the representations received opposing the application in order to determine whether the licensing objectives are being undermined.
- 3.32 If Members believe that the evidence shows that the premises do undermine the licensing objectives then guidance requires that the minimum steps needed to mitigate the issues should be the steps that are taken by the authority. Therefore if Members believe that the licensing objectives are being undermined then any of the actions detailed in the first four bullet points of paragraph 4.1 of this report are available to them. If however members feel the premise does not undermine the licensing objectives then no changes are required to the licence.

## **4.0 Options**

- 4.1 The actions open to the Licensing Sub-Committee are:
- Modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition which are appropriate and proportionate for the promotion of the licensing objectives (either permanently or temporarily for up to 3 months);
  - Exclude a licensable activity from the scope of the licence;
  - suspend the licence for up to 3 months;
  - revoke the licence;

- remove the designated premises supervisor (DPS);
- make no changes to the licence.

## **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** Aston and Datchworth  
Walkern

## **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](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](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](https://cdn-eastherts.onwebcurl.com/s3fs-public/documents/Night_Time_Economy_NTE_Position_Statement.pdf)

- 7.4 **Appendix 'A'** – Application for a Review of a Premise Licence.
- 7.5 **Appendix 'B'** – Current Premise Licence of Wilkestock
- 7.6 **Appendix 'C'** – Representations supporting the review application.
- 7.7 **Appendix 'D'** – Representations against the review application.
- 7.8 **Appendix 'E'** – Map showing location of the premises.

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