

EAST DEVON DISTRICT COUNCIL

Minutes of the meeting of Licensing and Enforcement Sub Committee held at Council Chamber, Blackdown House, Honiton on 6 March 2024

Attendance list at end of document

The meeting started at 9.30 am and ended at 11.24 am

42 Minutes of the previous meeting held on 21 February 2024

The minutes of the meeting held on 21 February 2024 were agreed and signed as a true record.

43 Declarations of interest

There were no declarations of interest.

44 Matters of urgency

There were no matters of urgency.

45 Confidential/exempt items

There were no confidential / exempt items.

46 Determination of an application for the grant of a premises licence to permit licensable activities at the Sidmouth Folk Festival event in Blackmore Gardens and Peacock Lawn, Blackmore Drive, Sidmouth EX10 8LA

The meeting was a hearing under the Licensing Act 2003.

The Chair introduced the members of the Sub Committee and the Officers present.

The Sub Committee's Legal Advisor, Giles Salter, outlined the procedure for the meeting.

The Sub Committee considered the application for the grant of a premises licence to permit licensable activities at the Sidmouth Folk Festival event in Blackmore Gardens and Peacock Lawn, Blackmore Drive, Sidmouth EX10 8LA.

The applicant, Sidmouth Folk Week Productions Ltd, entitled to make representations, was represented by John Radford of JR Event Services Ltd.

Also present, and entitled to make representations, was the interested party, Stephen Pemberton.

Paper copies of a previously circulated submission from Mr Pemberton were tabled at the meeting.

The Licensing Officer introduced the application which covered the period Friday 2 August to Friday 9 August 2024 as set out on page 7 of the report. Four representations had been received from local residents, all relating to public nuisance.

The Licensing Officer drew the Sub Committee's attention to the following points:

- Two sound recordings, taken on a mobile phone at a residential property in Coburg Terrace, had been submitted in support of one of the representations. The recordings had been seen by the applicant.

The sound recordings were played.

- The recordings were of a different event, the Sidmouth Jazz and Blues Festival, with a different applicant.
- Representations referred to licensed hours in previous years and the licence for 2023 was included on page 61 of the report for comparison.
- The applicant had engaged with Environmental Health (EH) prior to submitting the application in line with best practice.
- Noise mitigation measures to address EH concerns were set out in Appendix H on page 64 of the report.
- A mediation meeting had been attended by Mr Radford and Mr Pemberton. Mr Radford had offered to consider adjusting the timings applied for in line with the previous year. This had not been acceptable to Mr Pemberton and no agreement had been reached at the mediation.

In response to a question from Members, the Licensing Officer advised that Blackmore Gardens and Peacock Lawn had been used in the same way at last year's event, although not in every previous year.

The applicant's agent and the interested party had no questions for the Licensing Officer.

The applicant's agent, Mr Radford, made the case for the application and highlighted the following points:

- The Sidmouth Folk Festival would be celebrating its 70th anniversary in 2024 and, since 2005 Blackmore Gardens had been used as a focus for folk music and dance; a creative hub at no cost.
- Dance ceilidhs had been introduced to help provide an income for the festival.
- The PA system had been in use at the venue over the past 10 years and the applicant had sought advice from Environmental Health to ensure that an appropriate noise management plan was in place.
- The applicant sought to ensure that sufficient methods of engagement were in place should any problems arise during the festival.
- In line with Police advice, staggered finish times would be in place.

In response to a question from Members regarding sound frequencies, the Environmental Health officer advised that a low heavy bass is not characteristic of folk music. Sound frequencies are not specified in licence conditions, however, levels can be altered on the sound desk.

The applicant's agent, Mr Radford, advised that the sound engineers would pre-set noise levels and, if adjustments are required, these are locked into the sound systems to provide control.

Responding to further questions from Members, the applicant's agent, Mr Radford, advised the following:

- Mr Radford is the Production Manager for this year's festival and has been involved since 1997, except for 2022 and 2023.
- Part of Mr Radford's role is to monitor what is happening at the various venues during the festival.

- Prior to 2020, in the previous 5 years there had been no formal complaints regarding noise.
- Mr Radford had previously worked with a number of residents to respond to their concerns, including visiting 3 properties and providing a personal phone number.
- A phone number would be published prior to the event to allow direct communication and faster mitigation should issues arise.

The Environmental Health officer confirmed that, going back to 2020, there had been no complaints.

In response to questions from the interested party, Mr Pemberton, the applicant's agent advised the following:

- Consultation was undertaken in line with all statutory requirements and a clear communications system was in place due to the longevity of the event.
- Folk music is amplified by electrical means which is different from electronic music.
- A direct phone line would be given out to anyone on request and this would be available 24 hours a day during the festival.

The interested party, Mr Pemberton, put his case which included the following points:

- The interested party had had the emergency phone number during previous years, but had not had any response.
- The interested party was concerned that the definition of consultation was too narrow and that local people would not be consulted properly.
- Concern was raised that there were inaccuracies on page 9 of the report dealing with representations and responses.
- The proposed finish time of 11.45pm was of real concern and a 10pm close would be considered more suitable.
- The interested party expressed dissatisfaction that there had been short notice by email of the mediation meeting and that it was a pity that a site visit had not taken place as other local residents would have attended.
- The location was completely wrong due to there being young families and a hospital with in-patient wards in the vicinity.
- Concern was expressed that the Licensing team has no ability to refuse or ameliorate an application.
- There was a lack of consultation in the broader sense and the Licensing Act was confusing on this point.
- There should be proper consideration given to ensuring that the genuine concerns of local residents are heard.

At the request of the Chair, the Legal Advisor set out the licensing process as per the legislation and advised that the Licensing team undertakes the administration for licensing purposes. The Police are the lead authority with regard to licensing objectives and would have made representations had they not been satisfied. The Environmental Health Officer advised that EH are the experts with regard to noise, and the lead authority on the licensing objective of the prevention of public nuisance. Environmental Health had been consulted on the application and had led with regard to noise levels. The event was covered by an agreed event management plan.

Local residents had been able to submit objections and attend the Sub Committee hearing where relevant objections would be given proper weight. The Legal Advisor was satisfied that due process had been followed and that the Sub Committee had all the information required to make its decision. The Licensing Act is a permissive act and it is for the responsible authorities to decide the balance between the application and residents' objections.

The Licensing Officer advised that, as per the legislation, the Licensing team had no right to turn down applications and that, where relevant, all matters would come to the Licensing Sub Committee for determination.

The interested party was of the view that the Licensing team should consider the barriers to consultation and act on the residents' behalf.

The Licensing Manager advised that anyone is entitled to submit an application and that the Licensing team carries out all of the required and necessary checks. The Licensing team would be acting outside its remit if it were to make a decision to reject an application.

In response to questions from Members, the interested party advised that when he had used the mobile phone number provided two or three times during the previous couple of years, there had been no response.

In reply, the applicant's agent confirmed that there had been a different production company in place in 2022 and 2023.

The Legal Advisor outlined the Police closure powers available and that a review could be requested by anyone affected by the event.

In response to a question from the Chair, the applicant's agent confirmed that his offer to adjust the timings applied for, as outlined during the mediation meeting, still stood.

In his closing statement, the applicant's agent confirmed that the application met all legal requirements.

The Chair thanked those present for attending and advised that the Sub Committee's decision would be notified in writing in five working days.

The meeting was adjourned temporarily at 10:46am to allow the Sub Committee to withdraw and consider the application.

The meeting reconvened at 11:12am.

47 **Determination of an application for the grant of a premises licence to permit licensable activities at the Sidmouth Folk Festival event at the location known as Betsy's Knapp, Corner of Bickwell Lane and Station Rd/Bulverton Rd, Sidmouth**

The Sub Committee considered an application for the grant of a premises licence to permit licensable activities at the Sidmouth Folk Festival event at the location known as Betsy's Knapp, Corner of Bickwell Lane and Station Road/Bulverton Road, Sidmouth.

The applicant, Sidmouth Folk Week Productions Ltd, entitled to make representations, was represented by John Radford of JR Event Services Ltd.

The interested party who had submitted representations was not present.

The Licensing Officer presented the report and noted that the application was for a time limited licence covering the period 2 to 9 August 2024, with different finish times for the

sale of alcohol, late night refreshment and entertainment into the early hours of 10 August.

It was noted that the hours applied for are the same as the previous year. One representation had been received and no mediation had taken place.

There were no questions from Members or the applicant's agent for the Licensing Officer.

The applicant's agent made the case for the application and noted that this out of town venue had been part of the Folk Festival for many years since 1997. The venue provided a late night social space serving the campsite. The PA system would face up the valley and significant ground work had been undertaken to mitigate any sound issues. The applicant had engaged with Environmental Health and a noise management plan was in place.

In response to a question from Members, the applicant's agent advised that he had last been involved in the event's production prior to 2020 and in 2019 there had been complaints from two residents which had been managed by the Festival organisers. Sound levels could be managed through the sound desk and were also sometimes affected by weather conditions.

The Environmental Health Officer advised that one complaint had been received in previous years regarding noise levels and that a management plan for 11pm to 7am had been introduced to ensure that there would be no sleep disturbance at sensitive properties nearby. Information regarding any complaints was fed back to the management team at the time and plans are living documents which can be adapted to deal with any issues.

The applicant's agent did not wish to make a closing statement.

The Chair thanked everyone for attending and advised that the Sub Committee would notify its decision in writing in five working days.

Attendance List

Councillors present:

K Bloxham (Vice-Chair)
R Jefferies
J Whibley (Chair)

Councillors also present (for some or all the meeting)

P Faithfull (Reserve Member)

Officers in attendance:

Lesley Barber, Licensing Officer
Rebecca Heal, Solicitor
Sarah Jenkins, Democratic Services Officer
Phillippa Norsworthy, Licensing Manager
Giles Salter, Solicitor
Louise Bennett, Licensing Officer

Zoe Jones, Licensing Officer
Ian Winter, Environmental Health Officer

Councillor apologies:

None

Chair

Date: