

DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held in Committee Room 1A , County Hall, Durham on **Thursday 22 June 2023 at 9.30 am**

Present:

Councillor C Hampson (Chair)

Members of the Committee:

Councillors J Blakey (Substitute), L Brown and L Mavin

Also Present:

S Buston (County Council Solicitor)
H Johnson (Licensing Team Leader)
J Adamson (Applicant)
R Taylor (Applicant's Solicitor)
J Woodliffe (Hardwick Hall)
J Finlayson (Sedgefield Town Council)
J Bowles (Other Person)
A Webb (Other Person)
J McKenna (Other Person)
K McHugh (Environmental Health)
K Tranter (Environmental Health)

1 Apologies for Absence

An apology for absence was received from Councillor M Wilson.

2 Substitute Members

Councillor J Blakey was present as substitute Member.

3 Declarations of Interest

There were no declarations of interest.

Prior to hearing the applications, the Chair advised that Item 4 and Item 5 on the agenda, Applications to Vary Premises Licences for Hardwick Hall Hotel and Hardwick Live Festival, Sedgefield would be considered together.

4 Applications to Vary Premises Licences - Hardwick Hall Hotel, and Hardwick Live Festival Sedgefield, TS21 2EH

The Chair welcomed everyone to the meeting and introductions were made.

Mr McKenna requested an adjournment of the meeting due to the number of late submission and was concerned that the Sub-Committee did not have sufficient time to take on board the new information. The Sub-Committee confirmed that they had sufficient time to consider the additional information which Mr McKenna accepted and withdrew his request for adjournment.

The Council's Solicitor outlined the procedure for the hearing. It was noted that four Sub-Committee Members were present to hear the application, however only three Members were required to make the decision.

The Licensing Team Leader presented the reports of the Corporate Director of Neighbourhoods and Climate Change, to determine variations to premises licences application in respect of Hardwick Hall Hotel and Hardwick Live Festival, Sedgefield TS21 2EH. A copy of the application, location plan and additional information had been circulated to all parties together with details of the representations received (for copy see file of minutes).

It was highlighted during the consultation period that the public notices may not be compliant with regulations which was followed up by Licensing Officers visiting the premises. The consultation period was restarted to ensure the public notices were correctly displayed for 28 days in accordance with the Licensing Act regulations. The Licensing Team Leader confirmed that the advertisement regulations were complied with for both applications.

Referring to the Hardwick Live Festival application, the Licensing Team Leader advised that the application requested the following:

- To vary the licence to allow the annual Hardwick Festival to operate over a three-day period (Friday, Saturday and Sunday) as opposed to a two-day event as permitted currently;
- To vary the hours for Sale of Alcohol (on and off sales) and the Provision of Regulated Entertainment indoors and outdoors to the following:

Friday: 15:00 until 23:00 hrs

Saturday: 10:00 until 23:00 hrs

Sunday: 10:00 until 23:00 hrs

- To remove the activity Provision of Late Night Refreshment from the licence;
- To replace the site licence plan currently attached to the licence, to clearly identify and define the boundary of the licensed area;
- To update the operating schedule to vary some conditions and add additional conditions;
- To replace the existing noise management plan attached to the licence.

During the consultation period, the Licensing Authority received thirteen representations from Other Persons opposing the application.

It was noted that responses were received from the Durham Safeguarding Children Partnership, the County Durham and Darlington Fire and Rescue Service, the Public Health Department, the Planning Department and Durham Constabulary confirming they had no comments to make in relation to the application.

Referring to the Hardwick Hall Hotel application, the Licensing Team Leader highlighted that Responsible Authorities were not able to provide enforcement actions for the current license due to contradictory conditions which needed to be updated.

The application requested the following:

- To vary the site licence plan to clearly identify and define the boundary of the licensed area;
- Update the operating schedule to remove erroneous which are now either obsolete or superfluous;
- Update the operating schedule to add additional conditions;
- To remove all current licence annexes relating to Marquees;
- To permit the provision of regulated entertainment across the whole site, within the area outlined in red on the site licence plan;
- To replace the existing noise management plan attached to the Licence;
- To add the showing of Films Monday to Sunday 09:00 – 23:00 hrs indoors and outdoors;

- To add the performance of Plays Monday to Sunday 09:00 – 23:00 hrs indoors and outdoors.

During the consultation period, the Licensing Authority received fourteen representations opposing the application from Other Persons.

A response was received from the Nuisance Action Team Leader in the Council's Environmental Health Department (Responsible Authority) outlining his position and expressing his support for the proposed variation.

It was noted that responses were received from the Durham Safeguarding Children Partnership, the Public Health Department, the Planning Department, Durham Constabulary, the County Durham and Darlington Fire and Rescue Service and the Environmental Health Department confirming they had no comments to make in relation to the application.

The Applicant proposed additional conditions and steps they intend to take in order to promote the licensing objectives, which included the addition of the following conditions:

- A new noise plan (ref 201/NMP/V03/2023) be put in place in the form attached and would replace the Plan dated 2008;
- 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;
- 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 would be agreed with the local authorities environmental health team prior to implementation;
- 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;
- 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.

All parties were given the opportunity to ask questions of the Licensing Team Leader.

Mr Taylor, Applicant's Solicitor clarified that Licensing and Environmental Health had asked for the hotel license variation to be put forward to impose a maximum limit of twelve days a year where music could be played. He highlighted that at the moment there were no limits to the number of days and no requirement for music to be inaudible after 11.00pm. The Licensing Team Leader confirmed that the variation would provide a limit to the number of days and enforceable conditions.

Mrs Bowles, Other Person was invited to address the Sub-Committee. She advised that the intrusive noise disturbance of Hardwick events had greatly affected residents lives over the years with many residents experiencing physical and mental health issues. Residents have had their private gardens and property violated by people leaving the events and were unable to sit and enjoy their garden in the summer because of the noise disturbance with events, weddings and fireworks and stressed that people should not have to leave their home to get some peace. It was noted that Kings Coronation event did not cause any disturbance and she questioned why some events caused a disturbance and some did not. Mrs Bowles added that she would ring reception when issues arose and had spoken to Mr Woodliffe at Hardwick Hotel on a number of occasions in relation to providing directions back to the village, however nothing had been done. She asked that the impact on residents be considered, in particular those who had health conditions.

All parties were given the opportunity to ask questions of Mrs Bowles.

The Applicant confirmed that there would be no fireworks at weddings anymore and fireworks would only be used on Bonfire Night and at the end of Hardwick Live.

Mr Taylor noted that there was no noise disturbance during the Kings Coronation events. He referred to Mrs Bowles comment regarding clear protection for residents and read the Environmental Health Departments Nuisance Action Team Leader's supplementary representation where he stated that 'he supported application as a whole as it would provide a better level of protection' therefore, to grant the license would provide a better level of protection which Mrs Bowles accepted would be an improvement, however she could not accept holding any events that would cause noise disturbance and objected to the increase to 12 events plus weddings and the addition of showing films.

Councillor Finlayson, Sedgefield Town Council was invited to address the Sub-Committee.

He felt there had been a good level of engagement in relation to the proposals and read out representation from Sedgefield Town Council dated 12 June 2023 which was agreed before the additional representations had been received and some of the issues had been satisfactorily addressed.

Sedgefield Town Council wanted to represent the views of residents as well as support local businesses, many of which benefit from the increased footfall. Concerns had been raised by residents and a balance had to be struck to protect the rights of residents against the risk of crime and disorder.

He referred to the Hardwick Hall Hotel application and highlighted three elements of concern:-

- Recorded music being played until 12.30am seemed disproportionately late and should be no later than 11.00pm as the noise levels impacted many households;
- Late Night Refreshment should be limited to 11.00pm. It was noted that this had since been removed from the application;
- There was concern over events beyond the 9 events listed and it was not clear if all outdoor and marquee events fell within this and how that could impact noise monitoring. It was requested that the noise management plan be supplemented with specific information in relation to frequency of monitoring the 9 events.

Councillor Finlayson asked that a specific telephone number be provided for residents with regards to complaints and that noise monitoring within the whole boundary be in place for the smaller events which included amplified music or address systems.

The 3-day Hardwick Live variation was noted and they were pleased that there would be no sound checks prior to 10.00am, however requested a further 3 conditions be added to the license:-

- That Sedgefield Town Council be notified of events a month in advance and a contact number for residents in case of issues with the level noise;
- The noise management plan provide specific information on the frequency of noise monitoring at the 4 locations stated;
- The noise management plan includes monitoring the volume of noise from the event compères.

Councillor Finlayson concluded that Sedgefield Town Council were not opposed to Hardwick Hall events, however it was important that events were run with the right controls and was important that late night drinking by large numbers of people be limited to minimise the impact of crime and disorder.

All parties were given the opportunity to ask questions of Councillor Finlayson.

Mr Taylor noted the decision to object to the application was made at a Town Council meeting on the 24 April which Councillor Finlayson was not present and read the minutes from that meeting. Mr Taylor asked if Councillor Finlayson accepted that there was no proposal to extend the hours of the Hardwick Live event and the Guidance stated the Police were main source of advice in relation to crime and disorder and the Police had not objected to the application which Councillor Finlayson accepted.

Mr Taylor then referred to the hotel license and the noise management plan which stated that no music noise from the site should be audible other than the 9 outdoor music events between 09:00 – 23:00 hours. He noted that if the application was granted, music must be inaudible at the receptors and if music was audible then it would be a criminal offence.

Councillor Finlayson noted that the noise management plan stated that music should be inaudible, however was concerned that there was no detail in relation to how this would be monitored and wanted the noise management plan to be in effect for all events.

Mrs Bowles added that she was at the Town Council meeting and recalled that the Police supported objections regarding concerns relating to leaving times and potential problems.

Mr Webb, Other Person was invited to address the Sub-Committee. He advised that his property was one of the designated noise receptor points which was approximately 600 meters North of Hardwick Hall. He referred to the noise readings from the equipment that the Nuisance Action Team placed inside his property which exceeded what was considered to be acceptable outside background noise levels. Mr Webb indicated that Hardwick Hall staff were aware when the Nuisance Action Team were on site taking readings, therefore noise levels were controlled.

Mr Webb referred to an email from Sarah Clement Dawson dated 1 September 2020 which stated *'to allow for "Hardwick Live" a maximum of 3 consecutive days per calendar year shall be allowed whereby the permissible music noise levels (MNL) for the duration of the event shall not exceed 65dB(A) over a 15 minute period and 65dB(Z) in 63Hz and 125Hz octave bands at the nearest noise sensitive receptors'*.

Mr Webb highlighted that the Licensing Committee determine applications, however the 3-day event was being discussed in 2020.

Referring to a Freedom of Information request, Mr Webb highlighted that the information showed an agreement between Durham County Council and the Applicant in relation to income received for car parking at East Park. He felt that the Council were being rewarded, so they were allowing it to happen.

Mr Webb went through a number of charts and figures and suggested that the noise levels were incorrect, and the noise management plan may not be adequate to ensure compliance with the POP Code. He felt the background noise levels were higher than the recommended level.

Mr Webb also took issue with the professionalism of Blue Sky Acoustics, stressing that it appeared that the noise monitoring equipment was not certified for calibration when it was last used and that their measurements for certain locations were inaccurate.

Mr Webb added that the discrepancy between Environmental Health and Blue Sky Acoustics readings and measurements from Blue Sky Acoustics were unacceptable. He understood that the Applicant had a business to run and residents were not wanting the business to close, however residents were being affected by the disturbance. He suggested that Environmental Health nominate certain properties to monitor noise levels which would provide consistent readings.

All parties were given the opportunity to ask questions of Mr Webb.

The Licensing Team Leader clarified that the email from Sarah Clement Dawson was with regards to a previous application which was withdrawn during the pandemic and after conversations with the Applicant and his Solicitor, Licensing Team and Environmental Health which explained the contradictory out-of-date noise management plan.

Mr Taylor advised that Durham County Councils Licensing Policy required Applicants to liaise with Responsible Authorities before an application was submitted which included conversations regarding conditions. He added that the current license had no limit on the number of events or the volume which music could be played and the only way to guarantee better protection and enforcement would be for the application to be granted.

Mr McKenna, Other Person was invited to address the Sub-Committee. He confirmed that there had been more alterations to the applications, which had eased some of his concerns.

He referred to the noise management plan stating other than the 9/12 events, there would be no audible noise at the noise sensitive points which would be acceptable if it covered every event and the whole site. Mr McKenna still objected to the showing of films and plays and increase of site boundary as he feared the Applicant was intending to expand entertainment events and activities. He asked that the noise management plan be clear and covered all outdoor activities on the site and be inaudible at properties other than the 9/12 events. It was felt that the increase in events would mean more occasions where people would walk through private gardens and traffic congestion on roads which caused major issues.

Mr McKenna suggested that the Sub-Committee limit the site boundary to the current licensed area and include the area already licenced for Hardwick Live. He explained that the current licence for the hotel was for the area on the south lawn and the north wedding marquee area and suggested that the Hardwick Live area be included in the new boundary for the hotel licence with no further curtilage to the north car park area to minimise the growth activity.

The Applicant clarified that the increased area to the North of the hotel would be for parking and not entertainment.

Mr McKenna advised he would withdraw his objection for films and plays if it was guaranteed that no amplified sound would be generated, and the noise management plan condition include all music events and activities be inaudible. He added that there had been no events, other than Hardwick Live that had been managed successfully by the Hardwick Team to produce no intrusive sound to his home.

It was noted that the majority of his proposals had been covered in the revised noise management plan, however he added that the complaints system was not fit for purpose. He requested that complaints be emailed and monitored during events to avoid frustration of not getting through via telephone which had been commonly experienced. Details should be accessible to residents who had made a complaint and records should be available historically for a minimum of 3 years. He requested that all complaints were responded to within a short, fixed period of time with the complainant receiving a clear outcome to the complaint. He had reservations that frequency of monitoring would not be adequate and that the level of staff would not be adequate to carry out the monitoring and recording that the plan required. Concerns were raised that no one was identified to keep a record of meetings with the public and take on board noise nuisance experienced. He suggested that record keeping be mandatory for any meetings regarding Hardwick Hall Hotel/Hardwick Live and forwarded to Licensing Enforcement Officers and the Environmental Health Nuisance Action Team to be retained for the public, whether they attended the meeting or not.

All parties were given the opportunity to ask questions of Mr McKenna.

The Licensing Team Leader clarified that in order for complaints to be recorded by Durham County Council, complaints would have to be received by the Noise Team. Mr McKenna referred to the noise management plan that stated that a noise complaint log would be kept by hotel staff and there was nothing in the plan regarding feedback to complainants and how complaints would be dealt with. The Licensing Team Leader suggested that in addition to logging complaints with the hotel, residents should report any noise complaints to the Environmental Health Department. The Senior Environmental Health Officer confirmed that any complaints should be logged with the team and they would monitor issues and have a historical record going forward. Mr McKenna noted the process and added that previously he had not needed to formally report complaints as he had good contact with the Hardwick Hall Team, however with the formal noise management plan in place, he felt it important to include that complaints should be responded to within a set timeframe and records be accessible for 3 years.

Mr Taylor, Applicant's Solicitor was invited to address the Sub-Committee. He highlighted that to grant both variation applications would reduce the number of music events and there would be conditions requiring music to be inaudible after 23:00 hours. It was noted that the Nuisance Action Team Leader's written representation stated that *'the variation applications would provide a better level of protection for residents than the current licences provided, even with the additional Hardwick Live event and that the current licenses were unenforceable. The current Hardwick Live licence was modern and fit for purpose and that the existing site license does not provide enforceable thresholds relating to outdoor events, no restriction on the number of events and an allowance for music noise to continue until 00.30 am. The existing site licence was un-enforceable, over complex and not related to current standards and required updating. We have requested that Hardwick Hall make a variation for some time to ensure that the licence was fit for purpose and had worked with them in 2021 to amend the licence, however the variation was withdrawn prior to the hearing. The existing site licence was of benefit to Hardwick Hall as there was little regulatory control currently. However, whilst residents raise concerns regarding the music levels from events, monitoring undertaken has not identified an exceedance of recognised parameters and the Hardwick Hall had generally been shown to be compliant with existing requirements and there was insufficient evidence to review the licence'*. Mr Taylor pointed out the Applicant was seeking to provide what the Responsible Authority was requesting.

Mr Taylor referred to the table showing the current site licence and the variation and advised that currently:-

- there was no noise threshold level that was enforceable. If the variation licence was granted, there would be a specific noise threshold level based on a recognised code of practice;
- there was no limit on the number of events with noise impact. If the variation licence was granted, there would be a total of 12 events which included 3 Hardwick Live events and 9 other events;
- music could be audible until 00:30am. If the variation licence was granted, the audible time would reduce to 23:00pm;
- the noise management plan was outdated with no background measurements and thresholds established. If the variation licence was granted, the noise management plan would be current based on actual monitoring evidence of background events;
- the licenced areas were confusing with differing finish times;
- there was no specific requirement for notification of events. If the variation licence was granted, there would be 28 days notice prior to an event.

It was noted that conditions would apply to the whole site, therefore noise levels were fix for all entertainment areas and noise receptors would be inaudible after 23:00 hours. It was reiterated that the application was made at the request of Environmental Health to vary the licensed plan and delete obsolete references and replace with an operating plan with enforceable conditions.

Mr Taylor referred to the new noise management plan and advised that outdoor events were subject to noise limits and limited to 9 outdoor event days per calendar year and the applicable noise limit was the background noise level plus 15 dB. In addition, no music noise arising from the site shall be audible within any noise sensitive receptors, with windows open, other than the 9 outdoor music event days between the hours of 09:00 and 23:00.

Mr Taylor believed there had been a misunderstanding and clarified that the Applicant was not seeking to do more multi day festival events. Events would have to be inaudible after 23.00 if the variation was granted and reiterated that there were no limits at all currently.

He referred to the previous consultation in 2021 which agreed the 2-day Hardwick Live Festival, 12 further outdoor events with a noise limit of plus 15dB over residual background level and up to 18 additional outdoor events with a noise limit of plus 5dB over residual background level which had now reduced to 9 further outdoor events and the additional 18 events had been

removed. The licensing conditions stated that outdoor wedding events would have to be inaudible with policies and procedures in place to ensure no noise disturbance and was noted that Hardwick Hall had never had a complaint in relation to outdoor wedding events over the last 5 years.

Mr Taylor highlighted that all the Responsible Authorities had responded during the consultation and confirmed they had no issues in relation to both applications and advised that Environmental Health felt that the variation would be a significant improvement over the previous hotel licence in terms of promoting the licencing objectives.

In relation to Hardwick Live, the application sought to vary the license to allow activities to take place over 3 days rather than 2 days and a minor change to the hours starting at 3:00pm on the Friday rather than 4:00pm. Late night refreshments had been removed, the site plan and noise management plan had been replaced and a condition for no sound checks before 10:00 am had been added.

Mr Taylor also highlighted that every Hardwick Live event had been monitored since 2015, and none of the events had exceeded the noise thresholds.

Mr Adamson, Applicant addressed the Sub-Committee and added that he aimed to be a good neighbour and was doing his best to limit noise disturbance. He accepted that in 2020/21 during the Covid pandemic they had outside events to keep the business running which were audible, however since then he had reduced noise levels from the hotel. He felt that the residents meeting in November 2022 went well and he had addressed issues and concerns and had worked with the Council to modernise the license and strike the right balance for everyone concerned, therefore was surprised at the number of objections to the applications. There had been 16 weddings during the year in the new wedding marquee and no complaints had been received. When booking weddings, he advised that there was a condition that wedding guests must use the resident DJ who was familiar with current noise regulations, and he no longer allowed live music or fireworks at any wedding event.

All parties were given the opportunity to ask questions of the Applicant and his Solicitor.

Mr McKenna highlighted an error in the Nuisance Action Team Leader representation where he stated there were currently no specific requirements with regards to notification of events which was incorrect.

He referred to Hardwick Hall's Entertainment Noise Control Action Plan dated February 2008 which read '*the Hotel will notify Sedgefield Borough Council, Sedgefield Town Council, Sedgefield Residents Forum, the Police and other local residents who have requested this information of the dates of planned events three months in advance of the event and will provide a schedule of events including weddings, listing the times of any band, DJ's and any other music*'.

Responding to a query from Mr Webb regarding the noise monitoring equipment, Mr Taylor explained that the noise management plan required staff to be trained to use the noise monitoring equipment, therefore if the application was granted, Blue Sky Acoustic would provide training to designated members of staff. Mr Buston, County Council Solicitor added that the Environmental Health Team would monitor the noise thresholds from residents properties.

With reference to films and plays, Councillor Finlayson mentioned that the noise management plan only referred to music and the amplified sound from films and plays would not always be musical. Mr Adamson advised that at the moment he had no intention of showing films and plays, however there may be an occasion where a charity event may want to show a film and was included to provide them with that option.

Mrs Bowles acknowledged that the County Council had requested the variation application and recognised that the application would be generally welcomed, however she could not accept why they have to hear some events and not others and asked if all events, excluding Hardwick Live could be inaudible. Mr Taylor referred to the POP code which stated event noise limits in rural areas should be background noise plus 15dB and Mr Adamson confirmed that they aimed for all events to be inaudible.

Responding to a question from Councillor J Blakey regarding the noise measuring equipment, Mr Woodliffe advised that Blue Sky Acoustics calibrate the equipment and produce documentation in advance of the events to provide assurance that equipment was calibrated. Mr Webb reiterated his previous comment that there were instances where the noise monitoring equipment was still being used after the calibration certificate had expired.

Councillor L Brown noted that Mrs Bowles had issues with people walking through private gardens and asked if Hardwick Hall had a dispersal policy. Mr Woodliffe confirmed that they had a traffic management plan for dispersal, security on site and signposted public footpaths, however areas were not fenced off. Mr Taylor added that Section 182 Guidance states that beyond the immediate area surrounding the premises, these were matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour was accountable in their own right.

Responding to a regarding monitoring, the Environmental Health Officer advised that only Hardwick Live was monitored, however if complaints were receive in relation to other events they would schedule monitoring for further events.

Mr McKenna asked that Hardwick Live be restricted to 3 days in August, complaints be directed to a specific person, records of complaints to be kept and accessible and responses provided to complainants.

All parties were given the opportunity to make a final statement.

At 12.00 pm, Councillors J Blakey, C Hampson and L Mavin **Resolved** to retire in private to determine the application. After re-convening at 12.35 pm the Chair delivered the Sub-Committee's decision. In reaching their decision the Sub-Committee considered the report, verbal and written representations from Other Persons, the Responsible Authority written representations and the verbal and written representations from the Applicant and his Solicitor. Members also took into account the Council's Statement of Licensing Policy and Section 182 Guidance issued by the Secretary of State.

Resolved:

That the applications to vary Premises Licences for Hardwick Hall Hotel and Hardwick Live Festival be granted, subject to conditions that were consistent with the operating schedule and the mandatory conditions set out in the Licensing Act 2003.