

DURHAM COUNTY COUNCIL

At a **Special meeting** of the **Statutory Licensing Sub-Committee** held in **Committee Room 2, County Hall, Durham** on **Monday 31 July 2023** at **9.30am**

Present:

Councillor C Hampson in the Chair

Members of the Sub-Committee:

Councillors J Howey, C Hunt and M Wilson

Also Present:

Ms S Grigor – Council’s Solicitor

Ms H Johnson – Licensing Team Leader

Applicants:

Mr D Laing (Joint Applicant)

Ms J Laing (Joint Applicant)

Mr R Laing (Joint Applicant)

Ms K Shepherd, Seasonal Events Organiser (on behalf of the Applicants)

Also in attendance:

Mr P Henry

Mrs I Lunan

Mr R Lunan

Ms P Renton

Mr M Banks, Shincliffe Parish Council

Ms A Callaghan, Shincliffe Parish Council

Mr R Ormerod, Shincliffe Parish Council

1 Apologies for Absence

Apologies were received from Councillor L Brown and Councillor I McLean.

2 Substitute Members

Councillor C Hunt was in attendance for Councillor I McLean.

3 Declarations of Interest (if any)

There were no declarations of interest.

4 Application for the Grant of a Premises Licence - East Grange Farm, High Shincliffe, Durham

The Chair welcomed attendees to the meeting and introductions were made. The Council's Solicitor explained that only three members were required to make the decision and the parties agreed that Councillor Hunt may withdraw from the meeting.

Councillor Hunt left the meeting.

The Council's Solicitor outlined the procedure for the meeting and the Licensing Team Leader presented the report of the Corporate Director of Neighbourhoods and Climate Change for the determination of an application for the grant of a premises licence for East Grange Farm, High Shincliffe, Durham, DH1 2TB (for copy of report see file of minutes).

The Licensing Team Leader explained that following mediation with the Weights and Measures Authority, additional conditions had been included in the operating schedule. During the consultation period, 80 objections and 18 representations in support of the application were received. In response to local residents' concerns, the application was amended to reduce the times for the sale of alcohol (for consumption on the premises) to Monday to Sunday 10:00 to 22:30 and the times for the provision of films (indoors and outdoors) to Friday and Saturday 12:00 to 21:00.

The Licensing Team Leader informed the Sub-Committee that 21 objections had been withdrawn, leaving 59 objections for consideration and she provided copies of a revised Appendix 6, with additional comments recently received from the Objectors, including comments relating to traffic and noise management. The Licensing Team Leader clarified that traffic management was not within the remit of licensing and that no live or regulated entertainment was requested, therefore no noise management plan was included with the application. During the consultation period, the Planning Authority provided comments for information only and no comments were received from the other responsible authorities. The Licensing Team Leader concluded by outlining the options available to the Sub-Committee.

The Chair invited questions from the parties in relation to the report.

Mr Lunan stated that he was aware of complaints made in respect of noise disturbance at previous events held by the Applicants and he asked how noise would be monitored, on and off site and how complaints regarding noise would be dealt with. The Licensing Team Leader responded that complaints regarding noise nuisance should be made to Environmental Health and she offered to provide the appropriate contact details to Mr Lunan, following the meeting.

The Licensing Team Leader stated that she was not aware of any complaints made in respect of the previous events and she highlighted that Environmental Health had made no comments during the consultation period and added that she would have expected that, had complaints been made, Environmental Health would have provided that information.

Mrs Lunan observed that the majority of the objections were from residents of High Shincliffe, who were those most likely to be directly impacted by the application activities, however the representations in support of the application were widespread and stretched as far as Darlington, Wolsingham and North Yorkshire. The Licensing Team Leader clarified that the vicinity test for interested parties was removed from the Licensing Act a number of years ago therefore any person wishing to make representation may do so.

The Chair then invited the Objectors to present their representations.

Mr Lunan presented his view that the activities requested in the application were inappropriate for a quiet residential area and he stated his objection related specifically to noise disturbance and the possibility of drinking to excess. He added that if the application were to be granted, it could lead to an extension of the activities in the future which would have an even greater impact on residents.

Mrs Lunan observed that the activities in the application were likely to require a substantial financial investment by the Applicants and her concern was granting the application could lead to an increasing number of events in the future, as the Applicants would seek to ensure their investment made a return. Mrs Lunan also raised concerns regarding the possibility of congestion on the busy roads in close proximity of the site location and she questioned how traffic would be monitored.

Also speaking in opposition to the application, Ms P Renton explained that she resided directly opposite the farm and that she had suffered noise and disturbance during previous events. She echoed the concerns that granting the application may lead to expansion of activities in the future and she pointed out that the events currently being undertaken already generated traffic and she was concerned as to the effect of further traffic in what was a quiet village.

Mr Henry expressed regret that he had been moved to object to the application, however, it was his view that the application lacked the detail required to demonstrate compliance with the licensing objectives. Mr Henry referred to his attendance at the Parish Council meeting at which he had asked if planning permission had been granted and he drew attention to paragraph 2.7 of Durham County Council's Statement of Licensing Policy.

Mr Henry stated the policy, 'Whilst there is a clear distinction between the licensing authority and planning authority, the licensing authority will expect applicants to demonstrate that their proposed use of a premises is lawful in planning terms.' He remarked that he had not been satisfied with the Planning Officer's response to his question that a change of use would be required and that he expected that would have been carried out prior to the licensing application. Mr Henry then referred to paragraph 5.8 of the Council's Statement of Licensing Policy which states that all applicants and existing licence holders are expected to achieve and adhere to any relevant planning permissions and that applicants are encouraged to secure any necessary planning permissions before applying for any licence. Mr Henry said, in his view, that in relation to the provision of films and the supply of alcohol, the policy had not been adhered to.

Mr Henry referred to a lack of particularity in the application in relation to the provision of films which the Applicants stated was merely 'a thought which required much more investigation' and, in his view, consideration and investigation should have been conducted prior to the application and, had that been done, it may have avoided some of the objections.

Mr Henry also highlighted that paragraph 5.2 of the Statement of Licensing Policy states the Council considers it extremely important that licensed premises behave as good neighbours and that licensees are encouraged to consult with local residents, businesses and local councillors prior to submitting an application for a new licence or variation of an existing licence to ensure the promotion of the licensing objectives and ensure that any issues that may arise in respect of the proposed operation of the premises can be addressed at the earliest possible stage. He expressed disappointment at the lack of consultation with residents prior to the application being made and he added that whilst the required public notices were placed on the site, they were placed where there was likely to be little footfall as there were no public footpaths at the locations. Furthermore, he had heard of the application, by coincidence, through a conversation with a neighbour.

Referring to the plans appended to the application, Mr Henry remarked that the plans lacked detail and failed to show access and egress, an escape route, the areas to be used for the licensable activity, the location where films would be shown, the height and location of any stage and the location of WCs and fire safety equipment.

Mr Henry referred the Sub-Committee to paragraph 5.5 of the Statement of Licensing Policy which states that 'All applicants are expected to consider the individual characteristics of the premises and locality when preparing their operating schedule, particularly when considering appropriate activities, hours and operating standards for the premises.'

Mr Henry explained that he was also objecting on the grounds of public safety and public nuisance and, in his view, the required detail had not been provided to demonstrate that policies had been met. He expressed concern at the maximum number of people on the site and public safety and security on the site, including what measures would be in place to prevent persons without tickets from entering the site. Mr Henry also referred to the lack of lighting of footpaths, space for car parking and traffic concerns including the potential for traffic congestion before and after films and he highlighted that the location of screens could be a distraction to drivers on the A177 road.

In relation to public nuisance, Mr Henry expressed surprise at the lack of a professional assessment and queried how Environmental Health could therefore have no concerns. He stated that as the farm is located on a hill, noise carries and whilst residents tolerate an acceptable level of noise, amplified noise would have a far greater impact. He highlighted that the residents had chosen to live in the quiet, rural area and the Applicants' proposal was unsuitable due to the level of noise, which, if granted, would have considerable impact and may lead to the expansion of activities in the future. He then referred the Sub-Committee to paragraph 7.3 of the Statement of Licensing Policy relating to the prevention of public nuisance which detailed the range of nuisances for which the Council will expect applicants to demonstrate that suitable and sufficient measures have been identified, implemented and maintained to prevent public nuisance. Mr Henry stressed that the policy states 'have been' as opposed to 'will be' and he commented that without a professional survey or advice, it was not possible to identify suitable measures required to reduce noise from the site.

Mr Henry concluded his submission stating that, as details of the appropriate assessments had not been provided in order to consider the full impact of issues such as increased traffic and noise and as the appropriate planning matters had not been addressed, he respectfully requested that the consideration of the application for the premises licence be adjourned pending the granting of planning permission.

The Chair then invited questions from the parties in relation to the representations from the Objectors.

The Licensing Team Leader clarified that Durham County Council's Statement of Licensing Policy outlined expectations; that planning and licensing are separate entities and there was no requirement for planning applications to be submitted prior to licensing applications and that was a decision for Applicants to make.

The Chair then invited the Applicants to present their submission.

Ms Shepherd, Seasonal Events Organiser, spoke on behalf of the Applicants and clarified that the application for the premises licence was to enable the Applicants to run their own bar at events and that the outdoor cinema experience was the only activity in addition to the events already in place. Ms Shepherd clarified that no complaints had been received in respect of previous events held at the farm and the Applicants were advised to apply for the premises licence prior to dealing with the planning issues. She confirmed that there were no plans to make the site permanent and all units used would be mobile units, including the bar, which would sell both alcohol and soft drinks. The start and finish times requested were to allow flexibility of timings due to issues caused by seasonality or adverse weather.

The Applicants' representative explained that the location plan appended to the report included a large proportion of the site and that had been necessary due to the use of mobile units and alternating the use of various fields on the site to allow for crop rotation.

Ms Shepherd confirmed that noise and traffic management plans had been submitted to the Parish Council, as they had requested and the Parish Council had subsequently withdrawn their objection. The distance from the location of the bar and music to the village was approximately 250 metres. Environmental Health and noise management intended to visit the site and monitor sound and would provide advice on monitoring sound levels and the procedure for handling complaints. In addition, the Applicants intended to invest in specialist equipment to monitor sound levels and would also seek independent expert advice.

Ms Shepherd also informed the Sub-Committee that the Planning Department had visited the site and the Applicants had been informed by phone, that due to the mobile nature of the site, planning permission was not required. However, the Applicants were in the process of completing the necessary paperwork and they expected to gain confirmation in writing that planning permission is not required.

In response to comments regarding a lack of support for the application locally, Ms Shepherd remarked that there was support for the application from residents of Shincliffe and she assured the Sub-Committee that the Applicants aim was to host social, family events which were not designed to encourage drinking to excess.

Regarding the lack of detail on the location and height of the mobile cinema screen, Ms Shepherd explained details were not known as plans were in the early stages, however, the Applicants were seeking advice from film companies on technical issues and options available.

The Applicant's representative made it clear that the Applicants had restricted the number of events as the farm was a working farm and events were limited to align with the farming activities and allow the farm to continue with business as usual.

In response to the comments regarding the lack of detail in the plans appended to the application, Ms Shepherd stated the plans had been acceptable to the Council for the purpose of the application and she pointed out that, as the facilities such as toilets and lighting were mobile, their location will vary. A ticketing system was introduced in response to learning from previous years when some queues had formed, therefore a ticket system was implemented, with tickets being released when there is space available to accommodate more vehicles.

With regard to the placement of the site notices, Ms Shepherd clarified that notices were placed as advised, on the perimeter of the site, however, when issues were brought to the Applicants' attention, additional signs were placed in locations where they were visible.

In conclusion, Ms Shepherd reiterated that the application would allow the Applicants to operate their own bar and to host four mobile cinema dates per year. Ms Shepherd highlighted that there was support from local residents and the former Rector of Shincliffe had sent the Applicants a message of support for the contribution they were making to the local community.

The Chair then invited questions from the parties.

Mrs Lunan questioned how the Applicants would be able to measure the level of congestion that the traffic to the cinema may cause. The Applicant's representative responded that the staggered ticketing system would be used to manage the flow of traffic.

Mrs Lunan then referred to the support for the application locally and suggested that one of the letters received in support may have been from a relative of the Applicants and the letter of support from the former Rector referred to the sunflower and Christmas tree events rather than the activities under consideration in the application.

Mr Henry commented that he had learned more from the submission from Ms Shepherd than from the application and this further illustrated his point that the application lacked detail which should have been available prior to the hearing, in order for the Sub-Committee to be fully appraised.

In response to a question from the Chair, Mr R Laing, Applicant, explained that the site could accommodate 120-150 cars with a staggered arrival at 10-minute intervals. Mrs J Laing, Applicant, added that this method had prevented queues from forming in previous years.

Ms Renton asked whether the Applicants intended to show films on a continuous loop and Ms Shepherd replied that films would not be shown multiple times. Mrs Renton also expressed her concern regarding pollution from idling car engines. Mrs Lunan remarked that it was unusual for outdoor cinemas to be located in quiet rural areas.

The parties were then given the opportunity to sum up and no further comments were made. At approximately 10.30am, the Sub-Committee (Councillors Howey, Hampson and Wilson) retired in private to consider the application. At approximately 10.55am the Sub-Committee reconvened and the Chair delivered the decision of the Sub-Committee. In reaching their decision the Sub-Committee considered the report of the Licensing Team Leader, the representations made by the Objectors and the Applicants. Members also took into account the Council's Statement of Licensing Policy and Section 182 Guidance issued by the Secretary of State.

The Sub-Committee **RESOLVED** to grant the application for the Premises Licence as amended, subject to the conditions consistent with the operating schedule and the mandatory conditions under the Licensing Act 2003. The Premises Licence was granted for the following:

Licensable Activities	Days & Hours
Supply of Alcohol (Consumption on the premises)	Monday to Sunday: 10:00 – 22:30 hrs
Films (Indoors and outdoors)	Friday and Saturday: 12:00 – 21:00 hrs (Maximum of 4 dates throughout May to September)
Open to the public	Monday to Sunday: 09:00 – 23:00 hrs

The premises licence shall be restricted to the following each year:

Sunflower event - August and September

Pumpkin Event – October

Christmas Tree Event - from the last two weekends in November
through to Christmas Eve

The provision of films restricted to a maximum of 4 dates throughout May to September.

Persons shall only be allowed entry to the premises who have purchased a ticket to an event.

No events shall be held without a ticket system in place.