

Please note that by law this meeting can be filmed, audio-recorded, photographed or reported electronically by the use of social media by anyone attending. This does not apply to any part of the meeting that is held in private session.

Please ask for:
Democratic Services

26 May 2023

Dear Councillor

You are requested to attend a meeting of the WELWYN HATFIELD BOROUGH COUNCIL ALCOHOL AND REGULATED ENTERTAINMENT SUB-COMMITTEE to be held on Tuesday 6 June 2023 at 1.00 pm via Zoom

A G E N D A P A R T 1

PROCEDURE

1. APPOINTMENT OF CHAIRMAN

To appoint a Chairman for the meeting.

2. DECLARATIONS OF INTERESTS BY MEMBERS

To note declarations of Members' disclosable pecuniary interests, non-disclosable pecuniary interests and non-pecuniary interests in respect of items on the Agenda.

3. APPLICATION FOR GRANT OF TEMPORARY EVENT NOTICE FOR TL29926 THE QUARRY, LAND AT THE END OF HEMPSHILL BROOK, ACCESS FROM NORTHAW ROAD EAST, CUFFLEY, HERTFORDSHIRE, EN6 4QZ (Pages 7 - 30)

Report of the Licensing Officer considering the application for a grant of Temporary Event Notice for The Quarry, Land at the end of Hempshill Brook, Access from Northaw Road East, Cuffley, EN6 4QZ.

Circulation: Councillors J.Cragg
D.Jones

S.McNamara

Officers Senior Litigation Lawyer (R.Simpson)
Licencing Team Leader (K.Payne)
Licensing Technical Officer (N.Tupling)

Senior Leadership Team
Press and Public (except Part II Items)

If you require any further information about this Agenda please contact Democratic Services by email – democracy@welhat.gov.uk

Agenda Annex

This is the agreed procedure for meetings of the Welwyn Hatfield Council Alcohol and Regulated Entertainment Sub-Committee

Meetings of the Alcohol and Regulated Entertainment Sub-Committee are usually conducted “online” rather than in person. However, in advance of a meeting and having considered the particular circumstances the Head of Public Health and Protection AND Governance Services Manager may in consultation with the Director Public Protection, Planning and Governance, Chair of the Alcohol and Regulated Entertainment Committee and relevant Portfolio Holder for Licensing decide to hold a meeting “in person”. This includes holding all of the meeting in person, or, in exceptional circumstance allowing certain parties to the meeting in person and others to attend “online”.

The agenda pack for the meeting will state how the meeting is to be held and will include a copy of this procedure.

This is the procedure that the Council has adopted under the Licensing Act 2003 (Hearings) Regulations 2005 for all of its licensing hearings to achieve a consistent approach. The hearing is started by the Chairman stating that the Sub-Committee is considering. It is then explained to all the parties that this is a mixed quasi judicial and administrative function. The hearing will take the form of a discussion led by the authority. The strict rules of evidence will not apply, although the rules will be observed to a great extent because this is considered to be the best way of presenting the evidence. Documentary or other information produced at the hearing may be taken into account with the consent of all the parties.

All parties will be given an equal maximum period of time to exercise their rights to make representations and provide supporting information the Sub-Committee as provided for in this procedure. The Chairman will ask those appearing to speak concisely and only on the points that have been raised in the representations submitted. If several representations have been received on similar lines, the parties will be invited to appoint a spokesperson. The Sub-Committee will seek to avoid hearing repetitious representations.

The Governance Services Manager will arrange for all online participants to receive a Zoom meeting ID and password before the meeting. This will give them access to the meeting online.

If members are participating online, then members must use their Council email address when participating in the meeting and will receive a Zoom meeting ID and password before the meeting. This will give them access to the meeting online.

In the event of any connection failures, the Chairperson should determine if the meeting is still quorate. If the meeting still is, then it will go on as usual. If there is no quorum, the Chairperson will specify how long the meeting is adjourned for. It is expected that adjournments should be for no more than ten to fifteen minutes to enable the connection to be re-established

Physical	“Virtual” (online)
Once all the parties are present in the room and seated and the Sub-Committee will “enter” and the hearing will be convened.	Once the sub committee panel have all joined the call and confirmed audio/video connections are working, the remainder of the participants will be invited in from the waiting room
The Chairman will introduce the Sub-Committee and the Officers serving the Sub-Committee.	
The applicant and/or his representative should confirm their identity to the Sub-Committee and that of any other person they have requested permission to appear, having given the requisite notice of their attendance before the hearing. The Sub-Committee will consider any request by a party for another person to appear at the hearing and such permission will not be unreasonably withheld.	
The objectors and/or their representatives should confirm their identity to the Sub-Committee and that of any other person they have requested permission to appear, having given the requisite notice of their attendance before the hearing. The Sub-Committee will consider any request by a party for another person to appear at the hearing and such permission will not be unreasonably withheld.	
The responsible authorities and/or their representatives should confirm their identity to the Sub-Committee and that of any other person they have requested to appear, having given the requisite notice of their attendance before the hearing. The Sub-Committee will consider any request by a party for another person to appear at the hearing and such permission will not be unreasonably withheld.	
The Chairman will invite the Licensing Officer to present their report.	
The applicant may then state their case, calling any witnesses they consider necessary, the requisite notice of their attendance having been given before the hearing. Cross-examination is only permitted if the Chairman considers it is required as part of the hearing.	
With the Chairman’s permission, members may ask the applicant or their witnesses questions. These questions should be for further information or clarification.	
The objectors then state their case calling any witnesses, the requisite notice of their attendance having been given before the hearing. Cross-examination is only permitted if the Chairman considers it is required as part of the hearing.	
The members may ask the objections or their witnesses questions. These questions should be for further information or clarification.	
The objectors are then asked if they wish to make a final address to the Sub-Committee.	
The applicant or representative is then given the same opportunity to address the Sub-Committee.	
The Sub-Committee will then retire to consider the representations which have been made and to make its decision. The Sub-Committee will be accompanied by the Legal Adviser and Committee Manager.	In order for the sub-committee to consider the representations in private and to make it’s decision, all other participants will be moved back into the waiting room.
A decision is then taken.	
The Sub-Committee will then return to inform all the parties of the decision. Notice of the determination will be given in writing after the hearing.	Other participants will be called back in from the waiting room to be informed of the sub-committee’s decision.
For certain applications, the determination will be made within five working days of the hearing.	

If any legal clarification is needed during the Sub-Committee's deliberations, the Legal Adviser will return to inform all the parties of the point considered, together with the advice given and will invite comment on that.

Comments

Should the Sub-Committee decide to grant a licence, it may only add conditions or restrictions which are necessary for promoting the licensing objectives and which do not duplicate other statutory requirements. However, the powers to add conditions are confined by the fact that any condition or restriction must be reasonable. The Courts have ruled that a public body in a privileged position of being able to exercise its discretion in dealing with applications for licences and consents of various kinds, when coming to a decision, must exercise that discretion reasonably and fairly and relate it to the subject concerned. A public body is not at liberty to use its powers for an ulterior object, that is one which is not within the ambit or intended purpose of the statutory provision under which the power is exercised, however desirable that object may seem in the public interest.

The Sub-Committee will disregard any information which is not relevant to the matter being considered.

The Sub-Committee may exclude all the parties and the public from a hearing or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing.

The Sub-Committee may require any person attending a hearing who in its opinion is behaving in a disruptive manner to leave the hearing.

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Agenda Item 3

Part I
Item No: 0

WELWYN HATFIELD COUNCIL
ALCOHOL AND REGULATED ENTERTAINMENT SUB- COMMITTEE
REPORT OF THE LICENSING OFFICER

Northaw and Cuffley

REPORT TO ALCOHOL AND REGULATED ENTERTAINMENT SUB-COMMITTEE

GRANT OF TEMPORARY EVENT NOTICE FOR TL29926 THE QUARRY, LAND AT THE END OF HEMPSHILL BROOK, ACCESS FROM NORTHAW ROAD EAST, CUFFLEY, HERTFORDSHIRE, EN6 4QZ

1 Summary of the Temporary Event Notices

Premises User (s)
THOMAS HOLLIDGE
Address of Premises/Event
TL29926 THE QUARRY, LAND AT THE END OF HEMPSHILL BROOK, ACCESS FROM NORTHAW ROAD EAST, CUFFLEY, HERTFORDSHIRE, EN6 4QZ

This committee report contains a Temporary Event Notice for a Bottlefest event with sale of alcohol, regulated entertainment and late night refreshment between 1st – 3rd September 2023 10:00 – 05:00 for up to 499 people.

The Temporary Event Notice served on the Licensing Authority is provided in Appendix A to this report.

Summary of Notice Received

The premises user served a Temporary Event Notice on the Licensing Authority under the Licensing Act 2003 Section 100 on Monday 22nd May 2023 at 18.34pm. The notice is for the sale of alcohol, regulated entertainment and late night refreshment between 1st – 3rd September 2023 10:00 – 05:00 for up to 499 people. The premises user is in line with the legislation by serving the Temporary Event Notice more than 10 working days before the planned event dates.

The Temporary Event Notice was reviewed and processed as valid a notice by the Licensing Authority. The notice was sent to Hertfordshire Police and the Council's Environmental Health Team on Tuesday 23rd May 2023. The Relevant Authorities were notified that representations to the Temporary Event Notice were required to be provided to the Licensing Authority by the end of Thursday 25th May 2023.

The Licensing Authority provided the premises user with an acknowledgement letter for the Temporary Event Notice by email on Tuesday 23rd May 2023.

1.1 Unresolved representations

The Licence Hearing is a result of the Licensing Authority receiving formal written relevant objections from the Environmental Health Team and Hertfordshire Police to the Temporary Event Notice within the 3 working day consultation period. The representations against the notice have been submitted under the Licensing Act 2003 on the statutory grounds of:

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

Part 2 Appendix A Temporary Event Notice submitted on Monday 22nd May 2023 at 18.34pm

Part 2 Appendix B – Location of event site and event entrance – marked by the applicant and other locations to give clarity

Part 2 Appendix C - Representation from Environmental Health

Part 2 Appendix D – Representation from Hertfordshire Police

2 Details of Representations Received

Formal written relevant objection notices have been submitted by Environmental Health and Hertfordshire Police against the Temporary Event Notice.

The objection from Environmental Health is on the grounds of Preventing Public Nuisance licensing objective/s.

Objection Notice—Permitted Temporary Activities

On the 23rd May 2023 Public Health and Protection received from Thomas Hollidge, a temporary event notice (“the notice”) in respect of proposed temporary licensable activities due to take place at the above premises. Public Health and Protection are satisfied that allowing the premises to be used in accordance with the notice would/would not undermine the following licensing objectives.

The licensing objective(s) that apply are indicated by an X in the following table

Licensing objective	Obj. (X)	Reasons
The prevention of crime and disorder		
Public safety		
The prevention of public nuisance	X	Please refer to comment section below
The protection of children from harm		
No Objections		

Grounds of Objections

The prevention of Public Nuisance

During the period that this event wishes to take place, there is a licensed music event happening over the same weekend in close proximity. The land surrounding this event is under strict noise controls and an objection is made on the basis that this event highly likely to cause a public noise nuisance to local residence.

The duration of this event is stated to be from 1st September until the 3rd September and the hours stipulated for the playing of amplified music is between 12:00 -05:00. This is 17 hours of continuous amplified music on at least 2 consecutive days which is highly likely to cause a public noise nuisance.

It is noted that an event management and sound management plan has been implemented from another site for a similar event. However, as there are many other contributing factors that need to be considered as well as an acoustic assessment of the local area, these plans are not feasible and will not be taken into consideration through this application process.

The objection from Hertfordshire Police is on the grounds of the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm licensing objective/s.

I am making a representation regarding the TEN for Bottlefest (2.0) on 01/09/23-03/09/23.

My representation is quite wide ranging, as I have a large number of concerns.

The event proposed is new at this location, but there are precedents for a festival style event in that geographic area.

Some of the risks are common to many of the Licensing Objectives so may be repeated under the specific objective. I am also working on very limited information at this time.

499 Persons is not an extreme number of attendees, however this festival occurs at the same time and in the same location as the Colesdale farm event, meaning this event and these numbers must be viewed in alignment with those already in the area and the risks considered.

I am aware this application is a TEN which do not normally require event management plans, traffic considerations etc- this is because TEN's are normally used to extend the hours of a pre-existing business i.e. a pub, where all the safety / crime and disorder considerations have already been met or a short term event like a school fete or church concert where effectively people are on best behaviour, a festival is another consideration altogether, requiring logistical concerns and with a different behavioural profile- this is not to think the worst of festival go-ers but how much alcohol is drunk at the average school fete?

Contrast that with how much alcohol is drunk at a festival, then consider this application is till 5am, then consider that is for 3 days, add to this that the participants may camp at the location, meaning it could be considered a 24h x3 day solid drinking session, (the total application covers 65 hours) I also think it is reasonable to consider drug use which is not unknown at festivals.

Crime and Disorder

- The TEN goes until 0500hrs, this elevates concerns considerably, later drinking hours (which historically represent a very significantly higher disorder risk) mean the event is higher risk. I have not seen measures to mitigate this risk. I am not able to request conditions to ensure sufficient numbers of staff are met. I would consider 490 people on a 3 day, till 5am drinking session alone a very high risk event even if it took place within a pre-existing system such as a pub, where the pub already had an experienced publican and skilled, experienced door staff and an established client base.
- Is there an entry policy, will searches be undertaken? I understand camping is allowed- so large amounts of equipment (and potentially contraband/weapons/drugs) could be brought on site easily. Tools, fuel containers, knives are all a normal part of camping but can present risks.
- The lengthened drinking time of a 5am finish deserves significant mitigating measures- I have not seen any. This is another elevating risk factor.
- Are there adequate staff for such a long period- as camping means the need for stewardship is 'ongoing' will they have cover for 3x 24h periods?
- Festivals 10x the size of this one are normally held in this location- and there have been occasions when the numbers were exceeded by over 1000 attendees, the public expectation of this event may exceed its ability to accommodate those wishing to attend, I have seen no measures or plan to deal with this potential problem, indeed staff numbers at such a "small" event may be as low as 5, 5 staff will not be sufficient to deal with 100 extra attendees should they arrive. I do not know if tickets will be sold in advance or 'on the door' or if indeed the event is ticketed.
- No DPS required for a TEN, no licence to lose, limited accountability.
- The location has little to no natural surveillance- a concern for something like drug dealing- a problem that festivals by their nature incur.

Public safety

- Entry and egress are often higher risk times, the event shares the access/egress route of a festival in the same location at the same time and so present a significant logistical challenge.
- Will vehicular and pedestrian traffic be mixed? On site and on access road.
- After a 3 day party what first aid provision is there? (increased risks from camping)
- Emergency access, is the location accessible to the emergency services?

Protection children from harm

- Most TEN applications are granted for scenarios where there is natural guardianship present- family events or school events, where the risks of underage sales are low, with teachers and parents present. This event does not have that level of stewardship or even much/any natural surveillance while still being appealing to under 18's.

Public nuisance

- Music until 5am- there is less ambient noise and music till 5am is a nuisance.

The Temporary Event Notice has been brought to the Alcohol and Regulated Entertainment Committee to be determined. The representation from

Environmental Health is detailed in Appendix C. The representation from Hertfordshire Police is detailed in Appendix D.

3 Background

The Temporary Event Notice submitted is for a Bottlefest event with sale of alcohol, regulated entertainment and late night refreshment between 1st – 3rd September 2023 10:00 – 05:00 for up to 499 people.

The Bottlefest event is to be held on a 25 acre space which includes two fields separated by a fence and woodland running along the top. The site is located at the end of Hempshill Brook and is accessed from an entrance on Northaw Road East.

The applicant has included information on the Bottlefest event. Bottlefest is a music festival consisting of different music genres held over three stages, the main stage, the woodland stage and the canteen. Planned genres of music include Reggae, Funk, Soul, Disco, Hip-Hop, Samba and Rock music from 12:00 – 00:00. The main stage will close at 00:00 whilst music will continue on the 'woodland' and the canteen stages with a lower decibel level, reduced bass and reduced amplification (incapable of reaching disruptive sound levels) from 00:00 – 05:00.

The 'woodland' stage will play a range of musical genres and may move towards electronic music as the night progresses. The canteen stage, primarily a food and drink source, will continue to play easy going songs similar to that of the day at a lower decibel level.

The applicant has advised that a full event management plan with a sound management plan and risk assessment was prepared for another site about a year ago which they believe would still be applicable to the proposed site and they would be happy to share this information.

Details on the proposed event have been provided on the Temporary Event Notice by the applicant, this can be found in Appendix A of this report.

The committee is therefore asked to determine whether or not to uphold the Environmental Health Officer and Hertfordshire Police Licensing Officer's objections.

4 Explanation

The committee is obliged to determine the application in light of an objection from the Environmental Health Officer (Appendix C) with a view to promoting the Prevention of Public Nuisance Licensing Objective. In addition to the objection from Hertfordshire Police (Appendix D) in relation to Crime and Disorder, Public Safety, the Prevention of Public Nuisance and the Protection of Children from Harm licensing objective/s.

The committee may not uphold the Environmental Health Officers objection to the TEN's on the grounds of any other Licensing Objective.

In making its decision, the committee is also obliged to have regard to the National Guidance and the Councils own Licensing Policy in that it can only: -

- a) Prevent the TEN's from going ahead by upholding the Environmental Health Officer's objection, or
- b) Add conditions to the TEN's that are already on the premises licence conditions. The committee may not add to or amend these conditions.

5 Licensing Policy

5.1 The sub committee will also wish to be aware of the revised Guidance issued under section 182 of the licensing Act 2003.

Guidance 7.38

The 2003 Act provides that only the licensing authority can impose conditions to a TEN from the existing conditions on the premises licence or club premises certificate at the venue. The licensing authority can only do so:

- if the police or the EHA have objected to the TEN;
- if that objection has not been withdrawn;
- if there is a licence or certificate in relation to at least a part of the premises in respect of which the TEN is given;
- and if the licensing authority considers it appropriate for the promotion of the licensing objectives to impose one or more conditions.

Guidance 7.39

This decision is one for the licensing authority alone, regardless of the premises user's views or willingness to accept conditions. The conditions must be notified to the premises user on the form prescribed by regulations.

Guidance 9.42

Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.

Guidance 9.43

The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

Guidance 9.44

Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. Whilst this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.

- 5.2 The sub-committee will also wish to be aware of Welwyn Hatfield Council Statement of Licensing Policy, which includes
- 25.7 Where the Police or Environmental Health object they will serve an objection notice on you. You can then discuss the event and agree modifications to address their concerns. If no agreement is reached, we will hold a hearing to consider the objection.
- 25.8 If the TEN is in connection with licensed premises, the Licensing Sub Committee may impose one or more of the existing licence conditions. Conditions can **only** be imposed on the TEN where they already exist on the premises licence or the club premises certificate. The Act requires the conditions to be appropriate for the promotion of the licensing objectives **and** not inconsistent with the carrying out of the licensable activities.

6 Recommendation

- 6.1 The committee must have regard to the Temporary Event Notice served and the evidence it hears. The sub-committee is therefore asked to determine the Temporary Event Notice.
- 6.2 In determining the notice, which must be at the conclusion of the hearing the sub-committee may on behalf of the licensing authority, and having regard to the promotion of the licensing objectives, statute, guidance and policy decide on the following courses of action:
- a) To grant the Temporary Event Notice as served.
 - b) To add conditions to the Temporary Event Notice.
 - c) To exclude any of the licensable activities to which the Temporary Event Notice relates.
 - d) To reject the Temporary Event Notice in full or part of it.

7 **Appendices**

Appendix A Temporary Event Notice submitted on Monday 22nd May 2023 at 18.34pm

Appendix B – Location of event site and event entrance marked by the applicant and other locations to give clarity

Appendix C - Representation from Environmental Health

Appendix D – Representation from Hertfordshire Police

Nicol Tupling Licensing Technical Officer

Date – 26/05/2023

Section 14(2) of the Licensing Act 2003 (Hearings) Regulations provides the grounds for exemption

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