

East Herts Council Report Template

Licensing Sub-Committee

Date of Meeting: 9 May 2022

Report by: Jonathan Geall, Head of Housing and Health

Report Title: Application for a new time limited premises licence by Integrated Event Management Ltd (Stone Valley Festival South Wannasee Festival) at Hillside Farm, Hillside Lane, Great Amwell

Ward(s) affected: Great Amwell

Summary

- An application for a new premises licence has been received from Integrated Event Management Ltd (Stone Valley Festival South / Wannasee Festival) for events at Hillside Farm, Hillside Lane, Great Amwell. Representations against the application have been made by interested parties. Where representations are received against an application and not withdrawn there must be a Licensing Sub-Committee to decide that application.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)

Members of the Licensing Sub-Committee should determine the application to grant a premise licence to Integrated Event Management Ltd (Stone Valley Festival South / Wannasee Festival) 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 council'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 council'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 premises licence was originally submitted by Integrated Event Management Ltd on 3rd March 2022. However the applicant resubmitted their application on 9th March 2022 after errors had been identified by the Licensing Team. The application has been correctly advertised and consulted upon as required by legislation and regulations.

3.2 The application has been made to allow two festivals called "Stone Valley Festival South" and "Wannasee Festival" to take

place in fields adjacent to Hillside Farm, Hillside Lane, Great Amwell.

- 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 |
|------------|---|--------------------------|
| Thu – Sun | Supply of alcohol (for consumption on and off the premises) | 11:00 – 23:00 |
| Thu – Sun | Late Night Refreshment | 23:00 – 01:00 |
| Thu – Sun | Recorded Music | 11:00 – 23:00 |
| Thu – Sun | Live Music | 11:00 – 23:00 |
| Thu – Sun | Performance of Dance | 11:00 – 23:00 |

- 3.4 The times are restricted to two weekends between 24th April 2022 and 1st August 2022. A weekend for the purposes of the application being defined as Thursday, Friday, Saturday and Sunday. The licence would not take effect until it is granted and the earliest allowable event date would be 5th May 2022.
- 3.5 The application requests the opening hours to be from 10:30 each day until 23:30, with concessions being open until 01:00 for persons camping nearby.
- 3.6 A redacted copy of the application form for a new premises 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.
- 3.8 During the 28 day statutory public consultation period the applicant agreed with Environmental Health that the following conditions should be added if the application is granted:

- 1) Ensure all electrical installations are installed by a competent person as set out in BS7909 and then further inspected by both the Event Manager and a secondary Competent Person prior to the Premises opening.
- 2) Ensure all electrical appliances utilised on site have a current and valid PAT test.
- 3) Ensure a competent contractor is appointed to review all risks relating to noise pollution and noise management from the amplified music on site. This contractor is to have an extensive background and qualification set in relation to Noise Management and Noise Pollution. Their recommendations are set out in the Event Management Plan and have been accepted in full by the Applicant to be implemented throughout the event. Final requirements as directed by conditions attached to the licence will be incorporated in a final Noise Management Plan which will be implemented and monitored throughout licensable times by the same Noise Management contractor.
- 4) Ensure a competent contractor is appointed to review all risks relating to noise pollution and noise management from the amplified music on site. This contractor is to have an extensive background and qualification set in relation to Noise Management and Noise Pollution. Their recommendations are set out in the Event Management Plan and have been accepted in full by the Applicant to be implemented throughout the event. Final requirements as directed by conditions attached to the licence will be incorporated in a final Noise Management Plan which will be implemented and monitored throughout licensable times by the same Noise Management contractor.
- 5) 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

- 6) 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
- 7) The Applicant will employ and utilise throughout and after the event a Cleansing Team who will remove litter and waste from both the Premises and nearby areas utilised by attendees in accessing or egressing the event. The Event operates a "Leave No Trace" Policy and will return the Premises and adjacent areas to exactly the condition prior to Licensable Activities.
- 8) 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
- 9) In Event Management Plan (EMP) shall be submitted to the

responsible authorities no less than 3 months prior to the start of the event. The EMP must demonstrate that resourcing and infrastructure is based on threat and risk to the event. The latest EMP must be supplied to all responsible authorities 21 days before the event takes place. Following this any changes must be circulated immediately to all responsible authorities.

- 3.9 During the 28 day statutory public consultation period two valid representations were received from Interested Parties, one being from the Parish Council and one valid objection from local residents. These representations are attached as **Appendix 'B'**.
- 3.10 The representation from Great Amwell Parish Council and residents raises concerns over noise and safety due to a gas pipeline situated in the field. The representations engage the public safety and prevention of public nuisance licensing objectives.
- 3.11 With regards to the gas pipeline, the applicant has confirmed that he has been in touch with Cadent Gas which manages the gas pipeline network in the locality. The applicant has the plan of the pipeline and has taken advice regarding siting temporary structures.
- 3.12 With regards to the procedural issues raised by the Parish Council these have been addressed by the Service Manager – Licensing and Enforcement prior to the hearing. With regards to the letter drop and noise complaint logs these are addressed in paragraphs 3.24 and 3.25 in Officer Observations section below.
- 3.13 A plan of the area in which the premises is located is attached as **Appendix 'C'**. This can be used to illustrate the location of the premises in relation to residents and other businesses.

Policy and Guidance

- 3.14 Section 6 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 of Stone Valley South best fit would be 'Festival'.
- 3.15 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'.
- 3.16 The table at 6.9 of the Policy details the council'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 to a 'Festival' in this type of location when valid and relevant representations have been received:

Will generally be allowed licensable activity until 01:00 on Friday and Saturday. On Sunday to Thursday 23:00, unless the following day is a Bank Holiday or recognised National Holiday. For information there is a Bank Holiday in the period requested on Thursday 2nd June 2022 and Friday 3rd June 2022.

- 3.17 Section 8.14 of the Policy contains information on how the council considers applications under the public safety licensing objective.

Paragraphs 8.15 and 8.16 state:

8.15 When considering this objective, the Licensing Authority will concern itself with the physical safety and wellbeing of the people who use licensed premises, and those who may be affected by the use of licensed premises (e.g. non-customers who happen to be in

the immediate vicinity of a premise). This will include measures that seek to prevent accidents, injuries and short- or long-term illnesses to staff, customers or other persons.

8.16 *The Licensing Authority will have regard to the measures to be taken by applicants to ensure that the physical safety of any person visiting or working in licensed premises is not compromised. This should be demonstrated in an applicant's operating schedule. Factors that may be considered include, but are not limited to:*

- *The total occupancy capacity (staff, customers, others) of the premises*
- *Physical environment of the premises*
- *Customer profile*

3.18 Section 8.20 of the Policy contains information on how the council considers applications under the prevention of public nuisance licensing objective.

Paragraphs 8.21 to 8.29 state:

8.21 *The Licensing Authority will interpret the term 'public nuisance' widely as advised in the Secretary of State's guidance. When considering this objective the Authority will take into account issues relating to noise, vibration, light, litter, offensive odours and anti-social behaviour arising from or in connection with the provision of licensable activities. Public nuisance can be at a low level only affecting a few people locally, as well as a major disturbance affecting the wider community.*

8.22 *This objective does not mean the complete prevention of all of the above issues, but rather the prevention of such unreasonable levels of these as would constitute a nuisance to the public or a section thereof. A degree of noise, for example, is an inevitable consequence of the provision of most forms of regulated entertainment. The Licensing Authority will therefore seek to*

exercise its powers in a way which promotes the licensing objective, to discourage and eliminate the carrying on of licensable activities in a way that causes unreasonable inconvenience, upset or distress to others.

8.23 *The Authority would expect applicants to have demonstrated in their operating schedule that public nuisance concerns have been identified, with suitable control measures implemented and maintained. Factors that may be considered include, but are not limited to:*

- *The location of the premises and proximity to residential and other noise sensitive premises*
- *The hours of opening, including times when licensable activities may not be taking place, last admission time and 'wind down period'*
- *Nature of activities provided*
- *Supervision of customers including managing dispersal*
- *Odour and light nuisance*
- *Litter and waste disposal*
- *the location of delivery and collection areas and delivery/collection times*
- *Noise management plan (where appropriate)*

8.24 *Steps that can be taken to minimise public nuisance include those 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;*
- *prevent disturbance by customers and staff arriving at or leaving the premises;*
- *prevent queuing (either by pedestrian or vehicular traffic);*
- *help ensure patrons and staff leave the premises quietly;*
- *minimise the effect of parking by patrons on local residents;*
- *minimise noise from the use of smoking shelters, gardens and*

other open-air areas.

- 8.25 *This lists above are not exhaustive and the Licensing Authority remains aware of its obligation to consider each case on its merits.*
- 8.26 *The Authority notes that, as with other licensing objectives, there are other regulatory regimes exist which may be used to control nuisance. The Environmental Protection Act 1990 in particular allows Environmental Health officers to require the abatement of a statutory nuisance, and would be considered the primary control for such issues. However, the Licensing Authority notes that this regime is largely reactive, whereas licensing may be used to establish proactive controls, preventing a nuisance from reaching a statutory level in the first instance.*
- 8.27 *Nuisance may arise directly as a result of licensable activities (for example, noise from music), or indirectly (noise from customers at the premises). Applicants and licence-holders are strongly encouraged to consider all possible sources of nuisance when compiling operating schedules, and to implement appropriate measures for the promotion of this objective. For many types of nuisance, this process will begin in the initial design stages prior to the construction or redevelopment of premises. The Council's Environmental Health officers may be consulted for informal advice, prior to the making of a licence application, on proposed measures likely to reduce or prevent the likelihood of public nuisance arising from the operation of licensed premises.*
- 8.28 *The Licensing Authority will have regard to best practice guidance when considering this licensing objective, including but not limited to:*
- *Guidelines on Community Noise (World Health Organisation)*
 - *Effective Management of Noise from Licensed Premises (British Beer and Pub Association)*
 - *Code of Practice on Environmental Noise Control at Concerts (Noise Council)*

8.29 *Where premises which are the subject of licensing applications involving amplified musical entertainment beyond 11pm are in close proximity to residential properties, the Licensing Authority will require a comprehensive operating schedule listing measures that the applicant intends to implement to ensure the promotion of this licensing objective.*

3.19 Section 20 of the Policy contains information on how the council considers Festivals and outdoor events.

Paragraphs 20.5 to 20.8 state:

20.5 *The Authority will expect the organisers of any large events (taking place under the authority of a premises licence) or events which include special risk factors to consult the East Herts Safety Advisory Group (SAG) while planning their event, and to implement any reasonable recommendations made by the group. The SAG is a multi-agency body, which includes representatives of the Licensing Authority, responsible authorities and other statutory bodies who have involvement in the organisation and safe running of events.*

20.6 *Prior to applying for a licence, event organisers will need to secure permission from the appropriate landowner for the site on which they intend to hold their event. In the case of public land which the Council is responsible for managing, including parks and common land, approaches should be made to the Assets and Estates team within the Strategic Finance and Property service.*

20.7 *One of the major concerns arising from outdoor events is disturbance to local residents from noise associated with music entertainment at the event, or other noisy equipment such as generators, public announcement systems, fireworks, and so on. The Licensing Authority will expect to receive a comprehensive operating schedule from applicants, containing appropriate proposals to control such issues and promote the prevention of public nuisance licensing objective. Depending on the size and*

nature of the event it is likely this will need to include a comprehensive Event Management Plan (EMP) integrating a specific Noise Management Plan.

20.8 *To mitigate these concerns as far as possible early engagement with those likely to be affected by an event is expected. Simply fulfilling the statutory obligation to advertise is likely to trigger representations and raise concerns more than if there has been early engagement. Please refer to the section of this Policy that deals with "Pre-application advice and engagement" for further details.*

3.20 Paragraph 9.37 and 9.38 of the revised Guidance issued under section 182 of the Licensing Act 2003 (herein 'the Guidance') states:

9.37 *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. 9.38 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.*

3.21 In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the Licensing Sub-Committee 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.

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

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 along with section 16 of the East Herts Pool of conditions.

Officer observations

- 3.23 With regards to the points raised by Great Amwell Parish Council's representation, the applicant did state at a previous Licensing Sub-Committee hearing that there would be a letter drop and contact number on their website for residents. This was not conditioned by the Sub-Committee and therefore was not enforceable. As such this Sub-Committee may wish to add this requirement as a condition, if a licence is granted. The condition needs to be specific and enforceable so if a letter drop is to take place then the streets where this should happen and when this should happen should be included in the wording of the condition.
- 3.24 Members may wish to question the applicant as to why he failed to provide the complaints log as previously conditioned and requested? If Members are minded to attach a similar condition again then the wording should be carefully considered as this is an application for a time limited licence. This limits the council's options in relation to enforcement action as the licence no longer exists however it is a matter that can be taken into consideration when a new application is received from the same applicant.

- 3.25 With regards to music being played for an hour the night before the event, this was not licensable as this was a sound check which is not a licensable activity. Notification of when this will take place could be included in the above letter drop if that condition is added to any granted licence. This would make those residents aware that it will take place.
- 3.26 With regards to late night refreshment, members may wish to include a condition that the site will remain open for campers from 23:30-01:00 to allow them to buy late night refreshment only.
- 3.28 If members believe that the application would not undermine any of the licensing objectives then the application should be granted as requested.
- 3.29 As stated in the Guidance, the council'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 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.
- 3.31 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.
- 3.32 When considering the proposed conditions there are a number of points that need raising and answering:
- i. Condition 19f in paragraph 3.7 of this report states: "Fire safety plan – in line with conditions set by Herts Fire and Rescue. However the council is not aware of conditions

agreed between Hertfordshire Fire and Rescue Service and the applicant.”

- ii. Condition 19i in paragraph 3.7 of this report states: “Waste management plan – in line with conditions set by Environmental Health. However Environmental Health’s conditions do not mention this.”
- iii. Condition 32 in paragraph 3.7 of this report 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?

3.33 In considering additional conditions, members should decide whether these steps would in fact address their concerns if the decision was made to grant the hours requested.

3.34 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.

3.35 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.

3.36 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.

4.0 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 but at the same time impose additional conditions or amend the activities or times requested; 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 has made to the Equality Act 2010 and the Public Sector Equality Duty in this report and will be considered during the Licensing Sub-Committee hearing.

Environmental Sustainability

No

Financial

There will be a cost to the authority in holding the Licensing Sub-Committee hearing; this will be covered by the existing budget.

There would be a cost if the decision of the Licensing Sub-Committee is appealed to the Magistrates Court and the authority chooses to defend that appeal.

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 2021-2026
<https://cdn-eastherts.onwebcurl.com/s3fs-public/2022-03/Statement%20of%20Licensing%20Policy%202021-26%20Mar%202022.pdf>
- East Herts Pool of Model Conditions 2021
<https://eastherts.fra1.digitaloceanspaces.com/s3fs-public/2021-08/Pool%20of%20Model%20Conditions%202021%20%28accessible%29.pdf>
- 7.3 **Appendix 'A'** – Application for a New Premise Licence.
- 7.4 **Appendix 'B'** – Representations against the application.

7.5 **Appendix 'C'** – Map showing location of the premises.

Contact Member Councillor Jan Goodeve – Executive Member for Planning and Growth

jan.goodeve@eastherts.gov.uk

Contact Officer Jonathan Geall – Head of Housing and Health
Contact No: 01992 531594

jonathan.geall@eastherts.gov.uk

Report Author Brad Wheeler – Senior Licensing and Enforcement Officer

Contact No: 01992 531520

brad.wheeler@eastherts.gov.uk