

**North Hertfordshire District Council
Licensing Act 2003
Decision Notice**

Date of Hearing	Wednesday, 15 October 2008
Members of Panel	Councillors T. Brindley, J. Cunningham & M. Kirkland
Applicant(s) Name	Lytton Enterprises Limited
Premises Address	Knebworth Park Estate, Knebworth Park, Old Knebworth, Herts.
Date of Application	13 September 2008
APPLICATION FOR VARIATION	<p>This is an application for variation of a Premises Licence under Section 34 of the Licensing Act 2003.</p> <p>The Sub-Committee have read the material presented to us and have listened to all the evidence and submissions. The Sub-Committee has considered the National Guidance and the Statement of Licensing Policy and has come to the following decision:</p> <p>The application is <u>approved</u> subject to the conditions and hours as are set out below.</p>
CONDITIONS DEEMED NECESSARY FOR THE PROMOTION OF THE LICENSING OBJECTIVES	<p>The Sub-Committee recognises that conditions will <u>only</u> be imposed on a licence where conditions are necessary for the promotion of one of the four licensing objectives. The Sub-Committee will only impose conditions on a licence where relevant representations have been made and they consider that it is necessary to impose conditions as a result of these representations.</p> <p>The following conditions are each considered <u>necessary</u> by the Sub-Committee to promote the licensing objective of Public Safety</p> <p>The condition(s) are:</p> <ol style="list-style-type: none"> 1. The Premises Licence Holder will notify to the Building Control Department of NHDC the location and description of all temporary demountable structures in which licensable activities are to take place or which are directly related to such licensable activities at least 20 working days before the commencement of the licensable activities. Where the giving of such notice is not reasonably practical, a reduced timescale may be agreed in writing with NHDC. Such agreement will not be unreasonably withheld and shall be based upon the notice given to the Premises Licence Holder by the event organiser, the event profile and occupancy, the profile of the anticipated audience, the number and complexity of structures and competency of the client's agent, event organiser or sub-contractor. <p>(2) The structural and technical details of any temporary</p>

	<p>demountable structures notified in accordance with Condition 1 above shall be provided by the Premises Licence Holder to the Building Control Department of NHDC within 5 working days of a request being received by the Premises Licence Holder, or within a greater timescale as agreed in writing with NHDC, such agreement not being unreasonably withheld. The level of detail required will be based upon the event profile and occupancy, the profile of the anticipated audience, the number and complexity of structures and competency of the client's agent, event organiser or sub-contractor.</p> <p>(3) The person or postholder responsible for the construction, commissioning and monitoring of the sign-off of each structure shall be identified by the Premises Licence Holder to the Building Control Department of NHDC prior to commencement of works on site upon request. All sign-off certificates for any temporary demountable structures in which licensable activities take place shall be located in the Estate Office of Knebworth House and made available to an authorised officer of NHDC on request.</p>
<p>CONDITIONS PROPOSED BY THE RESPONSIBLE AUTHORITIES</p>	<p>The following conditions have been recommended by NHDC Building Control and have all been considered to be <u>unnecessary</u> to ensure the promotion of one of the four licensing objectives, namely Public Safety:</p> <ol style="list-style-type: none"> 1. The location of all temporary demountable structures proposed (including: stages, marquees etc.) within areas covered by the premises licence be identified. These structures will then be covered by the following conditions. 2. Technical details of all temporary structures are provided. These would include: <ul style="list-style-type: none"> •<input type="checkbox"/> Structural and technical drawings and/or calculations of each structure; •<input type="checkbox"/> Details of the proposed additional loadings to be applied to individual elements of each structure; •<input type="checkbox"/> Suitable access and egress provided to each structure and any loading ramps being finished in a non-slip material; •<input type="checkbox"/> How individual elements of any stage are to be fixed positively together; •<input type="checkbox"/> The edges of any structure being adequately marked and protected with handrails at 1.1m high and a 150mm toe board on all edges except the down stage area; •<input type="checkbox"/> How all flexible wall and roof materials affixed to any stage, mast or tower are designated to meet the relevant wind loading criteria applicable to the structure; •<input type="checkbox"/> Details of the method of assessing the wind speed during the event and what action is to be taken at relevant speeds; •<input type="checkbox"/> Details of means of escape in case of emergency from structures. 3. Details of the safety barriers to be provided to protect lighting

towers, control consoles, front of house, generators, back stage and all other similar structures or apparatus or appliances are forwarded. If the barriers are not under the constant supervision of SIA (Security Industry Authority) registered individuals, their height should be a minimum 2.0 metres.

4. Details of the safety barriers to be provided to the front of stages are forwarded.

5. Relevant independent certification or manufacturers details are provided to demonstrate that any fabric or other material used in the construction or in conjunction with tents, marquees and similar structures, roof coverings, weather protection covers, curtains, drapes, back drops, scrims and other materials, used in or upon structures, consist of flame resistant materials or shall be rendered flame resistant to the current British Standard.

6. The person(s) responsible for the construction, commissioning and monitoring and their competency for the "sign-off" of each structure be identified as is the location and availability of the certificates.

The following conditions have been recommended by **NHDC Environmental Health** and have all been considered to be unnecessary to ensure the promotion of one of the four licensing objectives, namely Public Safety:

1. When licensable activities take place on the premises in temporary structures with a total capacity of less than 5,000 persons, the Premises Licence Holder will provide to North Hertfordshire District Council's Licensing Department not less than 21 days prior to the commencement of the event the information required by the NHDC Building Control Manager, as set out in Conditions 1-6 above.

2. When licensable activities take place on the premises in temporary structures with a total capacity of more than 5,000 persons, the Premises Licence Holder will provide to North Hertfordshire District Council's Licensing Department not less than 42 days prior to the commencement of the event the information required by the NHDC Building Control Manager, as set out in Conditions 1-6 above.

The following conditions have been recommended by **NHDC Environmental Protection** and have all been considered to be unnecessary to ensure the promotion of one of the four licensing objectives, namely the Prevention of Public Nuisance:

1. The control limits set at the mixer position shall be adequate to ensure that Music Noise Level (MNL) shall not be at the façade of any noise sensitive premises exceed 65dB(A) over a 15 minute period between the hours of 09:00 and 23:00. Measurements should have regard to the methodology quoted in BS4142:1997, paragraph 4-5, with the sound level meter set to fast response.

	<p>2. The control limits set at the mixer position shall be adequate to ensure that Music Noise Level (MNL) shall not at any noise sensitive premises exceed the background noise level by more than 5dB(A) over a 15 minute period between the hours of 23:00 and 09:00. During the period 23:00 to 09:00, the noise level from the event shall not exceed 75dB in either of the 63Hz or 125Hz octave frequency bands at the façade of any noise sensitive premises. Measurements should have regard to the methodology quoted in BS4142:1997, paragraph 4-5, with the sound level meter set to fast response.</p>
<p>CONDITIONS PROPOSED BY APPLICANT</p>	<p>This licence will be subject to the conditions, that are consistent with the terms offered by the applicant in order to promote the four licensing objectives set out in Part P of their application.</p> <p>The following conditions have all been considered to be <u>unnecessary</u> to ensure the promotion of one of the four licensing objectives, namely Public Safety</p> <p>1. When licensable activities take place on the premises in temporary structures with a total capacity of less than 10,000 persons, the Premises Licence Holder will provide to North Hertfordshire District Council's Licensing Department not less than 14 days prior to the commencement of the event the following:</p> <p>(i) A plan showing the location of the temporary structure/structures in which any licensable activity/activities is/are to take place;</p> <p>(ii) A plan showing the location of the temporary structure/structures showing the fire exits and locations of any stage/stages in which any licensable activity/activities is/are to take place;</p> <p>(iii) Details of the event including the types of licensable activity/activities to be provided and an estimate of numbers attending.</p> <p>Less than 14 days notice may be given with the agreement of North Hertfordshire District Council in circumstances where the giving of such notice is not reasonably practical.</p> <p>2. When licensable activities take place on the premises in temporary structures with a total capacity of more than 10,000 persons, the Premises Licence Holder will provide to North Hertfordshire District Council's Licensing Department not less than 28 days prior to the commencement of the event the following:</p> <p>(i) A plan showing the location of the temporary structure/structures in which any licensable activity/activities is/are to take place;</p> <p>(ii) A plan showing the location of the temporary structure/structures showing the fire exits and locations of any stage/stages in which any licensable activity/activities is/are to take place;</p> <p>(iii) Details of the event including the types of licensable</p>

	<p>activity/activities to be provided and an estimate of numbers attending.</p> <p>Less than 28 days notice may be given with the agreement of North Hertfordshire District Council in circumstances where the giving of such notice is not reasonably practical.</p> <p>No licensable activities shall take place in any temporary structure/structures on the premises unless the Premises Licence Holder is in receipt of MUTA or other industry recognised certification in advance of the licensable activities commencing. Such certification will be available to North Hertfordshire District Council on request.</p>
<p>EFFECT OF FAILING TO COMPLY WITH CONDITIONS EXPLAINED TO APPLICANT</p>	<p>The Sub-Committee by virtue of this reference explains to the applicant the effect of failure to comply with any of the conditions attached to the licence or certificate is a criminal offence, which upon conviction, would result in a fine of up to £20,000 or up to six months imprisonment or both.</p>
<p>STATEMENT OF LICENSING POLICY</p>	<p>The Sub-Committee has taken into account the North Hertfordshire District Council's Statement of Licensing Policy in reaching their decision. They have found the following sections to be of particular relevance in reaching this decision.</p> <p>4. Regulating Licensing</p> <p>4.1 <i>Licensing is about regulating the carrying on of licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the Act. The Council may attach conditions to licences issued under the Act and these must be focussed on matters which are within the control of the individual licence holders and others in possession of relevant authorisations.</i></p> <p>4.2 <i>The Council recognises that licensing law is not the primary mechanism for the general control of individuals once they are away from a licensed premises and, therefore, beyond the direct control of the licensee(s) or certificate holder(s) Beyond the vicinity of the premises, an individual who engages in anti-social behaviour is accountable under law in their own right. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy in North Hertfordshire.</i></p> <p>4.3 <i>In addressing these matters the Council will primarily focus on the direct impact of the activities taking place on, or in the immediate vicinity of, the licensed premises on members of the public living, working or otherwise engaged in activities in the vicinity.</i></p>

4.4 The Council do not consider that the term “vicinity” can be generically defined and will consider it’s definition in the specific circumstances of each application. To be considered in the vicinity of a premises, an interested party must be able to demonstrate a causal link to activities on or in the immediate vicinity of the premises in relation to the licensing objectives. For example, an interested party may be able to hear music from the premises within their property or they may see patrons leaving the premises and causing a nuisance near their property.

4.5 The Council recognise that unless relevant representations are received from responsible authorities or interested parties, there is no provision for a licensing authority to impose conditions on a licence other than those volunteered by the applicant as part of the operating schedule included in the application. In addition, there is no provision for a licensing authority itself to make representations. If no relevant representations are received in respect of an application, the licensing authority must issue the licence on the terms sought.

5. Licence Conditions

5.1 The Council recognise that each application must be considered on it’s own merits and any conditions attached to licences and certificates must be tailored to the individual style and characteristics of the premises and activities concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises. Standardised conditions must be avoided and will only be lawful where they are deemed necessary to promote the licensing objectives in response to relevant representations.

5.2 Conditions will only be imposed when they are necessary for the promotion of the Licensing Objectives and will focus upon matters within the control of the individual licensee such as the premises, places or events being used for licensable activities. Conditions are likely to be focused towards the direct impact of those activities on persons living, working or otherwise engaged in activities in the vicinity.

5.3 Where appropriate the Council will draw upon the pool of model conditions issued under the Act. A copy of the current pool of model conditions can be found on the Council’s website at www.north-herts.gov.uk. The pool of model conditions relate to:

- the prevention of crime and disorder;
- public safety (including fire safety);
- the promotion of public safety in theatres, cinemas, concert halls and similar places;
- the prevention of public nuisance; and

- the protection of children from harm.

5.4 Any conditions drawn from the pool of model conditions will be tailored to the individual premises and events concerned and determined at the time the application is being considered.

9. The Prevention of Public Nuisance

9.1 Licensed premises may have significant potential to impact adversely on communities through public nuisances that arise from their operation. The Council interprets 'Public Nuisance' in its widest sense and takes it to include such things as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in activities in the vicinity of a particular premises.

9.2 The Council may impose conditions on licences to prevent unnecessary Public Nuisance to local residents. The conditions may include:

- sound proofing requirements;
- restrictions on times when music or other licensable activities may take place;
- technical restrictions on sound levels at the premises, by the use of sound limiting devices;
- limiting the hours of regulated entertainment;
- limiting the hours of open-air entertainment and the use of outdoor areas, gardens, patios, and smoking shelters;
- or
- requiring the display of signs both inside and outside the premises reminding customers to leave the premises quietly and to respect the rights of nearby residents.

9.3 The following examples of control measures are given to assist applicants when preparing their Operating Schedules, having regard to their particular type of premises and/or activities. These are not exhaustive but include:

- effective and responsible management of the premises;
- appropriate instruction, training and supervision of those employed or engaged to prevent incidents of Public Nuisance;
- adoption of best practice guidance such as the Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by the Institute of Acoustics; Safer Clubbing and the National Alcohol Harm Reduction Strategy Toolkit;
- management of arrangements for the collection and disposal of litter; and
- effective ventilation systems.

9.4 Conditions relating to noise nuisance will normally concern steps necessary to control the levels of noise emanating from

	<p>premises. The Council are aware of the need to avoid unnecessary or disproportionate measures that could deter valuable community activities such as live music. Conditions that are likely to be a significant financial burden will be avoided, where possible, for smaller venues.</p> <p>9.5 The Council recognise that conditions relating to noise nuisance may not be necessary in certain circumstances where the provisions of the Environmental Protection Act 1990, the Noise Act 1996, or the Clean Neighbourhoods and Environment Act 2005 adequately protect those living in the vicinity of the premises. That said, the approach of the Council will be one of prevention and will consider each application on its own merits.</p> <p>10. Live Music, Dancing and Theatre</p> <p>10.1 The Council recognises the need to encourage and promote live music, dancing and theatre for the wider cultural benefit of the community.</p> <p>10.2 Only necessary, proportionate and reasonable licensing conditions will be imposed on relevant licences so as not to discourage the promotion of entertainment. Conditions will relate to the promotion of the Licensing Objectives.</p> <p>10.3 The Council will avoid any measure which deters live music, dancing and theatre by imposing indirect costs of a substantial nature.</p> <p>10.4 The Council will seek to encourage cultural and community events by licensing its own public spaces. The following public spaces are currently licensed for regulated entertainment:</p> <p style="padding-left: 40px;"><i>Butts Close, Hitchin</i> <i>Howard Gardens, Letchworth</i> <i>Broadway Gardens, Letchworth</i></p>
<p>RATIONALE FOR DECISION</p>	<p>The sub-Committee has considered the Licensing Objectives of Public Safety and Prevention of Public Nuisance. In reaching its decision the sub-Committee has considered the evidence heard at the hearing and the Statutory Guidance.</p> <p>The sub-Committee has imposed, with minor amendments, the proposed conditions helpfully agreed between the applicant and Building Control. The sub-Committee has decided that the conditions are necessary to promote the Licensing objective of Public Safety.</p> <p>The sub-Committee has not imposed any conditions relating to Prevention of Public Nuisance as no evidence was provided that this Premises Licence has caused noise nuisance. The sub-Committee is further satisfied that existing legislation and powers are satisfactory.</p>
<p>COMMENCEMENT</p>	<p>This licence will come into effect from the date of this decision.</p>

DATE	
RIGHTS OF REVIEW	At any stage, following the grant of a premises licence, a responsible authority, such as the Police or an interested party, such as a resident living in the vicinity of the premises may ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives. The review is a request for the Council to look at the existing licence and decide whether its conditions are adequate to meet the four licensing objectives defined under the Licensing Act 2003.