



LICENSING AND GAMBLING SUB COMMITTEE - 26TH SEPTEMBER 2023

SUBJECT: DETERMINATION OF PREMISES LICENCE APPLICATION

REPORT BY: LEE MORGAN LICENSING MANAGER

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1. Application Details – Premises Licence Licensing Act 2003

<u>Applicant</u>	<u>Premises</u>	<u>Application Type</u>
Sunset Lodge Weddings Limited Company no 14813288	Lodge & Marquee at Ty Cae Brith Farm, Troed y Rhiw Road, Mynyddislwyn, NP11 7BB	New Premises licence

1.1 Application for Grant of a New Premises Licence

An application has been submitted to apply for a new premises licence for the above 'premises' under the Licensing Act 2003. The proposed application for consideration is set out in 1.4 of this report.

Members will note that the Licensing Act 2003 permits an application for a premises licence for 'any place,' not just a building and as a result 'open space' can be a place at which applicants can apply to obtain a premises licence.

1.2 Background

Members should note that an existing Premises Licence for a building, namely the Doghouse, which permits the sale of alcohol is currently in place at Ty Cae Brith Farm, Mynyddislwyn. Marcus and Lisa Hobbs are the premises licence holders. This premises licence was granted on the 28th July 2021 via delegated powers.

An application to vary the premises licence held for the Doghouse was submitted to the Licensing Authority on the 10th May 2023. This application sought to add an area of open land to incorporate a Marquee for wedding functions. Members should note this application was subsequently withdrawn by the Licence Holders.

Following the withdrawal of the application above. The Applicant was advised of the provisions of Section 36(6) of the Licensing Act which states that a licence may not be varied to vary substantially the premises to which it relates.

A new premises licence application was then made by Sunset Lodge Weddings Ltd, the directors of this limited company being Marcus & Lisa Hobbs. This application seeks to licence the building known as the Doghouse, referred to as the Lodge and an area of their land at Ty Cae Brith Farm on which a Marquee will be sited.

1.3 **Site Plan/Photographs**

The plan of the licensed area is reproduced as **Appendix 1**.

A location plan of showing the location of the proposed premises in Mynyddislwyn is reproduced as **Appendix 2**.

Photographs of the Lodge and Marquee subject to the application are reproduced for Members information as **Appendix 2a**.

1.4 **Proposed Trading Times and Licensable Activity**

The initial application for the grant of a Premises Licence sought to permit the following Licensable Activities: -

- **Supply of Alcohol (on & off sales)**
Sunday to Thursday 12.00 to 23.00
Friday & Saturday 12.00 to 00.00
Boxing Day & 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.

1.5 **Operating Schedule**

The following description of the premises has been provided by the applicant:

The premises is split into two locations, "The Lodge" and "The Marquee area" both are on the same farm. The lodge is a single story wooden building with double glazing and insulation, it has a mixture of wood and plaster cladding which does offer good insulation of noise. The lodge is situated in the main curtilage of the farm house

and measures approximately 20m x 6m, with 4 exits, 3 of which are double doors that open outwards. It also has a beer garden to the north of the building and decking area to the rear (west).

The marquee area is an area of 450m² and has seasonal use for a 9 x 30 clearspan marquee with a fixed bar area and a beer garden attached that measures approximately 18m x 6m this is located 150m north of the farm house and is accessed from the sharp bend via a track as indicated on the attached map. The marquee has a main entrance measuring 3m and an exit to the beer garden also measuring 3m. The nearest dwelling to this other than the farm house on this farm is 250 meters to the north.

The following steps have been volunteered by the applicant as part of the Operating Schedule, to promote the Licensing Objectives, and are reproduced directly from the application:-

As this application is for two locations on the same property the information below has two sections, the lodge is a smaller venue and has less capacity for people however the marquee is larger and comes with further challenges to promote the objectives, as such extra measures will be provided with regards to the marquee.

We have met and discussed the area and its use with the police, environmental health and health and safety officers as well as communicated with the alcohol licensing team on a number of occasions. We have risk managed and have control measures in as much as reasonably possible to promote the four licensing objectives.

- 1. Strict implementation of challenge 25 policy*
- 2. CCTV to be installed and 31 days recording system*
- 3. All staff to be trained in responsible alcohol retailing*
- 4. Training will be provided to the bar staff.*

Prevention of Crime & Disorder

- 1. The premise license holder shall ensure that CCTV cameras and recorders are installed at the premises and are of a suitable HD quality.*
- 2. The system shall be maintained in good working order and at all times the premise is open to the public, be fully operational covering both internal and external areas of the premises.*
- 3. A suitable trained staff member will be able to show and provide police or council licensing officers recent data footage with the minimum delay when requested.*
- 4. All goods, including those subject to duty payments i.e. alcohol be bought from cash and carries only an invoices will be available upon request. No alcoholic drinks will be purchased by the premises [from unannounced sellers calling at the premise.*

In relation to events in the marquee the additional measures will be in place: The premises will be covered by CCTV including the area inside the marquee, the beer garden and the beer cellar/stockroom, this will include video and audio to a high definition standard and kept for a minimum of 31 days. There is a maximum number of 150 guests and there will be a minimum of two SIA door staff from 19:00 to help prevent any disorder (the venue may agree an earlier start time for the door staff depending on the number of day guests). In addition to the door staff the bar staff will be carrying out regular checks of the area. In the event that there are any incidents of crime and disorder these will be reported to the police and the licensing authority as well as recorded in the incident log. If someone is escorted from the venue they

maybe offered a location to wait for their transport, such as a lift or taxi, however if they are still providing a nuisance then the police will be called. In some circumstances they maybe given a lift to the nearest taxi office by a member of staff, where someone has been escorted from the property and has chosen to walk to the nearest town, the bar manager will contact the local pub (The church inn) to inform them of the individual(s) and reason for them being evicted. Consideration to risk management with regard to drinking vessels is to be carried out by either the DPS or bar manager as to whether to use glassware or change to polycarbonate glasses. This can be introduced at any point during or prior to the event. If glassware is used then these are to be collected on a 30 minute cycle, any member of staff can refuse to offer glass drinking vessels and insist that plastic or polycarbonate glasses are given as an alternative to any individual, table or group as well as refuse any more alcohol. Signs are displayed and a policy to challenge anyone looking under the age of 21 are enforced as well as signs in the toilets stating anyone found using or in possession of drugs or illegal substances will be removed from the venue and this reported to the police and recorded in the incident book.

Public Safety

1. Installation of appropriate safety equipment
2. Fire exit signs displayed
3. To comply with all current, fire, health and safety laws
4. CCTV working at all times.

In relation to events in the marquee the additional measures will be in place: here will be door staff on hand from 19:00 however these can be employed earlier if it is felt this is required. The people hiring the marquee are responsible to ensure they do not invite more than 150 guests to the wedding party. If it is felt that there are more than 150 then the door staff may ask people to leave, under the direction of the bar manager. There is to be a fire risk plan as well as an evacuation plan and clearly marked exits. There is a first aid kit within the marquee and a qualified first aider on hand. In the event that there are multiple persons involved in violent behavior the venue will close down until such a time that those involved are removed either by taxi, by someone in the venue or the police. The manager has the right to close down the all activities and shut the venue early, this may also result in the damage deposit not being returned to the people hiring the marquee.

1. Notice displayed asking customers to leave quietly from premises also customers will be told in person to leave quietly and not to disturb the local neighborhood
2. Strict policy in place to tell all staff not to serve alcohol to people who are drunk.
3. Appropriate signage will be displayed, in prominent position informing customers they are being recorded on CCTV
4. Access gates locked after closing.

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 license holder. The bar staff will make regular checks of the outside area ensuring that glasses are collected and that guests are observed to ensure their behavior and noise levels are expectable. These checks will continue through the day on a 30 minute rotation, from 7pm -00.30 there will be 2 SIA door supervisors to assist with the management of guests. From 22:00 the beer garden area will be closed except for smoking and the security will be required to monitor this area, this is to minimize any out spilling of noise to the surrounding area. Bar staff will also refuse to serve anyone who is displaying antisocial behavior or appears drunk. There is to be no music played outside the marquee other than during the ceremony and this must remain as back ground music only and remain tasteful to the ceremony. With regards to entertainment a sound test must be carried out with any

artist or DJ to ensure there is no disruption to local residents and all music is to end at 23:30. The 4 closest farms are to have the contact number for the license holders so that if for some reason they are being disrupted this can be communicated and action taken swiftly to resolve the issue, however regular checks of noise levels will be in place on 45 minute intervals (outside areas). There is also a contract in place stating that if guests do become unmanageable then the venue has the right to close the venue and request that all guests leave. Taxi's are to be arranged for pick up no later than 23.30 and guests to be reminded to leave quietly and respectfully, SIA staff will be on hand to assist with this and ensure that no alcohol or glasses are removed from the premises. Taxi pick up points will be close to the marquee and are permitted to turn around using the farms access/turning area.

There will be bins in several locations around the area and staff reminded to pick up any litter. There will also be a requirement for the people hiring the marquee to complete a litter sweep the day after the event when collecting personal belongings from the marquee. Car parking will be allocated to a field close to the entrance to the marquee field and not on the farm track or public highway. There is a directional zone array speaker system installed that has noise canceling ability and this has excellent low frequency localization properties with drops of bass levels by 30db in just 4 meters. This was custom set up with sound checks at 3 of the closest farms and sound levels agreed. We also have the capacity to override visiting DJ's maximum levels from behind the bar. This gives us full control over music sound levels. An agreed schedule and recording system of noise both inside and outside the marquee has been agreed with the LA environmental health representative.

We have have conducted 3 weddings in the past 4 weeks and acceptable noise levels were achieved, there was no negative feedback other than from the last wedding where a local farm experienced some inconvenience with wedding guests driving to their farm, they contacted us with their concerns and as a result we agreed to place signs along the road to direct guests to our venue. This farm is the one before ours and has no name of the farm on their gate/access point from the road.

The protection of children from harm

1. A challenge 25 policy will be in force, where any person looking under the age of 25 they shall be asked to prove their age when attempting to purchase alcohol and signs to this effect will be displayed at the premises. Challenge 25 posters displayed where alcohol is sold.
2. The only acceptable ID will be those with photographic identification documents; including passport, photo-card, driving license or proof of age card bearing the PASS hologram.
3. An incident/refusal log shall be kept at the premises, and made available for inspection on request to an authorized officer of the council of the police which will record the following; a) All crimes reported at the venue b) Any complaints received, any faults in the CCTV system c) Any refusal of the sale of alcohol, any visit by a relevant authority d) CAD reference number where police are called.
4. The licensee will ensure that staff are trained regularly as appropriate in respect to the Licensing Act 2003 legislation, staff to be advised regularly in underage sales prevention. additionally: To protect children from harm, the previous and in addition to the already mentioned measures we will be ensuring that anyone using strong language is asked to refrain from this and warned that failure to do so can result in alcohol being stopped or them being removed, this extends to sexual expletives, drug taking, gambling and violence, drunken behavior giving alcohol or purchasing on behalf of or to underage people as well as any adult entertainment including on mobile devices. Weddings are usually a family event and children are often present.

The license holders are fully aware of their duty of care with regards to the protection of children from harm, both potential and actual.

The premises licence application was subject to the Statutory 28day consultation period which commenced 8th August and concluded on the 4th September 2023. The Licensing Team is satisfied that the advertising requirements under the Licensing Act 2003 (Premises Licence and Club Premises certificates) Regulations 2005 for the application have been met.

1.6 RELEVANT CONSIDERATIONS

Extract of Caerphilly County Borough Council Licensing Policy **Appendix 3**

Extract of Statutory Home Office S182. National Guidance **Appendix 4**

1.7 RELEVANT REPRESENTATIONS RECEIVED DURING APPLICATION PROCESS

1.7.1 Responsible Authorities:

The following responsible authorities have indicated that they have no representations in respect of the proposed new premises licence: Child Protection Officer.

Fire and Rescue Service

Document	Date Received	Appendix Reference
Representation	08/08/2023	Appendix 5
Further comments	25/08/2023	

Gwent Police

Document	Date Received	Appendix Reference
Representation	01/09/2023	Appendix 6

Environmental Health Pollution

Document	Date Received	Appendix Reference
Representation	04/09/2023	Appendix 7

Environmental Health - Health & Safety

Document	Date Received	Appendix Reference
Representation	04/09/2023	Appendix 8

Licensing Authority in role as Responsible Authority

Document	Date Received	Appendix Reference
Representation	04/09/2023	Appendix 9

Trading Standards

Document	Date Received	Appendix Reference
Representation	04/09/2023	Appendix 10

1.7.2 Other Persons:

Elected Member – Cllr Johnston

Document	Date Received	Appendix Reference
Representation	03/09/2023	Appendix 11

Residents

Document	Date Received	Appendix Reference
Allan Sharpe	23/08/2023	Appendix 12
Angela & Dean Phillips	19/08/2023	Appendix 13
Kay Presley	03/09/2023	Appendix 14
Elizabeth Morris	03/09/2023	Appendix 15
Lee Summerhayes & Sharon Fleet	03/09/2023	Appendix 16
Lynne Harris	01/09/2023	Appendix 17
Rhys Cook	25/08/2023	Appendix 18
Mr & Mrs C Barnsley	03/09/2023	Appendix 19
Deborah & Gareth Brown	18/08/2023	Appendix 20
Dorinda Jones	24/08/2023	Appendix 21
Penelope Hambleton	03/09/2023	Appendix 22
Mr & Mrs Vesey	23/08/2023 & 04/09/2023	Appendix 23
Shannon Sterry/ Mr & Mrs Jones	03/09/2023	Appendix 24
Annabel Bunny Cook & Stewart Cook	28/08/2023	Appendix 25

1.8 SUMMARY OF REPRESENTATIONS

The Fire Service submitted comments following a site visit to the premise on 16th August 2023, they commented that although lanes are narrow a fire vehicle could still get access. It was recommended a fire risk assessment should be carried out by an external qualified risk assessor on both the lodge and marquee to calculate the maximum number of people allowed at each location/venue.

Gwent Police do not object to the application but have advocated the rewording of and addition of conditions relating to CCTV, SIA door staff, Challenge 25, staff training and incident recording and that all children to be supervised by a responsible adult during licensable activities. The Police comment that the conditions support and promote the licensing objectives.

Environmental Health Officer (Noise Pollution team) have indicated no objection to the application following a multi-agency meeting held at the premise on 16th August 2023. It was noted sound reduction technology had been installed by competent engineers which is focused on controlling the transmission of amplified entertainment and speech to limit the potential disturbance to residents. In addition, a noise management plan had been submitted.

Having considered above information, together with the absence of noise complaints received by the Environmental Health Department and the ongoing engagement with the applicant, the Officer determined not to object to the application instead offered conditions in relation to the prevention of public nuisance. Reference was made to a noise management plan to prevent noise disturbance to residents from regulated entertainment.

Further conditions were advocated in respect of notices to instruct customers to leave quietly, the cessation of use of outside areas after 23.00 hours and provision of a sufficient number of receptacles located to deposit waste materials.

Environmental Health (Health & Safety) Officer visited the premise on 1st September 2023 and suggested conditions to promote public safety. These included keeping access tracks in good condition and fit for purpose, providing warning signage in relation to the pond, suitable lighting, sufficient number of receptacles for waste materials, patrol outdoor areas and risk assess the need for polycarbonate/plastic glasses when licensable activities are taking place.

The Licensing Authority in its role as a Responsible Authority attended a multi-agency meeting on 16th August 2023 and after considering the application and discussions with the applicant do not object to the application, however conditions were suggested in line with the Council's Licensing Policy that the premise should be cleared of customers within 30 minutes of the last sale of alcohol. In order to ensure customers are transported safely, the Licensing Authority advocated that information was provided to the hirer on booking in respect of the location and lack of public transport. The Licensing Authority supports representations received from other Responsible Authorities. The Licensing Authority Officer details the absence of complaint in relation to the site until receipt of a previous variation application.

Trading Standards have commented on the application and suggested a further condition to improve the operating schedule in relation to preventing proxy sales to children.

Representations have also been received from 14 residents and 1 Elected Member during the consultation process who have lodged objections to the grant of the premises licence application.

Councillor Johnston objection relates to the increase traffic on the mountain lanes references being informed of near misses. Concerns are expressed to the safety of walkers and horse riders using the lanes if drivers are not aware of the road and fear accidents are more likely to occur.

Angela & Dean Phillips expressed concerns and objection to the application. The content of the application submitted was found to be confusing with errors on the address, the number of days licensable activities are applied for, notices displayed and its format and the legislation covering the application process. Reference is made to the 'lodge' being used as a club for family and friends only and not used as a traditional public house. The maximum capacity for the 'lodge' is also being scrutinised from the initial application granted in 2021 to what has been suggested by the applicant with the current application. There was a suggestion that the applicant had not been honest when submitting the initial application.

Concerns were also expressed in relation to increased traffic, narrow lanes and partygoers walking home late at night stopping to ask for directions causing a nuisance. The increase in noise from traffic and the venue is also a concern. Further concern was also expressed in relation to promoting 'Bottomless Brunch' which encourages binge drinking, fuelling drink driving and the use of advertising 'Bottomless Brunch' on the social media platform 'Snapchat' which targets the younger generation, concluding this to be irresponsible.

Mrs Phillips has also submitted video clips showing vehicles being driven through lanes at Mynyddislywn.

Allan Sharpe expressed concerns and in conjunction with Mrs Phillips was one of two organisers of a petition submitted opposing the grant of the licence during the consultation period.

The collective objection signed by a number of signatories related to: -

- The applicants not being of good character with reference to not having the required planning consent and trading illegally.
- Concern in relation to the maximum numbers permitted for the lodge and marquee.
- Irresponsibly promoting their services (without tickets) for a wedding fayre.
- Holding irresponsible drinks promotions.
- Conflicting advice between applicant and Licensing Authority, only wanted a licence to sell alcohol to family & friends.
- Conflicting advice from Planning.

The petition also refers to concerns regarding public safety with walkers, horse riding as there is only single lanes with no pavements or lighting. Furthermore, concerns were expressed in relation to increased traffic for 365 days of the year especially with an increase in weddings being held. The roads are not suitable to deal with the amount of traffic as they are narrow and can cause congestion, especially if drivers are not aware of the rural lanes.

Kay Presley expresses concern regarding the rural area which is unsuitable for the amount of traffic the application would generate, detailing the area as popular with horse riders, walkers and frequently used by members of the public using the nearby church. It was commented that speeding was an existing issue, and the granting of the application would escalate the issue. Concern was also expressed in relation to a drink drive culture and noise nuisance from the venue for residents with livestock also to be considered.

Elizabeth Morris comments referenced concerns with issues surrounding highway safety, detailing the road is a single file lane with many vehicles directly passing her house into the early hours. Mrs Morris referenced vehicles speeding through the lanes and was concerned about those people and families who go walking in the area. Concern was also expressed from noise that residents will be subjected to late at night and crime and anti-social behaviour associated with people leaving the venue, particularly if they have been drinking.

Lee Summerhayes & Sharon Fleet express concerns surrounding the narrow single-track carriageways with no speed measures in place to restrict vehicles in the area. With walkers, horse riders and cyclists' concerns arise to their safety with vehicles driven by people with little or no knowledge of the area. Further concerns were raised in relation to noise that will be generated from wedding parties and other events held and feel they would be adversely affected by the noise created by loud music from inside the marquee.

Lynne Harris supports the application to host wedding parties at the marquee between May & September for up to 10 times per year and for the lodge to host baby showers and other light-hearted celebrations as discussed with the applicant. However, concerns are raised with events which would infringe on personal space including noise above a comfortable level. Reference is made to high noise levels that have already been heard with people shouting above music levels. With the application to extend dates and times for members of the public and not just for family and friends caused concern especially as applied for outside music.

Rhys Cook detailed that he wished to record an objection to the application and referenced concerns regarding the noise levels from events already held at the premises. Concerns were expressed regarding the impact upon the natural environment, effect on livestock and that the quiet mountain lane is not suitable for the amount of traffic.

Mr & Mrs Barnsley raised concerns in relation to the single, narrow lanes and increased traffic they have witnessed whilst living on the main road in which vehicles have ended up in fields as drivers are not aware of the roads and the area. Reference was made that people regularly walk their dogs and there was a concern with their safety as there are no footpaths. Further concerns are expressed regarding noise impact on neighbouring farms and residents late at night, intoxicated strangers causing disturbance and drink driving. Reference was made that the existing pub on Mynyddislywn mountain which caters for the needs of the local community.

Deborah & Gareth Brown raise concerns surrounding the unsuitability of access to the premise, and the roads which are not suitable to the extra traffic, public safety of walkers and horse riders using the lanes would be compromised. Comment was made regarding noise experienced from past events which have been late at night, due to the close proximity of her property to the premise. Concern was also expressed about the absence of street lighting and pavements and the likelihood of patrons from the premises calling at residents' homes late at night.

Dorinda Jones has raised issues regarding access to the venue through narrow lanes which are unsuitable for a potential increase of traffic flow. Reference is made to previous events whereby loud music has been played causing distress to residents.

Penelope Hambleton raised concerns regarding the extension of the hours to sell alcohol and irresponsible drinks promotions that are being offered. Concerns regarding noise from loud music is forcing residents to sit inside and becoming unbearable. The road is not suitable for extra traffic and unsafe for walkers, horse riders and cyclists. Further concern was expressed that the application has failed to promote public safety as believed no planning requirements and building regulations in place.

Mr & Mrs Vesey express their concerns in relation to the increased traffic on a narrow, country lane and putting the public at risk when walking due to no pavements. They also expressed concerns in relation to unlimited drinking at the premise and drink driving.

Shannon Sterry/Mr & Mrs Jones express concerns in relation to noise from the premise that has been heard into the early hours disrupting their evenings and being kept awake.

Concern was expressed that if the application was granted, then this will happen more frequently. Further concerns are raised regarding the roads which are not suitable for high volume of visitors putting horses and their riders at risk. Reference was made to Caerphilly Council not granting planning permission on old barns on their own land as the road wasn't suitable for increased traffic on the lanes.

Annabel Bunny Cook & Stewart Cook referenced concerns in relation to the levels of traffic and danger from speeding vehicles especially as there is no pavement or street lighting. Reference to the area being regularly used by rambles, horse riders and people walking their dogs. Concern was also expressed in relation to residents being disrupted from noise from weddings or other parties with potential drink driving and loud abusive language which currently takes place.

1.9 APPLICANT RESPONSE

The applicant has responded to the representations of the Responsible Authorities (RA's) and has accepted all proposed conditions by the RA's, should the application be approved.

The Applicant was forwarded the representations of all resident objectors and Elected Member. The applicant's responses received to date which includes a traffic assessment conducted May 2023, are reproduced for information as **Appendix 26**.

In responding to the comments of residents, the applicant states that highways, is not part of the licensing objectives. The applicant references a road traffic assessment which it is stated concludes that there are sufficient passing spaces. The applicant references the traffic issues referred to by objectors and suggests that prospective wedding attendees would be attending Ty Cae Brith Farm ahead of the opening of the Church Inn. Comment is also made regarding the absence of traffic previously generated by the shooting club. These matters the applicant suggests may alleviate resident concerns as to traffic.

In relation to noise from entertainment, the applicant details that they heavily invested in a sound system with noise cancelling technology and indicates that noise checks were conducted with the neighbours.

The applicant clarifies that the total number of guests that will attend the Marquee will be a maximum of 150 guests. The applicant offers the rationale for applying for licences for the Lodge and Marquee areas and each areas proposed usage.

The applicant seeks to address concerns in respect of their candour and responses provided at a residents meeting concerning their view in respect of the need or otherwise for Planning permission, citing a 28day use provision, that they suggest would not require Planning permission.

The applicant responded to concerns in respect to the advertising of a Bottomless Brunch at their premises. The applicant comments that a number of local businesses offer bottomless brunches on most weekends.

The applicant has amended his application in relation to the area of the Marquee, to reflect that licensable activities will only take place on Saturdays between 1st May to 30th September between the hours of 12.00 midday until midnight.

1.10 LICENSING ASSESSMENT

THE LICENSING ASSESSMENT IS A PROVISIONAL SUMMARY, BASED ON REPRESENTATIONS RECEIVED PRIOR TO THE HEARING. THE HEAD OF PUBLIC

PROTECTION, COMMUNITY AND LEISURE SERVICES RESERVES THE RIGHT TO AMEND OR VARY THE PROVISIONS CONTAINED IN THE SUMMARY AND RECOMMENDATION, SUBJECT TO ANY CHANGE IN THE MATERIAL FACTS THAT BECOME KNOWN AT THE HEARING. THE SUB-COMMITTEE IS OBLIGED TO DETERMINE THIS APPLICATION WITH A VIEW TO PROMOTING THE LICENSING OBJECTIVES WHICH ARE:

- The prevention of crime and disorder;
- Public Safety;
- The prevention of public nuisance;
- The protection of children from harm

In making its decision, the Sub Committee is obliged to have regard to:-

- Licensing Act 2003
- Statutory Guidance issued under S182 of the Licensing Act
- The Council's own licensing policy, and
- All representations made and evidence presented

NOTE: THE SUB-COMMITTEE MAY NOT MODIFY THE CONDITIONS OR REJECT THE WHOLE OR PART OF THE APPLICATION MERELY BECAUSE IT CONSIDERS IT DESIRABLE TO DO SO. ANY SUCH ACTIONS MUST BE NECESSARY IN ORDER TO PROMOTE THE LICENSING OBJECTIVES.

Statutory Power - Licensing Act 2003. This is a Council function which is delegated to this committee to decide.

1.11 OBSERVATIONS

This application relates to the granting of a new premises licence for licensable activities at the Lodge and Marquee area at Ty Cae Brith Farm, Mynyddislwyn. The application has been subject to the statutory 28day consultation process which has resulted in representations being received and requiring Members of the Sub Committee to determine the application.

Members may hear concerns about the advertising of this application, in respect of the number and positioning of blue notices required. However, the Licensing Team are content that the application has been advertised in accordance with the requirements of the Licensing Act 2003 (Premises Licence and Club Premises certificates) Regulations 2005.

Members may also hear concerns about the existence of the Doghouse premises licence and the merits of that licence. However, it is the premises licence application made by Sunset Lodge Weddings Limited, that Members must determine and not the merits or otherwise of the Doghouse premises licence.

Responsible Authorities (RA's) in the form of the Fire and Rescue Service, Gwent Police, Environmental Health Pollution, Environmental Health (Health & Safety), Licensing Authority in its role as a Responsible Authority, Trading Standards and Child Protection Officer have commented upon the application. It is noted that none of the Responsible Authorities have objected to the grant of the application made by Sunset Lodge Weddings Ltd but instead advocate conditions should a licence be approved.

The application resulted in site visits by a number of the Responsible Authorities during the consultation period. Given the absence of objections, the position of the RA's appears to be

that they are content with the application and licensable activities proposed and the applicant's ability to promote the licensing objectives.

Paragraph 9.12 of the Section 182 Home Office National Guidance states -

Each responsible authority will be an expert in their respective field, and in some cases it is likely that a particular responsible authority will be the licensing authority's main source of advice in relation to a particular licensing objective. For example, the police have a key role in managing the night-time economy and should have good working relationships with those operating in their local area. The police should usually therefore be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective. However, any responsible authority under the 2003 Act may make representations with regard to any of the licensing objectives if they have evidence to support such representations. Licensing authorities must therefore consider all relevant representations from responsible authorities carefully, even where the reason for a particular responsible authority's interest or expertise in the promotion of a particular objective may not be immediately apparent. However, it remains incumbent on all responsible authorities to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing.

The Environmental Health Pollution and Licensing Authority Officers outline a lack of complaints to the Public Protection Team or intervention in relation to the existing licensed premises namely the Doghouse, located on Ty Cae Brith Farm since the licence was approved there in July 2021. In addition, reference is made to the absence of like reports in relation to recent events held under authorisation of Temporary Event Notices (TEN's).

However, the absence of concern is not a view shared by residents and Elected Member for the Newbridge ward.

The concerns of residents can be broadly categorised into the following, Highway safety / increased traffic, safety of residents and users of roadway, manner of driving, drink driving and location of the proposed premises Mynyddislwyn. Furthermore, concerns in relation to entertainment noise, patron noise, noise from traffic and potential for disturbance and antisocial behaviour.

There is concern expressed in respect of the absence of Planning permission for the proposed use of the Ty Cae Brith Farm site. There is further concern in respect of the candour and character of the applicant given what appears to be conflicting information as to proposed times of operation, occasions of use, the number of attendees detailed and the advertising of 'Bottomless Brunch' events, which some objectors believe are Irresponsible drinks promotions. Another resident takes the view that the public safety licensing objective is undermined in the absence of planning permission and building regulations.

It is noted that there are no confidence in management concerns raised by any of the Responsible Authorities as part of the consultation process. However, the applicant does appear to contradict himself in relation to proposed operating days and hours for the Marquee when providing a noise management plan and further responses to attempt to address resident concerns as to the application.

Members will be required to assess the relevance of the objections received and whether they fit within the Licensing Objectives namely the Prevention of Crime and Disorder, Public Safety, Prevention of Public Nuisance and Protection of Children from Harm.

Often the concerns of residents can be addressed through mediation during the consultation period or up until the time of any scheduled hearing. However, in this instance, it is not thought that the concerns of residents can be mediated. Members would be reminded that

any concerns of residents and elected members must be in respect of the applicant's ability to promote the licensing objectives. Matters which stray away from the licensing objectives should not be considered relevant by Members.

Paragraph 16.2 of the council's licensing policy also states '*Therefore, any person is able to make representations in relation to certain types of applications as an "Other Person" However; all representations must relate to the licensing objectives and may not be frivolous or vexatious.*'

However, where there is any doubt as to the nature or merit of representations, National Guidance at paragraph 9.9 states '*It is recommended that, in borderline cases, the benefit of the doubt about any aspect of a representation should be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it.*'

Paragraph 28.21 of the council's licensing policy details '*Relevant representations about applications can also be made by any other person, regardless of their geographical position in relation to the relevant premises. However the Licensing Authority will usually give greater weight to representations that are made by people who can demonstrate that they would be directly affected by the carrying on of licensable activities at the premises concerned.*'

Paragraph 14.5 of the council's licensing policy provides advice to Members when considering representations and states '*Unreasonable, frivolous and vexatious representations will be disregarded. Representations that have been made and considered elsewhere, for example as an objection to a planning application, may also be disregarded where consideration of such representations would be duplication.*'

In relation to issues raised concerning the suitability fitness of highways access, road usage, safety of walkers/riders, increased traffic, Members will note that the roads leading to and from Mynyddislwyn are part of the national road network. There are no traffic orders or controls to restrict access to or from the lanes referenced by residents.

It should be noted that Highway safety is not specifically referenced as a licensing objective under the Licensing Act 2003. Members will therefore have to consider whether the road network / highway or traffic issues fall within the Public Safety Licensing objective. It is noted there are no concerns referenced to this effect by the Fire & Rescue Service or the Police. It should be noted that Highways are not a statutory consultee under the Licensing Act 2003.

Whilst a number of residents have expressed concerns in relation to the access and safety of road users should the application be approved. Residents representations have included video clips of vehicles being driven in road on Mynyddislwyn. The Applicant counters this assertion citing that the existing road network had permitted transportation of equipment and construction of two solar farms on Mynyddislwyn. It is noted that the Applicant has submitted a Traffic Assessment to support his view that highway access to the proposed licensed area would be suitable (albeit it for the purposes of a Planning application)

In relation to fears concerning drink driving or manner of driving, respectfully these are the responsibility of individuals themselves. Unless there is some demonstrable link to actions of the applicant and them promoting drink driving or irresponsible driving.

The concerns of a number of the local residents whilst understandable, appear to be largely anticipatory in nature about the increased levels of behaviour or issues which could arise, should a licence be granted for this premises. Case law in *Daniel Thwaites PLC v Wirral Magistrates Court 2008* has considered similar issues in relation to real evidence and weight to be afforded.

There have been a number of references to concerns about entertainment, patron noise and foul language allegedly attributable to patrons of the Doghouse or when TEN's have authorised entertainment.

Some residents detail that entertainment noise has been audible at their premises personally, whereas others reference that they are aware that other residents have experienced noise attributable to the applicant. It is noted that until the submission of a variation application in relation to the Doghouse in May 2023, there had been no reported complaints to Environmental Health Pollution or the Licensing Team in relation to noise nuisance since grant of licence on the 28th July 2021.

The applicant appears to accept that noise from entertainment has been audible on occasions but suggests that they have approached neighbours in a bid to resolve via monitoring. The applicant details the investment in a Zone array noise cancelling system that will be used within the Marquee to prevent entertainment noise causing nuisance. It is noted that the Environmental Health Pollution Officer, via a lack of objection takes the view that the licensing objectives in particular the prevention of public nuisance can be promoted.

It should be noted that as a workplace, Ty Cae Brith Farm does benefit from exemptions derived from the Live Music Act which permits unamplified and amplified live music between the hours of 8am-11pm for up to 500 people, in the absence of any licence requirement. Protections are afforded to residents by virtue of the Environmental Protection Act in particular Statutory Nuisance.

Members will also note that irrespective of the outcome of this application, the applicant could decide to submit Temporary Event Notices (TEN's) at his premises to provide for the sale of alcohol, late night refreshment and regulated entertainment. For such Notices there is no resident ability to comment on the Notice. Under normal circumstances this would allow an applicant to submit 15 Notices which could last up to 20 days. The only parties that can object to a TEN are the Police and Environmental Health.

Whilst reference has been made by residents to the applicant promoting irresponsible drinks promotions via a 'bottomless brunch' offer. It does not automatically follow that a bottomless brunch offer is an irresponsible drinks promotion. In considering whether an 'offer' is irresponsible there is a test of whether the offer would lead to a significant risk of the licensing objectives being undermined by the activity. Some of the considerations would be the type of promotion, potential customers, type of premises and history of premises.

Members are advised that they must disregard references to concerns about the absence of planning permission as Licensing and Planning are two separate distinct regimes. The absence of planning permission should have no bearing in determining this application for a premises licence by the applicant. Both planning permission and licensing permission can exist independently of each other. One can be obtained in advance of the other, clearly it is incumbent on the individual to ensure that they have the relevant permissions in place to avoid the possibility of enforcement action under either regime.

Members will be aware that Planning are a statutory consultee within the Licensing Act 2003 premises licence application process. In relation to this application, no representations were received.

Members are guided to Paragraph 25.6(e) of the council's statement of licensing policy which details the following '*Conditions on the licence, additional to those voluntarily offered by the applicant, may be considered. Appropriate conditions will focus on matters which are within the control of individual licensees and which also relate to the premises or places*

being used for licensable activities and the impact of those activities in the vicinity. If situations arise where the licensing objectives are compromised but cannot be dealt with by the use of appropriate conditions the Licensing Authority will consider whether it is appropriate for a licence to be issued or for the premises to continue in operation.'

Paragraph 9.40 of the Home Office Guidance provides to Licensing Authority's in determining applications and states '*Alternatively, the licensing authority may refuse the application on the grounds that this is appropriate for the promotion of the licensing objectives. It may also refuse to specify a designated premises supervisor and/or only allow certain requested licensable activities...*'

Members of the Licensing Sub Committee will be required to determine the application in relation to the promotion of the four licensing objectives i.e prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm.

If Members believe that the applicant can promote the licensing objectives, then the application should be approved. If Members have concerns or a lack of confidence about the applicants' ability to promote the Licensing Objectives, then the application should be refused.

1.12 RECOMMENDATION

Having had regard to the objections made by residents and Elected Member in relation to the licensing objectives and considered the position of the Responsible Authorities, it is recommended that the application for the grant of a premises licence be **approved**.

In reaching this conclusion, it is noted that there are no confidence in management concerns or objections to the application from Responsible Authorities. It is considered that any potential conflicts with the promotion of the Licensing Objectives may be adequately controlled by the recommended conditions set out in **Appendix 27** of the report.

Background Papers: **Statutory Guidance issued under S182 of the Licensing Act**
Caerphilly CBC Statement of Licensing Policy

Date of this report: 19th September 2023

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