

## **DURHAM COUNTY COUNCIL**

**At a remote meeting of the Statutory Licensing Sub-Committee held on Thursday 9 July 2020 at 9.30 am**

**Present:**

**Councillor P Crathorne in the Chair**

**Members of the Committee:**

Councillors L Brown, C Hampson, L Kennedy and J Maitland

**Also Present:**

G Proud (Council's Solicitor)

H Johnson (Licensing Team Leader)

Mrs S Brierley (Applicant)

Mr M Brierley (Assisting the Applicant)

Mrs C Barratt-Atkin (Other Person)

Mr N Barratt-Atkin (Other Person)

### **1 Apologies for Absence**

Apologies were received from Councillor M Wilson.

### **2 Substitute Members**

Councillor C Hampson was in attendance for Councillor M Wilson.

### **3 Declarations of Interest (if any)**

There were no declarations of interest.

Prior to business, the Chair advised that although five Sub-Committee members were present to hear the application, only three of those members would make the decision. The Council's Solicitor explained that, under the Licensing Act 2003, only three members were permitted to make the decision. The additional members were present to hear the application in order that, in the event that a member had to retire due to unforeseen consequences, one of the additional members could participate as a substitute, thereby avoiding the necessity to rearrange the hearing.

The Council's Solicitor then outlined the procedure for the hearing.

#### **4 Application for the Grant of a Premises Licence - The Gables Pod Camping, Three Lane Ends, Escomb, Bishop Auckland, County Durham**

The Licensing Team Leader, presented the report and outlined the recommendations (for copy see file of minutes).

No questions were asked in relation to the Licensing Officer's report.

The Chair then asked Mr and Mrs Barratt-Atkin to outline their objection to the application.

Mrs Barratt-Atkin explained the family had resided at their current address in the quiet rural area for 17 years and their intention was not to cause conflict. During 2017, the first year that the site was operating as a campsite and holiday cottage, there were frequent occasions when noise from guests had caused considerable disruption to the family after 10pm, despite the rules stipulated by the proprietors.

Mrs Barratt-Atkin informed the Sub-Committee that the bedrooms to the rear of their family home, overlooked the drive and were particularly susceptible to noise disruption. During the summer of 2018, their primary school aged son whose bedroom overlooked the drive, had been unable to sleep due to the noise after 10pm, and the noise had also prevented the family from being able to open bedroom windows on summer evenings.

Noise had unsettled their racehorses, stabled at the front of the house, next to the road. The animals had also been disturbed by firework celebrations on bonfire night and at new year. Requests made to the Applicant to refrain from firework displays, due to the close proximity of the animals, had been disregarded.

Mrs Barratt-Atkin referred to an occasion when she had been approached by the Applicant to request she turn down the volume on a small radio that was being played in their stables, to comfort an injured horse. Mrs Barratt-Atkin suggested that, if the Applicant could be disturbed by noise from a small radio, perhaps the Applicant could accept that music being played on the Applicant's land would cause the Barratt-Atkin family disturbance.

Mrs Barratt-Atkin expressed her concern that the initial application requested permission to play live music for 24 hours a day. Following objections from neighbours, this was reduced to 11pm, however she considered this too late adding that residents should have the right to relax in their gardens in peace, and, to retire to bed early if they so wished. Animals should also be allowed to rest and recover.

Mrs Barratt-Akin commented that during a conversation with the Applicant, Mrs Brierley had stated she slept at the front of the house; therefore her sleep was not disturbed as she could not hear noise from guests. Mrs Barratt-Akin stated that some of the neighbours who were in support of the application may not be subjected to as much disturbance from the noise, as The Gables, a stone built house may act as a sound-barrier.

Commenting on the objections that had been withdrawn, Mrs Barratt-Akin stated that some neighbours may have been discouraged from pursuing their objection, due to the technical nature of the remote hearing.

Mrs Barratt-Akin was pleased to note that wedding guests must leave the site by 9pm. She pointed out that the pods sleep a maximum of ten people and the holiday cottage, situated only metres away from the Barratt-Akin's home accommodated four people, adding that she would be interested to hear if the Applicant had a noise reduction policy. Whilst the Barratt-Atkins had no objections to quiet afternoon teas and music recitals, they were of the opinion that music, amplified or not, after 9pm, and, the supply of alcohol until 11pm, was unacceptable in a residential area.

Support had been provided to the Applicant on an occasion when a visitor to the campsite who was not permitted to park their van on the Applicant's drive, had been permitted, by the Barratt-Atkin's, to park the van on their drive overnight.

In summing up, Mrs Barratt-Akin stated they were grateful that the noise disruption had reduced during 2019 and stressed that the family were supportive of many of the Applicant's ideas for the pods, which were for the benefit of the community. In conclusion, she requested the Applicant to respect the views of the neighbours, to retain the neighbourhood as a peaceful and happy place to live, and, to respect their animals.

The Chair thanked Mr and Mrs Barratt-Atkins for their representations and invited questions.

The Licensing Team Leader clarified that the initial application had been for the provision of recorded music from 10am until midnight, however, following mediation, the application had been amended to revise the timings for the provision of recorded music from 10am to 11pm.

Mr Brierley, assisting the Applicant, stressed that he respected the comments made by Mrs Barratt-Akin however the decision should be based on facts.

Referring to the parking of the van, the Applicant clarified that the event was unexpected as visitors were advised that the policy states no vans are allowed on the site. The Applicant thanked the Barratt-Atkins for allowing the visitor to park the van on their drive overnight.

With reference to the noise incident in 2018, the Applicant explained that she had closed the hot tub at approximately 9.30pm and there had been no further noise after 10pm. The Applicant pointed out that 2017 was their first year operating the holiday site, and, they were in the very early stages of building the business and familiarising themselves with the type of clientele they were attracting, with the aim of promoting the site as a peaceful, tranquil holiday site. The Applicant added that an elderly neighbour who lives closer to the Applicant's house than the Barratt-Atkins family, had commented that she was only aware that there were guests staying in the pods if she could see cars parked on the site.

The Chair then asked the Applicant, Mrs Brierley and Mr Brierley (assisting the Applicant) for their representation.

Mrs Brierley explained that prior to opening the site she had worked in the public sector for over 30 years. Personal reasons, including her own cancer diagnosis, led to her desire to give something back to the community and the couple opened 'The Gables' Pod Camping site. 95% of visitors review the site as peaceful and tranquil, and, with no wi-fi on site, they aim to attract visitors who are wishing to get away from the trappings of modern life.

The Applicant explained how the campsite helps to generate interest in the area and income for the local community, adding that they offer free transport to Kynren. In addition, they support several cancer charities offering cancer sufferers the opportunity to enjoy their facilities, free of charge. The venue is a Durham County Council licensed wedding venue for small weddings of up to 30 guests. Guests out of the area are referred to a nearby bed and breakfast, benefiting the local economy. The venue also hosts yoga retreats and holds the official stamp of the Camino Pilgrims.

The Applicant emphasised that the application for the premises licence aims to control alcohol consumption on the site. She explained that the bar is predominantly for wedding packages and alcohol would be sold only to those staying as guests in the pods, or, served with afternoon tea. In terms of live music, this would be in the form of a harpist or a violinist for a wedding, possibly a ballet recital, or, music as part of a Christmas event. The consumption of alcohol is anticipated to be very low. The licence would improve control of the flow of alcohol and the granting of a licence would provide the Applicant with the right to refuse persons from consuming alcohol on the premises, that had not been purchased on the premises.

The Applicant went on to explain that those booking weddings are informed that no loud music or festival style music is permitted and wedding guests must leave by 9pm.

The Chair thanked the Applicant and invited questions.

Mrs Barratt-Atkin questioned why the licence application was for the supply of alcohol until 11pm. The Applicant clarified the licence would enable her to sell alcohol to a guest who may arrive late in the evening, for example, after a long journey.

Mrs Barratt-Atkin commented that the holiday cottage, just metres from her property also generates noise and she raised concerns that guests would be allowed to sit and drink until late evening. The Applicant responded that the holiday cottage has restrictions in place such as that the hot-tub is not used after 10pm and guests were more likely to sit inside the cottage. The Applicant stated that the cottage was closer in proximity to the Applicant's home, than the Barratt-Atkin's home.

The Licensing Team Leader clarified whether the Applicant anticipated any live music being played until 11pm. The Applicant responded that guests in the pods are permitted to play music on devices such as iPhones in the pods until 11pm. The Applicant emphasised that weddings are few and far between, wedding guests are required to leave by 9pm and only one wedding had been held since the venue opened. The Applicant reported that she had heard loud music from Mr and Mrs Barratt-Atkin's home on occasions.

The Licensing Team Leader clarified that music is only licensable when played for a performance of live music, or, is the playing of live music to an audience. Music being played in the pods, on devices such as iPhones, therefore was not licensed and, as such, the Applicant would be required to control it. The Council's Solicitor added that, given the reduction in the hours requested for the playing of live and recorded music, and the fact the activity would not be performed to over 500 people, it would not be a licensable activity.

Mr Brierley emphasised their ethos is to maintain the site as a quiet, retreat site and to work alongside their neighbours and the environment to provide a good experience for guests. As a quiet family themselves they did not seek to attract revellers.

Mrs Barratt-Atkin asked if the Applicant would consider a compromise of a 9pm deadline for recorded music and the supply of alcohol. The Applicant reiterated that the 11pm deadline for the supply of alcohol was intended for guests arriving late.

In response to a question from Councillor Maitland, the Applicant clarified that the pods, when fully occupied accommodate a maximum of ten people and parking was available for all guests when the site is fully occupied.

The Council's Solicitor asked for clarification on the timings for the supply of alcohol. The Licensing Team Leader responded that the initial application had requested timings from 11am until midnight. There were no changes through mediation with environmental health or the police. The Applicant confirmed that, although the application stated midnight, they were now requesting the supply of alcohol on and off the premises until 11pm.

The Licensing Team Leader confirmed she had no further comments.

The Chair then requested final submissions.

Mrs Barratt-Akin pointed out that in addition to the pod camping site, there is also a holiday cottage which accommodates four people, situated close to their home and she added that noise was also generated from the cottage. Mrs Barratt-Akin acknowledged 2019 was better in terms of disruption than the previous year which the family were grateful for and she requested reassurance that they will be allowed to live peacefully, without having noise disruption and being subject to guests consuming alcohol, outside, on summer evenings. Mrs Barratt-Akin commented that a deadline of 9pm for the supply of alcohol and recorded music would be a satisfactory compromise.

The Licensing Team Leader confirmed that the application did not cover the cottage and therefore did not form part of the application for the premises licence.

The Applicant clarified that alcohol would be consumed predominantly in the camping area and there would be no reason for people to congregate in areas such as the car park, to drink alcohol.

In summing up, the Applicant emphasised their aim was to promote a peaceful, tranquil oasis for a relaxing outdoor glamping / wedding experience. The granting of the premises licence would enable control over the flow of alcohol. Sale of alcohol for weddings would be until 9pm and after that time, the sale of alcohol would be minimal. The Applicant stressed that she respected the concerns of the neighbours.

The Council's Solicitor clarified that the reduction in hours meant that the types of regulated entertainment requested by the Applicant did not actually require a licence, as the times requested were between 8am and 11pm.

The deregulatory changes in 2015, meant that a licence is not required for performance of dance between the hours of 8am and 11pm. With regard to live music or recorded music, no licence permission is required between the hours of 8am and 11pm where the premises are authorised to sell alcohol for consumption on the premises and the audience does not exceed 500. The Solicitor also clarified that the supply of alcohol was until 11pm and not midnight as stated in the original application.

The Chair thanked the parties for their attendance and added that herself and Councillors L Brown and J Maitland would retire to deliberate the application in private and all parties would be notified of their decision later that day.

The Sub-Committee retired to deliberate the application in private. In reaching a decision, the Sub-Committee took into account the report of the Licensing Team Leader, and, the oral and written representations of the Applicant, Mrs Brierley, and, Mr Brierley, assisting the Applicant, and other persons present. The Sub-Committee were mindful that ‘other persons’ supporting the application were not in attendance and gave appropriate weight to the written representations submitted. The Sub-Committee also took into account the provisions of the Licensing Act 2003 relating to the grant of a premises licence, together with the Section 182 Guidance and the Council’s Statement of Licensing Policy.

**RESOLVED:**

That the application for a premises licence be granted as follows:

<b>Licensable Activities</b>	<b>Days &amp; Hours Requested</b>
Supply of alcohol (consumption on and off the premises)	Monday to Sunday 11:00 – 23:00 hrs
Recorded Music (Indoors and outdoors)	Monday to Sunday 10:00 to 23:00 hrs
Live Music and Performances of Dance (Indoors and outdoors)	Monday to Sunday 12:00 to 23:00 hrs
Open to the public	Monday – Sunday 00:00 – 00:00 hrs

The Sub-Committee determined that the mediated conditions agreed by the Applicant and Durham Constabulary would be added to the premises licence on the basis it was necessary and proportionate to impose those conditions upon the licence, together with the standard licensing conditions. The mediated conditions are as follows:

1. All staff shall be fully trained to perform their role. They will also be trained in the contents of the premises licence including times of operation, licensable activities and all conditions. Such training will be recorded in a register. The register will be made available to the Police or an authorised officer of the council upon request.
2. The premises shall operate the Challenge 25 scheme. As part of such a scheme a register of refusals shall be maintained and kept up to date. The register will be available for immediate inspection by police or authorised officers of the council.
3. The premises shall maintain an incident book, which shall be made available to the police and authorised officers of the local authority upon request.
4. A CCTV system will be installed and in operation at all times the premises are being used for licensable activity. It must be operated by properly trained staff. All public areas will be covered, including entrances, exits and outside area.
5. Recordings will be retained for a minimum of 28 days.
6. The premises will ensure that at least one trained member of staff is available to operate the system at all times the premises is open and download any images requested by an authorised officer and provided within 7 days.
7. Children under the age of 18 will not be allowed entry to or remain in the bar areas after 21:00 hours.
8. The premises licence holder is to undertake right to work checks on all staff who are employed at the licensed premises in a paid or unpaid capacity. A copy of any documents checked as part of the right to work check are to be retained at the licensed premises. These documents will be made available to officers and responsible authorities when requested.