

**ITEM 5 – ADDITIONAL INFORMATION FROM COMMUNITY
PROTECTION – DURHAM COUNTY COUNCIL**

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From: Mark Anslow <
Sent: 20 June 2023 12:10
To: Yvonne Raine
Subject: Hardwick hall, variations further information

Hi Yvonne,

Sorry for the further info at thi late stage.

However as discussed hopefully this will provide the committee some further context, especially in my absence.

regards

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MEMO



To: Yvonne Raine
Licensing Services

From: Mr Mark Anslow
Neighbourhoods and Climate Change

Date: 20 June 2023

Re: **Licensing Application Minor variation
Hardwick Hall Hotel and Hardwick Live, Sedgefield Stockton-On-Tees
TS21 2EH**

Please accept my apologies, however I am unable to attend the Hardwick Hall licence variation hearing, scheduled for the 22nd June due to prior commitments.

I wished to attend to provide the committee with further clarification in relation to our position as the responsible authority for the “prevention of public nuisance” licencing objective and on any technical matter pertaining to noise. However in my absence I am providing further rhetoric, to fully clarify our position and address points raised in representations as necessary, a member of my team will also be attending to answer specific technical noise questions only.

Firstly, to clarify my position and therefore expertise to comment on the above application. I currently manage the team who deal with noise complaints and the proactive monitoring of outdoor concerts etc. I have been involved in the investigation of noise complaints and acting as a responsible authority in regards to the “prevention of public nuisance” licensing objective with Durham County Council for 10 years. For approximately the last 5 years I have led on any noise issues relating to Hardwick Live and other events at Hardwick Hall. Myself and/or team members have undertaken monitoring for events carried out in 2021 and have been monitoring Hardwick live every year since 2008.

In terms of regulation of outdoor events, whilst there is no specific legislation in relation to this element there is a recognised national code of practice. This is called the Code of Practice on Environmental Noise Control at Concerts (pop code) and it provides quantitative thresholds based on number of event days and a methodology to establish and monitor these thresholds. This document is used nationally for the assessment and regulation of outdoor events.

We use this code of practice to ensure events in Durham are run within acceptable criteria and that there is a consistent and fair approach across the county to both organisers and residents. The code of practice works by way of the principal that noise break out from outdoor events cannot be fully controlled and as such residents will be impacted on by music noise. However it provides a number of controls to mitigate the level of impact, these include a maximum number of 12 events days, no music noise after 23.00, and threshold values that the music cannot be above. The pop code is a

guidance document only and as such there is some allowance for variation within to take into account specific circumstances or a site or event type etc.

Current licence position

To provide some context I would clarify the position in terms of the current site licences, subject to the current full variation application, as they relate to the “prevention of public nuisance licencing objective”. The site benefits from two site licences, one covering Hardwick live only and the other covering the rest of the site activities. The Hardwick live licence is relatively modern and is fit for purpose in that it provides relevant regulatory safeguards (conversant with current standards) via appropriate enforceable conditions, namely the requirement to submit a noise management plan to be agreed with ourselves, to include noise monitoring, agreed noise levels to be set and the cessation of any music noise by 23.00. The conditions are based on the requirements within the aforementioned “pop code”.

The site licence is in contrast much older and contains contradictory and un-enforceable conditions. Firstly there is a noise condition relation to a no increase above background, this type of condition does not appear in any relevant guidance in relation to outdoor events and is directly contrary to the above recognised code of practice. The noise management plan does not relate to recognised guidance for outdoor events. There are different “finish times” for music from different marquee areas which contradict with other conditions such as a required finish of 10.30pm for amplified and live music from marquess but then a separate condition allowing music till 00.30am. The existing licence does not provide enforceable thresholds relating to outdoor events, no restriction on the number of events allowed, and an allowance for music noise to continue until 00.30am.

The existing site licence is in my view un-enforceable, over complex and does not relate to current standards and as such requires updating. We have been requesting that the Hall make a variation for some time to ensure that the licence is fit for purpose. We worked with the Hall in 2021 to amend the licence, only for it to be withdrawn prior to hearing. The existing site licence is of benefit to the hall as there is little regulatory control currently. However, whilst residents raise concerns regarding the music levels from events, monitoring we have undertaken has not identified an exceedance of recognised parameters and the hall has generally been shown to be compliant with existing requirements and as such we have not had sufficient evidence to review the licence.

However as the Hall are now seeking to extend the number of nights on the Hardwick live licence, this provided an opportunity to require improvements on the site licence to ensure it is fit for purpose and safeguards residents. To fully clarify the applicant only wants the additional Hardwick live day, so without our intervention would only be making the single variation application. The second variation is brought as without it, we consider that the prevention of public nuisance licencing objective would not be met as there would be limited controls over the site as a whole, meaning we would oppose any intensification and as such object to the Hardwick live variation. This variation has been put together in consultation with ourselves, based on the requirements of the pop code and experience of the site.

Hardwick live licence variation

In relation to the “changes” proposed in the variations versus the current licences in relation to noise impact. I will discuss the Hardwick live licence first as this relates to limited changes, the main change is to add an additional night. There is also an amendment to the area of the festival, however this is not directly applicable to the “noise” as this is still limited by the noise threshold. The noise management plan is as per the plan which has been in place for the preceding number of years,

however the current condition requires that this is provided specific to each event. In essence this meant an identical management plan with the date changed on it was provided annually. This variation will allow for a single agreed management plan and doesn't require "new" ones to be provided, however still retains the need to review and amend as required. A further condition has been added to limit when sound checks can be carried out. Relevant conditions listed below:

- The noise management plan (ref:218/v01/2022), shall be adhered to at all times in relation to Hardwick Live event. The noise management plan shall be reviewed annually and following a request made by the licensing authority. Any changes will be agreed with the local authority's environmental health team prior to implementation.
- A maximum number of three event days in any one calendar year shall be permitted where the music noise level arising shall be a maximum of 65dB(A)(15 min) at any noise sensitive receptor.
- No sound checks will be conducted before 10:00 in outdoor areas

This variation does allow for an "intensification" of the Hardwick Festival and as such a greater impact on residents by virtue of another night of impact. The more nights an event goes on for the greater the impact as it means there is limited respite from the noise. The conditions proposed are similar to what is currently in place.

Full site licence variation

In relation to the site licence, there are a number of changes proposed within this variation. I will discuss them in this section and have also provided a table below to allow a quick comparison of the current vrs varied proposed licence, which provide improvements. Firstly, the area based approach i.e. designated locations with specific hours of operation etc have been removed in favour of a site wide licence. As the noise arising and number of events (condition 2) from the site is governed within other conditions in terms of impact on residents it makes no difference where the "source" of the noise is located as the requirements remain the same that the noise level at receptor is the crucial measurement. This simplifies the licence in terms of both the business and regulators.

Confusing and contradictory elements such as the various times of cessation of recorded music/live music have been removed. Instead, this has been replaced by a specific 23.00 hrs for live music and 00.30 hrs for recorded. Whilst the cessation time of recorded music is 00.30hrs, this is further controlled by condition 5 that music after 23.00 hrs and outside of the 9 events, shall not be audible in residents' homes. This ensures that a regulatory control is available to ensure that the site does not lead to significant impact outside of the allowed number of events and after 23.00hrs.

The new noise management plan ((ref 201/NMP/V03/2023) (conditions 1 and 3) is more specific and evidence based than the previous outdated management plan. The background levels are based on actual monitoring results and have been tested during further monitoring. I have made some suggestions regarding improvements to the management plan to the applicants, which I expect to be addressed prior to the hearing. These are not crucial in terms of the suitability of the management plan, however provide further clarification of where the background measurements etc come from and a further statement on adherence to the POP code. Whilst not essential, should the "improvements" not have been made and the committee be so minded, I would be accepting of condition (1) to be amended to allow for a 28 day lead in time to allow the applicants to make relevant amendments.

1. A new Noise Plan (ref 201/NMP/V03/2023) will be put in place in the form attached and will replace the Plan dated 2008
2. A maximum number of 9 outdoor music events shall be allowed in any one calendar year where the music noise level arising shall not exceed the background noise level by more than 15dB(A)(15mins) at any noise sensitive receptor.
3. The attached noise management Plan (ref 201/NMP/V03/2023) shall be adhered to at all times, exempting Hardwick Live events. The noise management plan shall be reviewed annually and following a request made by the licensing authority. Any changes will be agreed with the local authority's environmental health team prior to implementation.
4. Notification of the date of outdoor music events falling into the above condition shall be made via Hardwick Halls website a minimum of 28 days prior to the event.
5. No music arising from the site shall be audible within any noise sensitive receptor, with windows open in a typical manner for ventilation, other than for the above 9 outdoor music events or at all between the hours of 23:00 hrs and 09:00 hrs.

	Current site licence	Variation
Noise threshold level	Unenforceable	Specific, based on recognised code of practice
Number of events, with noise impact	No limit	12 total (3 Hardwick live 9 other)
Time music can be audible to residents until	00.30am	23.00pm
Noise management plan	Dated and none specific, no background measurements and thresholds established	Current, based on actual monitoring evidence of background and events
Licensed areas	Specific and confusing with differing finish times	Full site
Notification of event	No specific requirement	28 days prior to an event

Concerns/comments

I support the licence applications as a whole, as I consider it provides a better level of protection for residents than the current licences provides, even with the additional Hardwick live event.

However I would raise some elements with the committee for clarification:

Interpretation of the pop code: as stated above we judge applications for outdoor events against the requirements of the pop code. The applications seek to have a total of 12 events (3 Hardwick live, 9 other events), with differing noise threshold criteria. The threshold values are stated in the table listed below. There is a certain amount of ambiguity nationally, in terms of the allowance for events between whether 1 to 3 events is allowed at the higher noise level and then 4 to 12 at the reduced, or whether all 1-12 should be at the reduced level.

This is not clarified in the guidance, however from the wording i.e. 1-3 and 4-12 (not 1-12) it does indicate that the differing noise levels are acceptable. To make it clear due to the scale of Hardwick Live i.e. number of attendees, it may be unable to operate within the restriction of 15dB above background as whilst prior assessment indicates it is nowhere near the 65dBA level, due to the low background levels, at times it is in excess of the 15dBA above background level.

However, I would advise that due to the ambiguity in the case of a "new" licence application relating to an outside event site we would seek the lower threshold value for all events i.e. 1-12 at 15dB

above in any licence application. However, this is an existing site with many years of events being carried out and an existing licence which allows for significantly more events and as such the aforementioned is still a tangible reduction in the potential number of events than the fallback position of operating under the existing licence.

Concert days per calendar year, per venue	Venue Category	Guideline
1 to 3	Urban Stadia or Arenas	The MNL should not exceed 75dB(A) over a 15 minute period
1 to 3	Other Urban and Rural Venues	The MNL should not exceed 65dB(A) over a 15 minute period
4 to 12	All Venues	The MNL should not exceed the background noise level ¹ by more than 15dB(A) over a 15 minute period

Consecutive events: the pop code states that consecutive nights can have an increased impact on residents, specifically mentions on more than 3 consecutive nights. There is no conditions or limitation regarding the potential for more full weekend events such as Hardwick live which may be considered more intrusive than the current model at the Hall which is intermittent events.

Noise impact from events: There is a number of mentions of very loud noise levels “driving people out of their homes” during events within the representations. As such I feel it is appropriate to provide some context regarding the noise levels arising to provide further clarification to the committee.

Hardwick Live is the loudest event and as such I will use the noise levels from prior monitoring to provide some context. Monitoring from previous events have demonstrated that dependant on the band and music type, noise levels at monitoring points (representative of worst affected properties) are between 45 and 55dBA (15mins). To provide context the WHO, provides noise threshold values in relation to reasonable use of outside areas at a 50-55dBA. At this level music will be clearly audible outside a persons home, so that the nature of the track is discernible, however would not be considered “loud” in that it would not prevent conversation or normal use of the garden.

In terms of internal noise level, generally a double glazed window provides 25dBA reduction in noise level, 15dBA for an open window. Noise levels may therefore be circa 30dBA with windows closed and 40dBA open during the loudest periods. To provide context the WHO/BS 8233, provides noise threshold values in relation to desirable internal noise levels of 35dBA in living areas. Music noise will likely be audible inside peoples homes and therefore considered intrusive.

The above is relatively simplistic as it does not consider low frequency elements which often increase the annoyance. It is very much recognised that the music arising from Hardwick live events does have a detrimental impact on residents. However the festival site is in excess of 500m from the nearest residential property and therefore the music volume is considerably reduced by distance attenuation.

Representations

There are a number of representations made with various comments and whilst I do not propose to answer all, I will try to provide some further information to clarify some points raised below:

Concern/question	Answer
Lack of monitoring of Hardwick live	We have monitored for every Hardwick Live event since 2015 and not found that any event exceeded the pop code levels
00.30am end time for recorded music	This is as per the current licence, in relation to specific marquees and has not led to complaints. However the variation adds an additional condition which requires music to be inaudible after 11pm. Therefore this condition allows events to continue to 00.30 but prevents impact on residents.
Pop code not referred to in NMP	Whilst this does not specifically alter the suitability of the NMP I have requested this be included
Noise assessment not included	The noise assessment compiled for the previous licence application has not been amended and provided to support this application. However the background monitoring, locations and further monitoring of events is stated in this document. I have therefore asked that the relevant sections are included within an appendix of the NMP for further context.
Definition of an event	An event is considered where live or recorded music is performed by a solo or group of artists in front of an audience. In practical terms it would be something which had dominant prolonged music associated with it. However each calendar day would be considered an Event so a 3 day beer festival with music would be 3 days not 1 event.
The noise is too loud from events as its audible in my home	Outdoor events are noisy and there is limited mitigation that can be done to limit the impact. The pop code and the licence variation seeks to limit the impact by virtue of the number of events and threshold levels. However during these events music will be intrusive and clearly audible at a persons home.
Noise levels recorded in my home, demonstrates excessive noise levels	Monitoring was undertaken via an unattended noise meter of "summer Session" events in 2020. These events were arranged due to the lockdown restrictions and were not fully planned and resourced as would be expected. The monitoring demonstrated a potential exceedance of pop code levels, however as they were indoor measurement rather than the required outdoor and unattended they are indicative only. Following these recordings the Hall was contacted and a noise assessment carried out, along with a subsequent management

	plan. Monitoring was undertaken by myself and the noise consultant for the 2021 events and these were within the pop code thresholds.
Inappropriate monitoring locations, should have been taken at my home	Monitoring locations are set to be indicative of the impact on residents in differing locations. We are unable to monitor at every persons home and often there is practical reasons such as private land as to why this is not possible. The monitoring locations stated in the management plans have been used for a long time and have been found to be appropriate based on past monitoring exercise
Noise thresholds cannot take into account climactic conditions such as wind	Noise threshold values need to be met regardless of the climactic conditions and as such a prevailing wind might necessitate reducing the source noise to achieve the threshold value at receivers.

Summary

The above provides a considerable amount of information to attempt to full clarify our position and inform the committee. However to summarise, the current site licence is not broadly enforceable meaning we have little to no enforcement powers under the licensing regime to ensure relevant controls are in place in relation to the Prevention of Public Nuisance objective.

Whilst the operators generally operate within reasonable parameters, they have used the ambiguity in the current licences and the lack of controls to their advantage such as continuing Hardwick live after the 23.00 curfew by “reverting” to the other licence. This is however permissible along with having a significant number of events without relevant noise controls under their current licence.

The applicants need for the further night of Hardwick Live provides the opportunity to improve the controls within the full site licence. This will provide relevant controls to prevent future exceedances and changes to the business which may unduly impact on residents.

Representation raised are mainly in relation to the variation to the full site licence, however as clarified above this was requested by ourselves to seek to improve the controls. The intention to request this and the content was discussed at a consultation meeting and as such concerned residents were aware of the reasoning and context.

In terms of net improvement, the additional night of Hardwick Live, allows for considerable reduction in the “potential” impact by the addition of enforceable, reasonable conditions to the full site licence. As such I support the application based on the Prevention of Public Nuisance licensing objective.