



LICENSING AND GAMBLING SUB COMMITTEE

MINUTES OF THE DIGITAL MEETING HELD VIA MICROSOFT TEAMS ON
THURSDAY 28TH APRIL 2022 AT 10.00 A.M.

PRESENT

Councillor W. Williams – Vice-Chair Presiding

Councillors:

M.A. Adams, D. Cushing

Together with:

L. Morgan (Licensing Manager), K. Hopkins (Senior Licensing Officer) and T. Rawson (Solicitor), R. Barrett (Committee Services Officer), J. Thomas (Committee Services Officer)

Representing the Applicant

Miss B. Lewis (Tog Farm Ltd)

Representing Responsible Authorities

D. Pugh (Environmental Health – Health and Safety), L. Heyworth (Environmental Health – Health and Safety), A. Dicks (Licensing Authority as a Responsible Authority), K. Jennings (Environmental Health - Pollution Control), T. Keohane (Trading Standards)

Representing Other Persons

Councillor E. Forehead (St James Ward - part of meeting)
Mr R. Jenkins, Mrs J. Garland, Mr and Mrs Smith (Local Residents)

INTRODUCTION AND RECORDING ARRANGEMENTS

Due to technical difficulties, the meeting start was delayed to 10.10 a.m.

The Chair welcomed all those in attendance and introductions were made. The Chair reminded those present that the meeting was being 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 D. Lewis (Child Protection).

2 DECLARATIONS OF INTEREST

Councillor D. Cushing sought advice from the Legal Advisor to the Sub Committee, as one of the local residents objecting to the application is known to her (as they are both members of the same political party). On receiving advice, Councillor Cushing decided that she did not

need to declare an interest on this occasion, and she remained in the meeting during consideration of the application.

3 DETERMINATION OF PREMISES LICENCE APPLICATION - TOG FARM LIMITED, LAND AT TOG FARM, RUDRY, CF83 3DG

The Legal Advisor to the Sub Committee outlined the procedure for the meeting, including the order of representations and the opportunities for all parties to ask questions.

Mr Lee Morgan (Licensing Manager) presented his report and outlined the application for a new premises licence for Land at Tog Farm, Rudry, CF83 3DG, which sought to permit the following licensable activities:

- **Supply of Alcohol (on sales only)** Monday to Sunday, 15.00 to 23.00;
- **Regulated Entertainment – (Provision of Films)** Monday to Sunday, 18.00 to 23.00 (Films on projector screen inside tent, and outside in designated area).

It was noted that a general description of the proposed premises had been provided as *'Glamping site, guests pre book their stay. Alcohol will be offered with meals, and while staying with us on site, only at the designated sites.'* A number of steps had been volunteered by the applicant as part of the Operating Schedule, to promote the Licensing Objectives, and were set out in Section 1.3.1 of the report. This included pre-booking for the premises with no more than 10 guests at any one time.

During the 28-day consultation period, representations were received from the Child Protection Officer, Environmental Health (Health and Safety), Licensing Authority in their role as a Responsible Authority, Environmental Health Pollution and Trading Standards. The Fire and Rescue Service and Gwent Police had indicated that they had no representations in respect of the proposed new premises licence. Further details were set out in Section 1.6 of the report and copies of the representations from the Responsible Authorities were set out at Appendices 5-9 of the report.

It was noted that the applicant had responded to the comments of the Child Protection Officer and had agreed to the conditions proposed, should a licence be granted. The applicant had not responded to the proposed conditions advocated by the other Responsible Authorities, although it was noted that both Environmental Health (Health and Safety) and the Licensing Authority had lodged an objection to the grant of the licence. Mr Morgan confirmed that the Child Protection Officer had offered her apologies for the meeting but that the Sub Committee would hear from all the other Responsible Authorities who would confirm their position later in the meeting.

Representations were also received from three Elected Members in objection to the application, together with representations from seven local residents objecting to the application, and a representation from Draethen, Waterloo and Rudry Community Council in objection. Further details were summarised in Section 1.6 of the report and copies of the representations were set out at Appendices 10-20 of the report.

Attention was drawn to the local policy considerations as set out in the report and to the way in which the Sub Committee would deal with the application. The Sub Committee noted Section 1.9 of the report which set out a summary of observations regarding the application, and were then referred to the recommendation set out at Section 1.10 of the Licensing Manager's report, which considered the position of the Responsible Authorities, together with the concerns received from residents around the applicant's ability to promote the Licensing Objectives (particularly the promotion of the Public Safety Licensing Objective) and recommended that the application be refused.

All parties present were afforded the opportunity to ask questions of the Licensing Manager. A Member raised a query on Section 1.3 of the report in relation to the Regulated Entertainment (Provision of Films) applied for and asked if any other entertainment such as live music had been applied for. The Member also asked why some of the representations from local residents had been anonymised.

Mr Morgan explained that the application in respect of Regulated Entertainment was only for the Provision of Films, and if the licence were to be granted then there were some additional permissions that could apply; for example, the site would be allowed to play live and recorded music until 11.00pm for less than 500 people as this is a deregulated activity under the Licensing Act 2003. With regards to the anonymised representations, Mr Morgan explained that the Licensing Department had received requests from several residents making representations to keep their information anonymous, and in such circumstances, each request is considered on its own merits.

A Member asked if the proposed films would be shown in individual tents or if the site intended to allocate a specific tent for the purposes of showing films. Mr Morgan confirmed that the applicant might be able to advise further when making their representation. The Member also asked if there were any restrictions around the classification of films to be shown at the premises. Mr Morgan referred to the comments received from the Child Protection Officer where the applicant had agreed to comply with conditions around the showing of age-restricted films.

The Sub Committee sought clarification on the provisions around the playing of live and recorded music and the number of permitted customers under deregulated activities. Mr Morgan explained that if the licence were to be granted, effectively the applicant would have the ability to play live and recorded music between 08.00 and 23.00, although there would be statutory controls in place (such as a maximum permitted noise level). In relation to permitted attendance numbers, Mr Morgan confirmed that the applicant had curtailed herself to an operating schedule for a maximum number of persons at any one time, which was detailed out at paragraph 1.3.1 of the report and stated there would be no more than 10 guests at any one time.

A Member asked if there would be any controls in place around visitors to the site bringing along their own alcohol and Mr Morgan explained that this is not a licensable activity which is not under the control of the Licensing Authority nor covered by the Licensing Act 2003 and it would be the responsibility of the applicant to control this issue.

Representations were then invited from the applicant, Tog Farm Ltd.

Miss B. Lewis (applicant) addressed the Sub Committee and responded to a number of points raised during the meeting. She emphasised that Tog Farm is a new business which started operating last year and acknowledged that mistakes had been made during that time which she as a business was keen to rectify. Miss Lewis explained that the main reason for submitting the premises application was to regulate activities and to operate a sustainable business. She stated that the only activity being sought was for the provision of films and all guests would be pre-booked, and the screen and amplified speakers would be contained in each individual tent, and films pre-booked would be age-appropriate. In terms of timings, the reason for the 11.00pm end time was so that people wishing to watch a film at 9.00pm (finishing at 11.00pm) could do so.

In relation to the maximum of 500 attendees permitted under deregulated activities, Miss Lewis acknowledged this was a concern and stated that the premises are trying to move away from events of this size. She explained that during the previous year, Tog Farm had hosted larger events which included a DJ, and had led to issues such as noise nuisance. It was her intention moving forward to confine the business plan to four glamping pods with a maximum of 10 people to provide a more unique user experience. In terms of the supply of alcohol, Miss Lewis acknowledged that if the licence was not granted, the business could revert to a

'bring your own alcohol policy' but she wished to have this aspect of the licence in order to manage alcohol consumption and to be able to offer alcohol upon request, such as a bottle of prosecco for birthdays for consumption within tents.

All parties present were afforded the opportunity to ask questions. A Member asked what the capacity of each pod was, and what mechanisms the business had in place to prevent customers from bringing along their own alcohol. She also asked if the site had wi-fi connection and whether this could be used to stream films rather than using a projector. Miss Lewis explained that the maximum capacity of each pod is two adults and two children. In terms of people bringing their own alcohol, Miss Lewis explained that the business has a close relationship with all guests and she speaks to them before arrival so that the system operates on the basis of trust and respect. She also explained that the site does not offer guest wi-fi and the film is pre-downloaded and set up for guests so they are unable to access other films or watch films late into the night.

A Member asked whether the maximum capacity of 10 people included children. Miss Lewis explained that the numbers for the alcohol licence were set at 10 people and the business plan had been based on two adults and two children per tent. The Member highlighted that this could potentially result in a total of 16 persons on site and queried whether the maximum of 10 persons applied for would allow for flexibility around children. Mr Morgan drew the Sub-Committee's attention to the licence applied for and explained that whilst licensing and planning regimes are distinct, the application stated that there would be a maximum of 10 guests at any one time and that in his view, the maximum number of 10 would include any children.

In response to questions from the Sub Committee, Miss Lewis confirmed that there were a total of four employees at Tog Farm, facilities included compost toilets and some showers, and three staff were trained in first aid.

Mr Smith (local resident) referred to the aerial map included in the agenda papers and asked why two of his fields had been included in the application area. Miss Lewis explained that the licensable area in the aerial view was highlighted in red and the pods are located in the two bottom fields not belonging to Mr Smith. Mr Morgan added that the photographs included in Appendix 2 had been provided by the Licensing Authority to provide some further clarity on the premises location and surrounding areas.

Mr Todd Rawson (Legal Advisor to the Sub Committee) referred to the plan of the premises included in the agenda pack and asked what the boundary of the premises would be in terms of the sale of alcohol. Miss Lewis confirmed that alcohol would be supplied from the horsebox located in the car park and customers would then be able to take the alcohol down the field to their tents. She added that the timings for the license were quite broad to allow for people checking in and out, and that staff would be present at the horsebox for check-in, but the box would not be constantly manned and so alcohol would not be freely available for sale during these timings. In response to further queries, Miss Lewis confirmed that the licensable area would include the borders of the Alders Field, the track to that field and the car park area.

Mr Rawson asked what would happen if a guest checked in and purchased alcohol, and then wished to purchase more alcohol later in the evening once they have consumed their supply. Miss Lewis confirmed that that the majority of bookings and alcohol sales are pre-booked, and that they would supply further alcohol upon request; however, the guest would need to return to the point of sale and this is a situation that the business are trying to avoid moving forward. Mr Rawson asked if the applicant had given any consideration towards applying for an off-licence rather an on-licence if the intention was to sell alcohol to be taken away for consumption, and Miss Lewis acknowledged that she had not considered this option when applying for the licence.

Mr Rawson drew the Sub Committee's attention to conditions proposed by the Licensing Authority and set out at Appendix 22 of the agenda pack. One of these conditions being

sought was for the applicant to undertake hourly inspections of the premises to ensure the Licensing Objectives are being adhered to. Mr Rawson asked Miss Lewis how she would adhere to this obligation if she were to sell one or two bottles of prosecco at 4.00pm but have to carry out hourly monitoring until the licensing period ceases at 11.00pm, and asked if the cost would outweigh the profit from any alcohol sale. Miss Lewis explained that she is not looking to make a significant profit from alcohol sales and is only offering the service to add to the boutique glamping experience. In terms of checking on the premises, the licensable area is covered by CCTV and the applicant would be checking in on the glamping site every two hours.

Mr Rawson emphasised that Condition 17 would cover the licensable area which would be the entire premises, yet the proposed CCTV was limited to the horsebox and car park area. Miss Lewis confirmed that the premises would be able to meet this obligation as she would be on site until the guests leave and that the business is also having additional CCTV installed during the summer in the Alders Field area.

Mr Rawson referred to the requirements under the Public Safety Licensing Objective and the consideration for safe entry to and exit from the licensed premises. Mr Rawson asked how the applicant would deal with someone who becomes intoxicated within the premises and how they would safely remove them from site. Miss Lewis explained that she had applied for the licence to minimise inebriation which had been experienced under the 'bring your own alcohol' policy and that the premises would take steps to ensure that under their terms and conditions, no one would be able to get into an intoxicated state. However, she stated that customers also need to take some responsibility for their own wellbeing. Miss Lewis pointed out that emergency services have attended the site in the past, but have not made any objections to the application, and if someone were to be intoxicated then her staff would collect the customer and drive them up to the entrance.

Mr Rawson highlighted the need for the Sub Committee to take into account all circumstances and that some customers may agree to behave responsibly under the terms and conditions but not actually do so. He sought further clarification on additional alcohol sales if the customer wanted another bottle of prosecco at 9.00pm, and Miss Lewis explained that the plan is for customers to purchase alcohol when they check in and that would be their only opportunity to do so, as she did not wish to be travelling up and down the field making alcohol deliveries late in the evening. In response to further questions from Mr Rawson, Miss Lewis reiterated her business model and explained that she was not looking to profit from the sale of alcohol and that this is merely an add-on in terms of the operating schedule and the service offered to glamping customers. She also emphasised that she would not be going down the route of travelling up and down the field at 11.00pm at night in order to make a minor profit on a bottle of prosecco as this is not a viable business plan.

Mr Rawson asked how guests would be transported from the car park to the glamping fields. Miss Lewis confirmed that upon arrival, guests would be taken down in one of two 4x4 vehicles owned by the site, as they do not wish for guests to be driving up and down the field, and she also wanted to minimise the risk of guests accessing their vehicles when inebriated. It was noted that the customer car park is covered by CCTV.

Mrs Garland (local resident) referred to the earlier point raised by Mr Smith in relation to premises boundaries and sought clarification on whether the license was for the whole area or just for Tog Farm. She also sought further information regarding the purpose of the horsebox at the premises. Miss Lewis confirmed that the horsebox would be used as a check-in area, alcohol sale point, and storage facility for the alcohol, which would mainly consist of prosecco and wine. She explained that the horsebox will not be manned at all times if guests do decide to wander up to it, as it would not be viable to keep this open at all hours. Miss Lewis reiterated that alcohol would be purchased on arrival before customers travel down the field and that staff would not be delivering additional supplies of alcohol to them.

Mrs Garland asked about access for emergency services, citing an incident in the

neighbouring stables a few weeks ago where the emergency services and veterinarian were called out, but the emergency services were unable to gain access down the track. Mrs Garland expressed concerns that emergency services would have great difficulty in accessing the fields if they were called out to attend to a glamping guest. Miss Lewis explained that if there was an emergency, staff would go down to the field and transport the guest up to the emergency services on site.

Mrs Garland suggested that if there was a fire, then emergency services would not be able to gain access to the site. Mrs Lewis explained that the fire service has visited the site and viewed the precautions in place, and that the risk of fire is minimal and that relevant steps are in place to tackle any such incident, but added that the fire service would not be able to access the bottom of the field.

In response to a Member's query on the types of alcohol for sale, Miss Lewis confirmed that this would consist of prosecco, and that no bottled spirits would be offered for sale, although the premises would look into providing craft ales if a specific request was received for a celebration. In addition, the premises also provides hampers for children which include soft drinks.

In response to queries from Members regarding previous attendance figures and traffic numbers at site, Miss Lewis cited previous experiences which had led to the business turning away from this festival-style model and catering for a smaller number of attendees. In terms of traffic, even for a maximum of ten attendees, all guests are encouraged to car share but the number of cars entering and exiting the site would be minimal, with it anticipated that four glamping pods would equate to a maximum of four cars. Miss Lewis also confirmed that the company trucks are parked in a different area to the guest car park. In terms of car parking capacity, up to 30 cars have parked there previously, but the premises have now reduced this to a maximum of 10 cars.

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

Mr Dean Pugh (Commercial Safety Officer) referred to the representation submitted by Environmental Health (Health and Safety) and explained that his objection related to safety concerns around access at the bottom of the field and bottom of the track, and the implications on the safety of guests if they had an emergency in the early hours of the morning and needed to leave the site. Miss Lewis offered clarification around the remedial works in terms of the access track and emergency contact numbers for Tog Farm and was reminded by the Legal Advisor that at this stage in the hearing, this was the opportunity for the Officer to put forward his representation and confirm whether his objections remained the same.

Mr Pugh confirmed that the reason for his objections related to the access to the site as set out in Appendix 6 of the agenda pack and included a rough track which is deeply rutted around the bottom end. At the time of a site visit by Responsible Authorities on 24th March 2022, extensive water pooling remained at the entrance to the camping area, and in Mr Pugh's view, access was not safe at that time. Photographs of these areas were included in the representation. Members were also advised that the operating schedule did not outline how guests will be transported between the licensable areas. The distance between the licensable areas is considerable and took Mr Pugh approximately 15 minutes to walk from the proposed site of the horsebox to the campsite.

Mr Pugh stated that objections would remain in force until the works have been undertaken to provide a surface to the track that is free from holes and ruts. The surface of the track must be maintained thereafter in a suitable condition. Additionally, works should be undertaken to the entrance of the camping area to prevent water pooling, arrangements must be made to implement the track to transport guests safely between the licensable areas, and they must be transported in suitable enclosed vehicles and not an all-terrain vehicle (ATV).

A number of proposed conditions were also included in the representation, including proactive monitoring and maintenance of the track surface condition, safe transportation of guests in a suitable enclosed vehicle, for the track to be kept free of farm livestock at all time, arrangements to be made to transport guests in a suitable vehicle from the camping area in the event of an emergency overnight, ensuring sufficient and suitable waste receptacles are in place for use by camping guests, consumption of alcohol in polycarbonate glasses and disposal of decanted glass bottles in the waste receptacles provided, and suitable hand washing facilities and signage must be provided adjacent to the first licensable area near the adjacent livestock paddock.

All parties present were afforded the opportunity to ask questions and Members sought clarification on the distances between the horsebox and glamping pods and the conditions in which Mr Pugh had walked the site. Mr Pugh confirmed that this was a 15-minute walk which he undertook during the day in dry conditions, and upon checking Google Maps later in the meeting, confirmed that the actual walking distance was around 600 meters from the horsebox down to the entrance to the field. Mr Pugh advised Members that he had particular concern around the water pooling at the bottom of the track and that this would be impossible to see in the night-time, and that given the difficulty around walking along this type of terrain in the daytime, the risk would become more elevated at night.

Representations were then invited from the Licensing Authority as a Responsible Authority. Mrs Annette Dicks (Assistant Licensing Manager) referred to her representation and advised Members that the Licensing Authority supported the objections of Health and Safety colleagues following the site visit with other Responsible Authorities to view the site and discuss the application with the applicant. Mrs Dicks explained that on the day of the visit, conditions were good and dry, but the ground conditions were very poor. The pooling at the entrance to the field area was felt to be a primary concern and did not meet the Public Safety Licensing Objective. Mrs Dicks highlighted that some aspects of the proposed application had not been included in the operating schedule, and the representation from the Licensing Authority therefore recommended a number of conditions in relation to the use of CCTV and monitoring of the licensable areas.

Mrs Dicks expressed concern around what would happen if customers wanted to purchase more alcohol and attempted to walk back up to the site in darkness, and therefore regular monitoring had been put forward as a condition to ensure public safety. Mrs Dicks explained that she could not support the application as it stood because of the ground conditions highlighted by Mr Pugh. In relation to the total number of guests, Mrs Dicks would advocate that this be a maximum of 10 people at any one time, which would include children because the licensable activities include the provision of films. Mrs Dicks acknowledged that alcohol consumption is not a licensable activity but welcomed the proposal from Miss Lewis to install CCTV in the licensable areas in order to comply with the conditions of licence if granted. Mrs Dicks expressed concern over previous references that had been made to having 14-15 guests at any one time, and reiterated that if a maximum of 10 people were to be a condition of the licence if granted, any breach exceeding this number would constitute an offence.

All parties present were afforded the opportunity to ask questions and Mrs Garland asked if or how the supply of alcohol could be restricted to prosecco and beer. Mrs Dicks confirmed that if a licence were to be granted for the supply of alcohol, then this would be for any type of alcohol, unless a particular condition could be put on the licence restricting the type of alcohol for sale, but this would be a very unusual circumstance. Mrs Dicks also emphasised that the Licensing Authority have no control over a 'bring your own alcohol' policy and so if the applicant wished to supply alcohol, there is the possibility that customers would bring their own alcohol too, and that the Licensing Authority can only apply conditions to prevent the sale of alcohol to someone who is intoxicated. Mrs Dicks confirmed that this was the reason for the proposed conditions if the licence were to be granted, but that her primary concern was the Public Safety Licensing Objective with regards to the current ground conditions at the site.

A Member enquired as to the lighting facilities around the glamping pods. Miss Lewis explained that every customer is supplied with a power pack which last for 48 hours and outdoor lights for the tents are plugged into these packs. She also confirmed that the lighting arrangements cover the eating area, hot tub and connecting paths and also that the CCTV being installed would provide halogen lighting at the entrance to the Alders field.

Mrs Dicks stated that at the time of inspection, the area between the horsebox and camping area was unlit. Miss Lewis explained that there are plans to install solar lighting around that area and so there would be lighting along the beginning, middle and end of the track, although she confirmed that the only lighting in place at the moment is within the camping area itself. Mrs Dicks also sought clarification on whether the films would be shown inside or outside the glamping pods. Miss Lewis explained that the projectors would be located just outside the tent so that customers could sit in the tent with the doors open and watch the film in that way if they wished.

Representations were then invited from Environmental Health (Pollution Control). Mr Kristian Jennings (District Environmental Health Officer) referred to his representation and explained that he had some initial concerns in relation to the public nuisance aspect of licensable activities and also access and egress to the site. Mr Jennings confirmed that he attended the joint site visit on 24th March 2022 and many of these concerns were allayed through discussions with the other Responsible Authorities and the applicant, particularly in view of the measures proposed to limit attendees to 10 persons or less, the provision of film to individual camping pods with audio provided by projectors, and the provision of film being part of accommodation provision only, meaning access and egress movements later into the evening and night are unlikely and further reducing the potential for public nuisance.

Therefore, Environmental Health (Pollution Control) had no objections to the application, but did propose a number of conditions in order to reduce the potential impact on nearby residents. These included waste collection during appropriate hours, a catchment area for the premises licence holder to ensure that patrons are using outside areas in a quiet and orderly fashion, and for boundary monitoring of noise by the applicant when regulated entertainment is taking place. Mr Jennings also referred to the location plan submitted by the applicant, which in his view was inadequate, and expressed the need for there to be a clear definition of the licensable areas, particularly in relation to the provision of films. Mr Jennings was also of the view that individual projectors and speakers would not generate a great deal of noise but that any issues could be dealt with under the Environmental Protection Act.

There were no questions for Environmental Health (Pollution Control) and representations were then invited from Trading Standards.

Mr Tim Keohane (Senior Trading Standards Officer) referred to his representation and explained that his area of concern generally related to the Protection of Children from Harm Licensing Objective in relation to underage sales. He explained that his representation supported those made by CCBC Children's Services and believed that the suggested conditions by Children's Services will help the applicant meet their responsibilities and best satisfy this objective

All parties present were afforded the opportunity to ask questions and a Member asked if any staff at Tog Farm had undergone DBS checks or safeguarding training. Mr Morgan confirmed that DBS checks would not be a requirement of the conditions of licence and has not been advocated by any of the Responsible Authorities. Mrs Lewis responded to the question and confirmed that she has undergone an extensive DBS check along with one of her colleagues, and has also completed relevant health and safety training relating to children.

Representations were then invited from Elected Members. It was noted that Councillor Elaine Forehead had been in attendance earlier in the meeting but had given her apologies and had left owing to a prior appointment at 11.30am, but had asked for the representations from both herself and Councillor Christine Forehead as contained in the agenda pack to be taken into

consideration by the Sub Committee.

Representations were then invited from Local Residents (Other Persons).

Mr R. Jenkins (local resident) explained that he lived about 250 metres from Tog Farm and referred to major noise nuisance arising from previous events at the site and the detrimental impact on his family. Mr Jenkins referred to an event held in April 2022 where 18 people were in attendance and also expressed concerns that guests could potentially continue to bring their own alcohol when glamping and continue to cause issues.

Mr Jenkins highlighted an incident in April 2022 between a dog from Tog Farm and his own dog, which had led to veterinarian and police involvement, and he expressed concern that a repeat of this situation could impact on public safety, particularly the safety of children, if the licence were to be granted. Mr Jenkins claimed that he has been able to smell cannabis in the area when events are taking place and expressed concerns that alcohol and drugs go hand in hand which could exacerbate further instances of anti-social behaviour. Mr Jenkins also expressed concerns around the impact of the business on the local environment, including noise and traffic pollution and harm to wildlife and fauna.

In closing, Mr Jenkins highlighted the detrimental effect of the site activities on himself and his wife over the past 18 months, and asked for the application to be refused and for the activities of the business to be reviewed.

All parties present were afforded the opportunity to ask questions and in response to queries from the Sub Committee, Mr Jenkins confirmed that he had contacted the police regarding previous noise nuisance arising from events at Tog Farm and kept a log of complaints for the Council. He added that the police had attended site and a noise abatement order was served. He confirmed that he had lived at his property for 18 years, which was set in a rural area and until recently he had enjoyed living in the area.

Mr Rawson referred to the new business model put forward by the applicant and sought Mr Jenkins' views on whether he had confidence in the plans moving forward. Mr Jenkins expressed concerns that the entire business model is based upon trust in regards to guests not consuming too much alcohol or keeping noise levels to a minimum. He referred to a hen party held at Tog Farm a few weeks ago which could clearly be heard and suggested that this did not indicate a demonstrable change to the business model. He also expressed reservations regarding the monitoring plans proposed by the applicant given the rural location of the glamping fields and the inadequate lighting at site.

Mr Jennings confirmed that Environmental Health served a noise abatement notice on Tog Farm in September 2021 following complaints received and investigated in relation to live music at the site.

Mrs J. Garland (local resident) was then invited to make her representation. She expressed a need for reflection on the historical evidence of how the applicant has run their business, together with consideration of the applicant's responses to some of the comments made by interested parties. Mrs Garland referred to a request for business advice from the applicant which she felt conflicted with her role on the local community council as a result of alleged confrontations between the applicant, their family and local residents. She added that she had passed these details to the community council and had since stepped down from that role.

Mrs Garland expressed a number of concerns regarding public safety at the site, providing examples of where she felt the applicant had shown a lack of regard for Covid-19 safety during site visits by relevant agencies, together with a lack of social distancing measures at previous events. Mrs Garland also had concerns as the premises is located on a working farm and she referred to the high fatality rates across the agricultural industry. She also claimed that Tog Farm were transporting guests, including young children, on the back of an

open pick-up truck which could have deadly consequences given the journey over the rough terrain.

Mrs Garland made reference to the applicant's claim that previous events were held as part of permitted development during a trial business period, and suggested this conflicted with licensing permissions. Mrs Garland also indicated that she had little confidence in the applicant's new business model and the services that would be provided by them. She highlighted the rural location of the site and the difficulties experienced by the emergency services when gaining access. Mrs Garland also disputed the applicant's claim in her response that she had been unaware of noise nuisance being heard by surrounding villages, stating that Tog Farm had remarked on these complaints in public and on social media.

Mrs Garland referred to the rural countryside setting of Rudry village and expressed concerns that the site would have an environmental impact in terms of light pollution. She also referred to poor broadband connection in the village and voiced concern over whether CCTV at the site would be able to properly run over the wi-fi connection, which could have implications in terms of customer safety.

All parties present were afforded the opportunity to ask questions and a Member asked if the complaints regarding activities at Tog Farm had been reported to the police. Mrs Garland confirmed that many of the complaints were made directly to the community council, who passed these on to the police and relevant CCBC departments at that time. A Member also asked Mrs Garland if she had reported any complaints to the police as an individual since stepping down from the community council. Mrs Garland confirmed that previous complaints were raised through the community council but that she was attending today's meeting in her capacity as a local resident and neighbour of the site.

Mrs Garland thanked the Sub Committee for their time and left the meeting at this point owing to a prior appointment.

Mr and Mrs Smith (local residents) were then invited to make their representation. It was noted that Mr and Mrs Smith were experiencing connection issues as they were attending remotely through Microsoft Teams and telephone, and the proceedings were paused on several occasions until the residents were able to reconnect.

Mr Smith referred to the representation made by himself and Mrs Smith, and believed these to be a true and accurate reflection of the events that had taken place at Tog Farm over the previous year. He explained that these events have had a significant negative impact on the enjoyment of their home and garden in what was once a peaceful rural setting. Mr Smith supported the points made by other local residents and expressed the need for the four Licensing Objectives to be upheld.

Mr Smith referred to the photographs submitted by local residents as part of their representations which gave examples of the activities at Tog Farm and experienced by residents during the past year. Mr Smith disputed the comments made by the applicant's solicitor contained in her response, which had refuted the comments of Mr and Mrs Smith, and drew the Sub Committee's attention to the range of evidence given by many individual parties at the meeting.

During the course of his representation, Mr Smith made reference to the applicant's other business interests and to incidents involving his dog and the applicant's dog. Mr Smith also referred to the muddy tracks on site and the access difficulties experienced by the power board when needing to carry out work.

In closing, Mr Smith emphasised that his representation was not as a result of a neighbour dispute or an attempt to sabotage the business, and that he and the applicant had lived amicably as neighbours for a number of years. He asked for the application to be refused as he felt it was not a suitable premises for glamping or events or anything of that nature, and

reiterated that his representation was true and accurate to the best of his knowledge.

All parties present were afforded the opportunity to ask questions and in response to a Member's question about separate 'bring your own alcohol' events, Mr Morgan confirmed that these are not under the control of the Licensing Authority and are the responsibility of the landowner, although there are other statutory controls in place to address events of this nature and deal with matters relating to noise nuisance and anti-social behaviour. The Sub Committee were reminded that the application before them was to determine the application in relation to the site for the sale of alcohol and regulated entertainment for the provision of films. In response to further questions from the Member, Mr Morgan explained that it needed to be established, in light of the representations made at the meeting, whether the Sub Committee had confidence in the applicant's ability to control the activities applied for if the licence were to be granted.

All parties were then afforded the opportunity to sum up before the Licensing and Gambling Sub Committee retired to make its decision.

Mr Lee Morgan (Licensing Manager) asked Members to consider all the representations before them, the evidence heard at the meeting, and all Licensing guidance when making their decision. The Sub Committee were reminded of the need to consider the promotion of the Licensing Objectives and whether the applicant would be able to meet the same. Members were also reminded that a number of parties had made representations as set out in the agenda pack but did not attend the hearing and were asked to refer to these for information.

Mr Dean Pugh (Environmental Health – Health and Safety) stated that there was no sufficient evidence to demonstrate that the tracks at the site will be repaired to a suitable condition, and confirmed that his objection to the application still stood.

Mrs Annette Dicks (Licensing Authority as a Responsible Authority) supported the points made by Mr Pugh and confirmed that her objection still stood, particularly in relation to the Public Safety Licensing Objective and the unsafe ground conditions. She asked that should the Sub Committee be minded to grant the licence, they refer to the proposed conditions as set out in her representation.

Mr Kristian Jennings (Environmental Health - Pollution Control) confirmed that he had no objections to the application but referred the Sub Committee to the conditions proposed by Environmental Health, and also asked that the applicant be required to submit a location plan if the licence were to be granted.

Mr Tim Keohane (Trading Standards) confirmed that he had nothing to add and referred to the Sub Committee to the recommended conditions from Trading Standards and Child Protection, which had been accepted by the applicant.

Mr R. Jenkins (local resident) reiterated that the business was not conducive to the local area and would have a major impact on the residential amenity of the surrounding area.

Mr Smith (local resident) emphasised that his representation was a true and accurate version of events and referred to the large scale of events held at Tog Farm to date.

Miss Lewis responded to a number of points made during the course of the meeting. She explained that remedial work was ongoing to the rutting across the track, and that in terms of the waterlogging, this has been caused by cows digging down in the field. She acknowledged that light pollution seemed to be a particular concern but stated that lighting will eventually need to be installed at the site even if it remains an agricultural farm. She confirmed that police had attended site twice in response to local resident complaints but had found no cause for concern. There were no police records or cautions against herself or her family, and she asked the Sub Committee not to believe every complaint that is put on social media. Miss

Lewis also refuted statements made in regards to Covid-19 safety protocols at the site.

Miss Lewis stated that Tog Farm would continue to trade irrespective of whether the premises licence was granted, and had put herself forward to be constrained by certain restrictions by applying for the licence. She explained that the site did not have any all-terrain vehicles, only 4x4 vehicles, and that these were of a road-worthy standard. She also responded to points made around her other business activities and explained that this demonstrated her capability to manage a number of businesses. In terms of broadband connectivity concerns around CCTV, the connection at Tog Farm had been tested and found to be sufficient. Miss Lewis also provided clarification on her approach to Mrs Garland and explained that this had been intended to help rebuild Tog Farm's relationship with local residents.

In closing, Miss Lewis acknowledged that mistakes had been made when hosting previous events but that she had worked closely with Caerphilly Council since March 2021 and tried her very best to comply with all relevant procedures. She emphasised that irrespective of whether or not the licence were to be granted, this would not stop Tog Farm from trading, but that a premises licence would provide a level of control for activities at the site. She also confirmed that if the licence were to be granted, the maximum amount of guests permitted would be 10 people.

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 1.02 p.m. to make its decision and all other parties left the meeting.

Following consideration of the application for a new premises licence at Tog Farm Limited, Land at Tog Farm, Rudry, CF83 3DG and having regard to the Licensing Manager'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 Section 1.3 of the Licensing Manager's report be REFUSED.

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 Committee's decision are as follows.

The Sub Committee noted that the premises subject to the licence application was a significant area of open land. The premises plan forming part of the application had not been prepared to scale but it was confirmed by the Applicant at the hearing that the premises would include the car parking area in which the licensable area for the sale of alcohol via the horsebox was situated, the farm track from the car parking area, and a field known as The Alders field (that field being approximately 1 acre). The Sub Committee had to consider the promotion of the licensing objectives across the entire proposed premises.

The Sub Committee received documentary/photographic evidence and heard oral evidence as to the condition of the farm track which links the licensable area for the sale of alcohol and the glamping pod area within Alders Field. Mr Pugh indicated that the farm track may have an approximate length of 600 metres according to Google Maps. It was sufficiently clear to the Sub Committee that sections of the farm track are severely rutted due to vehicles driving across the same when the soil is saturated. The rutting shown on page 43 which formed part of Environmental Health/Health & Safety's response to the licensing application indicated several deep ruts spanning across the farm track width. The Sub Committee took into account the response from the Applicant which clearly showed a degree of rectification works to sections of the farm track – namely the track being scraped and in essence relevelled by heavy equipment. The Applicant indicated that such works were not complete and only

partially rectified the current condition of the farm track. The Sub Committee took into account the evidence regarding the Officers' revisit most recently on 20 April 2022.

The Sub Committee noted that there was a further issue with an area of the farm track becoming waterlogged. A particular section of the farm track appeared to allow a significant pool of water to encompass the width of the track and based on the photograph on page 21, it would appear to be significantly difficult to pass through by foot. There was evidence heard as to why this pooling occurs. The farm track itself is not fenced or lit. The evidence heard by the Sub Committee from some of the Responsible Authorities who attended a site visit on 24 March 2022 stated that the journey on foot from the proposed licensable area for the sale of alcohol to the glamping pod area took around 15 minutes in dry conditions in clear daylight.

The Sub Committee took into account that there were no detailed proposals being placed before them by the Applicant as to how the condition of the farm track would be improved or the time frames in which any such improvement work would be completed. The Sub Committee formed the common-sense view that the rutting was likely to return despite releveling when the soil again becomes saturated and traversed upon by vehicles, and would require regular monitoring by the licensing authority should a premises licence be granted with a condition that the track be maintained to a certain standard. This would not be practical. There had not been any detailed response from the Applicant to the initial representations made by Environmental Health/Health & Safety and Licensing Authority regarding the condition of the land forming the intended premises and their concern as to the promotion of public safety – though it was evident some rectification works had been subsequently commenced.

The Sub Committee took into account the Applicant's evidence that it was the company's intention to sell alcohol to booked guests who are staying overnight at the 4 glamping pods at the time that such guests were checking in. The Applicant indicated that it was not her intention to make alcohol available for sale for the duration of the evening until 11pm. The Sub Committee noted that such limitation had not been included in the Applicant's Operating Schedule. The Sub Committee gave consideration as to whether the licence should be granted but made subject to such a condition but reached the view that this would not be appropriate. Such condition may not promote the responsible service of alcohol as such condition may encourage guests to buy an excessive amount of alcohol when taking into account it would be their single opportunity to make such purchase. The intended single instance of sale at check in would not allow the Applicant to periodically monitor the level of intoxication of patrons within the premises and prevent supply as appropriate, as the alcohol would have already been supplied. A further issue was that the Applicant had only applied for an ON sales licence, as opposed to an OFF sales licence or an ON/OFF sales licence, and any purchased but unconsumed alcohol, could not be removed from the premises by guests when they check out. The Applicant had not addressed what steps would be taken to prevent this from occurring.

The Sub Committee took into account that the Applicant's Operating Schedule provided for a maximum of 10 guests upon the premises at any one time. It took into account that the safe management of such number of guests whilst on the premises would likely to be easier to manage than a more significant number of guests.

The Sub Committee considered paragraph 12.1 of the Council's Statement of Licensing Policy in regard to the promotion of public safety in the licensing objectives. It took into account paragraph 9.12 of the Section 182 Home Office National Guidance and that the relevant responsible authorities that had objected to the grant had a level of expertise in their relevant areas. The Sub Committee gave weight to the fact that no adverse representations had been made by any relevant emergency service. However, on balance the Sub Committee were not satisfied that the licensing of the premises would satisfactorily promote public safety. The consumption of alcohol on the premises was likely to lead to some decrease in judgement by some guests who may for whatever motivation, seek to walk back to the licensed area for the

sale of alcohol during the licensable hours. The condition of the farm track creates an unacceptable level of risk for guests to injure themselves as a result.

The Sub Committee did not have confidence that the level of supervision of the entire premises being proposed by the Applicant would adequately alleviate the above risks. Whilst the Operating Schedule did indicate staff would be available, the Applicant's oral evidence indicated that staff would not be continually present within the area of the premises where alcohol would be consumed, or films viewed. The Applicant expressed those guests would want a level of non-intrusion by staff and a certain degree of privacy to enjoy their stay within the premises.

The above were the principal reasons for the refusal of the premises licence.

The Sub Committee were presented with significant amounts of written representations, and oral representations, from a number of local residents. Broadly, the representations principally involved considerations regarding the prevention of public nuisance, though representations did cover the remaining licensing objectives. It became apparent to the Sub Committee that the relationship between local residents and the Applicant had appeared to have largely broken down due to alleged incidents during 2021. Whilst the Sub Committee was made aware of the allegation that the Applicant had engaged in licensable activities without a licence (under the Licensing Act 2003), it gave significant weight to the Applicant denying the same and that there had been no proven offence in this regard at this point in time. The Sub Committee were cognisant, as set out in the observations made within the licensing manager's written report, that the vast majority, if not all, activities on the Applicant's farm that had caused nuisance to neighbouring residents were not activities that would be regulated by the Licensing Act 2003.

The Sub Committee had regard to the Section 182 Home Office National Guidance, that clearly indicates that alleged breaches of planning regulations are not relevant for assessing the promotion of licensing objectives in determining licensing application under the Licensing Act 2003. The two regulatory regimes are separate regimes. The Sub Committee did not take into account any alleged planning breaches, which the Applicant deny have been committed, in reaching its decision.

Similarly, the Sub Committee gave no weight to the representations touching on one of the director's other companies and business interests. This was not relevant to any of the licensing objectives. No consideration was given to where each director precisely lived upon the relevant farm, for the same reason. This detail had no bearing on the consideration of the promotion of the licensing objectives.

The Sub Committee gave no consideration to incidents involving various dogs owned either by directors of the Applicant, or by their family – and dogs owned by neighbouring residents. The Sub Committee reached the view that such incidents and allegations were not relevant in considering the promotion of the licensing objectives.

The Sub Committee did not give any significant weight to the written representations of residents and other members of the public who did not attend the hearing. The Applicant was denied the ability to put questions to the makers of such representations – which is significant. Some representations were hearsay statements, whilst permissible, were such given weight as the Sub Committee saw fit.

There appeared to be some common ground between the Applicant and the residents that nuisance had been caused during events held at the farm throughout 2021. The Applicant candidly admitted mistakes had been made in this regard. However, the Sub Committee was determining an application for a premises licence self-limited by the Applicant to a maximum of 10 guests. The guests would be pre-booked guests and not members of the public as walk-in trade. The Sub Committee did accept the Applicant's representations that the events last year would be of an entirely different nature and character than the current intended use

for the intended premises. It was sufficiently clear to the Sub Committee that the reduced number of guests, the overnight stay aspect of the glamping pods, and the technology used to show the intended films, were less likely to create a noise nuisance to neighbours than hen or stag parties, involving more than 10 peoples staying in the field consuming alcohol which they themselves had brought to the farm. Similarly, to the extent that such considerations could be considered relevant, the nuisance caused by increased traffic issues associated with events held in 2021 were unlikely to reoccur as a result of the premises being licensed and operating in the manner proposed within the Applicant's Operating Schedule.

The Sub Committee noted that residents had lost confidence in the Applicant's ability to comply with conditions of any licence granted, due to their experience of the events in 2021. Whilst the Sub Committee did not find this altogether fair, given the inherent differences in the past and future intended use of the field, it did reach the view that confidence in the Applicant's ability to uphold the promotion of the licensing objectives was an issue. The Sub Committee took into account the Applicant's lack of consultation with the licensing authority in regard to the proposed Operating Schedule and the deficiencies in the terms proposed in the Operating Schedule (for instance measures for public safety). It further took into account the level of the engagement by the Applicant with makers of relevant representations in trying to mediate a resolution to relevant representations/concerns. Whilst the Sub Committee accepts that such aspects are not mandatory (save for the submission of an Operating Schedule) it did not reflect positively on the Applicant's application and the confidence the Sub Committee has in the Applicant's ability to promote the licensing objectives. This was a secondary consideration in refusing the premises licence in this instance.

The decision notice advised that any person aggrieved by the decision had the right to appeal to the local Magistrates Court within 21 days from the date of written notification of the decision.

The meeting closed at 1.45 p.m.