

East Herts Council Report Template

Licensing Sub-Committee

Date of Meeting: 14th June 2021

Report by: Jonathan Geall Head of Housing and Health

Report title: New Premises Licence for Blue Light Festival, Woodhall Park, Woodhall Estate, Watton-on-Stone, Hertfordshire, SG14 3NH (21/0247/PL)

Ward(s) affected: Watton-at-Stone

Summary

- An application for a new premises licence has been received from Even Nation Ltd. Where an application is made and relevant representations are made, and not withdrawn, there must be a Licensing Sub-Committee to decide that application.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 for a new premises 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
- protection of children from harm

3.0 Reason(s)

3.1 The application for a new premises licence was submitted Even Nation Ltd on 16th April 2021. The application has been correctly advertised and consulted upon as required by legislation and regulations.

3.2 The application requests the following licensable activities and timings:

Licensable activity (applied for)	Days (applied for)	Hours (applied for)
Films (outdoors)	Friday - Sunday	10:00 – 20:00
Live Music (outdoors)	Friday - Sunday	10:00 – 00:00
Recorded Music (outdoors)	Thursday – Sunday Monday	10:00 – 00:00 10:00 – 12:00
Performance of Dance	Friday - Sunday	10:00 – 00:00

Licensable activity (applied for)	Days (applied for)	Hours (applied for)
(outdoors)		
Anything of a similar description (outdoors)	Friday - Sunday	10:00 – 23:00
Late Night Refreshment (outdoors)	Thursday – Sunday	23:00 – 00:00
Supply of alcohol (for consumption ON the premises)	Thursday Friday – Sunday	14:00 – 00:00 10:00 – 00:00

- 3.3 The application requests that the premises be open to the public on the following days and times:

Days (applied for)	Hours (applied for)
Thursday	14:00 – 00:00
Friday	08:00 – 00:00
Saturday and Sunday	00:00 – 00:00
Monday	00:00 – 12:00

- 3.4 A redacted copy of the application form is attached as **Appendix 'A'**.
- 3.5 Section M of the application form asks the applicant to describe any steps they intend to take to promote the four licensing objectives whilst carrying out licensable activity. The offered steps which will be placed onto any granted licence as conditions, unless amend by the Licensing Sub-Committee, are attached as **Appendix 'B'**.
- 3.6 During the statutory 28 day public consultation period one valid representation was received from the Police in their role as a responsible authority under the Licensing Act 2003. Their representations can be found at **Appendix 'C'**.
- 3.7 The representations from the Police are split into two main areas of concern:

- The Traffic Management Plan (TMP); and
 - The Event Management Plan (EMP)
- 3.8 The representations engage the licensing objectives of public safety, prevention of crime and disorder and prevention of public nuisance.
- 3.9 In relation to the TMP the Police and HCC Highways have reviewed the drafts they have been supplied by the applicant and have concluded that they are not suitable for the size of the event.
- **Appendix 'D'** – Comments from Police Traffic Management
 - **Appendix 'E'** – Comments from HCC Highways
 - **Appendix 'F'** – BLF Traffic Management Plan
- 3.10 In relation to the EMP the Police have highlighted information that is missing and other areas that lack the required detail.
- **Appendix 'G'** – BLF Event Management Plan
- 3.11 In addition to the above information the Police provided a copy of the events Health and Safety Risk assessment which can be found at **Appendix 'H'**.

Policy and Guidance

- 3.12 Section 4 of the East Herts Statement of Licensing Policy (herein 'the 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 under which the application best fits would be defined as '*other entertainment venue*'.
- 3.13 The proposed premises are not in a Town Centre location so is classed as being in '*other areas*'.

- 3.14 The table at 4.3 of the Policy details this authority's 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 for '*other entertainment venues*' when valid and relevant representations have been received:

May be limited to midnight

- 3.15 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."

- 3.16 Section 8.0 of the Policy contains information on how the licensing authority considers applications under the public safety licensing objective. Paragraph 8.2 states

"Conditions to promote public safety will be those that are appropriate, in particular circumstances of any individual premises or club premises, and will not duplicate other requirements of the law. Equally, the attachment of conditions to the premises licence or certificate will not in any way relieve employers of the statutory duty to comply with the requirements of other legislation including the Health and Safety at Work Act 1974, Associated Regulations and especially the requirements under the management of Health and Safety at Work Regulations 1999 and Regulatory Reform (Fire Safety) Order 2004, to undertake risk assessments. Employers should assess the risks,

including risks from fire and take measures necessary to avoid and control these risks. Licence conditions enforcing those requirements will therefore not be attached."

3.17 Section 9.0 of the 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."

- 3.18 Paragraph 9.37 and 9.38 of the government's revised Guidance issued under section 182 of the Licensing Act 2003 (herein 'the Guidance') 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.

In determining the application with a view to promoting the licensing objectives 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.*

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

3.20 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.

3.21 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

3.22 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.

3.23 The Sub Committee 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 objectives would be undermined.

- 3.24 If the Sub Committee 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, limiting the hours or even refusing the application in its entirety.
- 3.25 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.
- 3.26 If additional conditions are considered, members should decide whether these steps would in fact address their concerns if the decision was made to grant the hours requested.
- 3.27 The Sub Committee may wish to seek the opinion of the applicant on any proposed conditions to clarify which are agreeable so that the hearing can focus on those which are disputed.
- 3.28 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.
- 3.29 The Police have concluded that the documents provided by the applicant are not sufficient for the size of the event. As such the Sub Committee may wish to ask the Police if there is a capacity figure that the current plans could accommodate.
- 3.30 Before granting a licence with a limited capacity the Sub Committee may wish to discuss the implications with the applicant. If limiting the numbers below a certain level would

stop the event being viable then it would have the same effect as a refusal to grant.

- 3.31 If the Sub Committee believe that the application would not undermine any of the licensing objectives then the application should be granted as requested.

4.0 Options

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

- grant the application as requested 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 licensable activity; 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 they give clear reasons on how and why they have made their decision. In doing so, the council's ability to defend its decision is strengthened and the risk of its decision being over-turned on appeal is lessened, although, of course, this risk can never be entirely removed.

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 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 – Watton-at-Stone

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'** – Operating schedule
- 7.6 **Appendix 'C'** – Police representations

- 7.7 **Appendix 'D'** – Police traffic management comments
- 7.8 **Appendix 'E'** – HCC Highways comments
- 7.9 **Appendix 'F'** – BLF Traffic Management Plan
- 7.10 **Appendix 'G'** – BLF Event Management Plan
- 7.11 **Appendix 'H'** – BLF Health and safety risk Assessment

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