

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

Date of Hearing	Thursday, 17 June 2010
Members of Panel	Councillors D. Barnard, T. Brindley and M. Muir
Applicant(s) Name	Rhythms of the World Ltd.
Premises Address	Grounds of Hitchin Priory, Tilehouse Street, Hitchin, Herts. SG5 2DL
Date of Application	26 April 2010
APPLICATION FOR GRANT	<p>This is an application for the grant of a Premises Licence under Section 17 of the Licensing Act 2003, specifically for the Rhythms of the World Festival, that allows for a capacity of 19,999 at the premises on a maximum of two days per calendar year between June and August.</p> <p>The Sub-Committee has read the material presented to it and has 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> <p>1. <u>OPENING HOURS</u></p> <p>The permitted opening hours are:</p> <p>Saturday 1100hrs to 12 Midnight Sunday 1100hrs to 2200hrs</p> <p>2. <u>LICENSABLE ACTIVITIES</u></p> <p>The licensable activities applied for are:</p> <ul style="list-style-type: none"> • PART A – Plays • PART B – Films • PART E – Live Music • PART F – Recorded Music • PART G – Performance of a Dance • PART H – Anything of a Similar Nature – Parts E, F or G • PART I – Provision of Facilities for Making Music • PART J – Provision of Facilities for Dancing • PART K – Provision of Facilities for Entertainment of a Similar Description – Parts I or J • PART M - Supply of alcohol <p>All licensable activities may take place both indoors or outdoors. The</p>

hours during which the licensable activities may take place are:

PART A - Plays

Saturday 12 Noon to 2300hrs
Sunday 12 Noon to 2130hrs

PART B - Films

Saturday 12 Noon to 2300hrs
Sunday 12 Noon to 2130hrs

PART E – Live Music

Saturday 12 Noon to 2300hrs
Sunday 12 Noon to 2130hrs

PART F – Recorded Music

Saturday 1100hrs to 12 Midnight
Sunday 1100hrs to 2200hrs

PART G – Performance of a Dance

Saturday 12 Noon to 2300hrs
Sunday 12 Noon to 2130hrs

**PART H - Anything of a Similar Nature – Parts E, F or G
(Processions of Music and Dance)**

Saturday 12 Noon to 2300hrs
Sunday 12 Noon to 2130hrs

PART I - Provision of Facilities for Making Music

Saturday 12 Noon to 2300hrs
Sunday 12 Noon to 2130hrs

PART J - Provision of Facilities for Dancing

Saturday 12 Noon to 2300hrs
Sunday 12 Noon to 2130hrs

**PART K - Provision of Facilities for Entertainment of a Similar
Description – Parts I or J (Drum processions along a marked
route on-site)**

Saturday 12 Noon to 2300hrs
Sunday 12 Noon to 2130hrs

PART M - Supply of alcohol

Saturday 1100hrs to 2230hrs
Sunday 1100hrs to 2030hrs

<p>CONDITIONS DEEMED NECESSARY FOR THE PROMOTION OF THE LICENSING OBJECTIVES</p>	<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 Sub-Committee has decided not to impose any additional conditions of its own volition.</p>
<p>CONDITIONS PROPOSED BY THE RESPONSIBLE AUTHORITIES</p>	<p>The following conditions have been recommended by NHDC Environmental Protection and are considered <u>necessary</u>, as amended, for the promotion of one of the four licensing objectives, namely the prevention of public nuisance:</p> <ol style="list-style-type: none"> 1. The licence would authorise licensable activities in accordance with the timings on two days each calendar year in June, July or August. 2. The premises licence holder shall notify the Licensing Authority and all Responsible Authorities of the date of each year's event no later than five calendar months prior to the commencement of any event. 3. ROTW will produce an Event Management Plan, named the 'Safety File', this will form the operating schedule. The Safety File (SF) will form the operating schedule. The SF will contain chapters detailing with the event, health and safety, waste management, noise management, emergency planning, medical cover, security, stewarding, traffic management, site plan @1:500, temporary demountable structures, stalls and examples of any sign off forms or logs. See Safety File Contents. The SF will be submitted to all relevant authorities in draft form five calendar months prior commencement of any event to allow for discussions each year prior to producing finalised versions. THE SF will be discussed and agreed with all Responsible Authorities no later than 28 days prior to the event. A final version of the SF will be submitted to the Licensing Authority and all Responsible Authorities no later than 28 days prior to the commencement of the event. The final version of the SF forms part of the application and will become attached to the premises licence as operating schedule conditions on a year by year basis. 4. The premises licence holder shall appoint a suitably qualified and experienced noise consultant who is a member of the Institute of Acoustics and/or the Association of Noise Consultants. The Licensing Authority and Council's Noise Control Officer shall be advised of the name and contact details of this person no later than three calendar months prior to the commencement of any event. 5. The premises licence holder shall liaise with the Responsible Authorities, and between all parties including the Council's Noise Control Officer, the noise consultant, the promoter, the sound system suppliers and sound engineers, prior to, during and after the event.

6. A noise survey to determine background noise levels shall be carried out annually unless the Council's Noise Control Officer has agreed with the premises licence holder in writing that a survey is not required in a particular year. The monitoring shall take place at locations agreed in writing with the Council's Noise Control Officer. The information obtained from this survey shall be made available to the Licensing Authority and the Council's Noise Control Officer no later than two calendar months prior to the commencement of the event.
7. Prior to the commencement of the event, the premises licence holder shall be fully aware of the techniques and equipment to be used during the event to ensure the noise criteria are not breached.
8. (i) A noise management plan shall be submitted to and approved in writing by the Council's Noise Control Officer (CNCO) no later than six weeks prior to the commencement of the event. The plan shall include comprehensive sound level predictions at noise sensitive locations based on the type of event proposed at the licensed premises. It shall include a scheme designed to minimise the impact of noise from the event to noise sensitive premises and specify the appropriate noise criteria that shall be achieved during the event. Only in exceptional circumstances can the CNCO reduce the timescale for compliance to this condition and only if the CNCO confirms it in writing.
 - (ii) If (i) above has been met then:
If there are any proposed changes to the event which may impact on noise following the approval of the noise management plan the noise consultant must liaise with the CNCO to ascertain if any additional measures/noise predictions/noise criteria, etc are required by the CNCO and they will form part of the revised noise management plan.
 - (iii) In addition to (i) and (ii) no changes to the noise management plan will be permitted 7 days before the admission of public to the site.
 - (iv) If the plan, (subject to and/or after points (i), and (ii)), is not approved in writing by the Council's Noise Control, the CNCO requirements will form part of the noise management plan.
9. The premise licence holder shall ensure that the final version of the noise management plan shall be fully implemented during the event.
10. Noise levels during the event shall be continually monitored inside the licensed area to ensure the noise criteria specified in the premises licence conditions and the noise criteria agreed in the noise management plan are not exceeded.
11. Measurements outside the licensed area shall be routinely taken

	<p>to ensure the noise criteria specified in the premises licence conditions and the noise criteria agreed in the noise management plan are not exceeded.</p> <p>12.The Licensing Authority and the Council's Noise Control Officer shall have access to the results of any noise monitoring at all times.</p> <p>13.If there is a breach of the noise criteria specified in the premises licence conditions or the noise criteria agreed in the noise management plan, remedial action shall be taken forthwith to prevent further breaches of the noise criteria.</p> <p>14.If noise complaints are received in respect of the event they shall be investigated forthwith; this may include visiting the complainant and the source of the noise. If the complaint is upheld, additional remedial measures must be implemented forthwith to reduce the noise disturbance to residents.</p> <p>15.A final report shall be provided to the Licensing Authority and the Council's Noise Control Officer no later than thirty-one days after the event, detailing the noise survey results and the results of the noise monitoring carried out during the event, indicating whether or not compliance to all the noise criteria was achieved.</p> <p>16.The premises licence holder shall appoint sound engineers who will be responsible for adjusting the sound system on his/her request, on the request of the noise consultant, or on the request of the Council's Noise Control Officer, in order to ensure that the agreed noise criteria are not exceeded.</p> <p>17.A noise propagation test shall be undertaken prior to the commencement of the event in order to set appropriate control limits for the sound mixer positions. The sound systems shall be configured and operated in a similar manner to that intended for the event. The sound source used for the test shall be similar in character to the music likely to be produced during the event.</p> <p>18.Sound tests and rehearsals must be undertaken where possible using monitors only. In addition, sound tests and rehearsals audible outside the licensed area shall:</p> <ul style="list-style-type: none"> (i) be permitted for a maximum of 2hours during the following hours 15:00-20:00 on the day before the event; and (ii) on the day of the event be permitted from two hours before the start of regulated entertainment and not before 10:00hrs. <p>19.The premises licence holder shall ensure that the noise consultant, promoter, sound system supplier and all sound engineers are informed of the sound control limits and that any instructions from the noise consultant or Council's Noise Control Officer regarding noise levels shall be implemented forthwith.</p> <p>20.A list of contact names and telephone numbers for the noise consultants, sound engineers, premises licence holder and other nominated persons shall be provided to the Licensing Authority</p>
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	<p>no later than seven days prior to the commencement of the event.</p> <p>21.(i)The premises licence holder shall provide a dedicated telephone complaint line which shall be attended and answered throughout the duration of the event. The details of the complaints must be passed to the noise consultant forthwith; and</p> <p>(ii) A log of all noise complaints shall be recorded and kept for distribution to the Licensing Authority and the Council's Noise Control Officer upon request after the event. The log shall be open to inspection by the Licensing Authority and/or the Council's Noise Control Officer during the event.</p> <p>22.The nature, date and timings of the event, and the telephone complaint line number, shall be advertised in one or more newspapers circulating in the Hitchin area on at least one occasion prior to the commencement of the event. This information must also be advertised on the premises licence holders websites. The telephone number must be provided in writing to the Licensing Authority and the Council's Noise Control Officer no later than seven days prior to the commencement of the event, along with details of the publications in which the advertising was published.</p> <p>23.The premises licence holder shall notify the occupiers of nearby noise sensitive premises in writing of the nature, date and timings of the event and provide them with the dedicated telephone complaint number. This exercise shall be carried out no later than fourteen days prior to the commencement of the event. A copy of the notification and list of premises to which it has been sent shall be provided to the Licensing Authority and the Council's Noise Control Officer no later than seven days prior to the commencement of the event.</p> <p>24.The use of fireworks, pyrotechnics or special effects is not permitted without the prior consent of the Council's Noise Control Officer. The Council's Noise Control Officer shall be advised in writing of the details of the proposed use of the special effects, including the noise levels, duration and timing of them. This must be submitted to and approved in writing by the Council's Noise Control Officer no later than six weeks prior to the commencement of the event. A copy of the details of any approved special effects shall be submitted to the Licensing Authority no later than six weeks prior to the commencement of the event. If this condition is not complied with, no such special effects will be permitted during the event.</p>
CONDITIONS PROPOSED BY APPLICANT	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.
EFFECT OF FAILING TO COMPLY WITH	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

CONDITIONS EXPLAINED TO APPLICANT	imprisonment or both.
STATEMENT OF LICENSING POLICY	<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> <p>4.4 <i>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.</i></p> <p>4.5 <i>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</i></p>

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.

7. Licensing Hours

7.1 The Council recognises that fixed and artificially early closing times previously established under the Licensing Act 1964 were one of the main causes of rapid binge drinking prior to closing times and one of the causes of disorder and disturbance when large numbers of customers were required to leave premises simultaneously. These concentrations of people leaving can result in friction at places such as late night food outlets, taxi ranks and other sources of transport. The aim through the promotion of the licensing objectives will be to reduce the potential for concentrations and achieve a slower dispersal of people from licensed premises through

	<p><i>flexible opening times. The Council recognise that arbitrary restrictions would undermine the principle of flexibility and should be avoided. The licensing objectives will be the paramount consideration at all times.</i></p> <p>7.2. <i>The Council also recognises that licensing hours should not inhibit the development of a thriving and safe evening and night time economy, which is important for local investment, employment and tourism. The Council will not seek to restrict the trading hours of any particular premises unless this is necessary to promote one or more of the Licensing Objectives.</i></p> <p>7.3 <i>The Council has no intention to introduce the zoning of licensing hours. Experience in other areas has shown that this can lead to significant movement of people across boundaries in search of premises opening later and places greater pressure on town centres than is necessary. In addition, the Council recognise that zoning of licensing hours would undermine the principle of determining each application on it's own merits.</i></p> <p>7.4 <i>With regards to shops, stores and supermarkets that provide sales of alcohol for consumption off the premises, the Council would normally expect to grant the sale of alcohol at any time the premises is open to the public, unless representations give good reason to restrict the hours in relation to the licensing objectives.</i></p> <p>9. The Prevention of Public Nuisance</p> <p>9.1 <i>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.</i></p> <p>9.2 <i>The Council may impose conditions on licences to prevent unnecessary Public Nuisance to local residents. The conditions may include:</i></p> <ul style="list-style-type: none"> • <i>sound proofing requirements;</i> • <i>restrictions on times when music or other licensable activities may take place;</i> • <i>technical restrictions on sound levels at the premises, by the use of sound limiting devices;</i> • <i>limiting the hours of regulated entertainment;</i> • <i>limiting the hours of open-air entertainment and the use of outdoor areas, gardens, patios, and smoking shelters; or</i> • <i>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.</i>
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	<p>9.3 <i>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:</i></p> <ul style="list-style-type: none"> • <i>effective and responsible management of the premises;</i> • <i>appropriate instruction, training and supervision of those employed or engaged to prevent incidents of Public Nuisance;</i> • <i>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;</i> • <i>management of arrangements for the collection and disposal of litter; and</i> • <i>effective ventilation systems.</i> <p>9.4 <i>Conditions relating to noise nuisance will normally concern steps necessary to control the levels of noise emanating from 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.</i></p> <p>9.5 <i>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 it's own merits.</i></p> <p>10. <i>Live Music, Dancing and Theatre</i></p> <p>10.1 <i>The Council recognises the need to encourage and promote live music, dancing and theatre for the wider cultural benefit of the community.</i></p> <p>10.2 <i>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.</i></p> <p>10.3 <i>The Council will avoid any measure which deters live music, dancing and theatre by imposing indirect costs of a substantial nature.</i></p> <p>10.4 <i>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</i></p>
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	<p><i>entertainment:</i></p> <p><i>Butts Close, Hitchin</i> <i>Howard Gardens, Letchworth</i> <i>Broadway Gardens, Letchworth</i></p>
RATIONALE FOR DECISION	The Sub-Committee has taken into account the representations received from all three interested parties but are mindful of the guidance, for example paragraph 2.34, that reminds licensing authorities of the need to avoid unnecessary or disproportionate measures that could deter events that are valuable to the community, such as live music. Based on the evidence before it the Sub-Committee considers that the conditions imposed provide sufficient safeguards to protect against public nuisance.
COMMENCEMENT DATE	This licence will come into effect from the date of this decision.
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.