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LICENSING & APPEALS SUB-COMMITTEE

Minutes of a Meeting held on Thursday 14 April 2022 in the Council Chamber, Town Hall, Matlock DE4 3NN at 2:00pm.

PRESENT

Councillor Graham Elliott - In the Chair

Councillors Mark Wakeman and Stuart Lees

Eileen Tierney (Licensing Manager), Lee Gardner (Legal Services Manager), Stacey Lindfield (Senior Licensing Assistant), Lucy Harrison (Democratic Services Assistant).

Colin Beresford (Applicant)

Representations - David Cowley (Principal Environmental Health Officer) and Laura Salmon (Environmental Health Officer)

Observing Proceedings – Cllr Andrew Shirley (DDDC Ward Member for Clifton and Bradley), Bethany Paling (Graduate Environmental Health Officer), Emma Turton (Graduate Environmental Health Officer) and Cllr R. B. Alton (Snelston Parish Meeting).

368/21 – ELECTION OF CHAIRMAN

It was moved by Councillor Stuart Lees, seconded by Councillor Mark Wakeman and

RESOLVED
(Unanimously)

That Councillor Graham Elliott be elected as Chairman of the Sub-Committee

369/21 – LICENSING ACT 2003 - APPLICATION FOR TEMPORARY EVENT NOTICE – DARLEY DANCE MUSIC FESTIVAL, DARLEY MOOR RACING CLUB, A515, DARLEY MOOR NEAR ASHBOURNE.

The Sub-Committee considered an application made under the Licensing Act 2003, for a Temporary Event Notice for a one-day dance music festival to take place at Darley Moor Racing Club, A515, Darley Moor, Ashbourne.

The Chairman invited the participants to introduce themselves, asked whether any party wished the Sub-Committee to consider the application in private and confirmed that the Sub-Committee was quorate.

The Licensing Manager gave an outline of the application.

The Sub-Committee and the other parties were afforded an opportunity to request clarification of the Licensing Manager's report.

The Sub-Committee then heard representations from the Principal Environmental Health Officer.

The Sub-Committee had the opportunity to question those making representation.

The Applicant, Mr Colin Beresford was also afforded the opportunity to request clarification of any points.

Mr Colin Beresford then presented the case for the TEN to be granted.

The Sub-Committee had an opportunity to question the Applicant.

All parties were afforded an opportunity to request clarification of any points.

The meeting adjourned at 14:40 to allow the Principal Environmental Health Officer to consider new information presented by the Applicant regarding the positioning of the sound stage.

The meeting re convened at 15:10, the Principal Environmental Health Officer informed the Sub-Committee Members that the new information did not alter their position.

The Sub-Committee Members confirmed that they had sufficient information to make a decision and withdrew into private session to discuss their findings.

370/21 – DECISION

The Sub-Committee resumed in public session.

It was moved by Councillor Stuart Lees, seconded by Councillor Mark Wakeman and

RESOLVED
(Unanimously)

That the Sub-Committee had heard from the Licensing Manager, Applicant and those making representation objecting to the application. The Sub-Committee has also considered the written representations appended to the Report.

Following careful consideration the Sub-Committee has resolved to accept the Objection Notice given to the Premises User, Colin Beresford, by the Council's Environmental Health Officer, and delegated the Licensing Manager to issue a Counter-Notice.

Rights of Appeal against this decision should be made to the Magistrates' Court acting for the petty sessional area in which the premises are located. You must do this in writing within 21 days of the date of the written Notice of Decision.

Hearing Closed: 3:35pm

371/21 LICENSING & APPEALS SUB-COMMITTEE - DECISION (Licensing Act 2003)

**Record of proceedings of the Derbyshire Dales District Council's
Licensing & Appeals Sub-Committee held on Thursday 14th April at
2:00pm.**

Full name of Premises User: Mr Colin Beresford (of Euphoria Festivals Ltd)

Premises Address: Field at Darley Moor Racing Club, A515, Darley Moor, Ashbourne.

Reason for attendance at the Sub Committee:

To determine whether the Objection Notice issued to the Premises User, Colin Beresford, by the Council's Principal Environmental Health Officer, should be accepted on the grounds that a licensing objective would be undermined if the event was held. The Objection Notice was given in respect of a Temporary Event Notice (TEN) received by the Licensing Authority for a one-day music festival, known as Darley Dance Festival, to take place at Darley Moor Racing Club, A515, Darley Moor near Ashbourne.

Constitution of Committee:

Councillor Graham Elliott (Chairman).
Councillor Stuart Lees.
Councillor Mark Wakeman.

Representations made by:

| | |
|--------------|--|
| David Cowley | Principal Environmental Health Officer |
| Laura Salmon | Environmental Health Officer |

Names of others present:

Eileen Tierney - Licensing Manager.
Lee Gardner - Legal Services Manager.
Stacey Lindfield – Senior Licensing Assistant.
Lucy Harrison – Democratic Services Assistant.

Applicant:

Colin Beresford – Applicant

Observing Proceedings:

Councillor Andrew Shirley – DDDC Ward Member for Clifton and Bradley
Bethany Paling – Graduate Environmental Health Officer
Emma Turton – Graduate Environmental Health Officer

1. The meeting was conducted in public, with the agreement of all parties.

The Sub-Committee withdrew into private session to consider its decision and was advised by the Sub-Committee legal representative that only evidence that was relevant to the four Licensing objectives not being undermined could be taken.

2. Chairman’s note of evidence (i.e. concise details of all oral and written details put before the Sub-Committee).

The Sub-Committee considered the report and comments made by the Licensing Manager including details of a Temporary Event Notice (TEN) received for a one-day music festival, known as Darley Dance Festival, to take place at Darley Moor Racing Club, A515, Darley Moor near Ashbourne.

The notice was to hold an event with the sale of alcohol, and the provision of live and recorded music on the 20th August 2022 from 11am to 10:00pm

The Council received an Objection Notice from the Environmental Health Department which had been issued to the Premises User by the Principal Environmental Health Officer. The Environmental Health Department, as a responsible authority, had objected to the holding of this event on the grounds that the public nuisance and public safety licensing objectives would be undermined.

The Sub-Committee listened carefully to the representations from the Principal Environmental Health Officer.

The Sub-Committee listened carefully to Mr Colin Beresford (the Premises User/Event Organiser), who presented the case for the Objection Notice issued to him by Environmental Health, not to be accepted, so that the event would be allowed to take place.

All parties were then afforded an opportunity to request clarification of any points.

3. Findings of the Sub-Committee on questions of fact material to the decision (i.e. the relevant facts accepted from the evidence available).

Are detailed in the Reason for the Decision.

4. Full text of unanimous decision.

The Sub-Committee in considering all the evidence and guidance

RESOLVED
(Unanimously)

To uphold the objection from the Environmental Health Department and instruct the Licensing Manager to serve a counter notice regarding this event.

The Sub-Committee also confirm that in reaching its decision it had

regards to the evidence presented in the report, the evidence presented at the Sub-Committee hearing, together with the Council's Licensing Policy and statutory government guidance ("sc182 Guidance").

Rights of Appeal against this Decision should be made to the Magistrates' Court acting for the Petty Sessional Area in which the premises are located. You must do this in writing within 21 days of the date of the written Notice of Decision.

Reasons for the Decision

In reaching its decision, the Sub-Committee considered the objections from the Environmental Health Department.

The conclusions reached by the Sub-Committee were that the event would cause a public nuisance and that the applicant did not have sufficient provisions in place to control noise nuisance.

The Sub-Committee also continued to be concerned regarding the safety of persons vacating the site.

The Sub-Committee concluded that on considering the evidence heard today and the papers presented to the Sub-Committee, members had not heard any evidence that they felt negated the objections raised by the Environmental Health officers.

It was noted that the main sound stage would not be situated within the soundproof marquee and thus the members were not confident that the sound would not cause a nuisance to residents.

Members were also concerned for public safety and felt that the provision of buses to assist in the vacating the site did not reduce this concern.

Public Nuisance

The Sub-Committee noted the Council's Licensing Policy - Fundamental Principles: "the Licensing Authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working, or engaged in normal activity in the area."

The venue is an airfield which is situated in an elevated area of land in a valley surrounded by three small local villages and situated on the A515.

In considering the licensing objective of Public Nuisance, the Sub-Committee noted that the site holds motor track days and that sound is difficult to manage due to the sites elevation and positioning in the local area and that there is the propensity for sound to travel.

The Environment Health Officers (EHO) had note of the Noise Management Plan, which referred to the Code of Practice on Noise at Concerts 1995. They highlighted their key concerns as the following:

- The venue currently holds more than 12 events per year which cause disturbance to local residents, and therefore any additional music events on the site should not exceed 15 dB above background noise levels over a 15 minute period.
- If the Noise level is 98 dB at the main stage, as confirmed within the Noise Management Plan, this will lead to elevated disturbance above background levels within the nearby villages and other noise sensitive locations.
- The Environmental Health Department do not accept that a music noise level of 75dB or 65dB would be acceptable at the façade of any noise sensitive premises, due to the level of local concerns about noise.
- If the Local Population was more accepting of a noisy activity then the noise criteria of 65dB may be permissible, but given the local concerns we cannot support this, as the event is likely to be noisy.
- Under the Health and Safety at Work etc, Act 1974, we also have concerns about members of the public walking back into Ashbourne from the venue. This is due to the public walking on grass verges. As the sale of Alcohol would be occurring on-site, we would expect to see plans for a taxi rank / bus service or other transport provision to take people back to Ashbourne or Derby as required, after the event. We are concerned about people walking along an unlit road at night.
- Also we are concerned about people drinking in Ashbourne then making their way to the event after consuming alcohol.
- The event also coincides with the Ashbourne Show which takes place in the nearby village of Osmaston. Given the large numbers of attendees visiting the area, the road and local infrastructure will be busy. An event of this nature should be planned around other events within the local area, so that sufficient local infrastructure is available i.e. police / ambulance / council resources etc, should an incident occur.
- Also, the organisers of both events should be in communication with each other for event planning to ensure safety. As both events are occurring at the same time, this may cause local issues if they are not fully reviewed. The Council understands that 12,000 visitors attended the Ashbourne Show in 2021. The Organiser should be able to confirm details of his engagements with the organisers of the Ashbourne Show.

The Sub-Committee heard from the applicant, who started by explaining that there would be a soundproof marquee to keep the noise down to an acceptable level. However, on further questioning it was evident that the sound stage would be outside the marquee and therefore the soundproofing would have no effect on the noise levels. The Applicant indicated that he held information regarding further noise assessments which had taken place, the Sub-Committee therefore adjourned to allow time for the EHOs to consider the new information.

On return, it was apparent that the information related to the marquee and not the main stage and therefore had no effect on the objections raised.

There were offers to monitor the sound levels, however the EHOs did not feel that this would negate the issues. They felt it was unlikely, considering the level of background noise, that the applicant could reduce the sound to an acceptable level which would not affect the amenity of the local community.

The EHOs also raised the issue of public safety, specifically regarding those travelling on foot who would leave the site directly onto small country lanes and the A515.

The roads in this area have no pavements, no lighting, and no public transport. Also due to its rural location phone reception is not reliable. The local villages have little in the way of

accommodation and would not be sufficient to accommodate the attendees of an event of this size.

The Sub-Committee therefore considered that there was a real risk to public safety. Patrons leaving the site via roads with no lighting or pavement would greatly increase the risk of road traffic accidents, especially with the A515 running adjacent to the site. This was a risk not only to those attending, but also to the general public who could be driving past the site at the time that large numbers of attendees would be leaving.

The applicant stated that coaches were organised to transport people away from the site and stated that further buses would be available if demand required.

The Sub-Committee was not convinced that this would assist the situation. The bus proposed was not considered to be large big enough and was only proposed to travel in one direction. It was also noted that any extra buses required would take time to put into action which would result in people walking onto unlit roads at a time of increase traffic due to the other major event taking place in the area.

Conclusion

The Sub-Committee had grave concerns regarding public safety as the proposed site was located in an area with an unreliable phone signal, no transport links, and no pavements or lighting. It was therefore believed that there would be a high probability of an accident on the roads surrounding the site.

It was also considered that any protections in place would be insufficient to negate the nuisance caused to local residents.

The Sub-Committee therefore concluded that the counter notice be served on the grounds of Public Nuisance and Public Safety.

Chairman

Date: 14th April 2022.



APPEALS TO THE MAGISTRATES' COURTS

Many of the enforcement actions and decisions made by Derbyshire Dales District Council carry the right of appeal to the Magistrates' Court. This means that if you do not agree with the decision that the District Council has made you may contact the Magistrates' Court and ask them to formally review it. For example, anyone served with a formal enforcement notice has the right to appeal against that notice within 21 days of its service.

How do I make an appeal?

The right to appeal is normally set out on the reverse of the notice or in a letter that accompanies it.

The Derbyshire Dales District Council area is served by two Magistrates' Courts:

- North East Derbyshire and Dales Magistrates' Court,
Tapton Lane, Chesterfield S41 7TW.
Tel: 01246 224040.

Which Court should I contact?

Generally speaking the North East Derbyshire and Dales Magistrates' Court serves the northern part of the District and Southern Derbyshire Magistrates' Court serves the southern part of the District.

The Court that you would need to contact to make an appeal will depend on the address to which the notice or other enforcement decision relates. If you are unsure which Court would deal with your appeal, we recommend that you contact one of them to check.

Where can I get help?

If you think you need help we would recommend that you speak to a solicitor who would be able to assist you with the Court processes.

The District Council is not able to recommend any particular firm of solicitors but would suggest you check in Yellow Pages or a local services directory.

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