

MINUTES

LICENSING OF ALCOHOL AND GAMBLING SUB-COMMITTEE

10 APRIL 2019

Present:

Councillors: Bassadone (Chair)
Howard
Link

Officers: Nathan March Licensing Team Leader
Usman Mohammed Litigation Barrister
Charlie Webber (Minutes) Corporate & Democratic Support Officer

**Other
Persons
Present:**

Alison Pryor	Applicants' Representative
Faye Messenger	First Applicant – owner of Woodland Weddings
Samuel Messenger	Second Applicant – co-owner of Woodland Weddings
Paul O'Day	Objector – Team Leader – Environmental Health
Neil Polden	Objector – Environmental Health Officer

The meeting began at 2.30 pm

1 MINUTES

The minutes of the meeting held on 22 November 2018 were confirmed by the members present and then signed by the Chairman.

2 APOLOGIES FOR ABSENCE

There were no apologies for absence.

3 DECLARATIONS OF INTEREST

There were no declarations of interests.

4 CONSIDERATION OF OBJECTIONS TO 14 TEMPORARY EVENT NOTICES UNDER THE LICENSING ACT 2003

The Sub-Committee were required to consider an application for 14 individual events, for which Temporary Event Notices (TENS) have been submitted for the following premises:

Woodland Weddings
Wick Wood,
Wick Road
Hastoe
Nr Tring
Herts

The Chairman introduced herself, the members on the sub-committee and the officers present.

Alison Pryor asked that as one of her applicants, Faye Messenger, was 40 weeks pregnant and was, in fact, being induced the very next day whether short breaks could be taken if necessary.

The Chairman and members agreed that short breaks could be taken.

The Chairman asked the members of the sub-committee to confirm that they had read the agenda. The members of the committee confirmed they had.

The Chairman noted that some papers had been submitted at very short notice and that those papers had not been read as thoroughly due to lack of time and that it was hoped that this would not happen in the future.

Alison Pryor noted that papers had been submitted the previous day along with guidance about providing paper copies to members. She continued that she had only received objections at 17:45 the previous evening and that she had been making her own submissions 'blindfolded' and had made reference to not being sure about concerns.

The Chairman asked why objections were made late.

P O'Day said that they had been submitted within 3 days on 2 April and that more information was later added to provide more clarity. He continued that Temporary Event Notices (TENS) have a very short timetable.

Alison Pryor added that she had received no detail and that separately, in correspondence with her and Cartwright King Solicitors a meeting had been set for 30 April to discuss concerns. She continued that she had hoped, especially with Faye Messenger's pregnancy that the meeting would have been sooner rather than later, and certainly before the sub-committee meeting.

P O'Day said that he had been out of the country and that the meeting had been arranged in his absence and that these concerned two separate matters with a degree of overlap. He continued that the Council had complaints from 2016, 2017 and 2018 and that he agreed that it would have been wise to have that meeting before this meeting.

Alison Pryor referred to the letter which provided the Notice of objection to Temporary Event Notice and drew attention to the Specific objection / representation which read: 'During the course of investigations last year (2018) Council officers are satisfied that the activity of woodland weddings amount to a statutory nuisance and is likely to recur'. She noted that this did not assist with particulars and that it was regrettable that detail only became clearer at 17:45 the previous day.

The Chairman asked N March if the legal requirements had been complied with and N March confirmed they had.

The Chairman asked N March if he had anything to add to the report.

The Chairman invited N March to address the sub-committee.

N March said that this hearing was to consider 14 individual events, for which Temporary Event Notices (TENs) have been submitted. He continued that the TENs were submitted all at one time by Woodlands Weddings and are all similar in nature. N March said that objections have been received by the Council's Environment and Community Protection department as it has concerns that permitting each of the events is likely to lead to public nuisance. He noted that pages 5 and 6 of the pack summarise the details of each event. N March continued that the events are all on weekends spread between May and September. He said that they all are submitted for a single location described as 'the first paddock as you turn into Wick Road from Hastoe on the right hand side for parking, and the adjoining woodland for the event'. N March continued that all events are for a maximum of 200 people; regulated entertainment, late night refreshment and sale of alcohol have been applied for in each case. He said that the forms were originally completed to include relevant entertainment, but it has been confirmed by Woodland Weddings that this was an error. N March noted that paragraph 2.5 on page 4 detailed what action can be taken by the Licensing Authority. He continued that the authority can issue a counter notice for any or all of the events that TENs have been submitted for which would prevent an event taking place, if it considers it appropriate to do so for the promotion of the licensing objectives, as a result of consideration of the objection that has been received. N March said that alternatively, the Authority can decide not to issue a counter notice for some or all of the events, permitting these events to go ahead. He continued that their site does not benefit from any permissions by way of a premises licence, and therefore it is not possible to consider adding conditions to any or all of the TENs. N March said that in arriving at its decisions, the committee should only consider the potential impact of each event in terms of the Public Nuisance objective and the licensable activities, matters of planning or other issues which cannot be connected to the licensable activities which the TENs are proposing should not be considered. He said that, however, Dacorum's local policy in regards to licensing does make it clear that public nuisance will be interpreted in a wide sense, meaning that issues of noise, vibration, light, litter etc. connected to the provision of licensable activities will be considered. N March noted that more details were attached in Annex P on page 135.

The Chairman invited the applicants' representative to address the sub-committee and asked how long they might need.

Alison Pryor responded that the length of time she might need depended on whether the sub-committee had had adequate time to look through the documentation. She

said that the applicants submit that they have not caused a statutory nuisance as alleged, or at all. Alison Pryor continued that the applicants taken their responsibilities to their neighbours extremely seriously, as can be seen from their marketing material and terms and conditions, extracts from which are provided at tabs 1, 5 and 6. She said of particular note were the following points:

- (i) The company aims to create “*low impact, sustainable weddings*” and to support “*a thriving rural economy*” – tab 1, p4;
- (ii) It “*is not the place for you if you want to play loud music throughout the night...we do not permit any music after 11pm*” tab 1, p12;
- (iii) “*We are an open air venue with a long term future plan. Council restrictions, and courtesy to our neighbours dictates that music must be inaudible by 11pm. We never allow music after 11pm and ask that guests are safely off site, or in their tents after midnight. We like to have fun but if you’re looking for a crazy all night party venue with fireworks this isn’t the place for you!*” - website FAQs, tab 1;
- (iv) “*Professional bodies and performing rights...levels of noise must be controlled at all times by noise limiters. The Management, who are the sole arbitrators of what may be deemed to be a public nuisance, may require noise levels to be lowered. Refusal to do so by you or your appointed agent could result in the electrical supply being cut off to the band/disco and music being discontinued for the duration of the function*” – terms and conditions, tab 5 p3; and
- (v) The “Music and Licensing” page of premises handbook – tab 6 p6.

Alison Pryor continued that performers are provided with clear information as to the use of the PA system and limiting noise in general (tab 2), consistent with the applicants’ wish and intention to be considerate, responsible neighbours and hosts. She said that against that background, the applicants are extremely disappointed by the objections to the TENs and the allegation that they have caused a nuisance. Alison Pryor referred to paragraph 13 of the applicants’ submissions for hearing which read that ‘It is respectfully submitted that the lack of detail in the notice of objection makes it difficult to respond in specific terms to the allegation that the applicants have caused a nuisance. In particular, there is no information as to: (i) the dates in respect of which complaints were received; (ii) at what time the alleged nuisance arose; (iii) the duration of the alleged nuisance; (iv) the precise nature of the nuisance (eg, whether it was music/ announcements/vehicle noise/setting up or dismantling equipment, etc); and (v) the level of the nuisance (in decibels).’ She noted that since then they had received a spreadsheet of complaints as well as scanned pages from P O’Day’s notebook. Alison Pryor referred to the document titled: Allegations of Noise Nuisance against Woodlands Weddings by residents of Hastoe and drew attention to section 5: Complainant evidence. She referred to the table in section 5 and the 3 complainants: C1, C2 and C3. Alison Pryor continued that investigations involved these 3 complainants. She noted that investigation of the properties of C1 and C2 found noise to be obtrusive but that investigation of the

property of C3 found noise to be unobtrusive. Alison Pryor said that P O'Day and N Polden had visited C1, but not C2. She continued that on the 1 September they had visited the site of Woodland Weddings but had met on the driveway 300m away. Again referring to the table in section 5, Alison Pryor noted that C2 had reported impact on the 7 July but that no TEN had been issued and that this reported impact could have been due to other venues, such as Hastoe Hall which has music until 11:30pm. She said that complainants were making complaints about the venue but that loud music could be coming from elsewhere. Alison Pryor noted that on the 18 August a notice was issued but that there had been no event, so that there was either no music or that it was coming from elsewhere. She continued that, with no criticism of the officers, that the assessment of level of noise is subjective. Alison Pryor referred to page 7 of the document titled: Allegations of Noise Nuisance against Woodlands Weddings by residents of Hastoe and drew attention to the table. She said that concerning noise levels and guidance, that Woodland Weddings lay somewhere between the middle and bottom rows of the table. Alison Pryor added that it was difficult to reconcile with P O'Day's handwritten notebook and wanted the sub-committee to consider fairness and how their events are being judged by standards. She continued that no complaints had been received about the setting up and packing away of events. Alison Pryor reiterated that 2 complainants were sometimes complaining when Woodland Weddings were not holding an event. Alison Pryor continued that notwithstanding the above, in broad outline the applicants contend as follows:

- (i) Whilst the objection notice refers to "investigations in 2018", the applicants were not spoken to by the Council and so far as they are aware, no officers attended any events in that year. Thus, the basis for the assertion in the notice that "officers are satisfied that the activity of woodland weddings amounts to a statutory nuisance..." is respectfully questioned;
- (ii) No formal complaint had ever been received prior to the notices of objection being served on 3rd April 2019, despite the premises having been in active use since 2014 and the applicants not having relaxed their approach in terms of noise levels since that time (indeed, they have arguably become more strict, with the installation of the bespoke PA system in 2017, with its noise limitation feature);
- (iii) The applicants recently appealed against the refusal to grant planning permission in respect of the premises. In a judgment delivered on 12th April 2018 (tab 3) the planning inspector specifically considered the possible impact of noise at para [64]: *"The council has not raised noise as an issue and no evidence, in terms of noise data, has been submitted to indicate that undue disturbance has been caused. The site is some distance from neighbouring properties and I am satisfied that the use can function without causing undue harm to neighbouring residents as a result of noise and disturbance"*;
- (iv) In 2017, the applicants installed a PA system which has a noise limitation feature and which must be used by performers/entertainers. Instructions for performers and for the

use of the PA system (tab 3, referred to above) make it clear that noise limitation is an absolute priority.

- (v) Notwithstanding the PA system described above, the applicants, as responsible and considerate operators of the premises, regularly check noise levels at events using hand-held monitors and are entirely satisfied that, even at peak times, sounds from events are at most faintly audible at the locations of the nearest properties to the premises (some 0.6 miles away – please see map at tab 4);
- (vi) The applicants keep a log of all events and can confirm that on no occasion has there ever been music after 11pm; and
- (vii) During the spring/summer seasons, other events are regularly held nearby, including raves and weddings hosted at Hastoe Hall. It is the applicants' position that noise from those events is often incorrectly attributed to Woodland Weddings.

Alison Pryor said that insofar as it is alleged that noise nuisance is being caused when the applicants set up and dismantle parts of the premises in the night/early morning before and after events, this is also denied. She continued that again, it is notable that no complaint about this has ever been received before and that the planning inspector did not consider that there would be any such nuisance when specifically considering the issue in his decision of 12th April 2018 at para [59]: "*The ... set up and take down timescale would have the potential to cause noise and disturbance during the evening and early morning period but the site is relatively remote from neighbouring houses such that the impacts would not be unduly harmful*" (please see tab 3). She said that in summary, therefore, the applicants deny that they have caused a statutory nuisance.

The Chairman asked the sub-committee if they had any questions.

Councillor Howard commented on the distances of the complainants' properties from Woodland Weddings and noted that it was quite a distance to hear noise from. She asked when it said that 'music was inaudible by 11pm', that this meant that music has got to stop before 11pm.

Alison Pryor confirmed that this was the case and noted that there had been no complaints about lateness of music, only volume. She continued that the applicants kept a log of finishing times and that they also had a decibel reader. Alison Pryor referred to page 12 of the Woodland Weddings brochure and the Frequently Asked Questions (FAQs) section of the website where it stated that should the noise exceed a certain level, that the electrical supply would be withdrawn.

Councillor Howard asked if the electrical supply had ever been withdrawn as a result of the noise exceed the level.

Faye Messenger responded that no, this had never happened.

The Chairman asked applicants to confirm if they lived around 4 miles away. Faye and Samuel Messenger confirmed that they did but that they both attended the events.

The Chairman asked if the equipment was kept at their own home.

Faye Messenger responded that the equipment was not kept at their own home but at a separate place from the site.

The Chairman asked how long it takes to set up and take down for events.

Samuel Messenger responded that they would start at 12:30 at night and would be setting up through the night and that packing up would take place on Sunday between 1 and 2:30pm.

The Chairman asked how many TENs had been submitted before complaints.

Faye Messenger responded that each year they submitted 15.

The Chairman asked if the TENs had been allowed before.

Faye Messenger confirmed that yes, they had.

The Chairman invited the objectors to make their submissions to the sub-committee.

P O'Day clarified that concerning notices, Environmental Health had 3 days to comment before making a binary decision either accepting or rejecting the decision. He said that no conditions could be added to these. P O'Day said that he joined Dacorum Borough Council in June 2018 and that this was the first time he had had the opportunity to object. He said he could not comment on previous TENs and that there had been a history of 7 complaints from 2016. P O'Day continued that the public cannot make objections to TENs notices. He said that in his new role since 2018 they had received many complaints about various things and that all were allegations until investigated. Paul O' Day said that complaints have been received from local residents due to noise from amplified music in connection with land at Wick Wood/Lila's Wood used to host of weddings, by Woodland Weddings. He continued that complaints have also detailed noise from the build-up of the venue which occurs in early hours of Saturday morning, and noise from guests departing the venue post wedding. P O'Day said that it is alleged by complainants this is the 3rd consecutive year of impact from the venue. He said that a recent visit to observe the activities taking place at site have identified that amplified music played at the venue is of a level that is regarded intrusive on the internal and external amenity areas at a nearby residential property. P O'Day continued that some of the factors that have led to this opinion include the duration for which music is present, the time of day it occurs, the loudness, regularity and the prevailing character of the area. He said in particular the frequency and regularity of weddings are considered relevant factors in reaching the opinion that noise from the premises is unreasonable. Weddings are identified as occurring on most Saturdays between June and September. P O'Day said that this has been evidenced from the number of Temporary Event Notices (TENs) granted to the site operators, which totals 13. He continued that diary sheet evidence compiled by complainants also provide corroborative evidence and regular and repeated impact. P O'Day said that factors which influence impact include the importance of the amenity or activity affected. He continued that the World Health Organisation (WHO) identify there is a higher expectation of freedom from noise during evenings and weekends. P O'Day said that

disturbance during these times is more important than impact during normal working hours. He continued that in this case impact has occurred over many consecutive Saturday evenings. P O'Day said that added to this is whether the intrusion is incongruous, obtrusive and out of character in relation to the normal sound environment expected in the locality. He said that within a rural community regular and repeated intrusion from amplified music is regarded as incongruous to the sound environment normally experienced. P O'Day said that the planning history for Woodlands Weddings also suggests that noise will be a recurring issue in future years. He continued that planning permission to regularise the use of the site was refused, and the decision upheld at appeal. P O'Day said that, however, under permitted development rights the site identifies that it can be used for up to 28 days a year, and most likely allowing up to 14 weddings. He continued that this number of events appears to be the case when taking into account the frequency of events recorded for 2018 coupled with the complaints of noise and TENS granted. P O'Day said that Dacorum Borough Council is of the opinion that statutory nuisance exists and is likely to recur due to the regular and repeated intrusion, and the likelihood this will continue into 2019 and beyond. He continued that it is recommended that an abatement notice should be served on Woodlands Weddings (subject to the conditions for service specified in section 80.2(C)). P O'Day said that the Council has attempted to assess the noise from the Woodlands Wedding premises made on 2 occasions, the 18th August and 1st September 2018. He continued that both visits were made around 21:30 and at a time complainants reported they were impacted by loud music. P O'Day said that no observations were made in connection with Woodlands Weddings from the visit of the 18th August. He continued that in connection with the visit on the 1st September this resulted in observations being made of activities at Woodland Weddings. P O'Day said that music from the venue was considered intrusive in both the internal and external amenity areas of [address redacted] (complainant C1). He said that Hastoe Village Hall was also noted to be active, but at the complainant property this was rendered inaudible. P O'Day said that, further all, complainants have specified the Village Hall does not cause any intrusion as events are held inside the building and does not impact them at their properties. He said that observations also included a visit to complainant C3. P O'Day said that at this location music was for the most part regarded as barely perceptible. He said that periods when music was noted to be perceptible this was not regarded as intrusive. P O'Day said that notes made at the time of the visit and shortly afterward are detailed at Appendix 2 of the report titled: Allegations of Noise Nuisance against Woodlands Weddings by residents of Hastoe. He finally reiterated his earlier statement that legislation does not permit conditions and that it was a binary decision.

The Chairman asked about the list of complainants and the number of complainants per year.

P O'Day said that there was a bigger impact to those living closer to the site.

N Polden confirmed that there had been 7 complainants in 2016, 2 complainants in 2017 and 4 complainants in 2018.

The Chairman asked about complaints referring to banging and chisels etc.

P O'Day said that he could not comment on anything before 2018 but that they had received complaints about set-up. He continued that the nature of complaints

included noise, music, banging, clanging, set-up etc. and people leaving the site. P O'Day said that one complainant had found a guest of Woodland Weddings in their kitchen.

U Mohammed said that this was not relevant as it could not be evidenced and did not relate to the public nuisance objection.

P O'Day confirmed that the key element of complaints was music, set-up and movement. He continued that there had been no complaints at all past 11:30pm.

The Chairman asked about Hastoe Hall.

P O'Day confirmed that Hastoe Hall do have music past 11:30pm.

Councillor Link asked about Complainant C on the list of complaints and asked whether they lived in the nearest property to the site.

P O'Day confirmed that yes, they did.

The Chairman asked is parking was adequate at the site.

U Mohammed said that this was not relevant as it does not form part of the report. The Chairman asked if there were any further comments.

Alison Pryor referred to the idea that people were leaving the area due to noise and choosing to go out. She said that there was no evidence of people leaving the area to avoid noise etc. Alison Pryor said that Woodland Weddings held an Open Day each year for residents of the area and that this was why there were more notices than evening events. She said there was no evidence of complaints about setting up etc. and that, with respect, this could not be raised. Alison Pryor confirmed that the change of arrangements to move equipment elsewhere had started on 1 March. She continued that the applicants did not want to specify the precise location due to previous incidents of arson which have been reported to the police. Alison Pryor said that the applicants had been both professionally and personally affected. She noted that the chainsaw complaint was unrelated to the site and it could have been something to do with cutting down trees elsewhere. Alison Pryor continued that officers had not spoken to the applicant despite an event taking place on 8 September where no objection had been taken to noise levels.

U Mohammed asked when this TEN was issued.

Faye Messenger confirmed that the TENs were issued all at the same time. Alison Pryor said that on the 1 September there was a DJ, not a live band. She said that equipment used for setting up included a hammer and a battery-powered handheld drill. Alison Pryor said that C2 lived closer to Hastoe Hall than Woodland Weddings. She added that the way in which events were set up has been the same throughout the whole time and the only thing that had changed was the storage of equipment. Alison Pryor noted the planning application of January 2018 and that no complaints had been raised then.

The Chairman stated that planning work was different to Environmental Health.

Alison Pryor asked if the applicant, Faye Messenger, could play videos of the sound outside Hastoe Hall.

Councillors agreed that this was fine.

Faye Messenger played the videos and said that it was from the houses either side of Hastoe Hall.

Samuel Messenger said that residents claim that Hastoe Hall is an indoor venue but that catering happens outdoors in the car-park.

Faye Messenger said that Hastoe Hall is next door to complainants properties.

Faye Messenger went to another date and played another video.

Faye Messenger said that the video was taken on the road outside Hastoe Hall, about 20m from properties.

The Chairman asked the committee members if they felt they had enough information to make a decision.

The committee agreed.

The meeting was adjourned at 4pm

The meeting reconvened at 4:25pm

The Chairman noted that it had been a difficult afternoon, particularly concerning difficulty with equipment.

Resolved

The Committee have heard submissions from Ms Pryor on behalf of the Applicant and Mr O'Day on behalf of the Objector.

The Committee decision reached applies equally to each of the 14 temporary event notices the subject of this hearing.

The Committee have resolved that they cannot be satisfied on reasonable grounds that the granting of the 14 temporary event notices shall be against the promotion of the prevention of the public nuisance objective.

The Committee have noted that the Council did not make reference to any noise complaints within the application before the Planning Inspector despite the records being held since 2016. The Committee also note that only one visit to the site has resulted in evidence of possible noise nuisance. The Committee further cannot be satisfied on reasonable grounds that any or all of the noise complaints being received are attributable to the venue in question.

The Committee, therefore, decide not to take any action.

The Committee do note that should the events in question proceed and complaints continue to be received and are appropriately investigated by the Council, there are powers available to the Council to address these complaints.

The Chairman said she hopes Woodland Weddings can carry on marrying people. She thanked everyone for their attendance.

The Meeting ended at 4.31 pm