

**West Malling**                      **568120 157816**    **16 December 2013**    **(A) TM/13/03558/FL**  
West Malling And                      **(B) TM/13/03557/FL**  
Leybourne

Proposal:                      (A) Section 73 application to vary conditions (relating to hours of restaurant use and noise levels) of planning permission TM/99/00046/FL (as subsequently varied by permissions TM/99/00835/FL and TM/01/00833/FL) for change of use to restaurant including alteration, restoration and single storey extension to existing building and replacement of garage block for staff quarters

(B) Erect a temporary marquee for six months of the year for private functions

Location:                      The White Swan 35 Swan Street West Malling Kent ME19 6JU  
Applicant:                      Swan Brasserie Ltd

---

**1. Description:**

- 1.1 Applications (A) and (B) for the Swan Brasserie premises are inter-related and therefore have been presented together within this single report.
- 1.2 The applicant originally submitted 3 planning applications: two S.73 applications to vary conditions and a full application for the erection of a marquee for 6 months of the year for private functions. However, in response to a request from the Council the applicant has combined the two S.73 applications by withdrawing application ref. TM/13/03559/FL and amending the application form relating to ref. TM/13/03558/FL. This single S.73 application now consolidates the proposed changes to 2 different conditions of the original restaurant permission within one application to seek one consolidated and up to date planning permission.
- 1.3 A Noise Management Plan has also been submitted that is relevant to both applications. This management plan provides a plan of conduct for operating the day-to-day restaurant use of the premises.
- 1.4 In addition to the amended application form, amended plans were received on 19 February 2014 revising the “red line” on the Location Plan and the green line on the Proposed Site Layout (Drawing no.DHA/9929/05) to more accurately reflect the area shown on the Premises Licence (the significance of which is explained later in this report).
- 1.5 Application (A) proposes, under Section 73 of the Town and Country Planning Act 1990 (as amended), to make changes to conditions of previous planning permissions. An application under Section 73 is, in strict legal terms, an application “for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted”. In

dealing with such an application, the local planning authority may refuse the application (in which case the pre-existing condition(s) will remain in force), or grant permission subject to conditions that are different from those that appeared on the previous permission(s). The precise form of those “new” conditions need not necessarily match any wording proposed by the applicant and in that sense this is not, strictly, an application to “vary” the relevant conditions to achieve specific ends. However, any conditions that are imposed must meet all the “tests” that apply to any other case where conditions are contemplated. Moreover, the legislation requires that the local planning authority can only consider the question of the conditions subject to which permission should be granted – in other words the principle behind the initial permission itself cannot be re-visited. The previous planning permissions in this case include the original permission for the change of use to a restaurant under reference TM/99/00046/FL, and planning permissions TM/99/00835/FL and TM/01/00833/FL which varied the original permission.

- 1.6 The first of the conditions proposed to be changed relates to the hours of the restaurant use. This condition, in its most recent iteration, currently states that *“with regard to the restaurant use of the premises, customers shall vacate the building by midnight.”*
- 1.7 The applicant has proposed that this condition be replaced with two new conditions: one of which proposes extended opening hours for the restaurant and the second imposing specific controls to restrict the times of use of the external outdoor areas of the premises.
- 1.8 The second of the conditions proposed to be changed relates to controls over the level of noise from the restaurant use. This condition currently states that *“noise from the restaurant shall be inaudible on the boundary of adjoining noise sensitive properties.”*
- 1.9 The applicant has proposed that this condition be replaced by a condition that takes a different approach (but with the same overall objective of protecting neighbouring premises) and that provides controls over the playing of music within the building and external areas of the premises.
- 1.10 Application (B) proposes that a marquee be erected for 6 months of the year, between 1 April and 30 September, for the purpose of private functions associated with the existing restaurant use. It is proposed to accommodate a maximum of 110 guests for sit down only meals for private functions. A small bar will be provided within the marquee for table service only.
- 1.11 The marquee is to be located in the rear garden and is to measure 20.7m x 8.1m x 4m high and will extend almost the full width of the site and in front (south) of the staff quarters building. It is to consist of a steel frame with a traditional white durable fire retardant polyethylene covering to the walls and roof.

1.12 A small external outdoor area will be associated with the marquee use which is marked in green on the amended proposed site layout (drawing no. DHA/9929/05A).

**2. Reason for reporting to Committee:**

2.1 Applications (A) and (B) are both of local public interest.

**3. The Site:**

- 3.1 The application site relating to Applications (A) and (B) is located on the north side of Swan Street, midway between the High Street and Police Station Road, in the historic centre of West Malling. It comprises a Grade II Listed hotel that was originally a late medieval open hall. The building has been re-fronted in stucco and has some C20 alterations. The building is large and prominent within the street-scene, situated on the front boundary of the site. The premises now house the Swan Brasserie restaurant/bar. A large courtyard is situated to the rear of the main building which is set at two levels with a step up to the rear. A long single storey staff quarters building, clad in painted horizontal weatherboards and clay roof tiles, extends across the full width of the site and up against the rear boundary. A small timber smoking shelter is positioned within the centre of the courtyard. A small section of the marquee is erected close to the eastern boundary and up against the staff quarters building. The site is enclosed on its east and west sides by high brick walls. Access exists down the east side of the main building which provides parking for several vehicles. The refuse storage area for the premises lies at the end of this access, immediately to the south of the small house No.37 Swan Street, which the application site wraps around.
- 3.2 The site is within the settlement confines of West Malling, the West Malling Conservation Area and an Area of Archaeological Potential. Swan Street is a Classified Road. The site is also designated as being within a Retail Centre under policy R1(1)(e) of the DLADPD.
- 3.3 The terraced dwelling of No.41 Swan Street, which is attached to the Nat West Bank building on its east side, is situated adjacent to the eastern boundary of the site. It has a vehicular driveway and gates between the application site and the dwelling and a large residential garden extends the full length of the application site and beyond. It also has a detached garage adjacent to the staff quarters building on the application site. A car parking area at the rear of the retail units of No.23-27 Swan Street lies to the west side of the restaurant building. A car park associated with offices at the rear of retail units fronting the High Street also lies further to the north, adjacent to the western boundary of the site opposite the courtyard and staff quarter building. The two storey dwelling of 2 Abingdon Mews and its residential curtilage lies to the north of the staff quarters building. Mill Yard,

the West Malling Post Office, the retail units of 14-20 Swan Street and accommodation and grounds associated with St Marys Abbey lie to the south, across Swan Street.

**4. Planning History:**

TM/59/10327/OLD grant with conditions 27 August 1959

Erection of 6 garages.

TM/63/10377/OLD grant with conditions 3 July 1963

New front elevation and extension to car park.

TM/99/00046/FL Grant With Conditions 29 March 1999

change of use to restaurant including alteration, restoration and single storey extension to existing building and replacement of garage block for staff quarters

TM/99/00835/FL Grant With Conditions 16 March 2000

removal of conditions 3 and 6 relating to TM/99/00046/FL (change of use to restaurant) - customers to vacate by midnight and restriction on playing of live/amplified music

TM/01/00833/FL Section 73 Approved 22 April 2002

Variation of condition 1 of permission TM/99/00835/FL to vary hours of the restaurant

TM/02/02044/FL Grant With Conditions 6 December 2002

Extension to staff accommodation to provide staff changing/toilet facilities

**5. Consultees:**

(A) TM/13/03558/FL:

5.1 PC: No objections.

5.2 Private Reps: 3/0X/0S/3R + site notice and LB/CA press notice. Three letters of objection have been received, two from the same neighbour. The following concerns have been raised:

- The extension of hours and use of the marquee for functions would result in additional parking and traffic pressures and noise disturbance from people waiting for taxis and from the comings and goings from taxis and mini-buses as well as staff cleaning up and leaving the premises.

- The extension of hours would result in further noise disturbance from later staff clear up operations and staff waiting to be collected after work.
- Noise impact from music being played in the external outdoor area.
- Doors will be opened and closed in the upper levels of the building where late night music will be played.
- Support of local taxi firms is not an appropriate argument for extending opening hours of the premises.
- The existing noise condition is still reasonable but if minded to grant permission the Council should provide a definition of background music.
- The Noise Management Plan should be reviewed.

(B) TM/13/03557/FL:

5.3 PC: No objections.

5.4 KCC (Highways): The site is in a sustainable location in the centre of the village and public car parks are located nearby. I do not consider that the proposal will adversely affect the highway safety or capacity, therefore I do not wish to raise objection.

5.5 Private Reps: 6/0X/0S/6R + site notice and LB/CA press notice. Six letters of objection have been received. The following concerns have been raised:

- The marquee is of a size and appearance that is out of scale and proportion with the surrounding buildings.
- The marquee will be visibly intrusive from neighbouring properties and its covering and appearance would not respect the character of the CA.
- Functions in the marquee and activities within the external areas of the premises would result in noise disturbance that would impact on neighbouring amenities and living conditions.
- There will be noise impact from the PA system and speeches in the marquee.
- The extension of hours and use of the marquee for functions would result in additional parking and traffic pressures and noise disturbance from people waiting for taxis and from the comings and goings from taxis and mini-buses as well as staff cleaning up and leaving the premises.
- There should be a restriction on the number of guests attending the functions relating to the marquee.

- The erected marquee is damaging lime trees in the neighbouring property adjacent to the eastern boundary.
- Bins are emptied late at night.
- The inclusion of the marquee would be overdevelopment of the site.
- The marquee is visible from No.41 Swan Street to the east and a screen should be erected along the boundary to lessen the noise and visual impact.
- A quarter of the marquee has remained erected over the winter period.

## **6. Determining Issues:**

- 6.1 In March 1999, planning permission was granted for a change of use of the hotel to a restaurant which included restoration of the building, an extension and replacement of the rear garage with a building for staff quarters (TM/99/00046/FL). Conditions on this original permission were subsequently varied under planning permissions TM/99/00835/FL (March 2000) and TM/01/00833/FL (April 2002). These included temporary changes to opening hours and a change to the permitted level of noise emanating from the premises.
- 6.2 The opening times are currently defaulted back to Condition 3 of permission TM/99/00046/FL - *With regard to the restaurant use of the premises, customers shall vacate the building by midnight.*
- 6.3 Noise from the use is currently controlled under Condition 2 of TM/99/00835/FL - *Noise from the restaurant shall be inaudible on the boundary of adjoining noise sensitive properties.*
- 6.4 The two applications brought before the Committee consist of proposed changes to the above two conditions and the addition of a proposal to erect a marquee in the rear garden area for a 6 month period each year for private functions. These inter-relate and therefore it is prudent that they be assessed and presented together.
- 6.5 The proposals also need to be assessed in the context of the new Premises Licence (Licence No. 13/00965/PREM) for the site, granted on 12 December 2013 under the Licensing Act 2003. The Premises Licence outlines the licensed opening hours and restrictions on the sale of alcohol, and the provision of live music, recorded music and light refreshments. Additional operational conditions have been specified within 4 Annexes to the Licence. It is important to understand that there is no absolute necessity for the terms of a Premises Licence and those of a parallel planning permission to precisely coincide. They are two separate regulatory regimes and the material considerations to each are different. However, those material considerations do to some extent overlap. It is therefore desirable that there be some affinity between the two and, purely in terms of

enforcement (on the one hand) and adherence (from the perspective of the operator and, indeed, third parties) there is merit in the two regimes working in concert, where that is legally achievable.

- 6.6 The two planning applications are intended both to formalise the unauthorised marquee use, which has been in use for the past few years, and to provide revised and additional conditions relating to the hours of the restaurant use and noise levels to better reflect modern day requirements and to provide improved enforceability.
- 6.7 The main issues to be considered are the effect of the proposals on the amenities of neighbouring occupiers, the aural environment of the local area, the visual amenity and character of the CA and impact on the setting of adjacent listed buildings.
- 6.8 The policies most relevant to this application are policy CP24 of the TMBCS, policies SQ1 and SQ8 of the MDEDPD, policy R1 of the DLADPD and paragraphs 56, 57, 60, 61, 129 and 131 of the NPPF.

(A) TM/13/03558/FL:

Hours of restaurant use

- 6.9 The existing condition controlling opening times for the premises requires patrons to vacate the restaurant building by midnight, this condition having been established for the premises in 1999. The planning application seeks to extend the opening hours to reflect more modern day requirements for a restaurant use in a rural centre. The opening hours proposed are as follows:

Sunday to Thursday 09:00 to 00:30 the following day  
Friday and Saturday 09:00 to 01:00 the following day  
Good Friday & Christmas Day 09:00 to Midnight  
New Year's Eve 09:00 to 03:00 on New Year's Day

With the exception of the specific provision for Good Friday and Christmas Day, these times reflect those specified in the recently granted Premises Licence.

- 6.10 In comparing the proposed hours to those approved by the earlier planning permissions, the opening hours for Sunday-Thursday are to be extended by 30 minutes, with the hours for Friday and Saturday being extended by 1 hour. I consider these hours provide acceptable increases that are robust and pragmatic in relation to the operation of the restaurant. I also consider that the introduction of an extended opening time for New Year's Eve until 3am the next morning to be an appropriate once-a-year exception. Hours for Good Friday and Christmas Day would maintain the midnight closure time. The proposed condition will also now provide an earliest opening time of 9am each day which was not previously provided for. These closing times are 30 minutes after the latest time specified in

the Premises Licence for the sale of alcohol and the provision of late night refreshments (apart from Sundays, when the interval is 60 minutes), and an hour after the latest time for the playing of live or recorded music (which is only permitted on Fridays, Saturdays and New Year's Eve). It is worth noting that some of the opening hours permitted under planning conditions in the past on a temporary basis allowed for occasional late night "extensions" for a limited number of "special occasions". The regime now proposed does not include any such occasional variations.

- 6.11 An additional condition is proposed that will provide a separate restriction on the times of use of the external outdoor areas between the rear of the restaurant and the area relating to the marquee. This area appears to have been used extensively for outdoor eating and so on during the summer months and this has, on occasions, given rise to concerns. The particular wording of the current (1999) relevant controlling condition means that its applicability to the external areas is debateable. It is proposed that the use of this external area for food and drinks will cease at 11pm each day, except for patrons completing a meal that they have already started and smokers using the designated smoking area, who are to vacate these external areas by 11.30pm. This reflects the restrictions outlined in Annex 3 of the Premises Licence. I am satisfied that the proposed times of use of the external areas of the premises are appropriate for the restaurant use it relates to and would sufficiently safeguard the amenity of neighbouring occupiers. This represents a more robust formula of control than currently exists.

#### Noise levels

- 6.12 The existing condition relating to the control of noise from the use of the premises requires noise from the restaurant to be inaudible on the boundary of adjoining noise sensitive properties. The proposal looks to replace this condition with one that provides a more bespoke, robust and enforceable noise control regime.
- 6.13 There are a number of proposed new conditions. These conditions restrict the playing of live and amplified live music to the first and second floors of the restaurant building only, with the doors and windows to be kept closed. This restriction is also outlined within Annexes 2 and 3 of the Premises Licence. The conditions will also restrict music played in the external outdoor areas of the premises to background music only. Background music is to be defined as recorded music played at a low level which is not the main focus of patrons and enables normal conversation to take place unhindered or unaffected by the playing of the music.
- 6.14 The playing of music, in particular within the external outdoor areas of the premises, can be an issue of concern for immediately adjoining neighbours. However, I consider that the restrictions within this condition will provide a clearer indication of appropriate types and levels of music able to be played on the premises and ensure that noise from music sources is contained within the



building and limited within the outdoor areas. Some level of other audible noise from patrons conversing and staff cleaning up can be expected with such a use in the centre of a market town. However, I consider that the new condition controlling opening times, together with the appropriate implementation of the submitted Noise Management Plan, would sufficiently limit these other noise sources, especially within the external outdoor areas where there is a greater potential for noise to carry. I am thus satisfied that the new conditions will adequately safeguard the amenities of neighbouring occupiers.

(B) TM/13/03557/FL:

Marquee for private functions

- 6.15 The restaurant has been using a marquee erected in the rear courtyard for private functions during the summer months for the past few years without the benefit of planning permission. On recent visits to the site, a section of the marquee was visible adjacent to the east side boundary, with the remainder of the structure apparently stored within it.
- 6.16 The applicant seeks planning permission to erect the marquee between 1 April and 30 September each year, to be used for private functions during the warmer summer period.
- 6.17 The use of the marquee is for private functions which I consider to be consistent with the restaurant use of the site and therefore acceptable in principle.
- 6.18 The marquee is large, providing a floor area of 168m<sup>2</sup>, and would extend near enough the full width of the site. The structure, though, is relatively modest in height (4m) and is much lower than the height of the adjacent staff quarters building. It is also temporary in appearance and its white polyethylene covering would not, in my view, be unduly distracting to the main listed building or the staff quarters building. Accordingly, I do not consider that the structure would harm the significance of the listed building, its setting with the other adjacent listed buildings or the character of the CA. The proposal therefore satisfies paragraphs 129 and 131 of the NPPF.
- 6.19 The marquee would be partially visible from the properties to the east and west above the boundary walls as, when fully erected, it would be located close to both boundaries. The staff quarters building completely screens the marquee from properties to the north. A car park lies adjacent to the marquee to the west and this helps to mitigate any harmful visual impact. The retained section of the marquee, when not fully erected, is currently partially visible from No.41 Swan Street. However, the high brick and stone wall that divides the properties screens a large part of the structure, a garage is sited adjacent to the marquee's north side and a row of 5 trees inside the boundary of No.41 provides a reasonable level of screening. In any event, I do not consider the marquee to be visually intrusive such that it would harm the outlook or amenity of the occupiers of No.41. The

occupiers of No.41, within their representation, have requested that additional screening along the boundary be provided adjacent to the side of the marquee; however the wall is already relatively high and I do not consider that such screening is justified in this case. The marquee also would not result in any unacceptable shadowing as the marquee is of a modest height and positioned adjacent to the neighbour's driveway.

6.20 The main issue here is the potential noise impact from the use of the marquee. The restaurant premises have been in existence since 1999 and occupy a central location in West Malling within a designated Retail Centres (R1) area where Class A uses, including A3 restaurant uses, are encouraged. I acknowledge that a number of residential properties surround the courtyard where the marquee is to be sited and that the juxtaposition of these different uses can create conflict. However, I consider that, with appropriate controls, noise impact and other nuisance from the addition of the marquee for private functions can be made acceptable from a planning point of view.

6.21 It is proposed that the use of the marquee would have the following restrictions:

- The marquee will be erected for a 6 month period between 1 April and 30 September each year. This will control the period of use of the marquee in a way that the Premises Licence does not. For the rest of the year the marquee will be for the most part dismantled, removed and stored within a small section of the marquee which is to be retained adjacent to the eastern boundary of the site.
- The marquee will be for pre-booked events and functions only and for no more than one pre-booked event or function on any given day. This is reflected in Annex 3 of the Premises Licence. It will also be used for no more than 4 pre-booked events within any one week. This provides a restriction that the Licence does not.
- The marquee and its associated external area will not be used by patrons between the hours of 10pm and 9am the following day. This is reflected in Annex 3 of the Premises Licence.
- Only background music will be allowed to be played within the marquee and its associated external areas up to 10pm daily, when the marquee is in use. Background music will be defined as recorded music played at a low level which is not the main focus of patrons and enables normal conversation to take place unhindered or unaffected by the playing of the music. Also all amplified sound played within the marquee or its associated external areas (for speeches etc) will cease by 7pm, other than background music. This provides a restriction that the Premises Licence does not.

- The use of the marquee is to be operated in strict accordance with the submitted Noise Management Plan. This is in addition to the Premises Licence.

- 6.22 The restriction on the number of private functions will limit the number of days the marquee would be in use during the 6 month period of use. The requirement for patrons to vacate the marquee and its external areas by 10pm will restrict the time each day that it is used to a time appropriately sympathetic to the expected night time amenities of neighbouring residents. This would, in my view, minimise the potential noise impact from the private functions. Furthermore it is noted that although the marquee area is to be vacated by 10pm, it has been stated within the Noise Management Plan that patrons will be directed to the first floor private bar at 9pm so that staff can clear the marquee area by 10pm.
- 6.23 The music played in the marquee area will be restricted to background music, which has been discussed at paragraph 6.13 above. The same controls will apply here. However, the marquee area can only be used up to 10pm on the days of use which would limit noise impact on neighbouring occupants.
- 6.24 Amplified sound from microphones used for speeches is to be restricted to 7pm. This is also outlined in the Noise Management Plan.
- 6.25 Overall, I am satisfied that the erection and use of the marquee for private functions would be an acceptable temporary and seasonal extension to the restaurant's existing facilities. The proposal utilises the site's centre of village location and promotes the growing vitality of the retail core of West Malling which is supported by Local and Central Government planning policy. I consider that the conditions, in conjunction with the submitted Noise Management Plan, provide an acceptable regime to minimise noise impact from the use of the marquee on neighbouring residential occupiers to an acceptable level.

#### Other Material Considerations

- 6.26 A Noise Management Plan has been submitted with both applications. This is a welcome addition to the working practices of the premises and provides an appropriate plan of conduct to manage the restaurant use so as to minimise noise impact from the premises' day to day activities.
- 6.27 It is also noted that the Premises Licence requires the licence holder to maintain a log book of noise incidents, which is required to be open to inspection by the Council's Environmental Health Officers and the Licensing Authority. A condition on one of the previous permissions (TM/01/00833/FL) also requires a log book to be maintained on the premises. It is suggested that this condition could be carried forward to any consolidated planning permission.

- 6.28 The refuse area for the premises is situated close to the eastern boundary adjacent to the dwelling at No.41 Swan Street. As the emptying of bottles and other rubbish into the bins in the refuse storage area can create substantial noise, a condition will be added to restrict the time of emptying such refuse in this area to between 9am and 11pm daily.
- 6.29 The site is within the centre of West Malling where retail and other A Class uses, essential to establishing a vibrant rural town centre, are encouraged. The proposals will increase the overall intensity of the restaurant use to some degree but I do not consider that the increase in patronage, given the premises' central location where public parking is provided and the West Malling railway station is only a short walk away, would result in any harm to highway safety in the area. KCC Highways has concurred with this view. The proposals therefore satisfy policy SQ8 of the MDEDPD.
- 6.30 I note the concerns raised by a number of local residents near to the application premises. These concerns relate chiefly to noise impact from the extended opening hours and private functions to be held in the marquee. Reference has also been made to some existing issues relating to music within the upper floors of the building, music and noise from the external outdoor areas, and noise from patrons and staff after close.
- 6.31 I am mindful that the proposed extended hours and use of the proposed marquee for functions will lead to some additional noise impact and that there is the likelihood of some additional disturbance from patrons leaving the premises. Notwithstanding this, a balance needs to be struck between promoting a vibrant and prosperous rural town centre and protecting neighbouring amenities.
- 6.32 As mentioned in paragraph 1.5, an application for variation of conditions does not provide an opportunity to reconsider the principle of the use of the premises – it is only the appropriateness of the conditions themselves that may be examined. I am of the view that the amended conditions now proposed, in conjunction with the recently granted Premises licence and compliance with the Noise Management Plan, will enable the premises to be operated without demonstrably harming the amenities of neighbouring occupiers. Similarly, with regard to the application for the marquee, I believe that the proposed conditions will adequately safeguard local residents' amenities.
- 6.33 Accordingly, the proposals would satisfy policy CP24 of the TMBCS, policy SQ1 of the MDEDPD and policy R1 of the DLADPD.
- 6.34 In light of the above, I consider that the proposals outlined in these two planning applications accord with the relevant provisions of the Development Plan and NPPF, and therefore approval is recommended.

**7. Recommendations:**

(A) TM/13/03558/FL:

**7.1 Grant Planning Permission** in accordance with the following submitted details:

Letter dated 19.11.2013, Other NOISE MANAGEMENT PLAN dated 19.11.2013, Other LETTERS OF SUPPORT dated 19.11.2013, Plan DHA/9929/03 dated 19.11.2013, Location Plan DHA/9929/01 A dated 19.02.2014, Other AMENDED APPLICATION FORM dated 19.02.2014, Letter dated 19.11.2013, subject to the following:

**Conditions**

- 1 The restaurant use of the premises, including any use of the private dining rooms for private functions, shall cease operating and patrons shall vacate the building by 00:30 Sunday night to Thursday night (i.e. by 00:30 Monday morning to Friday morning), by 01:00 Friday night and Saturday night (i.e. Saturday and Sunday morning), by midnight on Good Friday and Christmas Day, and on New Year's Eve by 03:00 on New Year's Day, unless otherwise agreed in writing with the Local Planning Authority. Following such closure, the premises shall not re-open for business before 09:00 on any day.

Reason: To safeguard the amenities of nearby residential properties and the local aural environment.

- 2 The use of the restaurant's external area marked (B) on the plan attached to this planning permission for the consumption of food and drink shall cease at 23:00 daily, except for patrons completing a meal and smokers using the designated smoking area. Patrons shall vacate this external area by 23:30 daily.

Reason: To safeguard the amenities of nearby residential properties and the local aural environment.

- 3 The external area marked (A) on the plan attached to this planning permission shall not be used by patrons between the hours of 22:00 and 09:00 the following day.

Reason: To safeguard the amenities of nearby residential properties and the local aural environment.

- 4 The playing of live and amplified live music shall only take place within the first and second floor of the restaurant building, with the doors and windows kept closed. No music shall be played in the external areas of the premises other than background music, and the playing of such music shall cease by 23:00 daily within the area marked (B) on the plan attached to this planning permission and by 22:00 daily within the area marked (A) on the plan attached to this decision notice.

Background music means recorded music played at a low level which is not the main focus of patrons and enables normal conversation to take place unhindered or unaffected by the playing of the music.

Reason: To safeguard the amenities of nearby residential properties and the local aural environment.

- 5 The use of the restaurant, including the internal and external areas, shall be operated in strict accordance with the Noise Management Plan hereby approved.

Reason: To safeguard the amenities of nearby residential properties and the local aural environment.

- 6 No refuse shall be emptied into the bins within the designated refuse storage area between the hours of 23:00 and 9:00 daily.

Reason: To safeguard the amenities of nearby residential properties and the local aural environment.

- 7 Any gates to be installed at the vehicle entrance to the site shall accord with the details approved under planning reference TM/99/00841/RD, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development does not harm the character and appearance of the existing building or visual amenity of the locality and to enable vehicles to stand off the highway whilst any gates are being operated.

- 8 The mechanical air extraction for the kitchen, including arrangements for the continuing maintenance of the equipment and any noise attenuation measures required in connection with the equipment, grease filters, pre-filters and odour treatment system shall accord with the details approved under planning reference TM/99/02730/RD, unless otherwise agreed in writing by the Local Planning Authority. No cooking of food shall take place unless the approved extraction system is being operated.

Reason: In the interests of the amenities of nearby properties.

- 9 Noise emissions from the extraction system and other fixed plant shall at no time exceed 35 dB(A) at the facade of adjacent premises.

Reason: In the interests of the amenities of nearby properties.

- 10 A log book of noise incidents shall be maintained at the premises, which shall be made available for inspection by the Local Planning Authority.

Reason: To ensure the use proper management of the restaurant use of the premises in order to safeguard the amenities of neighbouring occupiers.

(B) TM/13/03557/FL:

**7.2 Grant Planning Permission** in accordance with the following submitted details:

Letter dated 19.11.2013, Other NOISE MANAGEMENT PLAN dated 19.11.2013, Other LETTERS OF SUPPORT dated 19.11.2013, Plan DHA/9929/03 dated 19.11.2013, Block Plan DHA/9929/04 dated 19.11.2013, Floor Plan dated 13.12.2013, Email dated 12.12.2013, Location Plan DHA/9929/01 A dated 19.02.2014, Site Layout DHA/9929/05 A dated 19.02.2014, Elevations 01 dated 20.02.2014, subject to the following:

**Conditions**

- 1 The marquee shall only be fully erected between 1 April and 30 September each year. For the period between 1 October and 31 March each year the marquee shall be dismantled and stored as shown and described on Drawing No.01 - Marquee Elevations and Storage Details dated 20.02.2014, hereby approved.

Reason: To safeguard the amenities of nearby residential properties and the local aural environment

- 2 The marquee shall be used for pre-booked events and functions only, and shall be used for no more than 4 pre-booked events within any one week (Sunday - Saturday) and for no more than one pre-booked event or function on any given day.

Reason: To safeguard the amenities of nearby residential properties and the local aural environment.

- 3 The area marked (A) on the plan attached to this planning permission, which includes the marquee, shall not be used by patrons between the hours of 22:00 and 09:00 the following day.

Reason: To safeguard the amenities of nearby residential properties and the local aural environment.

- 4 No music shall be played within the area marked (A) on the plan attached to this planning permission, which includes the marquee, other than background music, and the playing of such music shall be restricted to 09:00 to 22:00 daily.

Background music means recorded music played at a low level which is not the main focus of patrons and enables normal conversation to take place unhindered or unaffected by the playing of the music. All amplified sound, including that for speeches, played within this specified area, other than background music, shall cease by 19:00.

Reason: To safeguard the amenities of nearby residential properties and the local aural environment.

- 5 The use of the restaurant, including the internal and external areas, shall be operated in strict accordance with the Noise Management Plan hereby approved.

Reason: To safeguard the amenities of nearby residential properties and the local aural environment.

Contact: Mark Fewster