

# East Herts Council Report Template

## Licensing Sub-Committee

**Date of Meeting:** 22<sup>nd</sup> May 2023

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

**Report title:** Application for a new premises licence for Hertfordshire Oktoberfest, Hartham Common Park, Hartham Lane, Hertford, Hertfordshire (23/0362/PL)

**Ward(s) affected:** Hertford Bengo

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### Summary

- An application for a new premises licence has been received from Barbican Events Ltd. Representations against the application have been made by six interested parties with one representation being received in support of the application. Where representations are received against an application, and not withdrawn, there must be a Licensing Sub-Committee meeting to decide that application. This 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 grant a premises licence to Barbican Events Ltd 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 Statement of Licensing Policy (herein 'the 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 initial application submitted by Barbican Events Ltd was submitted on 27<sup>th</sup> January 2023 and then subsequently withdrawn on the last day of the 28-day consultation period, 27<sup>th</sup> February 2023. The application received representations from interested parties and was withdrawn following discussions with the responsible authorities.

3.2 An amended application for a new premises licence was submitted by Barbican Events Ltd on 13<sup>th</sup> March 2023. Initially

the applicant failed to advertise this application in a local newspaper within the required time. As a result, the 28-day consultation period was started again, ending on 20<sup>th</sup> April 2023. This time the application was correctly advertised and consulted upon as required by legislation and regulations.

3.3 The application requests live music, recorded music and the supply of alcohol for consumption ON and OFF the premises during the following times.

<b>Licensable Activity</b>	<b>Day</b>	<b>Hours originally applied for</b>
Live and Recorded music	Friday	14:00 – 22:30
	Saturday	11:00 – 22:30
	Sunday	12:00 – 20:00
Supply of alcohol (for consumption on and off the premises)	Friday	14:00 – 22:15
	Saturday	11:00 – 22:15
	Sunday	12:00 – 20:00
Premises open to the public	Friday	14:00 – 23:00
	Saturday	11:00 – 23:00
	Sunday	12:00 – 21:00

3.4 A redacted copy of the application form for a new premises licence is attached as **Appendix 'A'**.

3.5 Section 18 of the application form asks the applicant to describe any additional steps they intend to take to promote the four Licensing Objectives.

3.6 During the 28-day statutory public consultation period six representations were received against the application; four

from local residents, one from Hertford Town Council and one from a Hertford Town Councillor who is also a local resident. It is unclear in what capacity the single additional representation received in support of the application was made. The interested party was asked to confirm these details but did not respond. All the representations are attached as **Appendix 'B'**.

- 3.7 Between them, the representations suggest that the following Licensing Objectives would be undermined if the application is granted as requested; Protection of children from harm, Prevention of public nuisance and Prevention of Crime and Disorder.
- 3.8 Following discussions with the Police and Environmental Health, in their roles as responsible authorities under the Licensing Act 2003, the applicant agreed to several additional conditions to mitigate these authorities' concerns. The conditions agreed with the Police are at **Appendix 'C'** and the conditions agreed with Environmental Health are at **Appendix 'D'**.
- 3.9 Following agreement, the additional conditions were circulated to all the interested parties on 20<sup>th</sup> April 2023. The interested parties were asked if they felt the conditions mitigated their concerns and if there were any other conditions that they would like to see attached to the premises licence. At the time this report was drafted, three responses had been received which are attached at **Appendix 'E'**. These were received from the authors of the 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> representations in **Appendix 'B'**; The response from the Hertford Town Council is the same as that received from the Hertford Town Councillor, these are responses 1 and 3 are the same.
- 3.10 A plan of the area in which the premises are located is attached at **Appendix 'F'**. This can be used to illustrate the location of the premises in relation to residents and other

businesses.

## **Policy and Guidance**

3.11 Section 5 of the **East Herts 'Statement of Licensing Policy'** (herein 'the Policy') relates to Pre-application advice and engagement. Paragraph 5.7 and 5.8 state:

*5.7 Engagement is an important element of the licensing process. Applicants are expected to have considered the location and community it is proposing to operate in. An understanding of the concerns to be addressed can be obtained by early engagement with a variety of bodies and individuals including:*

- *Responsible authorities*
- *Ward councillors*
- *Town councils*
- *Parish councils*
- *Residents Associations*
- *Businesses and residents in the vicinity of the proposed premises.*

*5.8 Experience shows that early engagement allows concerns to be addressed in the most timely and cost effective way for all parties. Where concerns cannot be addressed before an application is made resulting in representations the expectation is that the dialogue between the parties continues to try and find common ground.*

3.12 Section 6 of 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 Hertfordshire Oktoberfest would be classed as an 'Other outdoor event'.

3.13 The proposed premises are not within a Town Centre as defined in section 7.0 of the Policy so are designated as 'Other area'.

3.14 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. However, due to 'Other outdoor events' being so varied, suggested timings are not included in the Policy. This section states that '*times will be considered based on the type of event, activities requested, hours requested and the location*'.

3.15 Section 8 of the Policy states that:

*8.1 The Licensing Authority must carry out its functions with a view to promoting the four Licensing Objectives, each of which has equal importance:*

- *the prevention of crime and disorder,*
- *public safety,*
- *the prevention of public nuisance, and*
- *the protection of children from harm.*

*8.2 It is recognised that the licensing function is only one means of securing the delivery of the above objectives and should not therefore be seen as a means for solving all local problems. The Licensing Authority will therefore continue to work in partnership with all stakeholders and partners towards the promotion of the Licensing Objectives.*

3.16 Paragraphs 8.6 to 8.39 of the Policy contain information on how the council considers applications in respect of each of the Licensing Objectives.

3.17 Paragraphs 20.1 to 20.8 apply to festivals and outdoor events. Of particular relevance are:

*20.1 The Licensing Authority recognises the contribution that well-run outdoor events bring to local communities, and is pleased to support events which are run in a manner that will promote the licensing objectives*

*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.*

*20.7 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*

3.18 The Home Office-issued '**Guidance issued under section 182 of the Licensing Act 2003**' (herein 'the Guidance') states at paragraph 9.37 and 9.38 that:

*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. 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.*

*9.38 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.*

3.19 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 along with the East Herts '**Pool of Model Conditions**'<sup>1</sup>.

### **Officer observations**

- 3.21 Whilst East Herts' Policy does not detail specific timings in relation to 'other outdoor events' when it has received relevant representations, it should be noted that the hours applied for are shorter than the Policy suggests would be a starting point for a 'festival'. They are also shorter than those suggested for 'Other entertainment venues not listed'. This leaves it open to the Licensing Sub-Committee to decide what hours would be appropriate having considered the nature of this event.
- 3.22 In the representations there are references to previous applications and a failure on behalf of the applicant to correctly advertise their application. To assist members the chronology of the events is in the table below:

<b>Date</b>	<b>Action</b>
27/01/2023	New Premises Licence application received
30/01/2023	Application validated and 28-day consultation started
27/02/2023	Application withdrawn
13/03/2023	Amended New Premises Licence Application received
23/03/2023	Failure to advertise correctly identified by the Licensing Authority and the 28-day consultation started again
06/04/2023	Newspaper advert published
20/04/2023	Consultation closes

- 3.23 The Policy, as highlighted at paragraph 3.11 of this report,

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<sup>1</sup> Conditions with a letter 'M' or marked 'All' are relevant to Festivals and Other outdoor events and some or all may be applied where appropriate having considered the merits of the individual application.

recommends early engagement with a number of parties. This early engagement did not take place resulting in both the Police and Licensing Authority being unable to satisfy themselves that the initial application, if granted as applied for, would promote the Licensing Objectives. These concerns lead to the original application being withdrawn and then subsequently being resubmitted following amendment. The application being considered today is a valid one so a decision should be reached on the evidence before members and any submissions made during the hearing.

- 3.24 Representation 1 – The interested party lives in the vicinity of Hartham Common.
- 3.25 The initial representation detailed concerns about the applicant selling tickets for the event before a licence has been granted. This matter cannot be considered as it does not engage any of the Licensing Objectives and is a commercial decision for the applicant. Reference is also made of the failure to correctly advertise the application initially. Again, this is not a relevant consideration when deciding the application as the oversight was corrected and the consultation period started again.
- 3.26 The interested party mentions that they believe that East Herts Council has a financial incentive to grant the licence application. It is a matter of fact that the applicant is paying the council to hold the event on their land, but this cannot be considered by the members of the Licensing Sub-Committee when reaching a decision. If this were to influence the decision, then the authority would be likely to lose any appeal made against its decision or face a possible judicial review which it could find hard to defend.
- 3.27 The representation references nuisance which the interested party fears will not only be during the event but also in the periods of set-up and breakdown (the clearing up at the end)

of the event. Noise and anti-social behaviour from customers accessing the common on foot having arrived using public transport is also raised.

- 3.28 Reference is also made to the potential for under 18s to gain access to the premises using fake ID. If this is an issue that concerns members, then they may wish to question the applicant regarding the measures that will be in place to ensure the risk is minimised. This is a problem that faces all premises licensed to sell age restricted goods and is not in itself a reason to refuse an application if due diligence is shown by the applicant.
- 3.29 The impact on local businesses of the event being allowed is raised but this is not a relevant matter as it does not engage any of the Licensing Objectives.
- 3.30 The interested party requests that the application be refused.
- 3.31 Representation 2 – The interested party is a local resident and references existing problems occurring at Hartham Common.
- 3.32 The representation details the disturbance from music until 10pm and the impact on children who must go to school on the Monday. The hours requested for music end at 20:00 on the Sunday so this should be less of a potential issue. The interested party is not saying that their children *will* be disturbed but are offering a subjective opinion that other people's children could potentially be disturbed. Reference is made to people who do shift work not being able to sleep during the day but again this is speculation on the point that some people's normal daytime activities might disturb someone else's sleep and so should carry little weight. The potential impact on the residential area is a valid consideration under the objective of prevention of public nuisance.
- 3.33 Comments are made regarding newspaper reports of similar

events held in other locations. These are particularly relevant if the event being referenced was one organised by the same applicant. Members may wish to ask the interested party and the applicant about the reports to investigate if there were incidents at any previous events and, if that is the case, what lessons were learned.

- 3.34 Reference is made to issues related to a fun fair and Halloween event, but these are not relevant in relation to this application. This is a different style of event that requires a licence and is completely ticketed, and any licence issued will have conditions attached regarding the need for security, CCTV and the like.
- 3.35 Representation 3 – The interested party is a local resident and references existing problems occurring at Hartham Common.
- 3.36 This representation references that this application has shorter hours than a previous application but that this does not mitigate the interested party's concerns.
- 3.37 Reference is made to security being put in place, meaning that the implication is that there would be problems without it. There is the potential for any event to have problems, particularly one which involves alcohol. The fact that the applicant has considered the potential risks and taken steps to try to ensure public safety mean that the only question is are these steps adequate? The Police have not made a representation on this point which indicates that they believe the provision is adequate given the current facts.
- 3.38 The number of attendees and the associated issues are mentioned; this is a valid consideration for the Sub-Committee. However, this must be balanced against the attendees' personal responsibility and any measures that are considered to address this concern must be within the direct control of the applicant.

- 3.39 The reference to where money will be spent by the attendees is not a relevant consideration as it does not engage a Licensing Objective and a similar approach should be taken to the comments regarding when the event was advertised.
- 3.40 Representation 4 – This representation has been made by Hertford Town Council’s Planning Sub Committee.
- 3.41 The representation references concerns about public nuisance from the event and makes three points.
- 3.42 The first is around wishing to see significant support and restricted access to/from Folly Island, to include private security. Members may wish to ask the representative of the Planning Sub-Committee what it is they would like to see put in place as there is not enough detail for the applicant to understand what measures would mitigate their concerns? Once this is clear then the Sub-Committee may wish to ask any local residence in attendance what they feel about what has been proposed. Finally, the applicant should be asked if the measures proposed are practical and achievable.
- 3.43 There would obviously be cost implications for the applicant if there was a requirement to provide Security Industry Authority (SIA) trained staff on all the potential access routes to the Common. Imposing such steps may affect the economic viability of the event and could amount to a technical refusal of the application. Any conditions imposed should be proportionate to the perceived risks.
- 3.44 The second point details issues that are already occurring in the night time economy and suggests that the event might add to the issues. As no glass should be leaving the licensed venue this is not a valid consideration however the other issues listed can be addressed. The Sub-Committee may wish to seek clarity

on the area that the Planning Sub Committee would wish to see a cleaning regime for? This links back to paragraph 3.32 and the proportionality and viability of any proposed measures.

- 3.45 The third point references the potential noise nuisance from the event and requests measures be put in place for noise levels to be monitored. The conditions agreed with Environmental Health require the applicant to produce a Noise Management Plan (NMP) which must be submitted and approved three months before the event. This plan will include the finer details of how noise will be monitored and controlled to the satisfaction of Environmental Health, the recognised authority on nuisance. The applicant may be able to elaborate on the discussions and proposals with Environmental Health if it aids the Sub-Committee in deciding what weight to attach to this point of the representation.
- 3.46 Representation 5 – The interested party is a local resident living in the vicinity of Hartham Common.
- 3.47 Reference is made to inadequate parking being available in the area for the event and that residents parking on Folly Island is not enforced on a Sunday.
- 3.48 The applicant has done considerable work on modelling how the public have attended their previous events and has introduced a question at the time of purchasing a ticket to see how people will travel to this event. They have given the matter consideration and have drafted a Traffic Management Plan (TMP). The Police agreed conditions require the TMP to be submitted three months prior to the event. If the Sub-Committee have any concerns regarding this matter, they can ask the applicant to explain what they are planning to do and, if considered necessary, add a condition or conditions to any granted licence to ensure particular things are done.

- 3.49 The second point raised is in relation to preexisting issues around anti-social behaviour on the Common. Reference is made to Sainsbury's, the circus and the fair and the issues associated with these. Issues such as the fair have been previously dealt with in paragraph 3.30.
- 3.50 Police resourcing is mentioned, and whilst this is a general concern, it is not a ground for refusing or restricting a licence.
- 3.51 The interested party goes onto say that the event is not a good fit for the local area and that they believe East Herts Council is acting inappropriately by hiring out its green spaces to the highest bidder. As these comments do not engage the Licensing Objectives, they cannot be given any weight when reaching a decision.
- 3.52 The final paragraph of the representation details anti-social behaviour at another event run by the applicant in Harpenden which is alleged to have caused a great many issues for residents.
- 3.53 East Herts Council, as the Licensing Authority, in its role as responsible authority sought feedback from the Police and St Albans Council, as the Licensing Authority that dealt with the Harpenden event, and the responses are summarised below:
- Police feedback – The first weekend there were six recorded crimes attributed to the event and a number of calls about drunken behaviour that didn't amount to crimes. The licence holder was contacted and took the concerns seriously and implemented a range of measures designed to minimise crime within the event location and outside on the common and into town.

On the second weekend there were two record crimes attributed to the event, involving one individual, who was detained by event security. Local Police officers on duty

and monitoring the event stated it was much better controlled by staff both inside and outside the event and they didn't report anything of note which spilled into the Town.

- Licensing Authority feedback – The first weekend there were noise issues, some issues with intoxicated individuals and some issues with nearby pubs.

They made no comment regarding issues on the second weekend.

- 3.54 The general comments were that the applicant was willing to work with the responsible authorities and address issues and put measures in place where needed.
- 3.55 The Police were aware of the details of the Harpenden event when reaching the decision to agree conditions and not make a representation against the application. As the recognised authority in relation to crime and disorder this should be considered when deciding what weight to give the issues at the previous event. The Sub-Committee may also wish to ask the applicant what lessons they learnt from that event and how they are doing things differently now?
- 3.56 Representation 6 – This representation is from a Hertford Town Councillor who is also a local resident.
- 3.57 The representation starts by explaining that it is made in support of residents who have concerns regarding potential anti-social behaviour linked to the event if a licence is granted.
- 3.58 The volume of visitors passing through residential areas and the nuisance they may cause is referenced. It is suggested that measures be considered to minimise the disturbance to residents. The Sub-Committee may wish to ask the Councillor what measures she believes would mitigate concerns as these



are not detailed within the representation?

- 3.59 The last paragraph relates to the Common and its use. The points raised in this paragraph do not directly link back to any of the Licensing Objectives so cannot be given any weight when reaching a decision.
- 3.60 Representation 7 – This representation supports the granting of a licence for this event although it is not clear in what capacity the individual is making their comments.
- 3.61 The interested party states that they are friends with people who own hospitality businesses in Hertford who support large events in the town. They go on to say that in their opinion times are hard for local hospitality and that this event would help. This, however, is not a reason to grant a licence for an event if it's believed that it won't promote the Licensing Objectives.
- 3.62 There are then general comments about the need to be welcoming to large events and the wider benefit they bring.
- 3.63 Less weight can be attached to the comments as it is not clear who is making them. It references local business that support the application, but the representation is not from the businesses themselves. Equally the representation does not explain how it is believed that the event will promote the Licensing Objectives.
- 3.64 The representation has been included for completeness. If the interested party attends the hearing, then the Sub-Committee can ask questions of them to help decide how much weight should be attributed to the comments.
- 3.65 The Guidance, at para 2.1, states in relation to the Prevention of Crime and Disorder that:

*Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).*

3.66 The Police agreed conditions and did not make a representation against this application and this should be taken into consideration when deciding what weight to attach to the concerns of a potential crime and disorder if the licence is granted.

3.67 The Guidance, at para 2.15 states in relation to Public nuisance:

*The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.*

3.68 Environmental Health, whose area of expertise includes nuisance, did not make representation against the application. It is therefore reasonable to conclude that Environmental Health do not believe that granting the licence, including the agreed conditions, would cause 'disproportionate and unreasonable' effects on local residents or businesses.

3.69 The Sub-Committee should consider whether the operation of the licensed premises would be likely to cause a public nuisance having considered the evidence presented and the

location of the premises.

- 3.70 The Guidance, at para 2.26 states in relation to Protection of Children from harm, that:

*Licensing authorities and responsible authorities should expect applicants, when preparing an operating schedule or club operating schedule, to set out the steps to be taken to protect children from harm when on the premises.*

- 3.71 The applicant has stated that under 18s will not be allowed onto the premises and agreed a condition (Number 3 in **Appendix C**) to this effect which states:

*Those under the age of 18 years will not be permitted entry to the events. IDs will be checked on the door, enforcing the challenge 25 scheme and anyone without ID will be refused entry. Suitable forms of identification will be a passport, 'pass' card or other identification recognised by the licensing authority in its statement of licensing policy.*

- 3.72 The Police are satisfied that the measures in place are adequate to ensure under 18s are not admitted to the event so the Protection of Children from Harm objective should not be undermined.

- 3.73 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.

- 3.74 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 Objectives would be undermined.

- 3.75 Whilst the hours and activities applied for are shorter than those detailed in East Herts 'Statement of Licensing Policy' as the starting point for other types of events, this does not fetter the Sub-Committee's ability to decide that shorter hours or a refusal are more appropriate in the circumstances of an individual application. The Policy is a starting point from which decisions can be made; should the Policy be departed from then members should clearly give their reasons for doing this.
- 3.76 Put in its simplest terms, what are the minimum measures that can be put in place to address members' concerns? Refusal of the application should be the last option considered.
- 3.77 If the Sub-Committee believe that granting the application as requested would promote the Licensing Objectives, then it should be granted as requested.
- 3.78 If the Sub-Committee believe that granting the application as requested would not promote the Licensing Objectives, then the starting point should be to consider if there are conditions that could be added to mitigate concerns.
- 3.79 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 and activities as requested.
- 3.80 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.
- 3.81 Aside from adding conditions, it is open to members to limit the hours of operation and/or licensable activities further but clear reasons for this step would need to be given.

3.82 However, if adding conditions and/or limiting the hours beyond those requested and/or limiting licensable activities does not mitigate members' concerns regarding the promotion of the Licensing Objectives then the application should be refused.

3.83 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 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 – Hertford - Bengoe.

## **7.0 Background papers, appendices and other relevant material**

- 7.1 Revised Guidance issued under section 182 of the Licensing Act 2003 (December 2022 - [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1149896/Revised\\_guidance\\_issued\\_under\\_section\\_182\\_of\\_the\\_Licensing\\_Act\\_2003\\_December\\_2022\\_002\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1149896/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_December_2022_002_.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-](https://eastherts.fra1.digitaloceanspaces.com/s3fs-public/2021-08/Pool%20of%20Model%20Conditions%202021%20%28accessible%29.pdf)

[08/Pool%20of%20Model%20Conditions%202021%20%28accessible%29.pdf](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 (redacted).
- 7.4 **Appendix 'B'** – Plan showing location of the premises.
- 7.5 **Appendix 'C'** – Conditions agreed with the Police.
- 7.6 **Appendix 'D'** – Conditions agreed with Environmental Health.
- 7.7 **Appendix 'E'** – Interested responses to agreed conditions
- 7.8 **Appendix 'F'** – Location Plan

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