



This information is available free of charge in electronic, audio, Braille and large print versions, and in other languages on request.

For assistance in understanding or reading this document or specific information about these Minutes please call the Committee Team 01629 761133 or e-mail committee@derbyshiredales.gov.uk

LICENSING & APPEALS SUB-COMMITTEE

Minutes of a virtual Hearing of the Licensing & Appeals Sub-Committee held at 09:30am on Tuesday 15th June 2021.

Under Regulations made under the Coronavirus Act 2020, the meeting was held virtually. Members of the public were able to view the virtual meeting via the District Council's website at www.derbyshiredales.gov.uk or via our YouTube channel.

PRESENT

Councillor Andrew Statham
- In the Chair.
Councillors Stuart Lees
Councillor Mark Wakeman
Eileen Tierney - Licensing Manager
Lee Gardner - Legal Services Manager
Laura Salmon - Environmental Health Officer
Simon Johnson – Democratic Services Officer

Applicant & Witnesses

Mr Colin Beresford	Applicant
Mr Danny Minns	Co-Applicant and Health & Safety Representative
Mr Rob Edge	Licence Leader Ltd
Mr Simon Joynes	Joynes & Nash – Noise Consultant
Mr Phil Wright	Monarch Security – Security Specialist

Representations & Witnesses

Cllr Matthew Taylor	Edlaston & Wyaston Parish Council
Cllr Peter Rosser	Edlaston & Wyaston Parish Council
Cllr. David Walsh	Rodsley & Yeaueley Parish Council
Cllr. R. B. Alton	Snelston Parish Meeting
Cllr. Andrew Shirley	DDDC on behalf of Ward Residents
Cllr. Tony Morley	DDDC Ward Member on behalf of Ward Residents
Mr John Bailey	Representation
Mr Nicholas Boileau	Representation
Mr Michael Bone	Representation
Mrs Christine Bradwell	Representation
Mr Mark Bright	Representation – Woodland Caravan Park
Mr Jonathan Edwards	Representation
Mr Simon Gillis	Representation
Ms Liz Gratton	Representation on behalf of Snelston Residents

Representations & Witnesses (cont.d)

Mr Colin Green	Representation
Mr Andrew Grenville	Representation
Mrs Angela Harrison	Representation on behalf of Mr Steve Ratcliffe
Mr James Hollingsworth	Representation
Mr Clive Holmes	Representation
Mr Andrew Quy	Representation
Mrs Lucy Quy	Representation
Mrs Audrey Rose	Representation
Mrs Tamara Shirley	Representation
Ms Eleanor Smith	Representation
Mr Gordon Tandy	Representation
Mrs D. Helen Wainwright	Representation

18/21 – ELECTION OF CHAIRMAN

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

RESOLVED That Councillor Andrew Statham be elected as Chairman of the Sub-Committee
(Unanimously)

19/21 – LICENSING ACT 2003 - APPLICATION A PREMISES LICENCE: DARLEY DANCE FESTIVAL, DARLEY MOOR RACING CLUB, A515, DARLEY MOOR, ASHBOURNE.

The Sub-Committee considered an application for a Premises Licence made under Section 17 of the Licensing Act 2003, by Euphoria Festivals Ltd for dance music festivals to be held at Darley Moor Racing Club near 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 supported by the Environmental Health Officer.

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 following:

Representations & Witnesses

Cllr Matthew Taylor	Edlaston & Wyaston Parish Council
Cllr Peter Rosser	Edlaston & Wyaston Parish Council
Cllr. David Walsh	Rodsley & Yeaueley Parish Council
Cllr. R. B. Alton	Snelston Parish Meeting
Cllr. Andrew Shirley	DDDC on behalf of Ward Residents
Cllr. Tony Morley	DDDC Ward Member on behalf of Ward Residents
Mr John Bailey	Representation
Mr Nicholas Boileau	Representation
Mr Michael Bone	Representation
Mrs Christine Bradwell	Representation

Representations & Witnesses (cont.d)

Mr Mark Bright	Representation – Woodland Caravan Park
Mr Jonathan Edwards	Representation
Mr Simon Gillis	Representation
Ms Liz Gratton	Representation on behalf of Snelston Residents
Mr Colin Green	Representation
Mr Andrew Grenville	Representation
Mrs Angela Harrison	Representation on behalf of Mr Steve Ratcliffe
Mr James Hollingsworth	Representation
Mr Clive Holmes	Representation
Mr Andrew Quy	Representation
Mrs Lucy Quy	Representation
Mrs Audrey Rose	Representation
Mrs Tamara Shirley	Representation
Ms Eleanor Smith	Representation
Mr Gordon Tandy	Representation
Mrs D. Helen Wainwright	Representation

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

The Applicant's representative Mr Rob Edge, the Applicant Mr Colin Beresford and Co-Applicant Mr Danny Minns were also afforded the opportunity to request clarification of any points.

Mr Rob Edge and Mr Colin Beresford then presented the case for Euphoria Festivals Ltd; supported by representatives from Joynes & Nash on noise issues and Monarch Security on security issues.

The Sub-Committee had an opportunity to question the Applicant and the Applicant's Representative.

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

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

20/21 – DECISION

The Sub-Committee resumed in public session.

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

RESOLVED
(Unanimously)

The Sub-Committee has heard from the Licensing Manager, Applicant, Co-Applicant, the Applicant's Representative including Witnesses called and those making representation objecting to the application. The Sub-Committee has also considered the written representations appended to the Report.

Following careful consideration of the representations put forward the Sub-Committee has resolved to refuse the application for a Premises Licence.

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: 1.10pm

20/21 LICENSING & APPEALS SUB-COMMITTEE - DECISION (Licensing Act 2003)

**Record of proceedings of the Derbyshire Dales District Council's
Licensing & Appeals Sub-Committee held on Tuesday 15th June 2021 at
09.30am.**

Full name of Applicant: Euphoria Festivals Ltd.

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

Reason for attendance at the Sub Committee:

To determine an application for a Premises Licence made under Section 17 of the Licensing Act 2003, for dance music festivals to be held at Darley Moor Racing Club near Ashbourne.

Constitution of Committee:

Councillor Andrew Statham (Chairman).
Councillor Stuart Lees.
Councillor Mark Wakeman.

Representations made by:

Cllr Matthew Taylor	Edlaston & Wyaston Parish Council
Cllr Peter Rosser	Edlaston & Wyaston Parish Council
Cllr. David Walsh	Rodsley & Yeaueley Parish Council
Cllr. R. B. Alton	Snelston Parish Meeting
Cllr. Andrew Shirley	DDDC on behalf of Ward Residents
Cllr. Tony Morley	DDDC Ward Member on behalf of Ward Residents
Mr John Bailey	Representation
Mr Nicholas Boileau	Representation
Mr Michael Bone	Representation
Mrs Christine Bradwell	Representation
Mr Mark Bright	Representation – Woodland Caravan Park
Mr Jonathan Edwards	Representation
Mr Simon Gillis	Representation
Ms Liz Gratton	Representation on behalf of Snelston Residents
Mr Colin Green	Representation
Mr Andrew Grenville	Representation
Mrs Angela Harrison	Representation on behalf of Mr Steve Ratcliffe
Mr James Hollingsworth	Representation
Mr Clive Holmes	Representation
Mr Andrew Quy	Representation
Mrs Lucy Quy	Representation
Mrs Audrey Rose	Representation
Mrs Tamara Shirley	Representation
Ms Eleanor Smith	Representation

Mr Gordon Tandy	Representation
Mrs D. Helen Wainwright	Representation

Names of others present:

Eileen Tierney - Licensing Manager.
Lee Gardner - Legal Services Manager.
Laura Salmon - Environmental Health Officer
Simon Johnson - Democratic Services Officer.

Premises' Representatives:

Mr Colin Beresford	Applicant
Mr Danny Minns	Co-Applicant and Health & Safety Representative
Mr Rob Edge	Licence Leader Ltd
Mr Simon Joynes	Joynes & Nash – Noise Consultant
Mr Phil Wright	Monarch Security – Security Specialist

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 were advised by the Sub-Committee legal representative that only evidence that was relevant to the four Licensing objectives could be taken into consideration and that it was important that any conditions attached to a Licence should be to promote the Licensing objectives.

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 the application for a Premises Licence by Euphoria Festivals Ltd for dance music festivals to be held at Darley Moor Racing Club near Ashbourne.

The Sub-Committee heard from the Licensing Manager that there had not been any objections from the responsible authorities during the consultation period; further supported by the Environmental Health Officer on noise abatement issues.

The Sub-Committee listened carefully to the representations by those present whom are resident near to Darley Moor Racing Club.

Mr Rob Edge and Mr Colin Beresford, supported by representatives from Joynes & Nash and Monarch Security, informed the Sub-Committee that the application would be for a Premises License to hold dance music festivals at Darley Moor Racing Club.

Mr Edge and Mr Beresford, supported by representatives from Joynes & Nash and Monarch Security, were questioned by both the Sub-Committee and those making representations on the following points:

- Abatement, monitoring and control of noise nuisance.
 - Supply of alcohol during operational hours.
 - Control of anti-social behaviour.
 - Camping on site.
 - Access and egress on site.
-

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.

RESOLVED
(Unanimously)

That the Licence be REFUSED

The Sub-Committee considered the relevant licensing objectives were Public Safety, Crime and Disorder and The Prevention of Public Nuisance.

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 Decision:

On 19 April 2021, an application was received from Euphoria Festivals Limited, for a Premises Licence to allow up to 5 dance music festivals, known as Darley Dance Festival, to take place at Darley Moor Racing Club, A515, Darley Moor near Ashbourne.

The application seeks to allow the sale of alcohol, and the provision of live and recorded music at up to 5 one-day festivals every year. Each festival would be held for 1 day either on a Friday or a Saturday or a Sunday.

The application included the following timings:

- Hour premise open to the public: 11am to 11.30pm Friday, Saturday and Sunday
- Recorded Music: 11am to 11.00pm Friday, Saturday and Sunday

- Live Music: 11am to 11.00pm Friday, Saturday and Sunday
- Supply of Alcohol: 11am to 11.00pm Friday, Saturday and Sunday

In reaching its decision the Sub-Committee considered the 96 objections and heard from approximately 32 of the objectors of which 2 were District Council.

The conclusions reached by the Sub-Committee was that this was not an appropriate venue for this event and any benefit to the local community in allowing this event to occur would not outweigh the harm to residents.

Public Nuisance

The Sub-Committee noted the Council's Licensing Policy - Fundamental Principles which says ...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 3 small local villages and situated on the A515.

The Sub-Committee heard from the residents of their concerns of the noise nuisance that the, up to 5 planned events would cause.

In considering the licensing objective of Public Nuisance, the Sub-Committee noted that the site holds motor track days which caused a nuisance to local residents as sound travels from the site. The Sub-Committee accepted that there is no cumulative impact assessment on the site thus the number of events is no reason to refuse the application, but did accept that the complaints from other events on the site gives the Sub-Committee direct evidence 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.

During the hearing the Sub-Committee heard from the applicant's sound expert and a lot of examination was made of the Noise Management Plan. The Sub-Committee heard repeated claims regarding the inaccuracy of the assumptions and accuracy of the plan. Repeated examples were given of claims of natural noise barriers being cited in the noise report with it was claimed did not exist.

The owners of the Woodland Caravan Park claimed that there was no mention in the report of the effect on their business. The sound expert claimed that as it was a business he did not have to provide those readings, however it is noted that at 2.15 of the Sc 182 Guidance it says that

"It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable"

Whereas the Noise expert says that industry standards says he does not have to take into consideration how noise effects a business when producing his Noise Management Plan, how noise effects a business is a consideration for the Licensng Authority.

One of the representations were from a Mr Edwards, that had a working knowledge of sound measurements, although not as qualified as the applicant sound expert. He raised repeated claims that the assumptions and recordings were inaccurate. When his qualifications were challenged by the expert, he stated that all his readings and calculations had been checked by a qualified noise expert. The Sub-Committee also sought the advice from the Council's Environmental Health Officer on the evidence Mr Edwards was presenting to the hearing.

The answer from the Officer, who was present at the hearing to advise members on noise issues, was that she believed Mr Edwards had taken a noise qualification on behalf of Wyaston and Edlaston Noise Action Group in relation to noise from bikes on the track and that Environmental Health have never had reason to doubt his calculations and that they intended to raise this with the noise consultant.

The Sub-Committee was therefore of the conclusion that it had no confidence in the Noise Management Plan, its accretions as to the noise levels that the event will produce and the impact of those noise levels on local residents

This was based on the repeated claims of inaccuracies where were not adequately answered in the hearing, the issues raised by Mr Edwards, of which the Council's Environmental Officers did not have reason to question and the lack of any reading or assessment of the impact on the Caravan Site the Sub-Committee had no reason to believe that the noise from the site could be adequately managed.

The Sub-Committee then considered the impact that the noise would have on the local community. Evidence from the owners of the Caravan Park gave a clear indication that this would have a detrimental affect their business and they believed that people would be put off from visiting their site and the area and have a negative impact on tourism and the local economy.

Mr and Mrs Quy gave evidence to the Sub-Committee that due to their close proximity to the site their animals would need to be stabled for their own protection and that they have young children who they believe will have their sleep affected by the noise

The Sub-Committee therefore reached the conclusion that public nuisance, mainly noise would occur as defined in the sc 182 guidance at 2.16 which states

"It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises."

The Sub-Committee then considered if there was any conditions that they could put on the licence to negate the effects of the nuisance.

The Sub-Committee looked at reducing the hours of the event, however reached the conclusion that the appropriate time to finish would be approximately the same time that the motor tract events also finish which is 5pm and this would not make the event viable.

The other option considered was to include a condition that noise shall not be permitted beyond the boundary of the licensed premises. However the Sub-Committee concluded that with the issues of sound at the venue, this would be impossible to achieve by the licence.

Public Safety

The next of the licensing objectives that was raised was that of public safety. The event would be held from 11am to 11pm. This equates to a possible 12 hours of drinking by some of the attendees.

The Sub-Committee accepted that if an attendee decided to drink and drive, they could not be held responsible for that, but for those that were unable to drive, they would leave the site onto small country lanes and a 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 not enough to accommodate an event of this size.

The Sub-Committee therefore considered that there was a real risk of public safety as the patrons left the even as the roads in the vicinity of the licensed premises with no lighting or pavement which gave the real risk of possible road traffic accidents especially with the A515 running past the site. This was a risk not only to those attending put the general public who could be driving past the site at the time the majority of those attending leave.

These issues were raised by the objectors and the applicant did not satisfy the Sub-Committee that they had an adequate plan in place to address these concerns or that the concerns were unfounded.

It is noted that in the Council's Licensing Policy it says about transport concerns that

"10.6 Where concerns are raised about the need to swiftly disperse people from town centres in order to prevent disorder and disturbance, the Licensing Authority will make arrangements to liaise with Derbyshire County Council's Local Transport Unit, and any other relevant organisations."

However the Sub-Committee consider this not to be relevant as this was not in a town centre where there would be existing transport links, or to prevent disorder or disturbance, but for the concerns of public safety. This was a major event that would require clear planning on how the attendees would be safely dispersed and the Sub-Committee was not convinced by the evidence heard of how this would be done in a safe and organised way.

A further point raised was regarding the procedures in place to deal with people who may be evicted from the event during the day. Again this would mean they would be ejected onto the public highway and the Sub-Committee was not satisfied that procedures were in place to address the safety of these people.

Crime and Disorder

In considering the licensing objective of Crime and Disorder the Sub-Committee noted that the applicant had offered to accept conditions on the license to satisfy the Police. Also that under the sc 182 Guidance the Police at 2.1 it says the Police are the main source of advice on crime and disorder. Objectors raised the issue of illegal camping as there is nowhere for the attendees to stay after the event and issues of people vacating the site have been mentioned above.

However the 182 Guidance states that once way from the vicinity of the site the attendees have to take personal responsibility for their actions and the licensee cannot be held responsible. Thus the Sub-Committee, with the lack of objections from the Police found no issues with regards to Crime and Disorder.

The Sub-Committee also considered if there was any additional benefit to the site to the local economy that would warrant this event being allowed to go ahead that would offset the nuisance caused to the local community. The events will be 1 day events mainly in the summer months, there is limited accommodation in the surrounding villages and most of those would be filled with people coming to enjoy the Peak District. The direct evidence from the Caravan Park owners is they believe they would lose business. As for the event it is a 12 hour self-contained event. It is unlikely that local businesses will receive any trade from the site and other than concessions that will be allowed to trade on site and some employment that will be for 1 day only, the Sub-Committee could not see any social or economic benefit to the local community if it was to go ahead.

Conclusion

The Sub-Committee rejected concerns relating to Crime and Disorder finding that this would be beyond the control of the applicant, but on considering all the evidence and guidance could not see how any conditions attached to the licence could negate the Public Nuisance caused by the event and had concerns as to the accuracy of the Noise Management Plan.

The Sub-Committee also had grave concerns as the issue of Public Safety being that the site was located in an area with an unreliable phone signal, no transport links, pavement's or lighting and believed there was a high probability of an accident on the roads surrounding the site.

In the Sub-Committee hearing one of the objectors commented that a planning appeal rejected permission for the motor track to hold further events. The Sub-Committee confirmed that this was correct. A review of the decision showed that the planning inspector was asked to consider granting permission for a further 6 days of operation to the motor track and most track days finish around 5pm.

In the decision the Planning Inspectorate held that the following:-

“On the basis of the appellant’s noise assessment there is no doubt that the noise increases likely as a result of this proposal would result in unacceptable living conditions for residents living in nearby villages. Local residents already tolerate, albeit reluctantly, increased noise from the appeal site for 14 days per year. This is mainly over the summer months when they are more likely to use their gardens and have windows open. Any increase to this would be unbearable for many of them. While I realise that some people will be out at work during the week, it is clear from local representations that many local residents are retired, some work at home and there are also parents with young children home at this time.”

“...Nevertheless, on this occasion the demonstrable harm to local living conditions as a result of the significant increase in noise outweighs the economic and social benefits the proposal would bring....”

Whereas the sub-Committee accepts that the planning regime have different considerations and it did not consider this decision when reaching its conclusions it was comforted by the fact that an a Government Appointed Inspector had reviewed the site

and the local environment, considered noise levels and the economic benefit to the local community and had reached the same conclusions of the Sub-Committee.

The Sub-Committee therefore concluded that the application be Refused on the grounds of Public Nuisance and Public Safety.

Chairman

Date: 15th June 2021.

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.

Published by Derbyshire Dales District Council, Town Hall, MATLOCK, Derbyshire DE4 3NN