

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Licensing and Regulatory Sub Committee held at Council Chamber, County Hall, The Rhadyr USK - County Hall, The Rhadyr, Usk on Tuesday, 5th March, 2019 at 11.00 am

PRESENT: County Councillors: A. Easson, J. Higginson (Chair) and J.Treharne

OFFICERS IN ATTENDANCE:

Linda O'Gorman	Principal Licensing Officer
Samantha Winn	Licensing Officer
Wendy Barnard	Democratic Services Officer
Huw Owen	Specialist Environment Health Officer
John Rogers	Legal Officer
Shaun Yemm-James	Specialist Environmental Health Officer

APOLOGIES:

There were none.

1. Declaration of Interests

There were no declarations of interest.

2. Application for a premises license under the Licensing Act 2003: Woodbank, Llanhennock

We received an application for a premises licence under the Licensing Act 2003 for Woodbank, Llanhennock.

The Chairman welcomed all to the meeting, introduced members of the Sub-Committee and read out the procedure for the meeting. Officers and representatives present also introduced themselves.

The Principal Licensing Officer presented the key issues, summarised below:

A new application for a premises licence under the Licensing Act 2003 was received from Mrs Bess Asprou of Duffryn House of 35 St Mary Street, Monmouth, NP25 3DD for Woodbank, Llanhennock for the following:-

- Supply of Alcohol (On and Off sales) Monday to Sunday 08.00hrs – 01.30hrs
- Live and Recorded Music – Monday to Sunday 08.00hrs – 01.30hrs (Indoors and Outdoors), marquee weddings a total of 15 inside marquee until 01.30 hrs, outside on the veranda up until 23.00hrs, Christmas Eve and New Year's Eve until 02.00hrs
- Plays – Monday to Sunday 08.00hrs – 00.30hrs (Indoors and Outdoors)
- Late Night Refreshment – Monday to Sunday 23.00hrs – 01.30hrs
- Hours Open to the Public - Monday to Sunday 08.00hrs – 02.00hrs

The applicant has described the premises as a detached property accessible by a long drive approximately 400 meters in length. Situated in its own grounds of approximately 20 acres in the village of Llanhennock. Plan of the internal area is attached as Appendix B. A satellite view of the area is also attached as Appendix C.

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The applicant within their operating schedule has outlined their arrangement under the four licensing objectives.

General

To promote all four licensing objectives we will keep strong management controls and effective training of all staff so that they are aware of the premises licence and the requirements to meet the four licensing objectives with particular attention to:

- 1) No selling of alcohol to underage people
- 2) No drunk and disorderly behaviour on the premises
- 3) No violent and anti-social behaviour
- 4) No harm to any children
 - i. Designated Premises Supervisor to be in day-to-day control of the premises, to provide good training for staff on the Licensing Act (Training Record), to make or authorise each sale – clear “Challenge 25” information to prevent the supply of alcohol to under-age drinkers.
 - ii. As a licensed premises we know that it is necessary to carry out our functions or operate the business with a purpose of promoting these objectives, We promise to support these objectives through staff training and qualifications, policies and strategic partnerships with other agencies.

The prevention of Crime and Disorder

Not selling of alcohol to drunk or intoxicated customers. Custom will not be sought by means of personal solicitation outside or in the vicinity of the premises. Staff will be well trained in asking customers to use premises in an orderly and respectful manner.

Public Safety

Training and implementation of underage ID checks. A log book or recording system shall be kept upon the premises (available for inspection by personnel authorised by the Licensing Act 2003, or associated legislation) in which shall be entered particulars of inspections made; those required to be made by statute, and information complied to comply with any public safety condition attached to the premises licence that requires the recording of such information.

The prevention of Public Nuisance

Noise reduction measures to address the public nuisance objective. Deliveries of goods necessary for the operation of the business will be carried out, as far as possible (having regard to the nature of the events and times hosted) at such a time or in such a manner as to minimise nuisance and disturbance to nearby residents. The licensee will ensure that staff who arrive early morning or depart late at night, when the business has ceased trading, conduct themselves in such a manner to avoid causing disturbance to nearby residents. Customers will be asked not to stand around loudly talking outside the premises.

The protection of children from harm

“Challenge 25” sign which is a retailing strategy that encourages anyone who is over 18 but looks under 25 to carry acceptable ID (a card bearing the PASS hologram, a photogenic driving licence or a passport) if they wish to buy alcohol. Staff trained about the requirement for persons’ identification, age establishment etc. all such details provided in Training Record Book. The Log Book will be kept at the premises at all times.

The applicant has a statutory duty to send copies of his/her Premises application to the ‘Responsible Authorities’ namely Heddlu Gwent Police, South Wales Fire Service, The Local Health Board, Immigration and departments of Monmouthshire County Council being the

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Environmental Health Section, Social Services, Planning, Licensing and Trading Standards Departments, which was carried out by the applicant. A notice also has to be circulated in a newspaper within the area of the premises as well as a notice displayed at the premises to enable businesses and residents to make a representation; again, the applicant duly carried this out. The application is also advertised via the Council's website, which gives details on how a person can make a representation and this was carried out by the Licensing Authority.

On the 28th January 2019 the Planning Department submitted the following in relation to the application:

Planning have no comment on this as we have not yet received an application for the change of use. We therefore have not been able to assess this use of the site for this new purpose from a planning point of view.

Section 9.45 of the revised guidance issued under section 182 of the Licensing Act 2003 states:

Where businesses have indicated, when applying for a licence under the 2003 Act, that they have also applied for planning permission or that they intend to do so, licensing committees and officers should consider discussion with their planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs. The applicant has submitted a pre application to Planning for this use. However, this application has not indicated operating times and the Planning Section will be duly informed of the outcome of this hearing.

Representations were received against the application from Heddlu Gwent Police and Licensing. However, following mediation, the applicant agreed to amend the application and plan (revised plan attached as Appendix D) in line with the representations. The applicant also submitted a statement of operation, which is attached to this report (as Appendix E).

Heddlu Gwent Police and Licensing removed their representations after an agreement was reached by all parties to the following licensable activities and conditions:-

Hours of Licensable Activities

Supply of Alcohol

Indoors (area 4 shown on the plan) to be granted
08:00hrs - 01:00hrs Monday to Sunday

Outdoors (areas 1 - 3 shown on the plan) to be granted
08:00hrs – 23:00hrs Monday to Sunday

Live Music and Recorded Music

Indoors (area 4 shown on the plan) to be granted
08:00hrs - 00:30hrs Monday to Sunday

Outdoors (areas 1 - 3 shown on the plan) to be granted
08:00hrs – 23:00hrs Monday to Sunday

Plays

Indoors (area 4 shown on the plan) to be granted
08-00hrs –00:30hrs Monday to Sunday
Outdoor (areas 1 - 3 shown on the plan) to be granted
08:00hrs – 23:00hrs Monday to Sunday

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Late Night Refreshment

Indoors (area 4 shown on the plan) to be granted

23:00hrs - 01:00hrs Monday to Sunday

Outdoors – No late night refreshment

Opening Hours

Reduced to 01:30hrs

Plan

Licensable activities to be restricted to the areas marked 1-4 on the plan attached to the report as (Appendix D).

Conditions of the Licence as stipulated in the operating schedule

General

1. To promote all four licensing objectives we will keep strong management controls and effective training of all staff so that they are aware of the premises licence and the requirements to meet the four licensing objectives with particular attention to:

- i. No selling of alcohol to underage people
- ii. No drunk and disorderly behaviour on the premises
- iii. No violent and anti-social behaviour
- iv. No harm to any children

2. A challenge 25 policy will be in operation and all staff will receive training on the acceptable forms of I.D. A system will be in operation for everyone serving alcohol to record any refusals. Any refusal of alcohol due to the person being considered overly drunk or underage will be reported to the DPS or appointed responsible person for that event immediately. The Premises Licence Holder shall operate and maintain an up-to-date Register of Refusals of Sale of Alcohol, indicating the date, time and reason for refusal which shall be made available for inspection by any Responsible Authority under the Licensing Act 2003.

3. Staff training, qualifications, policies and strategic partnerships with other agencies will be documented, which shall be made available for inspection by any Responsible Authority under the Licensing Act 2003.

4. Anyone hiring the venue will be provided with a list of licensed minibuses firms/taxi firms for guests to prevent loitering at the premises. The hirer will be advised not to use coaches for transport.

The prevention of Crime and Disorder

CCTV cameras shall be installed both inside and outside the premises and these cameras shall be operational at all times the premises is trading. All recordings shall be retained for a minimum of 28 days and shall be made available for inspection by an Authorised Officer on request. The placement of the CCTV cameras are to include the top of the drive, within the library (bar area) and main hall. A notice will be displayed at the entrance to the premises advising that CCTV is in operation. The Premises Licence Holder will be registered as a data controller with the information commissioner's office (ICO).

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Polycarbonate glasses are to be used for any event outside other than a wedding or a corporate event outside of the main building.

When regulated entertainment takes place at the premises, door supervisors licensed with the Security Industry Authority (SIA) will be employed, with a ratio of 1 door supervisor per 250 persons. The ratio of door supervisors per number of persons present can be changed if deemed appropriate by the Police and Licensing Authority, dependent on the size and nature of the event. The SIA staff will be positioned near any bar or area of dancing.

Anyone acting in a disorderly fashion at any event will be asked to leave the premises immediately.

Public Safety

In the absence of adequate daylight suitable and sufficient lighting is provided and maintained in any area accessible to the public. This outdoor lighting must be of low level and must include pathways and car park area.

Staff will monitor any outdoor drinking area or marquees when in use and ensure bottles and glasses are promptly collected from areas when empty or customers have finished them.

The prevention of public Nuisance

Deliveries of goods necessary for the operation of the business will be carried out, as far as possible (having regard to the nature of the events and times hosted) at such a time or in such a manner as to minimise nuisance and disturbance to nearby residents.

The licensee will ensure that staff who arrive early morning or depart late at night, when the business has ceased trading, conduct themselves in such a manner to avoid causing disturbance to nearby residents.

Customers will be asked not to stand around loudly talking outside the premises.

No outdoor stages may be erected on the licensable area outside of the main building or outside of any marquee without Monmouthshire's Event Safety Advisory Group approval for the required event.

Any outdoor music, which includes a marquee, will be monitored by the Designated Premises Supervisor (DPS) or appointed member of staff. This person will conduct a walk around every 2 hours when live and recorded music is being played outside. This person monitoring the music, will have access to the volume control and will request performer(s) to reduce the volume where necessary in order to prevent public nuisance.

Upon hire of the venue, all performers will be informed that the sound level will be set by the DPS or nominated responsible person. This will include all amplified, live or recorded music.

The DPS will provide a contact number to local residents prior to any outdoor music event (not including weddings or plays), which will take place between 21:00hrs and 23:00hrs. The DPS or a responsible person will consider any complaints made by local residents and will take action to remedy the complaint when applicable.

When conducting any outdoor live/ recorded music events, which includes a marquee, the speakers are to face away from the nearest residential property. This will be assessed depending on the field being used.

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No flashing lights system will be installed outside the premises other than standard security lighting to reduce light disturbance to local residents.

The protection of children from harm

A challenge 25 policy will be operated at the premises at all times. All staff shall check identification of all persons who appear to be under 25 years old. Challenge 25 posters will be prominently displayed within the premises.

Children attending the premises should be accompanied by a responsible adult. Children attending a wedding function are allowed in the premises at all times. No children are permitted on the premises after 21.00hrs if attending a play.

If the licence referred to in 3.5 above is granted the licence would also be subject to Mandatory Conditions, which are attached to this report as Appendix F. Furthermore, if the sale of alcohol is granted the licence will also benefit from the Live Music Act 2012.

Representations were also received from Environmental Health and 18 other persons objecting to the application and conditions. Despite being informed of the agreed amendment referred to in 3.5 above, these representations were not withdrawn. However, there were also 5 representations in support of the application.

The following is the representation from Environmental Health:

It is my view that the application should be supported by an assessment of the noise impact of the proposals with regard to the nearby residential accommodation. The report should include measures to be taken to mitigate excess noise impact. The information should be prepared by a person(s) with appropriate acoustic qualifications and should be with full regard to relevant guidance.

There is potential for music levels to be generated at the proposed location which in my opinion could cause substantial disturbance to the residents living in the locality and for a statutory noise nuisance to be caused with regard to the provisions of the Environmental Protection Act 1990.

On consideration of these factors in my opinion there is the significant potential for the key Licensing Act 2003 objective 'prevention of public nuisance' not to be met and on this basis I therefore object to this application.

The applicant has arranged for a person with the appropriate acoustic qualifications to carry out a report at the premises on Tuesday 19th February 2019. A copy of this report will be submitted to members, consultees and residents before the hearing on the 5th March 2019.

Representations from the 18 local residents objecting to the licence, are attached (as Appendix G). As there are numerous representations objecting to this licence, I have highlighted the main concerns as below:

- Increase in traffic in narrow lanes
- Noise pollution
- Refuse/rubbish storage and disposal
- Poor visibility through the lanes
- Risk of public disorder and anti-social behaviour

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- Safety in narrow lanes compromised
- Concerns for local children
- Concerns for local wildlife and farm animals

Representations from 5 other persons in support of the licence, are attached (as Appendix H).

Representations made under the Licensing Act 2003 must be made under the four key licensing objectives, namely:-

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

However, Section 9.9 of the Guidance issued by the Home Office 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.

When considering their decision members are asked to consider the licensing objectives guidance issued under the revised guidance under section 182 of the Licensing Act 2003 (attached as Appendix I)

In accordance with 9.2 of the Home Office Guidance issued under Section 182 of the Licensing Act 2003. A hearing is not required where an application has been properly made and no responsible authority or other person has made a relevant representation or where representations are made and subsequently withdrawn. Licensing authorities should not hold hearings for uncontested applications, for example in situations where representations have been made and conditions have subsequently been agreed. No agreement was reached with the other persons who made a representation and a hearing is required.

The residents were represented by Mrs. Caroline Thomas, Mr. Owen Evans and Mr. Alan Thomas.

The Chair invited objector, Mrs Thomas, to speak on behalf of the community of Llanhennock that oppose the application.

She commenced by stating that the reports circulated by the Licensing Officer do not address any representations made and the applicant has not taken account of the views of residents; listening to licensing representative bodies only. She raised the following points:

Crime and disorder prevention: The revised conditions do not go far enough to protect the area and residents due to the rural location and lack of Police resources. Any anti-social behaviour would place a strain on already scarce resources.

Public Safety:

1) The effects of increased traffic on a narrow lane with no pavement or lighting is a public safety issue with the potential for causing danger to drivers, walkers, runners, horses etc. These aspects have not been taken into consideration or addressed.

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- 2) Events are planned during the busy harvest season when there will be an increase in agricultural vehicles using the lane. It is difficult for vehicles to pass in the lane.
- 3) The bridge outside Woodbank is not suitable for the increased volume of traffic.
- 4) The proximity of a working dairy farm and related safety matters e.g. cattle crossing, have also not been addressed.

Prevention of public nuisance:

- 1) The reduction in hours will still allow substantial and unreasonable activity until the early hours.
- 2) The limit of 15 events (10 in July and August) will result in party noise every weekend through the summer affecting e.g. sitting in the garden. Referring to the acoustic report, it was queried why site visits to neighbouring properties did not take place to assess impact.

Protection of children from harm: Children on school holidays will be affected by an increase in traffic volume arising from the set up, and dismantling of events plus guests. Children would not be able to use the public footpath when events are in progress.

Mrs Thomas summed up saying that there have already been instances of disturbance (e.g. loud music from the veranda) arising from the property being a holiday let. It was questioned if the interests of one person should take priority over the interests of families with children, elderly residents etc. who would not be able to peacefully enjoy their own homes.

There are numerous wedding venues in the area that already offer the same services.

The objector raised the negative impact of the application on the environment and nature.

The Principal Licensing Officer clarified that there is a time limit of 11.00pm for live and recorded music on the veranda and for the sale of alcohol outside.

The Chair invited the objector Mr. Evans to speak who raised the following additional points, not raised in the preceding representations:

There are no parking facilities at Woodbank to accommodate hospitality vehicles and guests; and the surrounding lanes may be utilised and congested instead.

Impact on health and wellbeing.

Taxis to eject intoxicated persons from the premises will be of limited availability, also missed lifts and taxis would have the potential for there to be a burden on the community.

The Chair invited objector Mr. Thomas to speak who raised the following additional points, not raised in the preceding representations:

It was queried if wind direction and speed had been taken into consideration in the noise assessment as this can make a difference, plus the sound of drunken partygoers leaving the premises.

Residents had chosen to move to this area to live a peaceful life. The potential negative impact on property values was commented upon.

It was questioned who would be responsible for monitoring the limit on the number of events.

The Principal Licensing Officer provided clarification that every application has to be considered upon its own merits. Additionally, it was clarified that only the four licensing objectives could be taken into account, therefore perceived financial detriment could not be considered. Regarding ensuring the number of events is not exceeded, it was explained that a review can take place if there is evidence that the number had been exceeded, and can be reconsidered by Committee.

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The Chair invited the Environmental Health Officer to speak.

The original objection by Environmental Health and reasons were summarised.

Following the objection, a noise assessment was submitted that amended the proposal significantly. Controls have been provided for indoor music with a proposed maximum decibel level, and outdoor music to be only on the veranda and Area 2 to finish at 11.00pm. The total number of external events are not to exceed 15 per year (10 in July and August). A suite of noise management controls for music in Area 2 were proposed. There is the potential for music to be clearly audible in the vicinity of the nearest dwelling especially in evening hours, but it was the opinion that there was sufficient distance between the dwellings and the source of music, that with appropriate controls should limit unreasonable noise levels.

The objection was removed subject to a number of conditions circulated with the report.

The Chair invited the applicant's representative, Mr. Jones to speak and raised the following points:

Woodbank is the development of an existing, successful holiday let business to cater for weddings, business and corporate events which will contribute to the local economy. The premises were previously the applicant's private dwelling.

The holiday let business will continue in between events. The premises accommodates up to 20 guests. Event capacity is 100 attendees.

Regarding use of marquees, it was confirmed that there would be a total of 15 events per year with 10 in July and August.

Under the licensing objectives (Protection of children from harm), it was confirmed that where a child was in attendance at an event, a responsible adult must be present.

Live Music and recorded music will cease at 12.30am inside the house. Outside, music is restricted to Area 2 to stop at 11.00pm.

It was referred to that noise assessment has been accepted by Environmental Health subject to the mitigation measures of:

- In the house, noise levels not to exceed 95 decibels moderated A (while patio doors are open for ventilation).
- Patio doors to be closed as far as practicable.
- Music on the terrace to stop at 12.30am
- In the Marquee area, there will be a defined area for the performance of bands with speakers directing sound away from neighbouring properties. Marquee entrance/exits will be orientated away from the closest neighbours.
- There will be an approved band list, with approved song lists and playing styles to minimize sound e.g. drummers to use noise reduction equipment.
- Immediate neighbours and event management will be provided with site contact details to report feedback on noise issues.
- Noise levels at the access road and edge of garden will not exceed 55 dB.
- Regarding concerns about transport, it was advised that there is adequate parking for all vehicles in the plans, including drop off and pick up on the 300yd driveway. Some taxi services regularly provide services to the premises and utilise apps that limit guests waiting around outside. Regarding egress of private vehicles, taxis, mini buses etc. it

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was confirmed that event management would ensure staggered arrival and departure times.

- Considering the damaged wall adjacent to the entrance drive as a result of historic work by the Council, it was noted that if there is further deterioration, the Council will be advised. Notwithstanding, nuisance regarding the wall was rejected in the context of the licensing application process.
- Noting a comment about waste disposal, it was confirmed that there is a commercial waste arrangement with the Council. Comments about needle or drug detritus were dismissed as there was no evidence base to support the comments.
- It was confirmed that there are pillar lights on the drive, lower level, spot and sensor activated lighting. A CCTV licence has been obtained to operate this.
- Fireworks will only be arranged for events on 5 November and New Year by application to the applicant.
- In the event of significant cause for concern in future, there is a licence review mechanism.

The operating schedule would include the following conditions

- Live and recorded outdoor music limited to area 2 between 8am-11pm (Mon-Sun), and between 8am and 12.30am in the house.
- Marquee events: There would be 15 occasions (10 in July and August) per year.
- It was clarified that music on the veranda and would be restricted to end at 11.00pm.

In response to a question, the Environmental Health Officer clarified that the closing of the patio doors was a good will gesture but accepted that there was potential for disturbance from live music played inside when the patio doors are opened. It was explained that there was reliance on the applicant to control and manage noise adequately. If not, Environmental Health can be asked to review.

It was confirmed that currently as a holiday let, twenty people can be accommodated overnight.

The Chair invited objector Mrs. Thomas to speak, who raised the following point:

It was queried why the applicant's representative was allowed more than ten minutes to speak, and why the points were not all relevant to the four licensing objectives. The Principal Licensing Officer advised that the statutory instrument for the hearing provides a guideline of 10 minutes per representation, and suggested that the applicant's representative was addressing the many points raised by multiple objectors.

The Chair invited questions from Members on the evidence provided, and answers were provided as follows:

- Safety of pedestrians, cyclist and horse riders.
- Fireworks: These will only be allowed on 5th November or New Year. This point is not currently included as a condition.
- Public Footpath/Right of Way – what access does the public have? It was confirmed that the Right of Way is on the boundary of the property.
- Security arrangements for children on the property. It was explained that an added condition is that if children are attending the premises they must be accompanied by a responsible adult.
- Noise restrictions: An example was provided of noise restriction and the checks made at another venue in the County.

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The Chair allowed questions for other objectors, as follows:

- The Driveway is single track with no space for vehicles to park or pass. It was asked where guests will be collected from. It was explained that there is car parking on the plan, and also there would be marshalling available to control vehicles. It was pointed out that this point is outside the licensing objectives.
- Protection of Children: Reference was made to journal articles linking alcohol licences to litter and antisocial behaviour. In response it was reiterated that complaints can lead to investigation and the licence being reviewed.
- A resident in close proximity to the premises expressed his experience of the current holiday let and unreasonable noise levels when the patio doors are open, and the negative effect on his family.
- A resident pointed out that there would be insufficient car parking spaces for 100 guests and also that the 10 events in July/August coincide with the farmers' busy harvest time. It was queried why the distance of 200m was used to assess noise impact and why residents had not been consulted. It was explained that Environmental Health considers information submitted by the applicant and that it is not the role of Environmental Health to undertake consultation.
- A resident raised concerns about noise and lack of signage to the venue.

The Chair asked the applicant's representative to sum up.

The intention is to provide a sustainable and commercially responsible business.

Following questioning, members of the sub-committee and the Legal Officer left the meeting to deliberate and discuss the findings.

Upon recommencement, the Chair advised that the Committee had considered the application under the Licensing Act 2003 and resolved to grant a licence. The Legal Officer announced the decision as follows:

The sub-committee has considered the application for a premises licence for Woodbank, Llanhenock.

We have heard representations from the applicant and we have also taken into account any other written representations and objections received.

In reaching the decision, we have had regard to:

- The Licensing Act 2003
- The licensing objectives
- The Council's statement of licensing policy
- The guidance issued by the Home Office

In taking into account all of the above matters, any other relevant legislation, for example, the Human Rights Act 1998 and all the relevant circumstances of the application, the following matters were considered and the sub-committee's views were:-

The sub-committee took the view that issues of access and road safety were primarily a matter to be considered as part of the planning application. The sub-committee were particularly concerned about issues of noise nuisance and felt that there should be some additional restriction in hours.

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The sub-committee decided to grant the application on the conditions set out in Section 3.5 of the Officer's report subject to the following changes, in particular:

- the supply of alcohol outdoors shall be restricted to Area 2 on the plan at Appendix D;
- the supply of alcohol indoors shall end at midnight;
- of the maximum no. of 15 marquee weddings, no more than 10 shall take place in the months of July and August;
- the imposition of the additional condition offered by the applicant to restrict fireworks to New Year's Eve and 5th November only.

The applicant and objector may appeal to the Magistrates' Court against this decision within 21 days of being notified of the decision.

The applicant and objector will receive written confirmation of this decision within 5 working days.

The meeting ended at 1.30 pm