SHARPS REDMORE

ACOUSTIC CONSULTANTS

Report

Ivy House Hotel, Oulton Broad, Lowestoft

Hearing Statement for Licensing Application

Prepared by
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1.0 Qualifications and Experience

1.1 My name is Gary King. I am an acoustic consultant with Sharps Redmore, a specialist acoustic consultancy based in Ipswich, Suffolk.

1.2 I hold the Diploma is Acoustics and Noise Control and I am a Member of the Institute of Acoustics (MIOA). I also hold the Chartered Institute of Environmental Health (CIEH) diploma in Environmental Health qualifying in 1992.

1.3 I have been employed in my current position since September 2007. Prior to this, I was Assistant Head of Environmental Services for Tendring District Council, where I was responsible for the running of the Environmental Protection (including noise) team. I worked within the Environmental Protection team continuously from 1992, investigating complaints of statutory nuisance, including those from licensed premises, and taking enforcement action in relation to these properties.

1.4 Since joining Sharps Redmore in 2007 I have specialised in environmental noise and noise nuisance and have undertaken many assessments of a wide variety of industrial, residential and commercial projects. I have given evidence at many hearings, including Planning Hearings and Inquiries and at Magistrate's courts.

1.5 Sharps Redmore is one of the largest independent acoustic consultancies in the country and has advised many major developers and local authorities over a period of 20 years.

2.0 Introduction

2.1 SR understands that an application has also been made to Waveney DC by the Ivy House Hotel, Oulton Broad for variation the existing premises licence to permit the use of a marquee within the grounds of the hotel for live and recorded music, dance and supply of alcohol every day from 1100 hours to 0200 hours, and for late night refreshment every day from 1100 hours to 0200 hours.

2.2 Temporary Planning permission (3 years) has recently been granted by the Broads Authority (Ref BA/2013/0410/FUL) for a proposed marquee on the grounds of the Ivy House Country Hotel in Oulton Broad subject to conditions restricting the use of the marquee until midnight and the installation of a noise limiting device to prevent noise from any amplified music within the marquee exceeding 82 dBA. SR understands that the marquee will be used as a function venue for weddings and parties and therefore variation of the existing premises licence is being sought.

2.3 The purpose of this report is to determine the impact of the proposed marquee on the neighbouring noise sensitive properties and in particular to comment on the noise assessment carried by AJA acoustics with regard to the use of the marquee.

2.4 A summary and conclusion, including comments on the potential impact of local residents, is included in section 5.0 of this report.

3.0 Legal Requirements and Noise Criteria

Waveney District Council – Licensing Act 2003–Statement of Licensing Policy (4th Edition)

3.1 In line with the statutory requirements contained within the Licensing Act 2003, Waveney District Council have published its statement of licensing policy which outlines the four main licensing objectives as follows:

- The prevention of crime and disorder
- The prevention of public nuisance
- Public safety
- The protection of children from harm.

3.2 In terms of noise the most relevant section of the licensing policy is section 14.4 'Prevention of public nuisance', which is interpreted in its widest sense to include noise, light, odour, litter and anti-social behaviour. Paragraph 14.4.4 of the licensing statement recommends that

"licensees apply a high standard of the premises to minimise the potential for any public nuisance that may arise from their operation of the premises particularly where:

- *They are situated in a residential or noise sensitive area; or*
- *Extended opening hours are proposed"*

3.3 No objective guidance is provided by Waveney District Council, however reference is made to the Good Practice Guide on the Control of Noise from Pubs and Clubs produced by the Institute of Acoustics (IOA).

Environmental Protection Act 1990 (EPA 90)

3.4 The EPA 90 places a duty on local authorities to investigate complaints of statutory nuisance and take action where satisfied that a statutory noise nuisance exists.

3.5 A statutory nuisance is said to occur when the unreasonable activities of a person at one premises interfere with the reasonable enjoyment of another person's premises. There is no set numerical standard below which a noise is acceptable and above which a noise would amount to a statutory nuisance. Instead the definition of statutory nuisance is defined by a wide body of case law, which requires the following factors to be considered:

- Level of noise
- Its duration and time of day or night when the noise occurs
- Whether any aggravating characteristics are present;
- The character of the neighbourhood where the noise occurs

3.6 It is possible to apply objective standards to the assessment of noise and the effect produced by the introduction of a certain noise source may be determined by several methods, as follows:

i) The effect may be determined by reference to guideline noise values. British Standard (BS) 8233:1999 and World Health Organisation "Guidelines for Community Noise" contain such guidelines. The WHO Guideline values set guideline levels for community noise such as road traffic, a point recognised by AJA acoustics in their report submitted in support of the planning application (paragraph 2.2), and is therefore not considered an appropriate method for assessing noise from amplified music.

ii) Alternatively, the impact may be determined by considering the change in noise level that would result from the proposal, in an appropriate noise index for the characteristic of the noise in question. There are various criteria linking change in noise level to effect. This is the method that is suited to, for example, the assessment of noise from road traffic because it is capable of displaying impact to all properties adjacent to a road link irrespective of their distance from the road and therefore has limited use in this case.

iii) Another method is to compare the resultant noise level against the background noise level (L_{A90}) of the area. This is the method employed by BS 4142:1997 to determine the likelihood of complaint from noise of an industrial or industrial type nature. It is best suited to the assessment of steady or pseudo-steady noise.

3.7 As can been seen above there is no specific guidance which can be used to determine the impact of entertainment noise, and in the absence of the specific guidance, the applicants consultants, AJA acoustics, have made reference to the Code of Practice for Environmental Noise at Concerts. In terms of relevance to the proposed marquee and the licensed activities that will take place inside, the use of these document is limited as it is designed for large outdoor events (up to 14 occasions a year) and specifically excludes noise from licensed premises.

3.8 SR recommends that consideration should be given to the Code of Practice on the Control of Noise from Pubs and Clubs' published by the Institute of Acoustics (IOA), which contains advice and guidance on the assessment of entertainment noise (music, singing and speech). Although objective based criteria were dropped from the final version of the guide, a "working draft on criteria, measurement, guidelines and other relevant information" was included in an annex to the last version of the draft guide. The main thrust of this guide was towards acceptable noise levels inside noise sensitive properties and recommended for venues where entertainment takes place more than 30 times per year and continues beyond 2300 hours, then L_{Aeq} (music playing) should not exceed the background L_{A90} (music off). In addition the L_{10} (level exceeded for 10% of time) of low frequency 'bass' noise (40 – 120 Hz) should not exceed the background noise level with music off.

3.9 The adoption of the best practice guidance within the Code of Practice on the Control of Noise from Pubs and Clubs is referred to in paragraph 14.4.6 (e) Waveney DC's statement of Licensing Policy 2003 (4th Edition). The guidance contained in the draft IOA code takes into account the existing character of the area, the duration, the number or occasions the noise occurs and the presence of annoying characteristics such as low frequency 'bass' noise which are similar to those which should be used to consider whether a statutory nuisance exists. It is therefore considered that the use of draft IOA code is appropriate to determine whether noise from the playing of amplified music within the marquee is likely to cause a risk to public nuisance in accordance with Waveney DC's statement of licensing policy.

4.0 Noise Assessment

4.1 In assessing the potential impact from the playing of amplified music within the marquee on local residents, SR has considered the noise report and supplementary noise information prepared by AJA acoustics on behalf of the Ivy House Hotel to support the planning application.

Noise break out from marquee

4.2 AJA have carried out an assessment of the noise levels from music breakout from the marquee on the residential properties in Smiths Walk and following concerns raised by local residents on the residential properties north of Oulton Broad.

4.3 The report does not provide any conclusions as to what would be an acceptable noise level and instead based on an assumed sound reduction performance of a marquee, have calculated the noise level at surrounding residential properties based on predicted noise levels within the marquee. The calculated noise level at the residential properties has then been compared to existing background noise levels measured.

4.4 The calculations within the AJA report are based on the marquee having an assumed sound reduction performance of 11 dB R_W. It is SR's view based on measurements of similar premises that this sound reduction performance is overly optimistic and instead a realistic maximum sound reduction performance would be in the region of 7 dB R_W.

4.5 This would also assume that the marquee would be sealed with doors and openings closed which is highly unlikely and impracticable. No details of any mechanical ventilation have been provided and therefore during the summer months, when the majority of the functions will take place, the marquee will be open and people will be spilling out into the Hotel grounds. In this situation the sound reduction performance of the marquee would be negligible. Even if the marquee was totally sealed (as stated above this is totally impracticable) the marquee would not provide any sound reduction against low frequency sounds 40 – 120 Hz, which are specifically referred to in the IOA code and described by the local EHO at a planning site meeting on the 14th March 2014 as being the thump, thump, 'base associated with live and amplified music.

4.6 In addition to the above concerns, no details of the calculations, including corrections for ground absorption or wind direction, have been included within the report and therefore it is not possible to verify the accuracy of the calculations and noise predictions within the AJA report. It should be noted that in relation to the properties north across Oulton Broad, no ground absorption will take place.

4.7 In relation to the survey of existing noise levels, it is accepted that the survey carried out at the location close to Smiths Walk is representative of typical noise levels, the additional survey locations north of Oulton Broad are approx. 200 metres away from the residential properties in Broad View Road which are closest to the marquee. The survey was carried out with a NW breeze and as such nose levels were dominated by road traffic on Saltwater Way and Bridge Road. If the survey had been carried out at the properties in Broad View Road directly north of the hotel and with a SW wind (the prevailing wind direction during the summer months) existing noise levels would be lower and consequently the impact of music played in the marquee higher.

4.8 SR understands that the recent planning approval has been granted subject to planning conditions requiring the installation of a noise limiting device which will prevent noise levels within the marquee from exceeding 82 dB to ensure that noise levels do not exceed the existing background noise levels. This level is based on the predicted results and calculations carried out in the AJA report. As stated above this is a 'best case' and an unverified scenario. Based on SR's experience of the sound reduction performance of a marquee and a typical summer situation, internal noise levels within the marquee would have to be at least 11 dB i.e., 71 dB than those predicted by AJA acoustics and would significantly exceed the existing background noise levels. This is contravention of the draft guidance contained in the IOA Code of Practice in the Control of Noise from Pubs and Clubs (paragraph 3.8 and 3.9)

4.9 It is SR's experience that a typical wedding disco would be in the region of 90 – 100 dB L_{Aeq} and live music slightly higher. Subjectively internal noise levels of around 82 dB would be approximately half as loud as those you would normally expect from a typical wedding disco, whilst levels of around 71 dB would be half as loud again. Taking into account the potential number of people at function (350) noise from people talking would be similar to the noise limits proposed and as a result any entertainment would have to be significantly higher and the live music would amount to no more than background music. It is clearly not viable to have a wedding function when the music is so low and therefore any condition requiring music to be played at those levels would be so restrictive as to be unreasonable and unenforceable.

5.0 Summary and Conclusions

5.1 Sharps Redmore have been appointed by local residents to provide advice on the variation of premises licence application relating to the erection of a marquee in the grounds of the Ivy House Country Hotel, Oulton Broad to hold weddings and functions.

5.2 The noise impact from the use of the marquee has been considered by Adrian James Acoustics (AJA) in their report reference 10956/1 and supplementary information (M001) dated 11th March 2014. This report has been considered by Mark Seaman, Environmental Protection Officer at Waveney DC, who is his email dated 15th January 2014, to the Broads Authority has recommended that noise levels within the marquee should be restricted to 82 dB prior to midnight. As a result temporary (3 years) planning consent was recently granted by The Broads Authority subject to conditions restricting internally noise levels and hours of use.

5.3 Taking into account the information provided within the AJA report it is considered that such a limit would significant exceed the existing background noise levels around the site and as a result will not prevent the risk of public nuisance to surrounding local residents, for the following reasons:

- The noise calculations are based on a 'best case' series of assumptions, including the sound performance of the marquee. They do not consider the typical summer month situation when the marquee will be open and people outside in the hotel grounds. Therefore to ensure that noise levels do not exceed the existing background noise levels during this period then noise levels within the marquee would have to be up to 11 dB less than those predicted in the AJA report.

- Taking into account typical noise levels measured in similar wedding venues, the noise levels required by the planning conditions would be very low and is unlikely to be acceptable to those hiring out the marquee.

- The survey locations north of Oulton Broad are not considered representative of the nearest noise sensitive properties to marquee. The survey was carried out during a NE breeze and as such were influenced by noise from Saltwater Road and Bridge Road. During the summer months when the prevailing wind is from the SW, noise levels at the properties on the northern side of the Broad will be lower, therefore increasing the impact from music played within the marquee.

5.4 It is clear within the Waveney DC Statement of Licensing policy that planning and licensing are separate statutory regimes, for instance licensing considers public nuisance whereas planning considers amenity. Although there is an overlap of the issues concerned *"the licensing authority is not bound by decisions taken by the planning authority and vice versa".*

5.5 Therefore taking into account the above, and notwithstanding the planning consent granted by The Broads Authority the use of the marquee for weddings receptions and similar events, has the potential may cause a public nuisance to neighbouring residential properties in contravention of the policy aims contained within the Waveney DC Statement of Licensing Policy (4th Edition).

APPENDIX A

ACOUSTIC TERMINOLOGY

Acoustic Terminology

A1 Noise, defined as unwanted sound, is measured in units of decibels, dB. The range of audible sounds is from 0 dB to 140 dB. Two equal sources of sound, if added together will result in an increase in level of 3 dB, i.e. 50 dB + 50 dB = 53 dB. Increases in continuous sound are perceived in the following manner:

1 dB increase - barely perceptible.

3 dB increase - just noticeable.

10 dB increase - perceived as twice as loud.

A2 Frequency (or pitch) of sound is measured in units of Hertz. 1 Hertz (Hz) = 1 cycle/second. The range of frequencies audible to the human ear is around 20Hz to 18000Hz (or 18kHz). The capability of a person to hear higher frequencies will reduce with age. The ear is more sensitive to medium frequency than high or low frequencies.

A3 To take account of the varying sensitivity of people to different frequencies a weighting scale has been universally adopted called "A-weighting". The measuring equipment has the ability automatically to weight (or filter) a sound to this A scale so that the sound level it measures best correlates to the subjective response of a person. The unit of measurement thus becomes dBA (decibel, A-weighted).

A4 The second important characteristic of sound is amplitude or level. Two units are used to express level, a) sound power level - L_w and b) sound pressure level - L_p. Sound power level is an inherent property of a source whilst sound pressure level is dependent on surroundings/distance/directivity, etc. The sound level that is measured on a meter is the sound pressure level, L_p.

A5 External sound levels are rarely steady but rise or fall in response to the activity in the area - cars, voices, planes, birdsong, etc. A person's subjective response to different noises has been found to vary dependent on the type and temporal distribution of a particular type of noise. A set of statistical indices have been developed for the subjective response to these different noise sources.

A6 The main noise indices in use in the UK are:

L_{A90}: The sound level (in dBA) exceeded for 90% of the time. This level gives an indication of the sound level during the quieter periods of time in any given sample. It is used to describe the "background sound level" of an area.

L_{Aeq}: The equivalent continuous sound level in dBA. This unit may be described as "the notional steady noise level that would provide, over a period, the same energy as the intermittent noise". In other words, the energy average level. This unit is now used to measure a wide variety of different types of noise of an industrial or commercial nature, as well as aircraft and trains.

L_{A10}: The sound level (in dBA) exceeded for 10% of the time. This level gives an indication of the sound level during the noisier periods of time in any given sample. It has been used over many years to measure and assess road traffic noise.

L_{AMAX} The maximum level of sound measured in any given period. This unit is used to measure and assess transient noises, i.e. gun shots, individual vehicles, etc.

A7 The sound energy of a transient event may be described by a term SEL - Sound Exposure Level. This is the L_{Aeq} level normalised to one second. That is the constant level in dBA which lasting for one second has the same amount of acoustic energy as a given A weighted noise event lasting for a period of time. The use of this unit allows the prediction of the L_{Aeq} level over any period and for any number of events using the equation;

$$L_{AeqT} = SEL + 10 \log n - 10 \log T \text{ dB}.$$

Where

n = Number of events in time period T.

T = Total sample period in seconds.

A8 In the open, known as free field, sound attenuates at a rate of 6 dB per each doubling of distance. This is known as geometric spreading or sometimes referred to as the Inverse Square Law. As noise is measured on a Logarithmic scale, this attenuation in distance = 20 Log (ratio of distances), e.g. for a noise level of 60 dB at ten metres, the corresponding level at 160 metres is:

$$60 - 20 \text{ Log } {}^{160}/_{10} = 60 - 24 = 36 \text{ dB}.$$