

5. CHANGE OF MEMBERSHIP

REPORT OF: HEAD OF CORPORATE IMPROVEMENT
Contact Officer: Sally Blades, Committee Co-Ordinator (PA to the Chairman of
the Council and the Leader of the Council)
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Wards Affected: All
Key Decision No

Purpose of Report

1. The purpose of this report is to inform Members of a change of membership of the Licensing Committee.

Recommendations

2. **The Committee is requested to note that Councillor Janice Henwood has replaced Councillor Joyce-Nelson as a member of this Committee.**

Financial Implications

3. There are no financial implications relating to this report.

Legal Implications and Risk Assessment

4. There are no legal implications or risk assessment issues relating to this report.

Background Papers

5. E-mail received from the Liberal Democrat Group Leader.

6. CONSULTATION ON PROPOSAL BY DEPT OF CULTURE TO EXEMPT SMALL LIVE MUSIC EVENTS FROM THE REQUIREMENTS OF THE LICENSING ACT 2003

REPORT OF: Paul Thornton, Senior Licensing Officer
Email: pault@midsussex.gov.uk Tel: 01444 477428
Wards Affected: All
Key Decision No

Purpose Of Report

1. To consider Mid Sussex District Council's response to a consultation by Department of Culture, Media and Sport to allow unregulated live music in venues for less than 100 people.

Summary

2. The consultation has 14 pre prepared questions. Officers from Environmental Health Protection Team and Licensing have considered these. The findings are that unregulated live music would cause a public nuisance. Venues that are currently licensed through the Licensing Act 2003 have conditions imposed after careful consultation with Environmental Health and often after a consultation period during which local residents had an input.
Responses should be sent to Department of Culture, Media and Sport by 26th March 2010.

Recommendations

3. The Committee are asked to consider the following options:
 - a. Send no response to the consultation.
 - b. Respond in confirmation of the officers' answers as attached at Appendix 1.
 - c. Respond using the Committee own answers.

Background

4. The Licensing Act 2003 replaced and consolidated several different licensing regimes. Live music was licensed under the Public Entertainment Licence (PEL) regime, except for performances of 2 musicians or fewer ('2 in a bar') which were exempt. In many ways, the Act had some positive benefits for live music, such as removing the need to have a separate permission and the requirement for routine annual renewals of licences. However, there were concerns about the impact of the Act on live music and in 2005, shortly after the Act came into force, the Government set up an independent Panel - the Live Music Forum - to monitor and evaluate the impact of the Act on the performance of live music. The Forum was chaired by Feargal Sharkey and included members from key bodies across the music industry and non-commercial sectors, together with local and national government, the Arts Council England and the hospitality trade. The Forum found that although the Act had a 'broadly neutral' impact on live music, there was some evidence of over zealous enforcement and lack of clarity about the legislation which had on occasion 'brought about an unwelcome and unwarranted impact on very small scale live music events'
Research carried out by MORI for the Forum also found that 29% of smaller establishments that had operated without a public entertainment licence, but used

the 2 in a bar exemption to put on live music, did not apply for live music provision when the Act came into force. The Forum recommended, amongst other things, that musical activity attracting less than 100 people should be exempt from the Act.

The Government proposes to introduce a revocable exemption for small live music events performed for 100 people or fewer in licensed and unlicensed premises from the requirements of the Licensing Act 2003 relating to the licensing of live music as regulated entertainment.

The consultation document seeks views on this proposal and the Legislative Reform Order that will deliver the proposal.

The regulation of live music under the Act is justified by the potential impact of some live music event on the promotion of the licensing objectives. For example, residents living next door to a public house in a residential terrace may be disturbed by loud performances of live music late at night, or by large numbers of people leaving the venue. Some live music events may also give rise to crime and disorder or endanger public safety. However, the Government considers that small live music events for 100 people or fewer are, in practice, extremely unlikely to give rise to these concerns and will rarely, if ever, have an adverse impact on the promotion of the licensing objectives

Financial Implications

5. There are no financial implications for the Council.

Background papers

6. Full consultation document:

http://www.culture.gov.uk/reference_library/consultations/6499.aspx.

Appendix 1 – Responses to consultation document.

Conditions of exemption

5.1 The Government proposes to exempt from the Act small live music events in licensed and unlicensed premises subject to the following conditions:

a) The performance takes place wholly inside a building. There is evidence that live music events held outdoors, in temporary structures such as tents or on boats, vehicles, etc are more likely to generate noise nuisance than indoor events. The Government therefore recommends that the exemption should be restricted to performances that take place wholly inside a permanent building.

Question 1: Do you agree that the exemption should be limited to performances held wholly inside a permanent building? Yes/No. If No, please explain why.

Response; No.

What constitutes a permanent building? The consultation document does not define as such. For example does a barn or similar open sided building constitute permanency?

We would expect to see some structural permanency – with windows and doors that are capable of closing. The current definition for this condition is not sufficiently defined.

b) The audience does not exceed 100 people and is accommodated entirely inside the building where the performance is taking place. It was clear from the Government's earlier pre-consultation on exemptions for live music for 200 or fewer people, that licensing authorities, residents and the police had serious concerns about exempting this size of venue. Some LAs, for example, considered that an audience limit of 200 would capture all live music venues in their area. The Government is aware that there are different views on this issue, and that the CMS Committee recommended an exemption for events for audiences of no more than 200, however on balance it considers that restricting the exemption to audiences of no more 100 is less likely to give rise to issues which may affect the promotion of the licensing objectives. It also recommends that the audience should be accommodated entirely inside the building where the performance is taking place to prevent a situation whereby, for example, patio doors might be opened to allow people on a pub terrace to see the performance, allowing noise to escape.

Question 2: Do you agree that the exemption should be limited to performances of live music for not more than 100 people? Yes/No. If No, please explain why.

Response; No.

Does the proposal mean the building can be a substantial size capable of holding more than 100 people, yet the event can only have a maximum audience of 100? A number of buildings throughout the district are capable of holding more than 100. How will the numbers be controlled?

Under current legislation door staff used to control numbers must be SIA registered. How will this apply to unregulated music events?

Question 3: Do you agree that audiences for exempt performances should be accommodated entirely within the building where the performance is taking place? Yes/No. If No, please explain why.

Response; Yes

c) **The performance does not take place between 11pm and 8am.** Noise from live music events is much more likely to disturb nearby residents etc. late at night and in the early hours of the morning, particularly (but not exclusively) on weekdays. The Government therefore recommends that exempt performances should not take place between 11pm and 8am.

Question 4: Do you agree that exempt performances should not take place between 11pm and 8am? Yes/No. If No, please explain why.

Response; No

We suggest a start time of midday rather than 8am, which is considered too early for potential public nuisance.

Exclusion/revocation process

5.2 In view of the concerns of LAs, the police and residents about the potential impact of an exemption on local residents, etc, the Government proposes to allow residents and local businesses (interested parties) and responsible authorities such as the police to apply to the licensing authority for an exemption at a specific premises to be 'excluded' from the exemption (i.e. revoked). This process will be similar to the current process for reviewing premises licences and club premises certificates, except that:

- it will apply to licensed and unlicensed premises;
- the evidence submitted in support of the application must focus on the impact of the live music event (s) on the promotion of the licensing objectives;
- the licensing authority will be responsible for placing a notice on premises to advertise the application
- licensing authorities will only have two options following a hearing: to allow the exemption to continue; or to exclude (revoke) it;
- an exclusion decision will take effect immediately, even if there is an appeal;
- Exclusions in licensed premises will be noted on the licence or club premises certificate; exclusions in unlicensed premises will be entered in a new section in the Licensing Register.

Question 5: Do you agree that there should be an exclusion process as set out above? Yes/No. If No, please explain why.

Response; No

The review hearing process under the Licensing Act 2003 is practically difficult. Issues such as the proximity of Interested Parties and whether the noise constitutes a private or public nuisance create difficulties in submitting strong cases for consideration by Licensing Committees. Unregulated Live Music will not be subjected to the same scrutiny as Licensing Act 2003 applications before a premises is exempt under these proposals, yet will be subjected to the rigorous levels of the review procedure during an application to remove the exemption. In the event of an exemption being removed from a building, will this apply irrespective of future owners? I.e. will a building be allowed to re apply for an exemption? We would like to see a system whereby the constraints to remove the exemption are not as difficult as the current system that is proposed which is based upon the Licensing Act 2003.

Question 6: Do you agree that the exclusion process should be similar to the current review process, with the modifications proposed? Yes/No. If No, please explain why.

Response; No

Our reply to this is the same as for Question 5.

Licence conditions relating to the performance of exempted live music

5.3 Unlicensed premises that wish to stage live music events that qualify for the exemption will not need to make any kind of application to the licensing authority; the exemption will automatically apply. However, licensed premises that already stage live music and qualify for the exemption may still have conditions attached to their licence in connection with their live music provision. For example, they may be restricted to a certain number of performances per week, or be required to install and maintain sound proofing equipment. These premises will be able to apply to vary their licences to remove relevant conditions through the Minor Variations process, in so far as those conditions are inconsistent with the new exemption. The Government recognises that this will involve a one off cost to licensees, but considers that some level of scrutiny by the licensing authority is necessary to ensure that conditions that relate to other licensable activities at the premises are not removed. It is not always clear why a certain condition has been applied to the licence and licensing authorities will wish to satisfy themselves that necessary conditions relating to other licensable activities remain in place. It may also be the case that a premises with a number of rooms may stage live music events for an audience of no more than 100 in one room and for a bigger audience in another room. In these circumstances, the licensing authority is likely to consider that the licence conditions relating to live music should still apply, unless they relate specifically to the smaller room. In practice licensees are unlikely to apply to remove a licence condition unless the likely saving outweighs the cost of the application.

Question 7: Do you agree that licensed premises that qualify for the proposed exemption should have to apply through the Minor Variations process to remove licence conditions that apply to the exempt live music performance? Yes/No. If No, please explain why.

Response; No

Our view is that if premises have been through the Licensing Act process, which involves local residents, Police, Environmental Health and in many cases a Licensing Committee it should not be exempt.

Many of these applications will be subject to licence conditions designed to prevent noise outbreak and subsequent public nuisance. The conditions have either been agreed by the applicants or imposed by a Committee. In either event the applicants are clearly content with the conditions and can work with them. If the imposed conditions were not satisfactory or lawful they would surely have been rescinded at an appeal hearing.

What will be achieved by de-regulating these establishments during live music events other than a potential for public nuisance and a hearing to remove the exemption?

In any event it is surely not appropriate for the Minor Variations Process to consider removing potentially stringent conditions that were imposed after careful consideration by a Licensing Committee.

If this exemption process is enacted we believe the removal of conditions should be subjected to the full variation process.

Precondition (a): non-legislative solutions

- 6.1 The legal requirements relating to regulated entertainment are set out in the 2003 Act. The proposed changes to the Act cannot be made through secondary legislation (other than legislative reform orders).
- 6.2 Although the Secretary of State is empowered to issue Guidance to licensing authorities under section 182 of the 2003 Act, licensing authorities only have to 'have regard to it' and it cannot effect changes to primary legislation or regulations made under the 2003 Act or seek to influence the decisions of prosecuting authorities. In addition, the police (and other RAs) need have no regard to it.
- 6.3 The Government is satisfied that this proposal cannot be achieved by means of:
- any voluntary agreements between central government, licensing authorities and the police;
 - changes to the statutory Guidance that the Secretary of State issues under section 182 of the 2003 Act; or
 - changes to the regulations made by the Secretary of State under their powers in the 2003 Act.
- 6.4 The Government is therefore satisfied that this proposal cannot be achieved by non-legislative means.

Question 8: Do you agree that this proposal cannot be achieved by non-legislative means? Yes/No. If No, please explain why

Response; Yes

Precondition (b): the effect of the provision is proportionate to the policy objective

- 6.5 The policy objective is to remove unnecessary burdens on small live music events. The proposal exemption will deliver this and no more by restricting the exemption to performances of live music for audiences of no more than 100 people. Anecdotal evidence suggests that these venues are unlikely to give rise to problems which may affect the promotion of the licensing objectives and therefore suffer a disproportionate burden from the requirements of the licensing regime.

Question 9: Do you agree that the effect of the proposal is proportionate to the policy objective? Yes/No. If No, please explain why.

Response; No

Live Music, as a licensable activity is included in the Licensing Act 2003 processes. It safeguards the interests of a number of people particularly in relation to public nuisance by placing conditions on the Premises Licence. The fact that 100 people attend an event is no indicator for the potential break out for noise disturbance. Our response to Question 5 indicates the concerns that a removal of the exemption would, as proposed, be difficult to achieve.

Precondition (c): the provision, taken as a whole, strikes a fair balance between the public interest and the interests of any person adversely affected by it

6.6 The public interest lies in: ensuring that live music can flourish, to the benefit of the wider community; providing more small venues where musicians, particularly young musicians who need to hone their skills in front of smaller audiences, can perform; and in ensuring that small venues can diversify their offer and generate income by putting on low risk live music. Any person who is adversely affected by an exempt live music performance will be able to apply to the licensing authority to have the exemption reviewed and if necessary, excluded. An exclusion decision will take effect as soon as it is made (even if there is an appeal), ensuring that residents and others are not exposed to further noise nuisance or other problems. The Government therefore considers that this proposal strikes a fair balance.

Question 10: Do you agree that the proposal, taken as a whole, strikes a fair balance between the public interest and the interests of any person adversely affected by it? Yes/No. If No, please explain why.

Response; No

We refer to our previous answers about the stringent scrutiny given to current applications under the Licensing Act 2003.

The proposal effectively removes all safeguards for local residents. The review procedure to remove the exemption does not adequately redress the balance.

Precondition (d) the provision does not remove any necessary protection

6.7 The requirements of the Act in relation to live music are intended to ensure that local residents, businesses etc are protected from potential noise nuisance, crime and disorder, etc. that may arise from live music events. The restrictions on size of audience/venue, and the timing of events should ensure that these issues do not arise, but if, exceptionally, there are problems at a specific premises, any interested person or responsible authority may apply for an exclusion. Existing sanctions available under other enforcement regimes, such as noise protection orders and the powers available to the police in relation to crime and disorder would continue to apply to the exempt premises. The Government does not therefore consider that this proposal would remove any unnecessary protections.

Question 11: Do you agree that the proposal does not remove any necessary protection? Yes/No. If No, please explain why

Response; No

The proposal places an undue burden on reactive regulatory work. In the current process the relevant authorities have an input at the application stage to minimise public nuisance, crime and disorder etc. This will be done away with under the proposal.

Paragraph 6.7 mentions the 'size of audience/venue'. Venue size has not been mentioned anywhere else. We contend that audience size does not equate to potential noise break out and the subsequent public nuisance. The issue of sanctions is interesting. Does a Local Authority, faced with noisy premises that have an exemption, go for an Abatement Notice or an application to remove the exemption?

Precondition (e) the provision does not prevent any person from continuing to exercise any right or freedom, which that person might reasonably expect to continue to exercise

6.8 Residents and responsible authorities currently have the right to call for a review of any premises licence or club premises certificate if there are problems at a specific premises which affect the licensing objectives. They will continue to exercise this right in relation to exempt live music through the exclusion process. The restrictions on the exemption and existing sanctions under other enforcement regime will preserve freedoms from noise nuisance, crime and disorder, etc that any person might reasonably expect to continue to exercise.

Question 12: Do you agree that the proposal does not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise? Yes/No. If No, please explain why.

Response; No

Our response to question 11 summarises our reasoning for this answer.

Question 14: Do you broadly agree with the estimates, assumptions and conclusions of the Impact Assessment (published as a separate document, and available alongside this consultation on the DCMS website at http://www.culture.gov.uk/reference_library/consultations/6499.aspx)? Yes/ No. If not, please say which estimate you disagree with, and provide any evidence that supports an alternate estimate.

Response; Yes

Question 15: Do you think that this draft Order accurately reflects the proposed change?

Response; Yes

**Minutes of a Meeting of the Mid Sussex District Council Licensing
Sub-Committee held on 2nd November 2009
from 10.00 a.m. until 2.10 p.m.**

Present: Councillors: Margaret Baker
Clive Chapman
Bernard Gillbard

Officers in attendance: Assistant Solicitor, Business Unit Leader Environmental Health, Committee Co-Ordinator (PA to the Chairman of the Council and the Leader of the Council), Senior Licensing Officer, Senior Environmental Health Officer and Trainee Solicitor.

Also in attendance: Mr. Koreshi, the Applicant and Mr. Rankin, the Applicant's Representative.
Interested Parties:-
Jeremy Phillips for Mr. Verbeeten
Martin Noakes
Sloane Noakes
Christine Hunt
Richard Ramsey
Hazel Ramsey
Richard Verbeeten
Lina Verbeeten
Mr. and Mrs. Bedford

LS.11 ELECTION OF A CHAIRMAN

Councillor Clive Chapman was elected Chairman for the duration of this meeting.

**LS.12 SUBSTITUTES AT MEETINGS OF COMMITTEE – COUNCIL PROCEDURE
RULE 4**

No substitutes were appointed in accordance with Council Procedure Rule 4 – Substitutes at Meetings of Committees etc.

LS.13 APOLOGIES FOR ABSENCE

None.

LS.14 DECLARATIONS OF INTEREST

None.

**LS.15 APPLICATION FOR VARIATION OF A PREMISES LICENCE – TARANA BAR
AND RESTAURANT, SELSFIELD ROAD, TURNERS HILL**

Paul Thornton, Senior Licensing Officer introduced the report and outlined the details of the application for new licensable activities, namely the Performance of Dance and Late Night Refreshment.

The Senior Licensing Officer outlined the history of the premises and informed the meeting that there are a number of outstanding planning matters with regard to these premises, as well as several current issues with local residents, Environmental Health, Sussex Police and West Sussex County Council. He also drew Members' attention to a performance of dancers at the premises despite not having a Temporary Event Notice on 27th May 2009.

Submission from the Responsible Authority

The Senior Environmental Health Officer asked for clarification as to what the applicant is looking to use the outside area for.

Response by the Applicants Representative

The Applicant's Representative explained that the premises is already licensed to sell alcohol, it is just a case of "marrying up" the sale of hot food and drinks. He also confirmed that the decking area is for smoking, not for the consumption of food.

Response by the Responsible Authority

The Senior Environmental Health Officer expressed his dissatisfaction as this conflicts with the conditions in the application.

Response from the Applicant's Representative

The Applicant's Representative said that there is no conflict and it is perfectly clear what the outdoor area is used for.

Further Submission from the Responsible Authority

The Senior Environmental Health Officer stated that the location is situated in an Area of Outstanding Natural Beauty and referred to a number of complaints that have been received with regard to noise. He also referred to the problems with odour, which have not been resolved.

He also spoke of his concerns in relation to the sale of Late Night Refreshments, which would lead to an increase in noise leading to a significant increase of public nuisance in the area.

He also referred to the inadequate control of noise at the premises. He explained that there are outbreaks of noise from the premises and windows and doors are not always kept closed. He also referred to the noise generated by staff banging pots and pans late at night.

Submission by the Interested Parties

Mr. Phillips referred the meeting to pages 45 to 53 of the report which sets out fully the concerns of Mr. Verbeeton. He highlighted the threat to public safety if the additional hours are granted and the history of illegal parking on the premises.

He also referred to the nuisance caused by smells emanating from the premises. He explained the location of both Mr. Verbeeton and his son-in-law's property, which is across the road from the premises. He explained that both properties

are regularly affected by cooking smells. He also spoke of the noise which would be generated from additional activities on the premises.

Mr. Phillips spoke of the continual noise and odours from the premises which both the Council's Planning and Environmental Health Departments have sought to address, although they had not been complied with by the applicant. He also spoke of the illegal construction of a storage building and decking, adding that both structures still exist.

Mr. Phillips also spoke of dancing going ahead on the premises although the premises were not properly licensed for that purpose. He also referred to reflective posts which have been erected without permission.

Mr. Phillips ended by saying that both Mr. Verbeeton and his son-in-law had put their properties on the market because of the continual problems they are experiencing.

Mr. Noakes, a neighbour of the premises, explained that his bedroom overlooked the decking area. He gave an in-depth history of the site and spoke of the problems experienced in relation to noise, parking and odour. He added that the noise could still be heard with his windows and door closed.

He referred to a number of occasions when children are permitted to play on the decking and played several recordings of the noise experienced. He also spoke of people being allowed to drink on the decking and the noise generated by staff clanging pots and pans late at night.

Question from a Member of the Sub-Committee

Councillor Gillbard asked for clarification of Mr. Verbeeton's property in relation to the premises.

Further Submissions by the Interested Parties

Mrs. Noakes, another neighbour of the premises, referred to the outstanding issue of curry odour. She said that the odour is so bad that the smell of curry can still be smelt through closed doors. She also spoke of noise from the decking area and the lack of consideration by the staff.

Mrs. Noakes spoke of the lack of sleep and the stress caused by noise. She said that she retires to bed one or two hours later than normal because of this. If the hours are extended this will only result in more noise.

She also referred to problems with public safety with regard to parking and spoke of the difficulties residents experience in getting out of their driveways on to the highway.

Mrs. Noakes added that she and her family go out as much as possible and have lost the enjoyment of their garden.

Christine Hunt, a resident who lives further down the road on the other side to the premises said that she is affected by odours. She also spoke of problems currently experienced with parking and said that this will only increase if the variation to the licence is granted.

Richard Ramsey, who lives adjacent to the premises spoke of the excessive noise from both the patrons and staff and the frequent disturbance he experiences. He said that the establishment is poorly managed and that his quality of life will be diminished if the licence is granted.

Hazel Ramsey, Mr. Ramsey's wife spoke of the applicants total disregard for neighbours and his contempt for the officers.

She said that living next door to the premises is a total nightmare. She spoke of the noise from the decking which acts as an amplifier. She also spoke of the hedge which had been cut down illegally, leading to overlooking by patrons into her garden and of occasional abuse by children. She added that she does not use her garden and of the need to move because of the problems being experienced.

Mrs. Ramsey spoke of the noise from the decking and the slamming of car doors, revving of engines and the screeching of tyres when patrons leave the premises. Mrs Ramsey said that she was being deprived of her sleep and is tired and depressed. She spoke of problems with litter and that she no longer enjoys the use of her garden. The nuisance level is unbearable.

Richard Verbeeton, who lives 850 metres down the valley to the east of the premises spoke of the odour from the site as well as problems with daytime parking.

Harry Bedford, a nearby resident, reminded the Sub-Committee that Turners Hill is a village, or was once a quiet rural village. He spoke of problems experienced with parking and noise.

Madeline Bedford, a nearby resident spoke of cars being parked on grass verges on function evenings, thereby making it difficult to use the footpath. She also spoke of the safety issue as buses and heavy lorries regularly use the road. She said that she had gone away for most of the summer to get away from the problems and that her quality of life was impossible.

Response from The Applicant's Representative

Mr. Rankin, on behalf of the Applicant, Mr. Koreshi , explained the background to the unlicensed activity on 29th May in relation to the dancers performance at the premises.

Mr. Rankin referred to the problems in relation to odour and smells and said that equipment had been installed to extract odours. This had not worked and the applicant is considering taking legal action against the suppliers. He informed the meeting that £8,000 had now been spent on a state of the art extractor to detect and eliminate smells. He invited a representative from the Environmental Protection Team to visit the premises to inspect the extractor.

Mr. Rankin referred to comments made regarding the extension of hours to the application for Late Night Refreshment and clarified that there is no extension to the hours. Mr. Rankin said that, clearly, there are some problems with local residents and he would seek to address these concerns as follows:-

Car Parking

Mr Rankin said that customers can be educated to do things differently and added that the reflective stakes have been removed.

Bollards

Mr. Rankin referred to the bollards and said that the Applicant did not remove them. He also referred to adverts in the press where patrons could get £5 off their meal if they are brought to the premises by taxi.

He referred to the issue of double parking and informed the Sub-Committee that additional parking spaces have been created.

Mr. Rankin referred to Mr. Verbeeton selling up and said that this is entirely a matter for him and is nothing to do with this application.

Outside Decking

Mr. Rankin said this is only used for smoking. Patrons will be stopped from taking drinks outside and that problems with staff making a noise will be addressed.

Response by an Interested Party

Mr. Bedford referred to the posts and said that these had been put in by the Highway Authority, the Applicant had moved four of these and filled in the holes with gravel.

Question by an Interested Party

An Interested Party asked for clarification as to the future plans of the premises.

Response by the Applicant's Representative

Mr. Rankin confirmed that the premises will not be used as a nightclub.

Questions by Members

Councillor Mrs. Baker asked how long ago the extractor had been installed, to which the Applicant confirmed that it was two weeks ago.

Councillor Gillbard referred to Temporary Event Notices and asked whether attendance is greater then. The Applicant confirmed that it is about the same, but special food is served on those evenings.

Councillor Gillbard also referred to the decking which has been erected in contravention of planning permission.

Response by the Responsible Authority

The Senior Environmental Health Officer said that he had been trying to work in partnership with the applicant, but has not been able to and he had lost count of the time this has happened. Numerous promises have been made to put things right but nothing has happened.

The Senior Environmental Health Officer explained that the current licence is the same as before when the premises was used as a public house. There has now been a change to the intensification of the use of the premises and they are now able to sell hot food. He also said that dancing should be restricted to twice a week and there will be an increase in public nuisance.

Response by The Applicant's Representative

Mr. Rankin responded that there is no intensification in the use of the premises.

Response by an Interested Party

Mr. Phillips agreed that there may be an increase in the number of people visiting the premises. If extended, the sale of hot food has the potential to attract more people resulting in increased parking problems. He confirmed that Mr. Verbeeton is selling his property which shows how serious the problem is.

The Sub-Committee adjourned at 12.05 p.m. to determine the Application and reconvened at 2.05 p.m. to deliver their decision.

The Chairman informed the meeting that the Sub-Committee had listened to representations of the Applicant's representative, the Interested Parties and the Responsible Authorities both at the Hearing and in written submissions. He reiterated that the Licensing objectives are the Licensing Committee's paramount considerations.

The Licensing Sub-Committee are satisfied that the evidence of noise disturbance and noxious odours from the premises, submitted by the Interested Parties and the Responsible Authority constitutes a public nuisance. The Licensing Sub-Committee has given weight to the rural location and the negative impact that the existing premises licence which operates at present has had on persons living and working in the vicinity and find that the nuisance is disproportionate and unreasonable.

The Sub-Committee note that there are alternative statutory provisions available to Responsible Authorities to rectify some of the problems raised by the Interested Parties and Responsible Authority, which have not resolved the existing problems. The Licensing Sub-Committee therefore concluded that the Applicant's application to vary the Licence, for Late Night Refreshments and Performance of Dance would only exacerbate the current problems. The evidence is overwhelming and the Licensing Sub-Committee therefore reject the application in its entirety.

He added that the Licensing Sub-Committee have noted the Interested Parties submissions in respect of parking issues within the immediate vicinity of Tarana Restaurant and Bar and find that although this is a matter for planning and highways, may nevertheless constitute public safety under the Licensing objectives. The Licensing Sub-Committee has therefore given due regard and applied the appropriate weight to the evidence submitted but this was not a determining factor in relation to this application.

The Sub-Committee acknowledge that the Licensing Act promotes Partnership Working as a means of promoting the Licensing Objectives and it is hoped that the Applicant will in future engage actively with the Responsible Authorities to resolve the outstanding issues and uphold the Licensing Objectives.

RESOLVED

That the application for the Variation of a Premises Licence be refused.

Chairman

**Minutes of a Meeting of the Mid Sussex District Council Licensing
Sub-Committee held on 4th November 2009
from 6.30p.m. until 8:23 p.m.**

Present: Councillors: Bernard Gillbard
Gary Marsh*
Peter Reed

Present (as appointed substitute): Councillor Andrew Brock

Officers in attendance: Senior Licensing Officer, Assistant Solicitor, Trainee Solicitor,
Senior Environmental Health Officer, Environmental Health
Officer, Business Unit Leader Environmental Health

Also in attendance: Applicant & representatives, interested parties, Councillor Ash-
Edwards

LS.17 ELECTION OF A CHAIRMAN

Councillor Bernard Gillbard was elected Chairman for the duration of the meeting.

**LS.18 SUBSTITUTES AT MEETINGS OF COMMITTEE – COUNCIL PROCEDURE
RULE 4**

The Sub-Committee noted that in accordance with Council Procedure Rule 4 –
Substitutes at Meetings of Committees etc. – Councillor Brock had replaced
Councillor Marsh for the duration of the meeting.

LS.19 APOLOGIES FOR ABSENCE

Apologies were received from Councillor Marsh.

LS.20 DECLARATIONS OF INTEREST

None.

**LS.21 APPLICATION TO GRANT TWO PREMISES LICENCES – THE BROADWAY,
HAYWARDS HEATH, WEST SUSSEX RH16 3AL.**

Paul Thornton, Senior Licensing Officer, took Members through the report and gave a background to Premises Licenses issued for past events. He referred to the position of the two stages and fencing at either end of the Broadway. He noted that road closure orders issued by the District Council for past events had not been issued under the correct legislation and only West Sussex County Council Highways and Transport could issue these road closure orders. He added that statutory consultations had been carried out by Environmental Health and Food and Safety.

He stated that the Noise Protection team had met with the applicant on the previous day, and that at 4pm on the day of the Committee, the proposed conditions had been received. At 6pm on the day of the Committee, the Environmental Health Officer and Food and Safety Officer met with the applicant and agreed they were satisfied with the conditions. As a result, the Noise Protection Team's representation was withdrawn.

The Senior Licensing Officer mentioned that the applicant had agreed that the event would continue to have 20 SIA trained security staff in line with the recommendations of Sussex Police. He referred to the four interested parties and noted that promises to reduce noise and disruption at past events had not been complied with.

Representations from the Responsible Authority.

The Environmental Health Officer commented that the Noise Protection Team were satisfied with the conditions put forward by the applicant at 6pm on the day of the committee and passed copies of the conditions to the interested parties.

Mr Jacobs, an interested party, expressed his concern that the interested parties had not had sufficient time to review the conditions.

In response to a query from a Member, the Senior Environmental Health Officer clarified that any food concessions would need to be registered.

Representations from the Interested Party

Mrs Jacobs, an interested party, spoke in objection to the application. She also expressed concern that the interested parties had not had sufficient time to examine the conditions. She added that her objections to the proposed and previous events were noise related. She stated that during events she had experienced loud noise and vibration. She added that the noise dampening measures that had been put in place did not seem to have been effective and restricted access to the driveway. She noted that reduced hours had been agreed but queried the necessity of the south stage. She expressed concern about the length of the event and suggested more reduced hours. She commented that as her husband was disabled it made it difficult to go elsewhere during the event.

In response to a query from a Member, Mrs Jacobs clarified that in her representation she had asked for the event to cease no later than 9pm.

Ms Blake, an interested party, spoke in objection to the application. She expressed concern that the early setting-up time and noise of past events. She noted that at past events, noise nuisance had continued after the completion of the event as customers had congregated around the Kebab shop. She also expressed concern about the effectiveness of the noise dampening measures and access to her residence from outside the Broadway. She felt that it would be more appropriate for the event to be held at a different location.

Submission by The Applicant

Ms FitzGerald QC, a representative for the applicant, stated that the finish time for the south stage had been reduced to 8:30pm from 10:00 in the conditions. She added that bands did not continuously play on the south stage.

Mrs Jacobs commented that even when bands were not playing on the south stage, there was still considerable noise while bands were setting-up and warming-up.

Ms FitzGerald QC, apologised for the lateness of the conditions coming before the interested parties but noted that the meeting between the applicant and the authority had not been possible to arrange until the day before the Committee meeting.

She mentioned that the noise restrictions on past events had not covered Broadway Court. She added that at the proposed events a quieter generator would be used and that amplifiers brought in by bands would have to go through noise checks. She noted that with each subsequent event, measures had been taken to lessen the disruption to residents. She stated that relay speakers would now be used at the south stage to lessen the noise around the stage and disruption to residents. She added that while noise would not be at a normal level for residents, they should still be able to speak at a normal level and watch television in their residence.

She mentioned that other residents lived on the Broadway and had not objected to the event and highlighted the benefit to local residents and traders. She referred to the interested parties concern over access to their residence and queried whether it was included in the representation and whether it related to the licensing objectives.

The Chairman stated that the access to the interested parties residence was implied in the representation.

Ms FitzGerald QC added that during the event, the applicant had to be careful about allowing access to the site through the ticketed entrances.

Questions by Members of the Sub-Committee and the Applicants Response

In response to a query from a Member, Mr Davies a representative for the applicant, outlined the proposed steps to reduce noise disruption at the proposed event. He referred to the relay system to be used to reduce noise at the front of Broadway Court and added that the low frequency noise would be more controlled by a more silent generator. He noted that at previous events the level of noise had exceeded the conditions by only 1 or 2 db which he felt was not noticeable difference. He added that Mrs Jacobs had commented at the previous May event that the level of sound had been an improvement on previous events.

Ms Fitzgerald QC added that at previous events, 75db was the average level of noise recorded at the measuring points and that Broadway Court had generally fallen within this.

Mrs Jacobs noted that at the previous May event, the level of noise had only improved after Mr Davies had adjusted the volume. Mr Jacobs expressed his concern that this would be a yearly recurring issue.

Ms FitzGerald QC commented that the applicant had been happy to work with residents on the day to resolve issues and referred also to the hotline available to interested parties to register their concerns.

In response to a query from a Member, Mr Davies explained that the proposed, more silent generator was better able to control low frequency sound but wouldn't be completely silent.

In response to a query from a Member, Mr French, the applicant, noted that the start time for setting-up was 6am and had been agreed with the Environmental Health Officer. He added that setting-up always commenced at the north stage to reduce disruption to residents. He added that he hoped to use a fold-out stage for the south stage at the proposed event to further reduce setting-up time and disruption.

In response to a query from an interested party, Mr French mentioned that at a previous event, a silent generator had been ordered but hadn't been the one delivered. He added that under the conditions, a silent generator had to be used or the event could not take place.

In response to a query from a Member, Ms FitzGerald QC clarified that some traders on the Broadway had licenses that finished at 1am, however the event would be finished before then.

In response to a query from a Member regarding access for residents, Mr French noted that residents had received tickets and wristbands to access the site and added that he was happy to meet with residents to discuss access.

In response to a query from an interested party, Mr Davies explained that the relay speakers spread the sound along the Broadway so it was not centred around the south stage. Mr French added that any sound from the north stage would not come nearer to Broadway Court.

Ms FitzGerald QC noted that while the noise inside the flat wouldn't be inaudible, it would not be at a level, causing nuisance.

Final Submission by the Sub-Committee

The Chairman confirmed that the Environmental Health and Food and Safety Officers were satisfied with conditions put forward by the applicant and that the Committee had heard about the noise changes.

The Sub-Committee adjourned at 7:43 p.m. to determine the Application and reconvened at 8:16 p.m. to deliver their decision.

The Chairman stated that the Licensing objectives were the paramount considerations and that after listening to the applicant and representatives and interested parties, public nuisance was considered to be the primary concern. He noted that the Responsible Authorities, Environmental Health, and Food and Safety Officers were satisfied with conditions put forward by the applicant and had withdrawn their objection and that the licence should be granted subject to the conditions.

RESOLVED

That the Premises Licences for the 30th and 31st May 2010 and the 29th and 30th August 2010 be granted, subject to the following conditions:-

1. All generators for the event shall be super silent and only operate between the hours of 09:00 and 22:00 hours and shall not be used at any other time during the event.

2. All loading and unloading of vehicles and any associated construction/removal of the temporary stages and speakers shall only be undertaken between 06:00 – 01:00 hours and shall not occur at any other time during the event. This shall be undertaken using a quiet method of operation to be submitted and agreed by the Environmental Protection Team no later than 01 May 2010.
3. The use of loudspeakers for amplified voice or music including sound checks shall only take place between 09:30 – 22:00 hours during the event. The use of loudspeakers for amplified voice or music including sound checks for the South Stage shall only take place between 09:30 and 20:30 hours. The loudspeakers shall not be used outside these hours.
4. Within 2 calendar months following the event the operator shall have a debrief meeting and the responsible authorities shall be invited to attend the meeting to review the success of the event.
5. The licensee shall appoint a suitably qualified and experienced noise control consultant, to the approval of Mid Sussex District Council Environmental Protection Team, no later than 01 March 2010.
6. The licensee shall submit for approval a draft Noise Management Plan (NMP) to Mid Sussex District Council Environmental Protection Team no later than 01 April 2010 and submit a final plan for approval no later than 01 May 2010. The approved NMP shall be implemented throughout the event. The NMP shall detail how to manage and minimise noise during the operation of the festival, identifying all sources of potential noise generation and detailing practical remedial actions, which can be undertaken to minimise noise impact on the surrounding locality. The noise control consultant shall monitor and assess noise throughout the day and until 30 minutes after the recorded music ceases. In particular the NMP shall incorporate and detail how the following criteria will be met.
 - a) Between 09:00 hours and 22:00 hours music noise levels ($L_{Aeq,15min}$) shall not exceed 75dB $L_{Aep,15min}$ over any 15 minute period when measured at 1 metre from the facade of any noise sensitive premises situated in Ormerod Court.
 - b) Between 09:00 hours and 22:00 hours music noise levels ($L_{Aeq,15min}$) shall not exceed 70dB $L_{Aep,15min}$ over any 15 minute period when measured at 1 metre from the facade of any noise sensitive premises situated in Broadway Court.
 - c) Between 09:00 hours and 22:00 hours the music noise levels for 63HZ and 125HZ octave bands shall not exceed 70dB over any 1 minute period measured at 1 metre from the facade of any noise sensitive premises.
 - d) A noise propagation test shall be undertaken for both stages at least 1 hour prior to the start of any live or recorded music in order to inform the setting of appropriate control limits at the sound mixer positions.
 - e) A noise limiter shall be installed and used at all times to serve back line equipment on the South Stage. This shall be set by the acoustic engineer and shall be designed to prevent tampering.

- f) During the event the noise control consultant shall monitor noise for compliance with the noise levels contained in a), b) and c) above, at the locations specified in Table 1, at a frequency to be agreed with the Mid Sussex District Council. The results shall be recorded on noise monitoring sheets and shall include the date and time of monitoring, the monitoring location, the monitoring results, the weather conditions at the time of monitoring, the person undertaking the monitoring and notes of any extraneous noises. All results from the monitoring shall be made available in writing to the Environmental Health Officer within 28 days following the event.
- g) The Licensee and their appointed noise consultant shall comply with any requests by the Mid Sussex District Council Environmental Protection Team to modify the music noise levels or the sound characteristics of any music played during the event.
- h) An operational noise hotline shall be available throughout the duration of the licensed event. The number for this hotline shall be made available at least 14 days prior to the event starting and notified to all properties likely to be disturbed by the event. Staff shall be trained in the procedures to follow when receiving a call, including liaison with the noise control consultant. All calls made to this number shall be fully documented and the resultant action recorded. There shall be a named person responsible for the noise hotline and their contact details shall be forwarded to Mid Sussex District Council Environmental Protection Team at least 7 days prior to the event.

Table 1: Noise Monitoring Locations

1	Omerod Court, Heath Road, Haywards Heath
2	Park Court, Church Road, Haywards Heath

- 7. A minimum of twenty (20) SIA registered and approved door supervisors will be employed throughout the event. This may be increased if Sussex Police have evidence that this may be necessary to prevent crime and disorder.
- 8. All electrical work will be controlled by a competent electrician and an electrical test certificate in accordance with IEE guidance will be provided to Mid Sussex EHO on request.
- 9. The Licensee shall ensure that all temporary demountable structures including stages, marquees, barriers, grandstands, towers and any other structure listed in the industry guide conform to The Institute of Structural Engineers 'Temporary Demountable Structures- Guidance on Design, Procurement and Use'- second Edition 1999 (ISBN 1 874266 45X) or to any guidance that supersedes this.
- 10. Whilst the event is open to the public, there shall be 'no vehicle movement' restrictions except in the event of an emergency.
- 11. The event shall be run in accordance with the prime objectives of the Event Safety Guidance (HSE) Second Edition 1999 (ISBN 0 7176 2453 6) or to any guidance that supersedes this.

12. Details of all concessions operating at the event must be notified to Mid Sussex EHO in writing at least 21 days prior to the event.
13. The Licensee must ensure that all food concessions operating at the event are registered with the local authority under Regulation (EC) No. 852/2004 on the Hygiene of Foodstuffs, Article 6(2).`

Chairman

**Minutes of a Meeting of the Mid Sussex District Council Licensing
Sub-Committee held on 11th November 2009
from 10.00 a.m. until 11.27 a.m.**

Present: Councillors: Kathleen Dumbovic
Peter Reed
Julian Thorpe

Officers in attendance: Senior Licensing Officer, Environmental Health Officer,
Assistant Solicitor, Committee Co-Ordinator

Also in attendance: Applicants

LS.21 ELECTION OF A CHAIRMAN

Councillor Peter Reed was elected Chairman for the duration of the meeting.

**LS.22 SUBSTITUTES AT MEETINGS OF COMMITTEE – COUNCIL PROCEDURE
RULE 4**

The Sub-Committee noted that no substitutes had been appointed in accordance with Council Procedure Rule 4 – Substitutes at Meetings of Committees etc.

LS.23 APOLOGIES FOR ABSENCE

None.

LS.24 DECLARATIONS OF INTEREST

Councillors Mrs Dumbovic, Reed and Thorpe all declared a personal interest in the application as they are members of the National Trust.

**LS.25 APPLICATION TO GRANT A PREMISES LICENCE – WAKEHURST PLACE,
ARDINGLY, RH17 6TN**

Paul Thornton, Senior Licensing Officer took Members through the report. He highlighted the following information. The premises are within an area of outstanding natural beauty and open to the public all year round; the licensable activities which are being requested as set out in the report, that the applicant currently holds 2 premises licences which if this application is granted will be incorporated in the new licence; the applicant has had a number of licences in the past as set out in the report; statutory consultations have been carried out and the Environmental Health Officer and the applicant have reached agreement on a number of conditions to be attached to the licence should Members be minded to grant the application. Representations had been received from eight interested parties and are set out in the report. There were no interested parties present. The Senior Licensing Officer handed the Chairman some additional conditions that the applicant had offered at pages 20 to 23 of the report and indicated which ones he would like attached to the licence if Members approved the application.

Ed Hele, Team Leader (Environmental Protection & Housing) gave the following information. He had had a meeting with the applicants in the previous week during which they had detailed discussions that had addressed his objections to the licence application. The application had been drawn back to what the

applicants actually need rather than what they had applied for. The number of outdoor events had now been limited to 6 and if the applicant needed to increase the number they would apply for a variation of the licence. A noise management plan would be produced for the summer concert series; the carol concert was exempt from that condition. Any other outside event would require a separate noise management plan. He took the Members through the suggested conditions. They had received no complaints to date about the indoor events but the application gave the opportunity for intensification in the use of the buildings and therefore it seemed right to seek a noise management plan; a marquee would be included in a special section the reason being to avoid public nuisance. They would work with the applicant to produce the noise management plans and were satisfied with the proposed conditions.

Questions by Member of the Sub-Committee and the Officers' response

In response to the Members' questions the following information was given. The maximum number of people attending an outdoor event was 5000 and the noise management plan would be produced to take account of that number. Officers were not aware of whether the applicant intended to apply for any temporary event licences and hoped that they would be able to work together with the applicant on all events. If they were unable to agree a noise management plan with the applicant the event would not be able to go ahead. The proposed conditions would give the Council a degree of control. If there were any problems they would look at the issues again. Of the 6 days of outdoor events applied for, 3 were for the summer concerts, 1 was for the carol concert and 1 was for the tree lighting; 1 day was for an as yet unspecified event and would be subject to an extra noise management plan.

Submission by The Applicant

Mr Alistair Crozier Burnett, the applicant, designated premises supervisor and Visitor Services Manager at Wakehurst Place gave the following information. There had been a misunderstanding of the scope of activities planned as they had included in the application all the events that they might possibly run. It was not their intention to run all of these events and therefore they had looked at the application again to make it more specific to what they actually want to do. They had originally applied for 15 outdoor events but this had been a notional number and they were now seeking 6 outdoor events which was much more specific to their actual current requirements. 5 had been specified and they sought the extra 1 to allow for growth. They currently had no specific plans to have films; plays or performance of dance but included them in the application for flexibility. The conditions that they have agreed give a much better picture of their intentions. They had good management of events, sought to cause no problems for their neighbours and were keen to work with the Environmental Health Team. They had agreed to submit plans, to cease all licensable activities by 23:00hrs and felt that this should allay residents' concerns.

They were experienced at managing events and for example held the carol concert that attracted 3000 people and served alcohol and had amplified music with no complaints. The three summer evening concerts will run on a Thursday, Friday and Saturday and they expect around 4000 people each night, they will be ticketed picnic concerts, one classical, one jazz and one light music ending at 23:00hrs. They will work with the Environmental Health Officer and communicate with their neighbours. They were seeking to provide high quality cultural events. They were seeking more flexibility but were not seeking to significantly expand

their indoor activities, which would remain similar to those that they already run, the size of the buildings restricts the numbers. They would like to serve mulled wine outside by the Christmas tree or occasionally have a kiosk in the landscape where appropriate. Their customers were generally respectful of the site. They were a high profile public organisation and they were seeking to enhance their reputation, not tarnish it.

Questions by Members of the Sub-Committee and the Applicants Response

In response to Members questions the following information was received. The summer concerts were new, they expected about 4000 people to attend on each evening and they planned to invite their neighbours both prior to the concerts to explain what was intended and to the concerts. They currently ran 80 events per year of which 20 to 30 were indoor commercial events. The plan was to grow the commercial events, mainly indoor such as weddings, corporate events, dinners meetings etc. There were no plans to apply for temporary event notices at present; the buildings restrict the numbers to less than 490 and anything larger would have to be accommodated in a marquee. They have experience of limiting noise from the buildings in summer and have had no complaints. They monitor noise levels and ensure that music cannot be heard from outside. There would be no overnight stays. They were able to accommodate the parking for 3000 for the carols and parking would be easier to manage in the summer when there were more parking areas available to them. Outdoor concerts would be regulated in line with the Noise Councils Code of Practice. It was not going to be silent but it would not be so intrusive as to stop residents from using their homes in the normal way. Marquees are used for weddings not for concerts. They had no plans for the classical performance to be an opera at this stage.

The Sub-Committee adjourned at 10.40 a.m. to determine the Application and reconvened at 11.25 a.m. to deliver their decision.

The Chairman said that he hoped that the applicant would maintain good communication with their neighbours.

RESOLVED

That the application be granted subject to the following conditions which we believe will satisfy the licensing objective of prevention of public nuisance.

CONCERTS

1. There shall be a maximum of 6 days of outdoor concerts including the annual Christmas Carol Concert.

OUTDOOR EVENTS

2. A noise management plan shall be submitted to the Environmental Health Officer for the Summer Concert Series. This plan will follow the Control of Noise at Work Regulations and the Noise Council Code of Practice on Environmental Noise Control at Concerts. The events will not proceed without the written agreement from the Environmental Health Officer. The Christmas Carol concert and Tree Lighting with choir shall be exempt from the Noise Management Plan but shall be notified to the Environmental Health Officer 28 days prior to the event.

3. Before any other outdoor event with regulated entertainment takes place a noise management plan shall be submitted at least 28 days prior to any event and shall not proceed without written agreement from the Environmental Health Officer. The use of the mansion lawns for the purpose of a marquee shall be exempt from this condition.

4. The Noise Management Plan for the Summer Concert Series shall be reviewed and submitted each year on the anniversary date of this licence.

5. For outdoor events, all regulated entertainment, supply of alcohol and late night refreshment will cease by 23:00hrs.

INDOOR EVENTS

6. A Noise Management Plan shall be submitted annually on the anniversary of this licence to cover all indoor events and the use of the mansion lawn. The initial noise management plan shall be submitted within 3 months of the licence being granted. The Noise Management plan shall have a specific section on noise control from marquees used on the mansion lawn. All indoor and mansion lawn events shall not proceed without the written agreement of the Noise Management Plan from the Environmental Health Officer.

7. Indoor events already scheduled to take place within 3 months of the date of the licence shall be permitted to take place within this period with the written consent of the Environmental Health Officer. All events within this 3-month window shall be managed in such a way as not to cause a public nuisance.

OTHER EVENTS

8. The performances of plays shall not exceed 5 days per year and shall only take place on Thursday, Friday and Saturday only. All plays will cease by 22:00hrs.

9. The exhibition of films shall not exceed 5 days per year and shall only take place on Thursday, Friday and Saturday. All Films will end by 22:00hrs.

10. The performances of dance shall not exceed 3 days per year. All performance of dance shall cease by 22:00hrs.

STAFFING

11. Additional stewards/security staff shall be used to augment security coverage at larger events.

12. Sufficient numbers of trained staff shall be present during regular day visitor operations and at events to ensure that order is maintained and licensable activities are within the marked perimeter.

CAPACITY LIMITS

13. Capacity limits for each building would be as follows:

Mansion - 180 persons

Welcome Trust Millenium Building – 200 persons

Stables Restaurant – 200 persons

Visitor Centre – 200 persons

14. For outdoor concerts attendance would not exceed 5000 persons. For large public or ticketed outdoor events the Licensing Authority, Police and the Fire Service are to be advised, to allow consultation on the capacities for these events. Day visitor numbers and numbers of guests at private events are recorded.

ALCOHOL

15. Sale of alcohol to the general public to cease at 23:00. Later service for private events only until 01:00.

16. Non-alcoholic drinks including water to be available at all times.

OTHER

17. For larger public events, advice from the HSE Publication 'Event Safety Guide, A guide to health and safety and welfare at music and similar events', will be used.

18. Where a private event ends after 23:00hrs, the departure of guests will be supervised by event/security personnel to minimise disturbance to local residents.

19. Where it is deemed necessary by the Licensing Authority, in consultation with the Police and traffic services, a traffic management plan may be required for larger events. The plan may detail measures proposed to alleviate traffic congestion and parking issues.

Chairman

**Minutes of a Meeting of the Mid Sussex District Council Licensing
Sub-Committee held on 21st December 2009
from 10.15 a.m. until 11.42 a.m.**

Present: Councillors: Kathleen Dumbovic
Bernard Gillbard
Julian Thorpe

Officers in attendance: Senior Licensing Officer, Assistant Solicitor, Committee Co-ordinator

Also in attendance: Applicant
Interested Party

**LS.26 SUBSTITUTES AT MEETINGS OF COMMITTEE – COUNCIL PROCEDURE
RULE 4**

The Sub-Committee noted that no substitutes had been appointed in accordance with Council Procedure Rule 4 – Substitutes at Meetings of Committees etc.

LS.27 APOLOGIES FOR ABSENCE

None.

LS.28 DECLARATIONS OF INTEREST

None.

**LS.29 APPLICATION TO VARY A CLUB PREMISES CERTIFICATE – RESIDENTS
COUNTRY CLUB, TURNERS HILL PARK, TURNERS HILL, TH10 4QS**

The Senior Licensing Officer took Members through the report. He highlighted the following information. The premises are within a retirement park consisting of around 230 low-level dwellings together with a small shop and the social club. The landowners are Berkeley Homes and a condition of residence on the park is a minimum age of 50 years. The average age of residents is 70 to 75 years. No applications have been made to this authority bar the original conversion notice in July 2005. Currently the latest time for all licensable activities is 23:00 and the applicant is seeking to vary the time to 00:00 on Friday and Saturday. The club is constituted for the benefit of Residents and has approximately 140 members plus 10 off site members who must be related to a resident. No representations have been received from responsible authorities. One representation had been received from Mr Grimwood, a resident who was concerned about increased noise. There were no questions.

Submission by the Interested Party

Mr Holder spoke on Mr Grimwood's behalf. He said that the main objection was noise. He feared that people would be leaving the park drunk and driving down the country lanes. He did not feel that the rules of the club were properly enforced at present and he felt that an extension to the hours of licensable activity would make matters worse. He did not believe that the club was ensuring that all visitors signed in and he believed that they were already allowing drinking beyond the licensed hours. There would be music that would make the noise

unbearable. He said that several residents had written to complain to Berkeley Homes. He could not see the need for the hours to be varied since the club was allowed 10 late openings at present. He said that the club should be for the benefit of all residents not just a select few heavy drinkers. Noise was the main reason for the objection and the fear that people would be leaving the premises noisy and drunk at 00:30 – 00:45 which would be bad for the residents living close to the club. There were no questions.

Submission by The Applicant

Mr Simpkins, the current Chairman of the Club, spoke in support of the application. He said that when they had had a pool match against another club, minibuses had been ordered to take those visitors home. All the people who use the club are residents and they are responsible people. The youngest person using the club is 48 and the majority are older and are responsible enough to be quiet once they are leaving the premises. The application has been made so that he would not have to apply for a temporary event notice every time that they need an extension. He did not expect to use the extra hours every weekend. He said that he wanted to be able to tell people well in advance when there would be a late night. He said that they hold race nights on Friday nights, which is an enjoyable evening. He was trying to save on the paperwork involved in applying on an individual night basis. They were respectful of all the residents on site.

Questions by Members of the Sub-Committee and the Applicants Response

In reply to Members questions Mr Simpkins gave the following information. There were 154 members of the club and 240 units on the site. 55% were members plus 10 family members who were not resident. He hadn't heard of any trouble with drinking and driving, it was quiet and peaceful and they had never called the police. When they had had a pool match against a club from Ardingly they had used a taxi minibus service. A pool match probably wouldn't go on that late and if the match finished at 23:00 then the club would close at 23:00. It is not a drunken brawling place. The rules of the club prohibit guests from buying drinks, a resident may sign in up to two guests but drinks may only be purchased by a member of the club. They do not have people walking in off the street to buy a drink. The committee members enforce the club rules. Mr Simpkins said that it had been his idea to apply for the variation that would be one blanket application instead of many applications for an extension. They would meet the licensing objectives through enforcing the club rules on members and guests and they have a notice on the doors asking patrons to respect the residents and to be quiet. If necessary a committee member will ask members to be quiet as they leave.

Interested Party comments

Mr Holder said that Mr Grimwood does not believe that the club closes on time at present. He said that the non-resident B Members do buy drinks and are not always signed in. There is noise outside the premises and it is not controlled. If behaviour was properly controlled and there was not shouting and swearing at the bar the club would be used by more residents. He believed that the committee was trying to turn the social club into a pub. The extra hours are not warranted, as it is open to the committee to apply for an extension months in advance. He failed to understand the basis of the application.

Applicant comments

There had been an unpleasant and upsetting disagreement with one person on one occasion. The basis of the application was that one blanket application was easier than multiple one of applications and he did not like filling in forms. They would not use all the additional hours as they had to pay staff and it would not be viable to be open for all the additional hours. In reply to a Members question Mr Simpkins said that although 55% membership might seem low some of the residents were housebound or couldn't get to the club. The club is for members; B members are non-resident members who are allowed to buy drinks. There can be a maximum of 20 B members and they must be related to residents of the park. The club rules are enforced. Mr Simpkins said that he was not always there but was there for most of the time.

The Sub-Committee adjourned at 10.50 a.m. to determine the Application and reconvened at 11.40 a.m. to deliver their decision.

The Chairman said that it was a finely balanced decision. He said that Members were concerned by the issues raised by the interested party and urged the Chairman and Committee of the Club to ensure that the rules and regulations of the club and the hours of the licence are strictly adhered to.

He said that Members also felt that it would be useful if the Chairman of the Club contacted Berkeley Homes to ascertain if any residents have concerns about the running of the club and, if so, take appropriate steps to address any concerns and issues raised.

RESOLVED

That the application be granted.

Chairman

**Minutes of a Meeting of the Mid Sussex District Council Licensing
Sub-Committee held on 3rd February 2010
from 10.00 a.m. until 2.35 p.m.**

Present: Councillors: Graham Knight
Paddy Henry (Chairman)
Julian Thorpe

Officers in attendance: Senior Licensing Officer, Assistant Solicitor, Committee Co-Ordinator and Trainee Solicitor

Also in attendance: Applicant
Applicant's Representative
Interested Parties

**LS.30 SUBSTITUTES AT MEETINGS OF COMMITTEE – COUNCIL PROCEDURE
RULE 4**

The Sub-Committee noted that no substitutes had been appointed in accordance with Council Procedure Rule 4 – Substitutes at Meetings of Committees etc.

LS.31 APOLOGIES FOR ABSENCE

None.

LS.32 DECLARATIONS OF INTEREST

None.

**LS.33 APPLICATION TO VARY A PREMISES LICENCE – TARANA BAR AND
RESTAURANT, SELSFIELD ROAD, TURNERS HILL, RH10 4PP**

The Council's Senior Licensing Officer outlined the application for the variation of a Premises Licence for the performance of dance every Wednesday and one other night of the week. He added that, should the application be granted, two additional conditions, agreed by the Environmental Protection Team be added. He confirmed that the Applicant has agreed to the addition of these two conditions.

The Senior Licensing Officer outlined the history of the site and gave a brief overview of the problems that are currently ongoing in relation to the premises. He reminded the Sub-Committee that the outstanding issues are quite separate and should be disregarded when dealing with the current application.

Representations from Interested Parties

Councillor Mike Watts spoke on behalf of Mrs. Dunlop, a local resident, who lives 500 metres away from the premises. He spoke of the problems that have been experienced during the past nine months since the restaurant opened last April. Despite assurances by the Applicant, nothing had been done to rectify the situation.

He referred to the application for the performance of dance and the increase to the possibility of 104 events being held per year, which will lead to an 8/9 fold increase.

Councillor Watts spoke of the increase in the number of complaints by neighbours of the property to Environmental Health. In both Spring and Summer smells are a public nuisance and Environmental Health have requested the Applicant to keep the windows closed. The level of noise and odours is overwhelmingly intrusive. He compared the premises to a nightclub and said that neighbours of the premises have put their houses up for sale.

He then spoke of the problems with parking and the no parking signs being ignored. He also spoke of the £5 taxi voucher being offered for a return journey.

The Legal Advisor reminded the Interested Parties that only the points raised in their letters of objection could be taken into consideration.

Mrs. Ramsey spoke of the village being in an Area of Outstanding Natural Beauty and any noise is a major occurrence. She referred to the parking and spoke of the danger to the public on special event evenings.

She referred to public nuisance and the issue of noise. She spoke of the detrimental effect to the surrounding area, should the application be granted. She recalled a recent occurrence when she was woken up by the noise from the decking. She added that it is a misery living next door, and, even when all the doors and windows are shut the noise can still be heard.

Mrs. Ramsey said she could not use the garden or open the windows in the summer. The Applicant is either not able to, or unwilling to do anything, and has a total disregard for the neighbours.

Question from a Member of the Sub-Committee

Councillor Henry asked whether, when the dancing is held, if it attracts more people. Mrs. Ramsey confirmed that there is more noise when temporary events are held.

Representations from Interested Parties

Mr. Ramsey referred to parking and said that the highway authority had raised objections. Recently 10 cars were parked illegally. He referred to the possibility of these events being held 116 times a year, which will be intolerable. He then went on to say that the management do not appear to be able to manage the premises within the existing licence. He also referred to the breach of licensing conditions and said that he believed this will be unlikely to change. He made reference to dancing not taking place on a Sunday and referred to an advert which had been placed in the press regarding a Bollywood evening being held on 14th February, which is a Sunday.

Question from a Member of the Sub-Committee

Councillor Knight referred to "theme nights" and asked whether, on the other evenings, what the usage is, and whether there is illegal parking.

Mr. Ramsey responded that there is illegal parking on a Friday and Saturday evening and also in the week when there is an entertainment evening. There is also parking contrary to the no parking signs.

Representations from Interested Parties

Mrs. Noakes, who spoke on behalf of her husband, said that the venue should remain as an Indian restaurant. She referred to the refusal of the retrospective planning application at North Area Planning Committee and added that another shed had been erected without permission. She also referred to an infestation of rats. Noise and odours are already a nuisance. No parking signs have been erected and are ineffective. This application should be rejected and the premises activities should be curtailed.

Mrs. Noakes explained that she lives diagonally opposite the premises. Bollywood nights are very busy. She said that this application should not be granted until all outstanding issues have been resolved. She also spoke of the problems with parking and the danger this poses.

Mr. Bedford referred to the public abatement nuisance and said that he is still waiting for something to be done. He referred to North Area Planning Committee's refusal of the retrospective planning application. He referred to an incident on 30th January when there was noise from the decking. Staff are also a cause of noise nuisance. A contact telephone number has been given to liaise with the owner. This has proved fruitless and neighbours still experience disruption. He questioned whether the premises is a restaurant rather than a nightclub.

Mrs. Bedford referred to Friday and Saturday nights being very busy. If there are more Bollywood Nights the problems will be greatly increased.

Mr. Phillips, on behalf of Mr. Verbeeton, explained that his client lived opposite the premises. He reminded the Sub-Committee of the licensing objectives and said that parking issues are relevant as they threaten public safety.

Mrs. Verbeeton explained that the applicant is a very experienced restaurateur. Tarana is always busy as a restaurant and takeaway. She expressed the opinion that the remaining problems should be dealt with before this application is considered. She has suffered for the past 10 months and have to keep windows and doors shut. Additional entertainment will only increase attendance by patrons. She also recalled instances of dangerous parking and shouting. There is no respect for neighbours, nor signs asking to keep the noise down.

Mr. Bedford reiterated the comments made in his letter. Cars are constantly parked against the site line which cause a constant nuisance. The smells are unbelievable and are in every room in his house. Noise is constant with car doors slamming. He also recalled an incident when rubbish was collected at 4.45 a.m.

Mrs. Bedford said that the main problems are odours, parking and the noise coming from the premises. She also reminded the meeting that the premises is in an Area of Outstanding Natural Beauty. She added that she could just about cope with one Bollywood evening and a Friday and Saturday evening. If more are granted then there will be no peace. The smells and noise are getting worse.

She said there is only enough parking for 30 cars, if there are more people, there will be more problems.

She also referred to the parking problems in the area and said that pedestrians cannot use the pavement. She also asked whether, if the application is granted, who will enforce the rules.

The Legal Advisor reminded the meeting that the Sub-Committee could only look at the application before them and that any ongoing problems that were considered to be outside the scope of licensing were not relevant to the application.

Mrs. Hunt, a neighbour of the premises said that the number of special events will be increase. She reiterated that the premises is in a quiet location and it is both unfair and inappropriate to the residents of the village. She added that an increase in trade will only exacerbate problems with parking. The road is busy and fast and it is a miracle that there has been no accidents caused by dangerous parking. The performance of dance will attract a different clientele to that of a restaurant.

Submission by the Applicant's Representative

The Applicant's Representative outlined the application and reminded the meeting of what the premises are already licensed for.

He reminded members that the previous application for Late Night Refreshments and the performance of dance was refused. His client had sought to address concerns expressed and wanted to provide and improve clients dining experience. The idea is to retain existing customers and hope to attract more people on a Wednesday. Currently the premises only hold such an event once a month.

He reminded the Sub-Committee that they have to focus on the licensable activity. Currently customers are allowed to consume food and hear music until much later. On a Friday and Saturday evening there are a full number of covers. He also made the point that people who support the application do not make representations. He added that customers enjoy the events.

He then referred to the grounds for opposition, as follows:-

Parking

He disagreed that there is a problem with parking. Capacity has increased to 32 and can actually accommodate 40. The Applicant offered a £5 voucher to use taxis and gives out approximately 15 on Saturday evenings, which he hopes to increase. Parking has drastically improved and the Applicant is consistently trying to improve.

Smells

The Applicant's Representative said that odours are dealt with under different legislation. He informed the meeting that the Applicant has just commissioned a top of the range filter that will be installed within six months, and the Applicant is also trying to improve ventilation further.

Noise

The Applicant's Representative said that the music is not loud, management checks the levels. He explained that the premises comprises a bar and restaurant with a clientele of 30 to 60 year olds. They enjoy food and all that goes with it.

He referred to the Theme Night held on New Years Eve and said that this was a one-off special. It is intended to have a Bollywood evening on a Wednesday and one other night.

He summed up by saying that the Sub-Committee have heard of the measures the Applicant has put in place and is trying to put in place to address concerns.

Questions by Members of the Sub-Committee

Councillor Thorpe asked when there is dancing, whether the number of covers are reduced. The Applicant's representative confirmed that they are reduced by 10 or 12. The Applicant's representative, in response to a question from Councillor Thorpe as to whether the restaurant is air-conditioned, confirmed that it is.

The Applicant's representative, in response to a question from Councillor Thorpe, clarified the difference between Indian dancing and Bollywood. He added that there is demand for this type of entertainment.

Councillor Knight asked whether the music is acoustic or amplified. The Applicant's representative responded that it is not intended to have people playing live music and confirmed that it will be recorded music.

Councillor Henry asked how long the dance routine lasts for. The Applicant's representative confirmed that the routine last for 5 or 10 minutes with breaks in between and goes on all evening. Times of performance are variable.

Councillor Henry asked whether the Applicant would accept a condition to hold the dancing on either a Friday or Saturday evening. The Applicant's representative confirmed that he would.

Representation from an Interested Party

A representative from Cluttons, Letting Agents, said that parking is a public safety issue and people leaving the premises causes a public nuisance.

Summing Up by the Interested Parties

Mrs. Ramsey said that, if the variation is granted, the noise will only increase. The application should be refused, an increase in entertainment is unacceptable and intolerable. There will be more noise and danger from cars parked illegally.

Mrs. Noakes questioned why the Applicant wants to hold more entertainment evenings when the premises are already full.

Mr. Verbeeton added that more cars will only make things worse.

Mr. Bedford said that, if the application is granted, the problems with smells and parking will only increase. He asked whether the Council has the authority to terminate the licence. The Legal Advisor clarified that the licence can be reviewed if there are any breaches to the conditions imposed.

Mrs. Bedford asked whether, if entertainment evenings are granted for Wednesdays and Fridays, could the Applicant apply for other Temporary Event Notices. The Legal Advisor clarified that yes, the Applicant could.

Mrs. Hunt said that more theme nights would lead to excess, which would cause even more problems.

Mr. Phillips, Mr. Verbeeton's representative, summed up on behalf of his client. He reminded the meeting that a previous application three months ago, for the performance of dance was refused. He said that that Sub-Committee had chosen not to grant permission. He asked whether anything had changed and said that there is no evidence that the problems have been resolved and referred to recent problems.

He referred to the operating schedule that set out what the Applicant will do. He asked the Sub-Committee to consider what has happened since the premises opened and went through the breaches to the conditions. He added that the Applicant is in breach of everything, but still continues trading.

He referred to the problem with odours and said that the more people visit the premises, the more cooking will take place. This will only make the problem worse, not better if the application is granted.

Mr. Phillips then referred to the lack of parking spaces. People park on the verge. He referred to Mr. Verbeeton's letter and questioned public safety, which is supported by West Sussex County Council and the Police (pages 49, 50 and 51 of the report refer). He added that there has been and continues to be a problem with parking, which is worse on entertainment evenings. He referred to the judgment of a similar case and questioned whether, if the variation is granted, whether the situation will improve or worsen. The only way to deal with the situation is to refuse the application.

Submission by the Applicant's Representative

The Applicant's representative said that this application is very different from the previous one. He said that the Environmental Health Officer has no objection to the application, subject to conditions. He outlined the scope of the application and the prevention of public nuisance and safety.

He referred to the judgment quoted by the Interested Party's representative and said that this is not relevant to this case.

With regard to parking, there has been no representation by the Police. He said that the parking position has improved. He also said that the introduction of the licensing activity does not impact on the licensing objectives.

He referred to the criticism of the licence holder and said this is wrong, as he has spent a lot of money on addressing the problem. He said that the music was not loud and is only being requested until 11.00 p.m.

He referred to measures being undertaken to improve the parking and the increased amount of parking spaces and the use of taxis. He said that there needs to be a balance, both neighbours and users have to be considered. Although there have been issues, they are being addressed.

He confirmed that his client is happy to accept the conditions.

**The Sub-Committee adjourned at 1.00 p.m. and reconvened
at 2.30 p.m. to deliver their decision**

The Licensing Sub-Committee have listened to representations of the Applicant's representative and the Interested Parties both at the Hearing and in written submissions, in respect of this application only. Whilst there has been reference to a previous application the Licensing Sub-Committee can only determine the application that is before it today and on its merits. The Licensing objectives are the Licensing Committee's overriding principles.

Upon such representations the Licensing Sub-Committee have come to the conclusion that the application before it will not have a significant impact on the establishment as it is today. But, nevertheless, the Licensing Sub-Committee acknowledge there may be some variation in noise during the licensable activity, which can be dealt with by imposing a condition, which the Applicant has agreed to.

The Licensing Sub-Committee also note that the existing licence has conditions, which the Committee expects the Applicant adheres to, in order to minimise the impact for all those concerned.

The Committee acknowledge that the Licensing Act promotes Partnership Working as a means of promoting the Licensing Objectives and it is hoped that the Applicant will in future engage positively with all interested parties and the local authority to resolve any outstanding issues.

A full written decision will be sent out to all parties within 5 working days. Details of appeal process will be contained in the letter.

RESOLVED

That the application be granted, subject to the following conditions:-

- (1) the Licensable Activity will only take place on Wednesday and Friday or Saturday; and
- (2) all doors and windows will be kept closed on any night that the licensable activity in 1 takes place except for access and egress.

Chairman

**Minutes of a Meeting of the Mid Sussex District Council Licensing
Sub-Committee held on 10th February 2010
from 10.00 a.m. until 11.35 a.m.**

Present: Councillors: Bernard Gillbard (Chairman)
Paddy Henry
Peter Reed

Officers in attendance: Assistant Solicitor, Environmental Health Manager,
Environmental Enforcement Officer and Committee Co-
Ordinator.

Also in attendance: The Chairman and Secretary of the Mid Sussex Conservative
Club (the Applicants).
Interested Party

**LS.34 SUBSTITUTES AT MEETINGS OF COMMITTEE – COUNCIL PROCEDURE
RULE 4**

The Sub-Committee noted that no substitutes had been appointed in accordance with Council Procedure Rule 4 – Substitutes at Meetings of Committees etc.

LS.35 APOLOGIES FOR ABSENCE

None.

LS.36 DECLARATIONS OF INTEREST

Councillor Henry disclosed a personal interest as he has visited the premises on a number of occasions.

Councillor Reed disclosed a personal interest as a member of the Conservative Party.

**LS.37 APPLICATION TO VARY A PREMISES CERTIFICATE – MID SUSSEX
CONSERVATIVE CLUB, CYPRUS ROAD, BURGESS HILL, RH15 8DX**

Fiona Spears, the Council's Environmental Enforcement Officer introduced the report and outlined the application for the variation of a Club Premises Certificate. She added that both Sussex Police and the Council's Environmental Protection Team have agreed conditions with the applicant if the Sub-Committee are minded to grant the application.

Representation from the Interested Party

Mr. Butcher, the Interested Party, explained that the main problem he is experiencing is noise. Since the smokers have started to gather out the front of the building, the noise has increased. The doors are not always shut and there is also shouting and arguing. He added that the premises is in a residential area and he considers there to be no need for this as there are plenty of these types of establishment within the town. Since moving to his house the licensing hours have got longer and longer he has a young family who keep being woken up

There are also problems with private functions and with taxis leaving their engines running and beeping their horns.

Question from a Member of the Sub-Committee

In response to a question from Councillor Gillbard, Mr. Butcher clarified where the smoking area is in relation to Mr. Butcher's property and explained that, when the doors are opened, there is blast of loud music.

Submission by The Applicant

Mr. Hilton, Applicant 1, informed the Sub-Committee that this is a members' club and that there are restrictions in place for functions and the Club would like to extend their services to members. He recalled recent events when longer hours would have been ideal. The Club needs to survive and there is a need to have flexibility with the licence.

He confirmed that all windows and doors are closed at 11.00 p.m. He has also confirmed that he had checked noise levels personally. He confirmed that taxis have been told about beeping their horns although the problem is difficult to control.

Mrs. Welstead, Applicant 2. added that the Club does not hold many functions and that the music goes on until midnight.

Question from a Member of the Sub-Committee

Councillor Reed referred to the smoking area and asked whether the Club had thought about moving this to the back of the building, which would only affect the car park area. He expressed his sympathy with the Interested Party and asked whether it would help with the problem if the area was moved further away from the residential area.

Response by The Applicant

The Applicant agreed that this idea could be considered.

Question from a Member of the Sub-Committee

Councillor Reed referred to Mr. Butcher's remarked regarding a fight. Mr. Hilton could not recall this event and Mr. Butcher confirmed that it was within the last 18 months.

Councillor Henry commented that he appreciated that the Club is within a built-up area and its members need to socialise. He referred to the Noise Management Plan and the Environmental Health Manager confirmed that the Applicant is required to submit this Plan and explained how it is controlled by Environmental Health. The Applicant confirmed that he is happy to comply with the requirement for a Plan.

In response to a question from Councillor Henry, the Applicant confirmed what type of functions are held at the premises.

In response to a question from Councillor Gillbard, the Applicant confirmed that the premises is not let out for private functions. Club members are permitted to use the premises for committee meetings etc.

Councillor Gillbard referred to the main issue of problems with noise and expressed his concern that this was a condition of the previous licence and those conditions have not been adhered to. What confirmation is there that the Noise Management Plan will be adhered to?

Response by the Applicant

Mr. Hilton acknowledged that the Senior Licensing Officer had spoken to him and confirmed that some conditions had previously been missed.

Response by a Member of the Sub-Committee

Councillor Gillbard said that the conditions are already there and have not been adhered to. The Sub-Committee needs to be confident that the noise problem will be got on top of.

Response by The Applicant

Mr. Morgan said that no complaints have been received since July. Measures have been taken and he has himself had checked the noise levels. A record of checks are kept by the Bar Manager.

Question by a Member of the Sub-Committee

Councillor Reed referred to the Noise Management Plan and said that to date the Plan has not been received and asked how close the Applicant is to putting together.

Response by The Applicant

Mr. Hilton confirmed that the Plan was discussed by the Club yesterday and he confirmed that it is ready to be achieved.

Question by a Member of the Sub-Committee

Councillor Gillbard asked whether any further measures will be taken to combat the problems with noise. Mrs. Welstead responded that baffles on air vents have been considered.

In response to a question from Councillor Henry, the Environmental Health Manager confirmed that it is up to the Applicant to submit the Noise Management Plan. Environmental Health need to look at the Plan to see what the Applicant intends to do and give guidance if necessary.

Councillor Henry asked the Environmental Health Manager if she had any concerns as to why the Management Plan was not forthcoming and responded that she would expect to see it shortly.

Councillor Henry asked that, if the application should be granted, whether the Noise Management Plan should be produced and agreed by the Council before any noisy event takes place.

Councillor Gillbard asked whether the Variation could come into force before Environmental Health seeing the Noise Management Plan?

The Legal Advisor confirmed that the Plan should be submitted before a noisy event takes place.

Councillor Gillbard asked Mr. Butcher if the noise level had gone down over the past six months or so. Mr. Butcher said it was difficult to say. The issue with the smokers is ongoing and the doors still open when patrons come and go. He tries to take a relaxed attitude and not complain every time. He reiterated his point that noise escapes from the premises when the outer doors are left open even though the inner doors are shut.

Questions from Members of the Sub-Committee

In response to a question from Councillor Reed, the Applicant confirmed that two music functions are held monthly.

The Sub-Committee adjourned at 10.40 a.m. to consider the application and reconvened at 11.33 a.m. to deliver their decision

RESOLVED

That the application be granted, subject to the following conditions that the Sub-Committee believes will satisfy the licensing objective of prevention of public nuisance:

- (1) all the existing Club Licence conditions will carry over to the new licence;
- (2) the Applicant shall submit a Noise Management Plan to be agreed by the Noise Protection Team. The Noise Protection Team will review the Noise Management Plan on an annual basis;
- (3) the designated smoking area shall be to the rear of the premises; and
- (4) the fire door that opens into Cyprus Road shall not be used as an access or egress route to or from the premises other than as a fire escape route. This is to prevent public nuisance to the local residents in Cyprus Road.

Chairman.