



LICENSING AND GAMBLING SUB COMMITTEE

MINUTES OF THE MEETING HELD AT COUNCIL CHAMBER, PENALLTA HOUSE,
TREDOMEN, YSTRAD MYNACH ON TUESDAY, 26TH SEPTEMBER, 2023 AT 10.00 AM

PRESENT

Councillor W. Williams – Chair

Councillors:

T. Heron and S. Williams

Also Present:

L. Morgan (Licensing Manager), T. Rawson (Solicitor) and J. Lloyd (Committee Services Officer)

Together with:

Representing the Applicant

Sunset Lodge Weddings Ltd - Mr M and Mrs L. Hobbs

Representing Responsible Authorities

A. Brown (Environmental Health Officer), D. Pugh (Commercial Safety Officer), T. Keohane (Senior Trading Standards Officer) and PC J. Taylor (Heddlu Gwent Police).

Local Ward Members:

Councillors G. Johnston and J. Jones

Representing Other Persons

Mrs A. Phillips (representing R. Cook, D. Jones, S. Cook and A. Bunny-Cook), Mr A. Sharpe, Mrs. K. Presley, Mr G. Waters, and Mrs D. Brown.

INTRODUCTION, RECORDING AND FILMING ARRANGEMENTS

The Chair welcomed all those in attendance and introductions were made. The Chair reminded those present that the meeting was being live-streamed and recorded and would be made available following the meeting via the Council's website – [Click Here to View](#)

1 APOLOGIES FOR ABSENCE

An apology for absence was received from Mrs A. Dicks (Assistant Licensing Manager)

2 DECLARATIONS OF INTEREST

There were no declarations of interest made at the beginning or during the course of the meeting.

3 APPLICATION FOR A NEW PREMISES LICENCE IN RESPECT OF (SUNSET LODGE WEDDINGS LTD - LODGE AND MARQUEE AT TY CAE BRITH FARM, TROED Y RHIW ROAD, MYNYDDISLWYN, NP11 7BB)

The Chairman opened the meeting and introductions were made.

The Legal Advisor to the Sub-Committee outlined the procedure for the meeting and reported that Members had previously familiarised themselves with the report of the Licensing Officer, the application and plan of the premises together with the written submissions from the responsible authorities and local residents who were objecting to the application.

Mr L. Morgan (Licensing Manger) presented the report and outlined the application submitted for a new premises licence for Lodge and Marquee at Ty Cae Brith Farm, Troed y Rhiw Road, Mynyddislwyn, NP11 7BB with the proposed operating hours for the supply of alcohol (on and off sales), Provision of Recorded Music (indoors only) and Late Night Refreshment as follows:-

- **Supply of Alcohol (on and off sales)**
Sunday to Thursday 12.00 to 23.00
Friday and Saturday 12.00 to 00.00
Boxing Day and New Years Eve 12.00 to 02.00
Sunday preceding Bank Holiday Monday 12.00 to 00.00
- **Provision of Recorded Music (Indoors)**
Saturday 23.00 to 23.30
New Years Eve until 01.00
Sunday preceding Bank Holiday Monday – non amplified music until 23.45 within the lodge.
- **Late Night Refreshment**
Friday and Saturday 23.00 to 00.00
Boxing day, New Years Eve until 02.00
Sunday preceding Bank Holiday Monday until 00.00

All licensable activities for the marquee to take place between 1st May to 30th September.

However, the applicant has subsequently amended his application in relation to the Marquee area only, to reflect the following position namely, to provide licensable activities on Saturdays' only between 1st of May and the end of September.

The Licensing Officer then referred to representations received in relation to the application from interested parties/responsible authorities that were set out in paragraph 1.7 of the report, copies of which were attached to the report circulated with the agenda. There were no objections listed by the Fire Officer, Trading Standards, Health and Safety, Environmental Health or Police.

Attention was then drawn to the local policy considerations as set out in paragraph 1.10 of the report and to the way in which the Sub-Committee would deal with the application. It was explained that the Sub-Committee must have regard to all the representations made and to the evidence heard. It must take such steps as is considered necessary for the promotion of the licensing objectives and could:-

- Grant the application as requested to include, where appropriate, mandatory conditions

- Modify the conditions specified in the operating schedule by altering, omitting or adding to them
- Reject the whole or part of the application

All parties present were afforded the opportunity to ask questions.

A Member sought clarification that where the application referred to Friday and Saturday, this had now been amended to the marquee, Saturdays only between 1st May to 30th September. All parties were advised that this was correct.

There were no further questions for Licensing and representations were then invited from the applicant.

Mr Hobbs addressed the Sub-Committee and outlined his application. There had been a temporary change to one of their fields to have a marquee and it was proposed to have 10 events per year for a maximum of 150 people. Mr Hobbs advised that he was fully aware of the noise issues and had worked with a noise management company to ensure minimum levels of noise to local residents.

All parties were then afforded the opportunity to ask questions.

A resident noted the 4316 licensed hours already held by the applicant and queried why there was a need for additional hours. They also questioned the number of events proposed for each year. Mr Hobbs clarified that 'the lodge' is only currently used for personal use but remains a licensed premises and noted that the application is for the marquee, Saturdays only, and is separate to the hours licensed by the lodge, which is not open to the public.

The Legal Advisor to the Sub-Committee clarified with the Applicant that it is the intention to run a 'tilled bar' for customers to purchase alcohol at weddings and parties in the marquee.

A Member noted the maximum number of persons permitted in the marquee was 150 and clarified that when the marquee is hired out, the hirer understands that they cannot invite more than 150 persons to their event.

A Member sought clarification on the lodge which was licensed but only used for personal use, noting that this premises could accommodate 70 people, and queried whether the building had been fire risk assessed to determine the maximum numbers for standing and sitting. Members were advised that the fire service had recommended that an external assessor carry out the fire risk assessment. The Legal Advisor to the Sub-Committee clarified with the Applicant that the 'dog house/the lodge' had not been fire risk assessed.

A Member queried whether the dog house/lodge had previously been used for commercial purposes and referred to the adverts for 'bottomless brunch'. Members were advised that this was advertised in the public domain by mistake and confirmed that the premises is not currently used commercially and would require planning permission and building regulations in order to do so.

Discussion followed in relation to the lodge and its use by family and friends of the directors of the applicant, and whether the premises required a licence. Members were advised by the applicant that the premises licence was in place to cover all private parties held at the premises, in order to sell alcohol to family and friends at these events.

A local ward member sought clarification on the nature of the advert for bottomless brunch and queried why the event would be advertised to family and friends with specific times for attendance at the event. The applicant advised that this was normally only advertised on their 'family group' and that his son had advertised it in error. The event has been held for family and friends on bank holidays for the last 7 to 8 years.

A local ward member proposed that if the licence were granted, subject to conditions limiting use of the outside area after 10pm, whether this would continue on summer evenings and be monitored by the applicant to ensure the condition is adhered to. Mr Hobbs advised all parties that the external lights are currently turned off at 10pm and family and friends are requested to remain indoors after this time. Further clarification was sought on whether this would also occur with the marquee and questioned the control of up to 200 persons on the site. The applicant advised that the outdoor seating area at the marquee would accommodate 25 persons and would be managed by SIA door staff, together with the bar staff.

Discussion followed in relation to customer lifts from the premises at the end of the events, taxi pick up points at the premises, and maximum times specified for taxis to allow some flexibility for lateness and still be vacated before 12 midnight.

A Member sought clarification on the proposed use of the marquee for events on alternate Saturdays, and noted if the licence were granted, the marquee could be used every Saturday if the licence allowed. Mr Hobbs confirmed that they had held 3 events this year under Temporary Event Notices, which had been managed well by security and bar staff, and also confirmed that any drunken customers who insisted on leaving the premises via the lanes, would be dealt with by staff and Police called if necessary. A Member noted that the times advertised in the brochure for the marquee, needed to be amended to be in line with the licensable hours, as applied for. Mr Hobbs recognised that there would be an impact on local people when customers are leaving the premises.

Discussion followed with regards to the sale of alcohol from the lodge, and Mr Hobbs clarified that planning permission was not required as the premises was only used for family and friends. The Legal Advisor to the Sub Committee clarified with the applicant that the proposal to limit the marquee availability between May to September, was an attempt to reduce the impact on residents. Mr Hobbs proposed to hold only 10 wedding events per year, however this could be increased if extra dates were requested by customers.

The Legal Advisor to the Sub-Committee sought clarification on the application times for recorded music between 11.00pm and 11.30pm. Mr Hobbs advised that this allowed flexibility at events where it was deemed more appropriate to finish the event at 11pm or allow it to continue to 11.30pm at their discretion.

Clarification was sought on the ‘irresponsible’ drinks’ promotion with a hog roast. Mr Hobbs explained that the event was for 30 people, family and friends only, and the bottomless brunch included ‘weaker’ alcohol drinks, and drinks would be managed with no ‘queuing’ of drinks allowed on the table.

The local ward member queried the planning investigation previously referred to in the meeting and questioned whether if any conditions were imposed by planning or licensing, would these be ignored. Mr Hobbs clarified that as the area in question, the lodge, was only used for personal use, no planning permission was required.

A local ward member queried the absence of the Planning department at the meeting. The Licensing Manager advised that the application being considered at the meeting was for licensing and not planning, and that planning is a separate matter to be dealt with under separate legislation.

A resident queried how the number of persons would be monitored in the marquee. Mr Hobbs advised that it would be the responsibility of the person hiring the venue to ensure that invited guests do not exceed maximum numbers, and that the tables and seating would be in place for the invited guests only. Mr Hobbs also advised that the marquee had the capacity to hold more than the maximum number of 150, but that they had chosen to limit the maximum to 150 persons, taking into consideration space for guests and the volume of traffic going to and from the premises at any one time.

Clarification was sought on the bottomless brunch event in July, and all parties were advised that the ‘unlimited’ drinking was only between the hours of 3 pm to 5pm, however alcohol was still served until 11.30 pm. Bar staff monitored and managed the situation well and anyone behaving irresponsibly would have been removed from the site.

Clarification was sought on the health and safety requirements of the ‘team’ erecting the marquee, as it is a commercial building. Mr Hobbs confirmed that all those involved were qualified professionals and erect marquees for various events elsewhere.

The meeting was then adjourned for a 15-minute comfort break.

The Chair then invited comments from the Responsible Authorities.

Gwent Police confirmed they were not objecting to the application, however they did advocate some re-wording and the addition of conditions on the licence, if granted.

All parties were then afforded the opportunity to ask questions.

A resident queried whether checks had been made for incidents of crime and disorder on Mynyddlwyn Mountain and Gwent Police advised that no crime or disorder had been recorded.

Environmental Health confirmed they were not objecting to the application, however they proposed conditions to the licence, if granted. Reference was made to a multi-agency meeting which took place on 16th August 2023, and noise management was discussed. The Environmental Health Officer noted that the applicant had engaged with the recommendations and their conduct was acceptable.

All parties were then afforded the opportunity to ask questions.

A Member clarified that there had been no noise complaints received in relation to the 4 Temporary Event Notices that had taken place weekly through July 2023. The Legal Advisor to the Sub-Committee clarified with the Environmental Health Officer that there was a noise management plan, with no current issues, unless the measures are not adhered to.

A local ward member sought clarification on the multi-agency meeting and suggested that some of the local residents may not have wished to make a complaint as they would have possibly been known to the applicant due to the proximity of the farms in the area. All parties were advised that the multi-agency meeting was not a public meeting and confirmed that no complaints had been received by Environmental Health.

The Commercial Safety Officer outlined their representations and confirmed that they had visited the premises and the issue with the safety of the power cables had been resolved. All parties were advised that the access track from the road remains in good condition and rubbish receptacles would be placed outside of the marquee, if the licence were granted, together with a required risk assessment to cover the whole site.

All parties were then afforded the opportunity to ask questions.

A Member queried the ‘slope’ outside the marquee with a temporary fence, and all parties were advised that lighting would be required on the track from the tarmacked area of the farm, up to the marquee, and to be in place for all events. It was suggested that this could be a condition on the licence, if granted.

A resident sought clarification on the relocation of the electricity wires and whether this had been necessary. All parties were advised that this was necessary and had been done since 1st September and confirmed that the nearby location of the alpacas was also safe. Mr Hobbs

also confirmed that the electricity wires were clear of the marquee, and this had been approved by the electricity company.

The Senior Trading Standards Officer outlined their representations and confirmed they had no objections to the application.

All parties were then afforded the opportunity to ask questions.

The Chair then invited comments from the Other Persons.

A local ward member confirmed their objections were due to excess traffic travelling through the area, which would be going through their ward, although noted the premises wasn't in their ward. It wasn't thought that the highway access to the premises was suitable for the proposed events due to the additional volume of traffic these would cause. There were also concerns noted over possible drink/driving incidents in rural areas, and the excessive noise that would be caused from the events, disturbing local residents.

All parties were then afforded the opportunity to ask questions.

A resident confirmed their objections and stated that the highway access was very important in rural areas, and referred to an incident where a static caravan was taken up to the premises which took up to 3 hours. The laybys and passing places are for the benefit of residents accessing their own premises and should not be used for additional vehicles attending the events. It was noted that the farmers have assisted vehicles which have become stuck in ditches and hedgerows and that the traffic assessment data provided by the applicant does not take into consideration the times when haymaking or lambing take place when farming traffic would be much busier in the area.

All parties were then afforded the opportunity to ask questions.

A local ward member confirmed their objections and referred to the existing licence and noted that residents were not aware of the original application. Reference was also made to the ongoing rights of way issues, planning issues, and maximum numbers that could attend the premises if the licence were granted. It was noted that this had affected animal welfare in the area due to the issues of noise, together with an incident where children who were attending an event at the premises, gained access to a field occupied by alpacas, which caused a lot of distress to the animals. Reference was also made to public safety issues and the disturbance of residents when people are leaving the premises after events have taken place.

All parties were then afforded the opportunity to ask questions.

A member queried whether any complaints had been made to the applicant in relation to noise, and all parties were advised that one complaint had been received. It was also clarified that the application had been amended to 'Saturdays only' from 1st May to 30th September.

A local ward member clarified that the licence could be extended in the future, to include other days during the week, if the licence were granted for Saturdays only.

A resident outlined their representation and noted that the 11 passing places in the area, referred to earlier by the applicant as a benefit to the extra traffic, were all owned by the local farmers. It was also noted that these areas were to assist the farmers with their vehicles and not to assist extra traffic caused by events.

All parties were then afforded the opportunity to ask questions.

A resident speaking on behalf of other residents outlined their representation and noted noise complaints, swearing and loud music, together with the number of customers at the premises causing traffic issues. Clarification was sought on the original application and it was

suggested that the correct application process had not been followed. Discussion followed in relation to the difference between minor variations, variations and new premises licence applications. Reference was also made to a meeting held with residents, and incidents where drunken customers had knocked on residents' doors and windows after leaving the premises.

All parties were then afforded the opportunity to ask questions.

A Member queried whether the noise issues and subsequent meetings with the applicant had mitigated the current situation. All parties were advised that the residents were still very concerned about the current situation and the pending application.

The Licensing Manager clarified that the application was for a new premises licence as it is for a substantially different premises to that already licensed, being the marquee in addition to the lodge / Doghouse.

A resident referred to the electricity cables above the marquee and noted these were 11,000 volts. Reference was also made to decibels and technical points regarding noise, including issues with elevated noise.

A Member queried the marquee and the alteration of the overhead cables. It was confirmed that the electricity company had altered the poles and were due to move the cables.

A resident outlined their representation and noted that their property is a listed building and cannot have double glazed windows. Reference was made to the highways in the area and noted that every road goes up to the church. It was also noted that there are 60 alpacas located next to her property, who breed once a year and experience levels of anxiety due to the noise issues.

All parties were then afforded the opportunity to ask questions.

Due to their absence from the meeting, the Senior Trading Standards Officer outlined the representation made by the Licensing Authority and confirmed that whilst no objections had been made, there were suggested conditions to be added to the licence if granted.

All parties were then afforded the opportunity to ask questions.

A Member referred to the suggestion that a vehicle could be used by the applicant to transport customers from the venue, and it was confirmed that this vehicle would need to be licensed.

All parties present were given the opportunity to sum up before the Sub-Committee retired to make its decision.

The Licensing Manager noted that the correct application procedures had been followed.

The Gwent Police representative noted they were satisfied and had nothing further to add.

The Environmental Health Officer noted they were satisfied, subject to conditions proposed.

The Commercial Safety Officer noted they had no objections, subject to a risk assessment.

The Senior Trading Standards Officer noted they had no objections and nothing further to add.

The local ward member in summing up, requested the Sub-Committee refuse the application.

The resident in summing up, noted that all vehicles arrive and leave the events at the same time. Reference was also made to video footage that had been submitted with their original representations, that had not yet been requested to be shown. All parties were then shown

the video footage that had been submitted by the residents.

Mr Hobbs in summing up, referenced the noise issues, with lessons learnt and changes being made as and when complaints had been received. It was noted that there had been 4 events held this year and noted that no 'light' lanterns or balloons, as referred to earlier in the meeting, had ever come from his premises. Mr Hobbs invited the community to communicate with them and noted that they were working with residents with regards to the noise issues.

The Legal Advisor informed all parties present that the Sub Committee would retire to consider the representations made at the meeting and they would be informed in writing of the decision in the next 5 days.

The Sub Committee retired at 3.15 pm to make its decision and all other parties left the meeting.

Following consideration of the application and having regard to the Licensing Officer's report and all the representations made, the Licensing and Gambling Sub Committee unanimously

RESOLVED that the application for a new premises licence as set out in the Licensing and Gambling Sub Committee Decision Notice be **GRANTED** subject to conditions annexed to such decision notice.

In making their decision, the Sub Committee considered all four Licensing Objectives, the Licensing Act 2003, revised Home Office Guidance and Caerphilly Council's Licensing Policy.

The reasons for the Sub Committees' decision are set out below.

The decision of the Licensing and Gambling Sub Committee in regards to the hearing held on 26 September 2023 in respect of an application for a new premises licence at Sunset Lodge, Ty Cae Brith Farm, Troed y Rhiw Road, Mynyddislwyn, NP11 7BB is that the licence is granted permitting the following Licensable Actives:

- Supply of Alcohol (on and off sales)**

In regard to "The Lodge"

Sunday to Saturday 12.00 to 23.00

New Years Eve 12.00 to 1.00

In regard to "The Marquee"

Between and including the last Saturday within May until and including the last Saturday of September of the same year, that is limited:

(a) to only a total of 10 Saturday's within such period; and

(b) not on consecutive Saturday's.

Saturday 12.00 to 23.00

- Provision of Recorded Music (Indoors)**

In regard to "The Lodge" only

New Years Eve until 00.30

- Late Night Refreshment**

New Years Eve 23.00 to 00.00

The Premises Licence will be subject to the Conditions of Licence as annexed to this decision notice and all applicable mandatory licence conditions.

The Sub Committee have listened very carefully to all representations made today and read very carefully all the written representations received. The Sub-Committee had regard to the 33 A4-sized colour photographs and 2 A4 sized maps submitted at the hearing on behalf of some objecting residents – the admission of which was consented to by all parties. The Sub-Committee also had regard to the video footage submitted on behalf of some of the objecting residents.

The Sub Committee have considered all four Licensing Objectives, the Licensing Act 2003, the revised Home Office Guidance, and Caerphilly Council's Licensing Policy. The reasons for the Sub Committee's decision are as follows.

Fundamental Issues

The Sub-Committee firstly determined a series of aspects of the application and challenges to it raised by various residents.

The Sub-Committee was always aware that the part of the premises comprising "The Lodge" (premises plan on Page 1 of Appendix 1 of the report) is already a licensed premises pursuant to a delegated grant in 2021. The 2021 premises licence was granted under delegated powers to Mr Marcus Hobbs and Mrs Lisa Hobbs, rather than the current applicant (Sunset Lodge Weddings Limited). The Sub-Committee determined that there was no express limitation within the *Licensing Act 2003* that prevents the same premises being subject to more than one premises licence at the same time. The Sub-Committee are unaware, and were not referred to, any case law that has interpreted the relevant provisions of the *Licensing Act 2003* that would prevent the same.

Various local residents objected to the application being treated by the licensing authority as an application for a new premises licence application rather than as a variation application. The residents submitted that it was open to the Sub-Committee to refuse the variation application and in turn revoke the 2021 premises licence for the part of the premises comprising "The Lodge". The submission was reliant on the statutory guidance issued by the Home Office pursuant to section 182 of the *Licensing Act 2003*.

The Sub-Committee were not persuaded by the residents' submissions in the above respect for several reasons. The submissions did not deal with the difference in legal entity between the current holder of the 2021 premises licence and the legal entity, Sunset Lodge Weddings Limited, that had made the application currently being determined by the Sub-Committee. The Sub-Committee are of the view that section 34(1) of the Licensing Act 2003 is clear, in that only "the holder of a premises licence may apply to the relevant licensing authority for variation of the licence". In this case, section 34(1) had not been engaged as the licence holder of the 2021 premises licence had not made the application currently before the Sub-Committee. The current application was entirely separate from the existing 2021 premises licence. Mr Marcus Hobbs and Mrs Lisa Hobbs have not sought to transfer the existing 2021 premises licence to Sunset Lodge Weddings Limited.

The Sub-Committee concluded that even if it was wrong in this respect, section 36(6) was engaged in this instance and that a variation application cannot be made so as "to vary substantially the premises to which it relates". This is reflected at paragraph 8.26 of the 2 most recent editions of the *Revised Guidance issued under section 182 of the Licensing Act 2003*. The Sub-Committee considered that the addition of "The Marquee" part of the premises, effectively increased the existing premises ("The Doghouse" aka "The Lodge") by 270 m². This was a substantial increase to the premises, supported further by the fact that it is not a physical extension of the existing "The Lodge" building but comprising a separate marquee structure in a nearby field. The addition of "The Marquee" was also adding an

additional tilled bar at which the sale of alcohol would take place within that part of the premises. The Sub-Committee were of the view that these aspects, if section 36(6) were to be engaged by section 35, via section 34(1) of the *Licensing Act 2003*, would amount to a substantial variation to the premises.

An objecting resident had provided prior written representations that the existing 2021 premises licence was not/or should not be a premises licence, but rather a Club Premises Certificate. The Sub-Committee did not find that such submissions were relevant for two principal reasons. Firstly, such submission relates to the existing 2021 premises licence which is not held by the current applicant. Secondly, the *Licensing Act 2003* makes separate provision for an application for a premises licence (Part 3 of the Act) or a Club Premises Certificate (Part 4 of the Act). The Mr and Mrs Hobbs in 2021 applied for a Premises Licence pursuant to Part 3 of the *Licensing Act 2003*, not a Club Premises Certificate. There is no provision within the *Licensing Act 2003* for the Licensing Authority to unilaterally decide to treat an application made under Part 3 of the Act as one being made under Part 4 of the Act, or vice versa.

A local resident raised an issue within their written submissions regarding the address the Applicant had placed within its required notices and advertisement pursuant to the relevant parts of the *Licensing Act 2003 (Premises Licence and Club Premises Certificates) Regulation 2005*. This principally rested on the inclusion within the address details "Troed y Rhiw Road". The local resident indicated that there is no such road contained within the Unique Property Reference Number ("UPRN") register of Caerphilly County Borough Council and that this had caused confusion to local residents that had adversely affected local residents' ability to make objections to the application within the consultation period. This written representation was not significantly expanded upon during oral submissions.

The Sub-Committee considered the details of *Licensing Act 2003 (Premises Licence and Club Premises Certificates) Regulation 2005* in terms of the address. It specifically considered regulation 26(4)(b) which provides that the advertisement/notice must contain the postal address of the premises, if any, or if there is no postal address for the premises a description of those premises sufficient to enable the location and extent of the premises or club premises to be identified. The address on the advertisement/notice contained the farm name (Ty Cae Brith Farm), it contained a reference to Mynyddislwyn, and to the post code NP11 7BB. No reference is made to a local authorities UPRN register within such regulations. The combination of the farm name, Mynyddislwyn, and post code appears to comprise the postal address for the premises and in this respect the Sub-Committee did not find the submission persuasive.

The Sub-Committee were not persuaded that the inclusion of "Troed y Rhiw Road" created the adverse effect alleged. Appendix 12 of the report clearly showed a significant number of local residents were aware of the new premises application and had provided representations opposing the grant. Further residents provided representations who were not included in the joint representation within Appendix 12. Troed y Rhiw Road emanates from an intersection with the B44521 Nine Mile Point Road within the nearby village of Wattsville. It forms the "murder mile" referred to in other representations made by residents. It appeared to be the main access road between the Mynyddislwyn church and the village of Wattsville. The Sub-Committee were of the view that the reference of Troed y Rhiw Road, in combination with the name of the farm and post code was very unlikely to cause any confusion to local residents. This aspect did not undermine the process for which the advertisement serves within the above regulations and *Licensing Act 2003*.

The Sub-Committee determined that there was no persuasive evidence before it to place into doubt the Licensing Managers assertion that the Applicant had met all applicable requirements pursuant to the *Licensing Act 2003 (Premises Licence and Club Premises Certificates) Regulation 2005*. The Sub-Committee accepted that an A4 size notice was place in a prominent position in the appropriate place.

Licensing Objectives

The Sub-Committee considered the application and all of the evidence against the promotion of the four licensing objectives, namely: the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm. It was of the view that the most pertinent of the four licensing objectives in this instance was public safety and the prevention of public nuisance.

Crime and Disorder

Gwent Police, the responsible authority with the greatest degree of awareness regarding the prevention of crime and disorder had not raised an objection to the application in light of proposed conditions of licence. Gwent Police indicated at the hearing that it did not believe that there was an existing issue with crime and disorder within Mynyddislwyn and had researched this prior to making its earlier written representation in regard to the application.

The Sub-Committee heard evidence regarding a hen's party that had been hosted within the Doghouse (being "The Lodge" part of the premises being applied for) that resulted in a group of women who were intoxicated walking down the highway from the venue making their way back to Pontllanfraith. They were alleged to have been loud and had knocked the door at an unsocial hour of at least one resident seeking directions. The Sub-Committee accepted that this incident appeared to be a form of lower-level disorder (anti-social behaviour).

The directors of the Applicant accepted that in retrospect hosting the hen party was an error and a mistake they have not repeated. The Sub-Committee took into account that the incident complained of appeared to have been a one off. There was very little, if any, evidence that other events in, or patrons of, the Doghouse had resulted in similar behaviour notwithstanding the operation of the licensed premises since 2021.

The Sub-Committee gave consideration to paragraph 2.1-2.5 of the *Revised Guidance issued under section 182 of the Licensing Act 2003 (August 2023)* ("Statutory Guidance") and paragraphs 10.1-10.4 of the council's licensing policy. The Sub-Committee took into account the proposed conditions of licence as set out within Appendix 27 of the report. Various conditions had been agreed by the Applicant that are addressed at avoiding crime and disorder arising from the licensable activities at the premises. The installation of CCTV and management of the same had been agreed with Gwent Police. Patron transport has received focused attention at proposed condition 21. Patron behaviour on the premises has been considered in the proposed conditions surrounding SIA door staff from 7pm, prescribed minimum bar staff, and obligations to risk assess the use of glass as opposed to polycarbonate receptacles.

The Sub-Committee was guided by paragraph 2.26 of the Statutory Guidance, that states: "*Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in antisocial behaviour is accountable in their own right....*". The Sub-Committee were aware that this aspect of the guidance is principally aimed at the prevention of public nuisance but reached the view that the same rationale would apply to instances of low-level disorder.

The Sub-Committee in this instance, had sufficient confidence that the prevention of crime and disorder would be promoted by the conditions of licence imposed within the annex to this decision notice. The Sub-Committee did not reach the view that the risk of failure to promote the licensing objective to prevent crime and disorder was sufficiently high to warrant refusing the application.

The Protection of Children from Harm

The Sub-committee noted that the only aspect relevant to this licensing objective within the Responsible Authorities representations was from Trading Standards regarding proxy sales of alcohol to minor within the premises. An agreed condition of licence regarding the same had been included within Appendix 27.

Residents made submissions as to the safety of children from physical harm due to the premises (in particular "The Marquee" part of the premises) being in relatively close proximity to farm animals housed in neighbouring fields to Ty Cae Brith Farm. A representative on behalf of a neighbouring resident recounted an alleged incursion by a small group of children into their field housing Alpaca's during an event hosted at Ty Cae Brith Farm. The children were placed at physical risk of harm due to the risk of being injured by the Alpacas due to the situation. Details of the alleged incident were scant, and no direct evidence of this incident was provided via written representations or in oral submissions at the hearing. No details were provided as to how the children had managed to gain access to the field (presumed to be by climbing the stock fence), whether this had occurred in the afternoon or evening hours. There was no evidence that the alleged incident had occurred repeatedly. The Sub-Committee noted that the Environmental Health – Health and Safety Officer had not flagged this issue as a concern within his written representations or orally at the hearing.

The Sub-Committee considered the above in the context of the proposed licence conditions. During the evening hours for wedding receptions in "The Marquee" there would be as a minimum, two door staff and three bar staff. Persons within this group would be responsible for checking the external areas of the premises and also for monitoring noise in fields further away from the premises at regular intervals during the reception. This would reduce the risk of children wandering away from the immediate area of the premises (primarily "The Marquee"). Significantly, there would be a positive obligation under the conditions of licence for all children to be supervised by a responsible adult during the licensable activity and the designate premises supervisor and personal licence holder will be obliged to take steps to ensure that this condition is not breached.

The Sub-Committee reached the view that the risk to the promotion of the protection of children from harm in this regard could be managed by the suggested conditions of licence. The Sub-Committee did not reach the view that the risk of physical harm to children caused by their entry onto neighbouring farms was sufficiently high, or inherently unmanageable, as to warrant refusing the application.

Public safety

The application was opposed by many, if not all, local residents and local members (who spoke at the hearing) due to the risk to public safety due to the increase of traffic upon the narrow country lane(s) that patrons of the premises, particularly guests attending wedding receptions within "The Marquee", would cause getting to and from the premises. Clear evidence was submitted and shown to the Sub-Committee as to the nature and condition of the public highway.

The Applicant had provided a partial copy of traffic report compiled by Asbritransport – Transport Planning Consultants regarding the effect of the intended operation of the premises on local road conditions. The report appeared to be produced in respect of a planning application. The Sub-Committee found this report helpful but not determinative on this issue. The Sub-Committee took into account the resident's criticisms of the report methodology (for instance only tracking traffic on the highway to the south of the Mynyddislwyn church – which was not reflective of potential interference with usual traffic patterns on the highway on the northern side of the church). The Sub-Committee noted that the report not extensively, if at all, deal with farm related traffic on the highway such as tractors and other machinery using the highway to gain access to various fields for various tasks throughout the farming calendar (this aspect also being highlighted by a local resident at the hearing in terms of hay production).

The Sub-committee did not give significant weight to the evidence/submissions provided by objecting residents as to problems with articulated lorries within the lanes, particularly around the church horse-shoe dry walled blind bend. This was not intended with any disrespect to the local community for which the concern as to articulated lorries (and like vehicles) damaging walls, vehicles, and hedges was prescient and understandable. However, the Sub-Committee did not take the view that traffic to the premises in relation to the licensable activities thereon would be using such large articulated vehicles.

The Sub-Committee did take the collision data within the Asbitrtransport into account, affording this some weight within its decision making. The Sub-Committee accepted that it was likely that the traffic level on the rural lane would increase, should the licence be granted, than the traffic level during the period the data is collected from (2017-2021). The data on pages 21-22 of Appendix 26 indicated that collisions over the last several years did not occur within the country lane itself, but principally occurred at the intersection of the lane with the larger volume highways. The collision sites noted for the relevant roundabout on the northern entrance of the lane are spread across all four points of the roundabout and do not clearly indicate a causal connection to the use of the lane itself. Whilst the Sub-Committee accepts the evidence provided by residents as to the accident involving an unoccupied and stationary vehicle with a reversing lorry in close proximity to the church, this seems to not have meet the definition of traffic collision adopted by Asbitrtransport. Whilst driving conditions on the highway across Mynyddiswyn are challenging, there does not appear to be a current issue with vehicle collisions upon the lane.

Whilst the Sub-Committee took account of the 60 mph speed limit applicable to the relevant highway (lane) it was difficult for it to accept that drivers, even those unfamiliar with the road, would seek to drive that road at such speed. A common-sense assumption is that the vast majority of drivers tend to drive to the conditions around them, trying to ensure that they remain safe. There was no obvious reason for the assumption to be made that guests, driving to a wedding reception at "The Marquee," would not behave in this usual manner. It was a common-sense assumption to make that local couples, with a connection to the area, would be the most likely to hire "The Marquee" for their wedding reception. As such, it would be common sense to expect that a number of guests attending would be familiar with the general area, if not with the specific road itself, and the prevalence of narrow country lanes into rural areas of the borough. Guests arriving from outside the borough may also be familiar with the prevalence of country lanes within the highway network and the tendency for these to arise when traveling across rural parts of the highway network.

It was difficult for the Sub-Committee to get a sense of the volume of traffic that would be generated from an event held at "The Marquee" for 150 people. The Asbitrtransport report includes a breakdown of their assumptions as to the number of passengers per vehicle. A proportion of the objecting residents were critical of the Asbitrtransport assumptions in this regard. The Sub-Committee did accept that clusters of arriving traffic would occur within a relatively short time window to arrive in time for the commencement of the wedding reception and, later, but perhaps to a lesser degree, further guests arriving later to the evening party which normally follows the afternoon's proceedings. However, the Sub-Committee gave significant weight to the applicant directors running similar sized events under recent Temporary Event Notices – of which there was no evidence that the promotion of public safety had been undermined due to traffic conditions on the rural lane arising from such events.

Ultimately, the Sub-Committee had to take a view as to whether the concerns regarding highway safety due to traffic concerns upon a public highway was sufficiently connected to the remit of the *Licensing Act 2003*. It decided that it was not. The Sub-Committee reached the view that the proper determination of issues raised by the resident objectors and elected members in regard to their concerns as to the effect of the use of Ty Cae Brith Farm as a venue for events within "The Marquee" on the public highway rests with the local authority's planning section. In reaching this view the Sub-Committee took account that this area of dispute would require a level of specialist knowledge and experience of traffic management

and highway issues – which is generally beyond the scope and expertise of the Sub-Committee for licensing. The Sub-Committee gave weight to a local authority's highway section/officer is not listed as a responsible authority pursuant to section 13(4) of the *Licensing Act 2003*. The Sub-Committee noted that the local planning authority is a responsible authority and in this instance it was made aware of the application but provided no representations in respect of the application. The Sub-Committee gave weight to the local planning authority being able to take in a far broader range of considerations in determining permission for the use of land – with the Sub-Committee being limited to the narrower considerations of the promotions of the four licensing objectives.

The Sub-Committee had several written and oral submissions placed before it regarding the planning status for the use of the land and for the structures comprising the premises. Whilst the frustration of the residents was clearly evident, the licensing regime and planning regime are separate, and whilst often each touches on a number of similar issues the decision making in each is not the same. Paragraph 14.63 of the Statutory Guidance and paragraphs 17.6-17.12 of the council's Statement of Licensing Policy reinforces the principal that planning committees are not bound by licensing committee decisions or vice versa. Representations were made on behalf of the objecting residents that in essence licensing should not grant a licence to a premises without planning approval – but the Sub-Committee were not persuaded by that submission. There is no provision in the *Licensing Act 2003* that enables the Sub-Committee to refuse on such a basis, as a contested application can only be determined by the Sub-Committee exercising its judgement on the promotion of the four licensing objectives.

The Sub-Committee considered the representations in regards to the increased risk of drink driving from the premises not promoting the licensing objective of public safety. In exercising its judgement, the Sub-Committee took into account the representations from Gwent Police did not identify this as a current issue or whether this was a likely eventuality. The Sub-Committee decided that the additional condition of licence at paragraph 21 of Appendix 27 would mitigate this risk. The Applicant is obliged to "turning the mind" of the organisers of the wedding reception/hires of "The Marquee" venue as to the organisation of transport at a very early point in the booking process. It is usual to expect that the Applicant would provide contact details for local taxi/private hire vehicles and these would inevitably be to hand should staff be asked for these from a guest. The Sub-Committee took a common sense view that a lot of groups attending such events organise a designated driver and guests have a tendency to share taxis when leaving the premises. The risk identified cannot be entirely removed by any licence holder, but in this instance the Sub-Committee were satisfied that the proposed licence conditions will adequately manage this ever-present risk to the promotion of the prevention of public safety.

The Sub-Committee considered the maps provided of Ty Brith Farm and considered the distances from the public highway to the car park, and from the car park to both part of the Premises. It considered the representations of the Environmental Health – Health & Safety officer and his recommendation of license condition 16. However, given the rural location and the land comprising farm land the Sub-Committee determined that in order to promote the objective of public safety sufficiently the obligation in license condition 16 should extend and include the route from the entrance of Ty Brith Farm from the public highway, to the car park, and from the car park to "The Lodge" and "The Marquee" whilst licensable activities are taking place. Licence condition 16 was accordingly varied.

Prevention of Public Nuisance

The objecting residents and elected members submitted that the noise of the premises (which includes the noise emanating from both parts of the premises from music, general patron noise, traffic noise), the congestion of the rural lane by guests travelling to and from premises, and the effect on livestock – undermine the promotion of this licensing objective.

In terms of the effect of the noise on livestock, the Sub-Committee considered whether this could fall within the wide definition of public nuisance. The Sub-Committee was mindful that

what would amount to a private nuisance would not usually amount to a public nuisance – but gave regard to paragraphs 2.20-2.21 of the Statutory Guidance and the decision within *Hope & Glory* as to the threshold for public nuisance. The Sub-Committee reached the view that if a small number of local farmers were being caused nuisance as a result of the noise then this would equate to a public nuisance.

The Sub-Committee considered the representations on the effect of noise on the livestock. It determined that should an adverse effect be experienced by the livestock – then this in and of itself would not be a public nuisance. The adverse effect would need to materially affect the reasonable comfort and convenience of life for the affected person (as opposed to livestock). The Sub-Committee, in this instance were not persuaded that the relevant objecting residents had shown this to be likely. There was very little detail provided on this aspect within the written representations and the oral submissions focused on the alleged increase of miscarriages within Alpaca breeding stock near the premises, which appeared to the panel to effect a single local resident. The Sub-Committee were not persuaded that the single farmer's concerns in this specific regard (Alpaca miscarriage) amounted to a public nuisance. The Sub-Committee felt that this would be a possible private nuisance – and would be a further instance where the constraints of the licensing regime can be contrasted by the far wider relevant information that could be taken into account within the planning permission regime. This view was not reached without empathy to the Alpaca farmer, who inevitably devotes significant attention and care to his/her stock.

In exercising its judgement as to the potential for traffic noise late at night and whether this would undermine the promotion of the licensing objective, the Sub-Committee took into account paragraph 2.26 of the Statutory Guidance and paragraph 11.7 of the council's Statement of Licensing Policy. The Applicant would not be expected to control the noise of guests' vehicles as they use the public highway (and the same would apply should they be on foot). The Sub-Committee was not overwhelmingly persuaded that the traffic noise would be a public nuisance as it is very difficult to determine whether the lawful use of the public highway by road users would be unreasonable to the extent that persons cannot be expected to put up with it. The fact that the country lane is part of the national highway network was a significant factor in the Sub-Committee's view.

The Sub-Committee accepted that should the public highway be used for purposes that it perhaps not intended, for instance vehicles parked inappropriately on a public highway, blocking traffic, to attend an illegal rave would be capable of causing a public nuisance. However, the Sub-Committee did not believe that this premises posed a similar risk. The Applicant is providing parking spaces within his land and no issue as to the highway being blocked by inappropriately parked cars on the highway was raised as a result for any activity under the 2021 current licence or Temporary Events Notice events.

The Sub-Committee readily accepted that the potential for nuisance emanating from the premises posed a risk to the promotion of the prevention of public nuisance. The Sub-Committee took into account the rural setting of the premises and the low level of background noise. Representations from residents varied in the respect of the degree and effect of noise levels experienced to date by licensable activities within "The Lodge" part of the premises (under the 2021 premises licence) and under the Temporary Event Notice events. Some residents accepted that the noise would not usually carry as far as their homes but depending on the direction of wind – have previously been heard. Some residents described the noise as horrendous.

The Sub-Committee gave weight to the representations of the Environmental Health Officer and her lack of objection to the application based on conditions agreed with the Applicant. Mr Waters information as to distances and elevation of neighbouring farms was helpful. In exercising its judgement, the Sub-Committee gave weight to the Environmental Health Officer undertaking a site visit at the Applicant's farm and at the site of the premises prior to making her written representations. She had directly experienced the landscape surrounding the premises and would have been factored into her report and recommendations.

The Sub-Committee found that the Applicant had been cooperative and to an extent, proactive, in trying to minimise noise issues. The Sub-Committee gave weight to the type of audio equipment purchased to be used within "The Marquee" that would lower the level of escaping noise. The contents of the noise management plan produced by the Applicant had currently been agreed by the Environmental Health Officer. The Applicant had sought the cooperation of neighbouring residents in trying to address the noise issue from recorded music within "The Marquee" and explained the master control over the audio volume level the bar staff are able to access. The Applicant had agreed to a series of licensing conditions in regard to minimising the risk of noise nuisance and explained steps it had taken to remove external speakers from the exterior parts of "The Lodge".

Some representations on behalf of objecting residents in relation to noise heard from Temporary Notice Events were equivocal. The Sub-Committee considered the series of text exchanges set out on pages 45, 46 and 50 of Appendix 13. It is likely only part of the exchange has been provided, but within the sections provided the Applicant is trying to establish if the noise is creating a disturbance. The resident or residents indicate that they can hear the music, or it can be heard if a window is opened. The hearing of the music does not determine whether or not, objectively the noise materially affects the reasonable comfort and convenience of the resident's life, or if the level of noise is itself unreasonable. Neither text exchange shows the resident insisting to the Applicant that there was a nuisance being caused to him/her. The Sub-Committee gave significant weight that no service requests had been made to Environmental Health in regard to alleged noise nuisance since licensable activities commenced at the farm. The Sub-Committee were not persuaded that the reason for this was out of a fear of retribution from the Applicant directors and no evidence was provided that corroborated this assertion made on behalf of objecting residents.

The Sub-Committee gave weight to the limited dates the Applicant was seeking to be able to use "The Marquee" and the controls it was willing to put in place to mitigate the risk of this licensing objective being undermined. It gave weight to that licensing regime enabling the licence to be reviewed should the promotion of the licensing objectives be alleged to be undermined in the future. This affords objecting residents, and responsible authorities, an avenue to ensure the promotion of the licensing objectives in the future.

On balance, and subject to the amendments to the operating times and licence conditions explained further below – the Sub-Committee judged that the risk to the promotion of the prevention of public nuisance could be adequately managed if the premises application was granted.

Ancillary Matters

The Sub-Committee found the explanations provided by the Applicant directors as to their use of "The Lodge" part of the premises under the 2021 far from convincing. It shared the view of several residents and elected members that explanation of the use of this premises for family and friends whilst carrying out the licensable activity of the sale of alcohol to be highly unusual. It found the Applicant director's position on this lacked clarity and did not appear candid. It accepted however, that simply because a premises is licensed does not mean that a licensed activity can be its only use for such premises and there was no obligation on a premises licence holder to trade. Whilst not directly relevant to the application before it, the Sub-Committee was very concerned that the existing premises under the 2021 licence had not been subject to a Fire Risk Assessment pursuant to the obligations arising under the Fire Safety Order. There were several instances in the documentary evidence before the Sub-Committee where representations made by the Applicant were inconsistent. However, the above was only of limited relevance to the determination of the current application.

There is no separate "fitness" test for whether the Applicant is fit to hold the premises licence. The general confidence a licensing committee can have in an applicant's ability to promote the four licensing objectives is however a relevant assessment as part of the application process.

The licensing objective may be undermined due to the applicant appearing incompetent or incapable of promoting the objectives. Given the above, the Sub-Committee did have reservations in regard to the Applicant that it felt warranted adjustment to the operating hours and licence conditions to adequately safeguard the promotion of the licensing objectives.

During the consultation period it was evident that in relation to "The Marquee" it was intended for the wedding receptions to terminate at 23.30 (see page 8 of Appendix 7 under "Dispersal of Customers"). Notwithstanding the sale of alcohol for "The Marquee" was sought until 00.00. The Sub-Committee have reached the view that for "The Marquee" the supply of alcohol (on/off sales) will only be permitted to 23.00. This will allow guests to finish drinks and make their way to the taxi point or their cars to travel home. To further assist in the termination of the reception at 23.30 the Sub-Committee has refused permission for recorded music within "The Marquee" to continue after 23.00. On these two measures the Sub-Committee determined that these measures were needed to bring the licence "into line" with what the Applicant states his intention is and is required to manage the risk of noise nuisance emanating from "The Marquee" at a late hour.

Given the above, the Sub-Committee sought to amend licence condition 11 by requiring outdoor areas of "The Marquee" to cease being used at 22.00. This would then be consistent with the Applicant's Noise Management Plan (page 7 of Appendix 7). In the Sub-Committee's judgement this was necessary to further ensure the adequate promotion of the prevention of public nuisance objective.

The Sub-Committee was repeatedly told by the Applicant that the use of The Lodge was only for family and friends of its current directors, and it was not trading as a public house. The Sub-Committee accepted that there had been issues connected to the use of this part of the premises, which the Applicant appeared to accept and explain that the external speaker system had been removed earlier in the year. The Applicant, rightly, provided separate consideration to the noise risk from the Lodge within the Noise Management Plan at pages 9 and 10 of Appendix 7. The Applicant had further clarified that since making the application it had altered its original plan to conduct smaller wedding receptions and possibly wedding ceremonies within The Lodge.

As outlined above, the Sub-Committee had some reservations in its confidence in the Applicant directors due to the unusual explanation of the use of the part of the premises under the existing 2021 licence and the inconsistent elements of its position across the consultation period on various aspects of the application. The Sub-Committee took account of the Applicant's indication within the Noise Management Plan for The Lodge to close its external areas at 22.00 and it agreed that this would be appropriate and licence condition 10 at Appendix was varied accordingly.

Given the intended use of "The Lodge" is to sell alcohol to family and friends the Sub-Committee reached the view that the hours for licensable activities were excessive. The Sub-Committee have determined to shorten the on/off alcohol sales to 23.00 – being consistent with "The Marquee" hours. This will reduce the risk of patron noise undermining the prevention of public nuisance objective within this particular area of the borough. To further prevent undermining the same objective, the Sub-Committee did not agree to allow recorded music, as a licensable activity, to take place within "The Lodge" beyond the statutory permitted time of 23.00. In line with this position, the Sub-Committee did not agree to grant permission to allow unamplified live music within "The Lodge" beyond the statutory limit of 23.00.

In line with the above decisions, and to promote the prevention of public nuisance from very late-night patron noise, the Sub-Committee did not grant permission for Late Night Refreshments in "The Lodge" and the sale of any hot drinks and food within could not take place after 23.00. An exception was made for New Years Eve until 00.00.

The Sub-Committee acknowledge that "The Marquee" use creates a higher risk for public nuisance than "The Lodge". Whilst it was encouraged by the Applicant's indication to only use

this on Saturdays between May and September – the frequency of receptions varied across the Applicants various documents. The Sub-Committee considered the Applicant's information on page 9 of Appendix 26 and were not persuaded that the period open for "The Marquee" use needed to be any earlier than the last Saturday in May. It was incredulous that the initial weeks of May were required to sell alcohol from "The Marquee" to those who erected it. The limitation of the period from the final Saturday in May until the final Saturday in September was, in the judgement of the Sub-Committee necessary to promote the prevention of public nuisance. It would limit the period in which any such risks would eventuate.

Similarly, the Applicant was confused as to the number of receptions it would wish to hold in "The Marquee" during the May-September "season". It varied from 5 to 16 depending on which documents was being read. The Sub-Committee accepted that the Applicant was "feeling its way" in a new business – but the Sub-Committee were of the firm view an actual numerical limit needed to be placed within the premises licence itself. The risk profile in terms of undermining the licensing objectives for "The Marquee" use each Saturday across May to the end of September was vastly different to a limitation of 10 Saturday receptions from the end of May until the end of September. It determined a maximum of 10 Saturday's, not on consecutive Saturdays, was a proportionate measure to promote the prevention of public nuisance licensing objective. This would allow potential growth for the Applicant over the coming years should the venture succeed. It would allow periods of respite for the local community across the "season".

Another ancillary issue arising in the hearing was the allegation against the Applicant directors that they had breached the mandatory licence condition of their 2021 premises licence by carrying out an irresponsible drinks' promotion. It was not the task of the Sub-Committee to make any finding as to whether Mr and Mrs Hobbs had breached the relevant mandatory licence condition of their 2021 premises licence. The purpose of the hearing was to determine the Applicant's application. The Sub-Committee took the view that the allegation may have some bearing on the current application only in as much as going to the general confidence it has in the Applicant promoting the licensing objectives. The Applicant directors stated that patrons at the relevant event were seated at table of around 8 people. Drinks were resupplied only when all guests at the table had finished their current drink and no "stacking" of drinks was permitted. Around halfway through the 2-hour event a hog roast was served to the guests. It was claimed that the guests were largely known to each other and, it was alleged that all were family and friends of Mr and Mrs Hobbs. However, the Sub Committee were troubled by several aspects of this event, particularly regarding the type of advert placed on snap chat, and the suggestion that this was aimed only at family and friends.

The Sub-Committee were aware that issues regarding irresponsible drink promotions would be determined on the facts of each instance, and that it would expect the Licensing Authority to monitor this type of promotion in the future, involving the premises.

A submission was made on behalf of some residents that the use of tables in the "Bottomless Brunch" event made it somehow transgress the law. The Sub-Committee do not agree. The original incarnation of *The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010* provided that provision of unlimited or unspecified quantities of alcohol for a fixed fee would not be a breach of such condition where this was made available to an individual in respect of alcohol for consumption at a table meal. In 2014 the Order was amended and the previous wording included within article 1(2)(b) regarding alcohol for consumption at a table meal was removed. This does not mean the presence of a table meal determines whether a breach has occurred or not – but rather the assessment of all relevant surrounding circumstances need to be taken into consideration in determining whether the mandatory licence condition was breached by creating a significant risk of the four licensing objectives being breached or undermined.

For the sake of completeness, there was mention throughout the hearing documentation and within several verbal representations about a maximum number of guests. It is noted that the Applicant has not yet had a fire risk assessment undertaken pursuant to the Fire Safety Order,

which would indicate a maximum capacity number in line with the assessed fire risk. The Sub-Committee is mindful that article 43 of *The Regulatory Reform (Fire Safety) Order 2005* would render any condition of licence imposed by the Sub-Committee to have no effect.

Any person aggrieved by this decision has 21 days from the date of written notification of the decision to appeal to the local Magistrates Court.

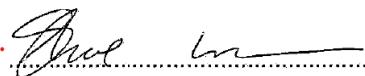
Signed

Cllr 

Cllr 

Cllr 

Clerk to the Committee



Date 2nd October 2023.

ANNEX

Conditions of Licence

1. CCTV shall be in use at the premises.
 - (i) Where a CCTV system is to be installed, extended or replaced, it shall be to an appropriate standard as agreed with the Licensing Authority in consultation with the Police. Where a CCTV system is to be installed, it shall be fully operational by the day the licence is granted.
 - (ii) The CCTV equipment shall be maintained in good working order and continually record when licensable activity takes place and for a period of two hours afterwards.
 - (iii) The premises licence holder shall ensure images from the CCTV are retained for a period of 30 days. This image retention period may be reviewed as appropriate by the Licensing Authority.
 - (iv) The correct time and date will be generated onto both the recording and the real time image screen.
- (v) If the CCTV equipment (including any mobile units in use at the premises) breaks down the Premises Licence Holder shall ensure the designated premises supervisor, or in his/her absence other responsible person, verbally informs the Licensing Authority and the Police as soon as is reasonably practicable. This information shall be contemporaneously recorded in the incident report register and shall include the time, date and means this was done and to whom the information was reported. Equipment failures shall be repaired or replaced as soon as is reasonably practicable and without undue delay. The Licensing Authority and the Police shall be informed when faults are rectified.
- (vi) The premise licence holder shall ensure that there are trained members of staff available during licensable hours to be able to reproduce and download CCTV images into a removable format at the request of any authorised officer of the Licensing Authority or a constable.
- (vii) The system shall also record clear images permitting the identification of individuals and be of evidential quality.
- (viii) There shall be clear signage indicating that CCTV equipment is in use and recording at the premises during operating hours.

CCTV shall cover all areas the Public have access.

2. **For events held in the Marquee**, there will be a minimum of two SIA registered door staff from 19:00 hrs . The premises license holder/ DPS will risk assess the need for an earlier start time of door staff depending on the number of day guests.

If door supervisors are present then the premises licence holder shall ensure that the following details for each door supervisor, are contemporaneously entered into a bound register kept for that purpose:

- (i) Full name;

- (ii) SIA Certificate number and or badge number, or registration number of any accreditation scheme recognised by the Licensing Authority (including expiry date of that registration or accreditation);
 - (iii) The time they began their duty;
The time they completed their duty.
- (v) This register is to be kept at the premises at all times and shall be so maintained as to enable an authorised officer of the Licensing Authority or a constable to establish the particulars of all door stewards engaged at the premises during the period of not less than 31 days prior to the request and shall be open to inspection by authorised officers of the Licensing Authority or a constable upon request.
3. A Challenge 25 scheme will be adopted in compliance with the age verification condition: Customers who appear be under 25 years of age will be required to prove their age when purchasing alcohol. Suitable forms of identification will be a passport, 'Pass' card or other identification recognized by the licensing authority in its statement of licensing policy.
- (b) Publicity materials notifying customers of the operation of the Challenge 25 scheme shall be displayed at the premises, including a Challenge 25 sign of at least A5 size at the entrance to the premises / marquee and where practicable at each point of sale.
4. All staff to be trained in the prevention of underage sales to a level commensurate with their duties. All such training to be updated as necessary, for instances when legislation changes, and should include training on how to deal with difficult customers. The training should be clearly documented and signed and dated by both the trainer and the member of staff receiving it. The documentation shall be available for inspection on request by an authorised officer of the Licensing Authority or a constable. All records shall be kept for a period of 12 months.
5. The premises licence holder shall keep an 'incident / refusals' logbook in a bound book in which full details of all incidents are recorded. This shall include details of any refused sales and shall give details of the persons involved, incident description, time and date, actions taken and final outcome of the situation. This shall be completed as soon as possible and, in any case, no later than the close of business on the day of the incident. The time and date when the report was completed, and by whom, is to form part of the entry. The logbook is to be kept on the premises at all times and shall be produced to an authorised officer of the Licensing Authority or a constable when required. These records shall be kept for a minimum of 12 months.
6. All children to be supervised by a responsible adult during any licensable activity.
7. The Premises License Holder, Designated Premises Supervisor shall produce a noise management plan to adequately control noise from the premises. This is to include both internal and external areas and to be submitted and agreed in writing with the Pollution Control Team in Environmental Health. The noise management plan should include but is not limited to:
- a. A list of mitigation measures implemented to reduce noise from the licensable premises,
 - b. Regular monitoring at the boundary perimeter during periods of amplified/unamplified entertainment, to ensure noise is not at a level to cause a nuisance at residential receptors,
 - c. Training of staff to undertake such observations and implement controls to reduce noise level,
 - d. To implement corrective actions to control noise during licensable hours,

- e. Maintaining a written record of such observations and actions taken, to be kept for review upon request by any responsible authorities.

This document once agreed should be enforced and updated regularly to ensure the continued compliance with the premises license.

- 8. The volume of amplified/unamplified live and recorded regulated entertainment must be at a level so as not to cause a nuisance at the nearest residential property.
- 9. Adequate notices shall be displayed in appropriate locations to instruct customers at each exit to respect the needs of local residents and leave the premises quietly.
- 10. The use of all outdoor areas of the "Lodge" is not permitted after 22:00. Other than access solely for the use of a smoking area. The smoking area shall not exceed the capacity of 10 persons at any one-time post 22:00.
- 11. The use of all outdoor areas relating to the "Marquee" is not permitted after 22:00. Other than access/egress to the toilet facility or for the use of a smoking area. The smoking area shall not exceed the capacity of 10 persons at any one-time post 22:00.
- 12. The Premises License Holder shall ensure that a sufficient number of suitable receptacles are located in appropriate locations for the depositing of waste materials such as food wrappings, drinks containers, smoking-related litter, etc. by customers.
- 13. The access track from the tarmac road to the proposed marquee site must be maintained in a good condition and fit for purpose.
- 14. Suitable edge protection must be provided and maintained along the western area of the proposed marquee site to minimise the risk of a person falling.
- 15. Suitable signage must be displayed in the vicinity of the ponds warning of open water.
- 16. A suitable means of lighting must be provided along the traffic route between the entrance from the public highway to any car parking area, and the traffic route between the car parking area and the lodge and the marquee site whilst licensable activities are taking place.
- 17. A sufficient number of suitable receptacles must be sited in appropriate locations for the depositing of waste materials such as food, food wrappings, drinks containers, smoking related litter etc.
- 18. The Licence Holder, designated premises supervisor, manager or other competent person shall manage any outdoor area by regularly patrolling these areas to ensure that customers do not behave in a rowdy, noisy or offensive manner.
- 19. The Licence Holder, designated premises supervisor, manager or other competent person shall risk assess the need for alcoholic beverages to be dispensed in polycarbonate, plastic or non-glass containers when licensable activities are taking place.
- 20. The premises shall be cleared of customers within 30 minutes of the last supply of alcohol on any day.
- 21. The premises licence holder or other competent person shall ensure that customer transportation has been arranged and details provided prior to the event taking place, as part of the hiring agreement.
- 22. In relation to events in the marquee the additional measures will be in place:

There will be a minimum of 3 bar staff on at any one time, 1 of which will be the bar manager as well as the DPS or licence holder. The bar staff will make regular checks of the outside area ensuring that glasses are collected.

23. All staff with a responsibility for supplying or selling alcohol shall be vigilant in preventing adults buying alcohol on behalf of persons who are under 18 and will refuse such sales where they suspect that this may be about to occur, subject to the exemptions under Section 149 (5) of the Licensing Act 2003 which allows beer, cider or wine to be purchased for an individual aged 16 or 17, providing the beer, cider or wine is for consumption with a table meal and that a person aged 18 or over is accompanying the individual.