

Licensing & Regulatory Panel

Minutes of the Licensing & Regulatory Panel held remotely, on Tuesday 17 November 2020, at 10.00am.

Present: Councillors Evans, Grey and Redford.

Also Present: Mrs Dury (Principal Committee Services Officer), Mr Edwards (Committee Services Officer, observing only), Ms Russell (Licensing Enforcement Officer), Mr Walton (Digital Content and Social Media Officer, responsible for livestreaming the meeting to YouTube), and Mrs Gutteridge (Council's Solicitor).

1. **Apologies and Substitutes**

Councillor Redford substituted for Councillor Illingworth.

2. **Appointment of Chairman**

Resolved that Councillor Redford be appointed as Chairman for the hearing.

3. **Declarations of Interest**

There were no declarations of interest made.

The Chairman asked the Council's Solicitor to explain a late request made by one of the Interested Parties, Mr Papettas. The Council's Solicitor explained that Mr Papettas had registered an objection to the application in the required timescale but his request to speak at the meeting did not arrive within the deadline for registering to speak, which was five working day prior to the date of the meeting. Prior consent had been given from all parties, including the applicant and Members of the Panel, to allow him to speak at the meeting. The Chairman explained that the Council had received an email from the applicant giving his consent and double-checked that Members were happy for Mr Papettas to participate.

4. **Application for a Premises Licence under the Licensing Act 2003 for the Field off Barcheston Drive, Hatton, Hatton Park, Warwick**

The Panel considered a report from Health and Community Protection which sought a decision on an application for a premises licence for the Field off Barcheston Drive, Hatton, Hatton Park, Warwick.

The Chairman asked the members of the Panel and officers present to introduce themselves. The other parties then introduced themselves as:

- Mr O Burman, the applicant;

- local residents: Mrs C Corby, Mr S Smith, Mrs K Smith, Mrs H Fitzpatrick, Mrs L Henderson, Mr L Hall, Mr T Papettas and Mr J Allen; and
- Councillor J Matecki, Ward Councillor.

The Council's Solicitor explained the procedure for the hearing and informed those present that the Panel would endeavour to make a final determination that day, which would be circulated to the applicant via email. A summary of the decision would be published on the Council's website and written copies of the decision would subsequently be posted to all those who had made representations in relation to the application. She further explained that at the end of the hearing, the Panel would consider its decision, during which time all parties would be asked to leave the meeting and a new meeting would be created for Members, herself and the Committee Services Officer. Her role was only to provide legal advice, and not to make any recommendations as to the determination to be given.

The Licensing Enforcement Officer outlined the report and asked the Panel to consider all the information contained within it in order to determine if the application for a premises licence should be approved and, if so, whether the licence should be subject to any additional conditions.

Mr Burman, trading as Kingstanding Events Limited, applied for a new premises licence at Field off Barcheston Drive, Hatton Park, Hatton, Warwick on 1 October 2020.

The licensable hours and activity originally requested by the applicant were:

| | Opening Hours of the premises | Live music Indoors only | Supply of Alcohol for Consumption on the Premises |
|-----------|-------------------------------|-------------------------|---|
| Monday | 07:00 to 22:00 | 07:00 to 22:00 | 16:00 to 22:00 |
| Tuesday | 07:00 to 22:00 | 07:00 to 22:00 | 16:00 to 22:00 |
| Wednesday | 07:00 to 22:00 | 07:00 to 22:00 | 16:00 to 22:00 |
| Thursday | 07:00 to 22:00 | 07:00 to 22:00 | 16:00 to 22:00 |
| Friday | 07:00 to 22:00 | 07:00 to 22:00 | 12:00 to 22:00 |
| Saturday | 07:00 to 22:00 | 07:00 to 22:00 | 12:00 to 22:00 |
| Sunday | 07:00 to 22:00 | 07:00 to 22:00 | 12:00 to 20:00 |

The proposed operating schedule was attached as appendix 1 to the report. Mr Burman currently held a Street Trading Consent (WDCSTC00185) for the premises to sell hot and cold drinks from 08:30 to 14:30 Monday to Saturday. This was issued in June 2020.

The applicant had agreed conditions with Environmental Health, Warwickshire County Council Safeguarding and Warwickshire County Council Trading Standards, which were attached as appendix 2 to the report. Their objections were subsequently withdrawn.

Mr Burman, on behalf of Kingstanding Events Limited, offered further conditions to be added to any premises licence issued. These were attached as appendix 3 to the report. He also amended the proposed licensable hours of the premises to:

| | Opening Hours of the premises | Live music Indoors only | Supply of Alcohol for Consumption on the Premises |
|-----------|-------------------------------|-------------------------|---|
| Monday | 12:00 to 17:30 | 12:00 to 17:30 | 12:00 to 17:00 |
| Tuesday | 12:00 to 17:30 | 12:00 to 17:30 | 12:00 to 17:00 |
| Wednesday | 12:00 to 17:30 | 12:00 to 17:30 | 12:00 to 17:00 |
| Thursday | 12:00 to 17:30 | 12:00 to 17:30 | 12:00 to 17:00 |
| Friday | 12:00 to 20:00 | 12:00 to 19:30 | 12:00 to 19:30 |
| Saturday | 12:00 to 20:00 | 12:00 to 19:30 | 12:00 to 19:30 |
| Sunday | 12:00 to 16:30 | 12:00 to 16:00 | 12:00 to 16:00 |

The Licensing Department had received twenty-three objections to the application and twelve representations in support of the application from interested parties. These were attached as appendices 4 to 38 to the report. Under the Licensing Act 2003, if representations were received in relation to an application, a hearing must be held to consider the representations.

A satellite image of the field was attached as appendix 39; a map of the area as appendix 40 and photos of the unit where the alcohol would be sold were attached as appendix 41. Further photos of the immediate area would be shared at the meeting if requested.

A copy of the statement of licensing policy was attached as appendix 42 to the report.

(Mr Corby joined the meeting whilst the Licensing Enforcement Officer was making her statement.)

Mr Burman explained that a couple of years ago, he had decided to leave his job as a project manager, and set up an Events company holding wedding receptions. The first two years were successful, and as 2020 approached, a bar he had set up in a horsebox added to the services he was providing. The Covid-19 Pandemic wiped out his income for the year, not helped by the fact he had invested all his capital in a barn conversion. He decided to invest further in the horsebox so that fresh coffee could be served from it, making use of an unused field backing onto Hatton Park. This received a positive reaction from many local residents who were pleased to have a focal point to meet friends in a safe and picturesque environment. His understanding was that when the housing estate had been developed, residents were promised various amenity services which had never come to fruition.

Mr Burman had been able to sort out any concerns people had as they were reported to him. He mentioned an example of the noise of the generator, which he sorted using noise muffling measures such as straw bales. He had also hidden the portable toilet which had been hidden from

sight by camouflaged netting. He had been completely open and accessible to talk to since the horsebox service had been considered and felt many would agree. However, some people had not been willing to speak to him and so he had been unable to appease them. He wanted his venture to be a success and a valued addition to the community.

The addition of the sale of alcohol had arisen purely because his clientele had made the request, so he submitted an application. It had so far proven to be a learning curve for him because some of the reactions that the application had generated. Whilst he had put much consideration into his application, his original application had left far too many areas of concern, so he consulted a few local residents and then amended his application to allay their concerns. He was very willing to seek compromise to ensure his venture only had a positive impact.

Mr Burman then stated the ways he would use to ensure his business was a positive impact on the community:

- He would run a membership scheme, which would have a strict code of conduct. Members would be required to live in close or near proximity to the site and had to be above a certain age. The membership scheme would mean that people would not drive from other localities to use the facilities and would therefore not drive on Barcheston Drive.
- There would be a limit of 50 people on site at any one time. (He clarified that he had not made this clear in the initial application.)
- The music referred to in the application would only be what was played via a connection from his phone to small speakers. He was already doing this in the horsebox and he was not aware that this had been raised as a matter of concern to-date.
- Adequate recycling bins would be provided on site to ensure litter did not become an issue of concern.
- He had reduced the opening hours on the application to finish at 19:30 on Fridays and Saturdays, following a request from residents living alongside the bridal path who had young children and needed to get them to bed.
- The premises would not be open after dark so lighting, (which had been raised as a concern), would not be required.

Mr Burman was aware of concerns that had been raised and felt that, given an opportunity, these could be addressed.

In response to questions from the Panel, Mr Burman explained that:

- The primary method to promote the coffee box was using an Instagram page, which reached a wide audience. He also used a local Facebook page "Hatton Park Locals". Following a request from local residents, he had agreed to promote the sale of alcohol on Hatton Park Locals exclusively. He would continue to use the Instagram page purely for promotion of the coffee box, but with no mention of alcohol.

- To ensure his membership scheme was exclusive to local residents, he would determine a catchment area around Hatton Park, and he would consider also including regular customers from just outside this who were already using the service.
- If members brought along friends, then they would be taken into account for the 50-person on-site limit, and these friends would be expected to abide by the code of conduct; failure to do so would result in the member losing their membership. However, if bringing friends was not acceptable, then he was prepared to insist that the only people who could attend were members only.
- If his licence were to be granted, he would hire additional staff to ensure that the 50-person limit was adhered to and that the customers were served with drinks.
- The Horsebox would only operate into early evening during spring and summer months, which meant that it would be still light during operating hours. In autumn and winter, it would only operate during daytime hours. Had a licence just for six months each year to operate into early evening been a possibility, he would have applied for that.
- He had not considered setting a time by which children must not be on-site so that they would not be in attendance when alcohol was being sold, because he did not think 19:30 hours was late.

In response to questions from Councillor Matecki, Mr Burman explained that:

- Initially, the land where the Coffee Box was sited wasn't grassland, it had already been filled with hard-core, which he believed was leftover from the development of the housing estate, so the area had not been grassland. He did not think planning consent was required for portalooos. He also felt that anything he may have done in respect of additional hard-core came under permitted development rights.

(At this point in proceedings, the Council's Solicitor drew attention to the fact that planning permission was not directly relevant to a licensing hearing although there was some cross-over at times. However, permitted development right might apply and that if the license was granted, it did not follow that planning permission was also granted and separate enquiries should be made with the Planning Department to ascertain if further consents were required.)

- He was also planning to serve mulled wine during the day.
- He was unaware that there had been any problems caused to nearby residents from unpleasant odours coming from the portalooos. They were emptied regularly and they were designed so that odour was not an issue.
- The reason he was applying for the licence to serve alcohol was purely because his customers had asked him to do so. A need to make more money to ensure viability had not entered his

considerations; he had made the application because he had been asked to provide this service and a lot of people would enjoy it.

- The generator he used was powered by petrol, not diesel and was low output so it did not use much fuel. He had already put in many "green" initiatives and if things proved successful, he hoped to do more. Currently there was nothing further he felt he could do with the resources he had at his disposal to do anything more to reduce his carbon footprint.

The Chairman then asked Mr Burman how he would tackle the issue of additional parking the additional hours he was applying for might create. Mr Burman pointed out that plenty of people parked their cars in the nearby layby who were not his clientele; he had witnessed Mr Fitzpatrick photographing three vehicles parked there, and only one person had used the Coffee Box. The other two vehicles remained there all day and were nothing to do with him. All sorts of people used the layby and did not use his service. He also did not think there was anything wrong with people parking in the layby to buy a coffee to go from the Coffee Box. In respect of the alcohol sales, a request in the membership code of conduct would be that people walked to the field and did not drive. He would only be opening the Coffee Box for the sale of alcohol in evenings when the weather was pleasant so people could be expected to walk. He may even consider refusing service to anyone that drove in the evenings. If people brought friends from outside the designated membership boundary, then he would expect that these friends would park by the member's house and they would all walk to the field together. He felt this was a simple request to make of his members.

In response to a question from Councillor Grey, Mr Burman stated that he would not serve non-members who turned up out of the blue. In an ideal world he would love to be able to serve them but given the feeling of concern he was sensing, he would "play by the book".

Mr Burman explained that he was complying with current Government guidance over Covid-19. His business offered a takeaway service only and he had removed all tables and chairs. He had signs asking people to come up to the counter for service only in their household bubbles and for them to wear masks. It was an "one in and one out" policy. If the licence were to be granted, then he would need to put in additional measures, which would include hiring additional staff. Currently he would not be allowed to serve alcohol because of the Covid restrictions, but when it became permitted again, he would ensure that satisfactory measures were in place.

The Chairman then opened the floor to the interested parties to ask Mr Burman questions; Councillor Matecki confirmed that he did not have questions to ask at the present time.

Mr Corby asked that whilst Mr Burman had informed those present at the hearing that he had consulted with residents on the housing estate, how had he consulted with the wider local residents. Mr Burman said that he had posted regularly on the Hatton Park Locals Facebook page, which

allowed members to publicly or privately message him. He had also posted a sign by where current public notices were posted, giving people his contact details to inform him of any issues they had with his application. He was also on-site at the Coffee Box from 10:00 until 14:00 and he was very approachable.

Mr Corby then pointed out that Hatton Park Locals Facebook page was not limited just to local residents, and asked Mr Burman how he would ensure his posts were only seen by local residents. Mr Burman accepted that he was not in control of who saw the posts, but would find it difficult to apply such a filter.

Mrs Smith asked for clarification on when coffee would be served and when alcohol would be served, given the generator was not powerful enough to power both the coffee machine and the beer pumps at the same time. Mr Burman explained that alcohol sales would only take place on Fridays and Saturdays with the later closing times (although he was considering serving mulled wine alongside coffee in winter months). On Fridays and Saturdays, he anticipated serving coffee between 10:00 and 14:00, then he would close for a couple of hours to make a changeover and would then re-open to sell beer and wine. He had not yet wholly decided whether he would operate on Sundays.

Mr Papettas asked how noise pollution would be mitigated from the people present. Mr Burman did not think there would be a big problem because of the early closing time and only operating to sell alcohol in spring and summer months. Mr Papettas felt that the residents' view from their homes was affected by the horsebox and Mr Burman commented that only the top of his lorry was visible from above the hedge, and beyond that was countryside. He felt that the horsebox fitted in well with the agricultural setting, only half of it was visible and it did not block the view of the open countryside. The Chairman interjected and pointed out that the Panel could only consider the licensing issues, not planning issues.

Mrs Fitzpatrick informed the Panel that there were 2,400 members of the Hatton Park Locals Facebook page so she was concerned that the sale of alcohol would be publicised quite widely. She informed the Panel that the layby was actually for buses and she stated that people parked in cars there and did use the Coffee Box. She acknowledged that Mr Burman had been approachable and she had written to him with various concerns, including the fact that he was operating without any staff. She read out his response to her which said that he would manage the alcohol sales alone, as he did with selling coffee, however, given the sensitivity, he would "start off" by employing extra personnel. She was also concerned about the noise 50 people would make. Mr Burman responded that he accepted those points but that the email he had sent to her should not be taken as "absolute gospel" because since he started the Coffee Box, he had adopted a flexible attitude and had adapted. He would definitely start with more staff when he sold alcohol and if he was successful, there was no automatic assumption that he would revert to just himself managing alcohol sales. He did not think there was any proof that his service was bringing people to the area to park in the layby; there had always been

people who parked there for a walk and now, they may see his horsebox and buy a coffee. The Council's solicitor reminded those present that in this stage in proceedings, people were meant to ask questions and they would get a chance later to make statements.

In response to a question from Mr Corby about ensuring people consumed alcohol on site, Mr Burman explained that some tables and chairs would be made available and some would be removed and put away each night.

Mr Allen was concerned about people parking in the cul-de-sac, and Mr Burman said he could put signs up asking people not to park there and he would ask his customers not to do that. If he became aware that certain people were doing this regularly, he would refuse to serve them.

Councillor Grey asked Mr Burman what he did currently to promote his business and what would he do if the licence was granted to make it clear that the service was for residents only within the catchment area he had set. Mr Burman explained that he currently used Instagram for its businesses page and forwarded this onto the closed Facebook page. With the licence, he would only use the closed Facebook page "Hatton Park Locals". Should the Panel deem this unacceptable because of the numbers of people on this page who were not necessarily local, then he would likely limit promotion to word of mouth from within the Coffee Box. He probably would not use TripAdvisor other than to promote the coffee sales.

In response to a question from Councillor Matecki, Mr Burman explained that only Members would be able to purchase alcohol, guests would be reliant on members for purchase of alcohol.

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Mrs Henderson felt that Mr Burman was being disingenuous because he had advertised his business with posters on the Birmingham Road as Coffee Box and Bar. Mr Burman explained that the handle "Coffee Box" had already been taken on Instagram and there were coffee bars in existence, so the name did not insinuate that he was selling alcohol.

The Chairman called on Councillor Matecki and interested parties who wished to make their closing statements.

Councillor Matecki expressed admiration for the initiative shown by Mr Burman but:

- The application was inappropriate on Green belt land and the site where it was located was not appropriate.
- It did not serve the village; half of the residents lived closer to the Hatton Arms.
- There were a lot of grey areas and Mr Burman was changing what he was going to do as the hearing progressed.
- It was not a well thought out idea, there would be traffic issues and people could not be prevented from using their cars.
- Residents would be affected by the noise of 50 people.

- It did not set a good precedent to give such permission on Green belt land.

Mrs Corby raised the following matters in her submission:

- She admired and understood what Mr Burnam was trying to achieve in difficult times, but not at the expense of the wellbeing of local residents.
- She had raised concerns at the Parish Council meeting he had attended and despite the fact that he knew how to contact her, Mr Burnam had not done so. She felt that whilst some consultation had taken place, he had not properly consulted with people who had raised concerns.
- Her house backed onto the field where his business was operating and people using the service could see right into her garden and kitchen window. This loss of privacy meant she was not using her garden and had the blinds closed for much of the day. This loss of privacy would become worse if evening hours were permitted.
- She was affected by the noise of the generator and the music. If 50 people were permitted, then the effect of the noise would be greater.
- Whilst there were positive comments on the Facebook page about the service, anyone expressing negative comments was trolled and she felt this discouraged comments, meaning that Mr Burman might be unaware of the strength of feeling.

Mrs Fitzpatrick raised the following matters in her submission:

- She objected to the application on the grounds of public nuisance and public safety and was affected by the noise and view of the business from her house.
- The land was agricultural land and was used for grazing sheep.
- The site was immediately adjacent to several residential properties and the horsebox was right up against the boundary.
- The proposals as applied for meant that it could be like having an outdoor party on her doorstep every day and for the business to be financially viable, it would need to be operating frequently.
- It would cause stress to those living close, wondering when the "pop-up" pub would be operating.
- It was too close to people's home.
- Just because people could walk there did not mean they would walk there.
- The licence would affect the wellbeing and health of local residents.

Mrs Henderson raised the following matters in her submission:

- It would not be a great place to live if the horsebox was allowed to operate selling alcohol.
- 50 people drinking alcohol and music would be noisy, and she would be affected because her house was very close and it would cause a great deal of noise nuisance local residents.
- Parking had become a problem in the layby since the Coffee Box was established and she had been asked for directions to the Coffee Box more than once by drivers, and his street signs along the

Birmingham Road was bringing commercial traffic into a residential area to the detriment of the residents.

- He was not advertising his business just locally and for a lot of people, the name Coffee Box Bar would imply the sale of alcohol also.
- Public nuisance was a main concern and the potential for this because people would be under the influence of alcohol and the affect this would have for children in the area.

Mrs Smith made the point that she had objected to the application as originally submitted and Mr Burman had tried hard to appease people's concerns, but even with the changes he had subsequently made, she objected and felt it was unworkable and was impacting people's lives.

(The meeting was paused at 11.48pm for five minutes during Mrs Smith's submission because of technical issues on the YouTube livestream.)

Mrs Smith had tried to work with Mr Burman and felt that he had made a real effort to sort any problems that had been raised. The noise made by the generator had particularly affected her and Mr Burman had tried to improve matters by using straw as a sound barrier, however the noise was still unbearable and would get worse with longer hours.

Mrs Smith was also concerned that the licence would grant wider powers than Mr Burman had stated he needed and she was concerned about what could be enforced and what would be enforced. When the Coffee Box had opened, she had thought it would be temporary, but now it seemed to be moving toward more opening hours and the sale of alcohol, and she was worried what powers he would get in the future on a Green belt site. Mr Smith then added to his wife's submission and stated that parking was a massive issue and cited what he had witnessed a couple of days prior, where three cars parked in the layby and two cars parked on the opposite side of the road. He felt the parking would get worse. The Coffee Box had had an impact on their lives, which they had accepted because of the difficulties faced by businesses during the pandemic. The proposals would make it a lot worse for all local residents.

Mr Hall hoped that the Panel would take on board the strength of feeling expressed by residents from all of the objections submitted. A "pop up pub" situated on Green belt land, immediately adjacent to a housing estate was not in keeping to the environment. He did not feel that this was a community project, despite the applicant's statements selling the venture as such. He felt that the application failed in all four categories stated under the Licensing Policy:

- Sale of alcohol and the numbers of people this would attract would contribute to crime and disorder, and the informal nature of the proposals would make this more difficult to control.
- It failed on Public Safety by virtue of failing on Crime and Disorder. The site was adjacent to a residential area for families.
- The noise, traffic, unsightly portals, the appearance of the horsebox all contributed to public nuisance.

- The pavement, bus stop and bridal way in the vicinity of the horsebox were used by many children living on the estate, and their safety was put at risk by the sale of alcohol in such an environment.

Mr Corby explained how the positioning of his house meant that he had a direct view of the horsebox and people being served with drinks. They could also see directly into his house and 50 people would be an issue, especially as Mr Burman would be placing tables and chairs for them to sit as opposed to what happened currently, when it was effectively a takeaway service. This could be up to 11.5 hours on Fridays and Saturdays with the increased hours applied for. For Mr Corby, this would not constitute a temporary arrangement if the horsebox would be trading lengthier hours during daylight. Next to a family housing estate, there was a risk of poor behaviour from intoxicated customers. Traffic had increased and not all of this increased traffic was caused by cars; other types of vehicles had increased, such as tractors. Groups of youths already caused problems on the housing estate and these proposals would only increase the problems. Mr Corby questioned whether security staff in a field next to a housing estate was something that was desirable. Mr Corby also felt that the generator would cause fumes next to an area set aside for drinking, and alcohol would be served in an open, ungoverned area. The Hatton Arms was only a 10-minute walk away from the estate. Mr Corby also felt that granting this licence would set up a precedent to grant a licence in open areas.

The Chairman then called on Members of the Panel and Mr Burman to ask the interested parties and Councillor Matecki questions, but no one had any questions they wished to ask. None of the interested parties nor Councillor Matecki had anything further they wished to add in light of anything said during the hearing. The Chairman then invited Mr Burman to make a closing statement.

Mr Burman felt that a lot of the comments that had been made at the Panel hearing had been fairly subjective. In summation he made the following points:

- A lot of residents who lived closer saw the venture as positive.
- The generator did not smell and he had tested the noise from it with a decibel meter on various days, because noise would carry on different days. He had taken readings between the generator and residents' properties immediately adjacent, and the readings were between the high 30's to the low 40's which was ambient noise levels, so he rejected the claims made about the noise from the generator.
- He was no longer advertising along the Birmingham Road and if the Council felt it necessary, it could prevent him from advertising on Facebook.
- He was not trying to be opportunistic, he was simply trying to get by.
- The music could not be heard at any distance and was there for ambience.

- He did not wish to be open all day and intended this for spring and summer months only.
- It could have a positive effect on mental health by providing people with a chance to socialise outside.
- He did acknowledge that some people parked up to get a takeaway coffee, but there was not a law preventing this. The lockdown meant that more people were walking, and were driving to areas, parking and then taking a walk.
- The two people from houses very close to the horsebox were his biggest customers.
- People who did not object to his business were not as emotional so were not present at the Panel.

At 12.15pm, the Chairman ended the remote meeting with the public present and a separate meeting was started at 12.31pm with the Members of the Panel, the Council's Solicitor, and the Committee Services Officers present, to enable the Panel to deliberate and determine the application.

Resolved that the licence be refused.

At a public hearing on 17 November 2020 Warwick District Council's Licensing Panel considered an application made under the Licensing Act 2003 by Mr Oliver Burman trading as Kingstanding Events Limited ("the Applicant"). The application was for the use of the premises described as "The Field, off Barcheston Drive, Hatton, Hatton Park, Warwick" for licensable activities namely the sale of alcohol for consumption on the premises and the playing of indoor live music. The hours applied for were as set out in paragraph 3.6 of the Licensing Officer's report ("the Report") and the Panel noted that the Applicant had amended the hours originally proposed. A map showing the premises was included at appendix 39 of the Report.

There were no objections to the application by any of the responsible authorities including the fire service, environmental health or the police. Twenty-three written representations objecting to the application and twelve written representations in support were received from members of the public.

The Panel had copies of all of the relevant representations in advance of the hearing. Mr Allen, Mr Hall, Mr and Mrs Smith, Ms Fitzpatrick, Mr and Mrs Corby, Ms Henderson and Mr Papettas attended the hearing and spoke objecting to the application. The Applicant Mr Burman attended and spoke in support.

Having listened carefully and having read all of the relevant representations the Panel determined that the main licensing objective relevant to this application was the prevention of public nuisance in terms of the impact that the grant of the licence may have on people living in the area. The Panel also considered that the public safety objective was also engaged to some extent as relevant issues were raised about the lack of lighting, waste disposal and the ground conditions. There was some discussion during the hearing about the green belt status of the field, visual amenity, the demand or need for this type of premises and concerns about car parking. The Panel did not take these issues into account when reaching their decision on the basis that they were not relevant to the licensing objectives.

In making their decision the Panel considered all of the relevant information provided in advance and at the hearing and took into account the statutory guidance and the Council's Statement of Licensing Policy. The Panel understood the difficult position the Applicant finds himself in due to the current situation and were sympathetic to efforts made to diversify and provide a service during such a challenging and unprecedented time. The Panel noted that the hours proposed would mean that the premises would only operate to 20:00 hours on Fridays and Saturdays, 16:30 hours on Sundays and 17:30 hours on Monday to Thursday. The Panel also listened carefully to the proposed conditions and operating schedule as set out by the Applicant where he explained that he would operate a membership scheme and restrict access only to members and their guests, members being required to live within the vicinity of the premises. It was understood that the Applicant would restrict capacity to fifty people and limit advertisement of the sale of alcohol to the local closed Facebook page. The Applicant also explained that he did not intend to install any lighting because of concerns about nuisance and that he would only be likely to trade in the spring and summer months.

The Panel noted that a street trading consent was granted in June 2020 that permitted the sale of hot and cold drinks from 08:30 to 14:30 Monday to Saturday and that the Applicant had been operating this regularly from the premises, trading as the Coffee Box. The existing operation and the diversification into the sale of alcohol did have

support from some local residents who considered that it would be a valuable asset to the community.

Many of the objections to the application came from residents who lived near to the premises and had experienced the operation of the Coffee Box. They voiced concerns about the nuisance that was caused by the noise and pollution arising from the generator and the noise of music and people congregating in what was formerly a quiet field. Those objecting to the application felt that the sale of alcohol and the longer opening times would increase the level of noise and disturbance to an extent where residents would be prevented from peacefully enjoying their homes and gardens. Some of the speakers who addressed the Panel explained that they had been disturbed by the operation of the Coffee Box over the summer but had been willing to tolerate this given the unusual circumstances that arose in 2020 and with the knowledge that trading would end at 14:30 and it was likely to be temporary, however, the prospect of the field having a permanent premises licence and becoming a "pop up pub" on a regular basis was a serious concern.

The Panel in reaching their decision considered that the grant of the application would be likely to cause public nuisance to local residents. The Panel considered that even limiting capacity to fifty people would still cause noise at a level that would cause disturbance in this particular location. The Panel also took into account the ability of the Applicant to play recorded music and live music which could cause further noise nuisance to the residents closest to the premises.

The Panel considered whether the conditions proposed by the Applicant and/or further conditions could be imposed that would be sufficient to enable a grant of the licence whilst preventing nuisance and protecting public safety. The Panel had some concerns in this regard; when asked how the fifty capacity limit would be enforced the Applicant explained that he would hire more staff but there did not appear to be any detail about how many staff he believed would be needed or what qualifications or experience they would be required to have. The Applicant was also unable to provide detail about how the proposed membership scheme would be administered or enforced. The Panel recognise it is important to consider each application on its own merits and on a case by case basis and this is a

somewhat unusual application in that it is for a rural field and not a building. The Panel did consider that the outdoor nature of the premises in this case restricted the ability of a licensee to control noise; for example, windows and doors could not be shut or customers prevented from going outside. Whilst it was acknowledged that the Applicant did not intend to trade in the autumn or winter months the Panel did feel that the lack of lighting on the site and the uneven ground had the potential to compromise public safety even with a terminal hour of 20:00 hours.

The Panel therefore, unanimously on the basis of the evidence presented to them, decided to refuse the application on the grounds that grant would have an unreasonable and disproportionate impact on the local community and would not promote the prevention of public nuisance or public safety.

(The meeting ended at 13.02pm)

CHAIRMAN
8 February 2021