

Agenda item	6.2
Report no	HLC/051/20

THE HIGHLAND COUNCIL

Committee: THE HIGHLAND LICENSING COMMITTEE

Date: 1 December 2020

Report title: Application for the renewal of a public entertainment licence – Landmark Forest Adventure Park, Carrbridge (Ward 20 – Badenoch and Strathspey)

Report by: The Principal Solicitor – Regulatory Services

1. Purpose/Executive Summary

1.1 This report relates to an application for the renewal of a public entertainment licence.

2. Recommendation

2.2 Members are asked to determine the application in accordance with the Council's hearing procedure.

3. Background

3.1 On 12 February 2020 an application for the renewal of a public entertainment licence was received from Visitor Centres Ltd, Landmark Forest Adventure Park, Carrbridge. A public entertainment licence is required for the water rides and the roller coaster ride located within the Visitor Centre.

3.2 In terms of the Civic Government (Scotland) Act 1982 (“the 1982 Act”) the Licensing Authority have twelve months (due to temporary amendments to the legislation during the coronavirus period) from receipt of the application to determine the same, therefore this application must be determined by 11 February 2021. Failure to determine the application by this time would result in the application being subject of a ‘deemed grant’ which means that a licence would require to be issued for a period of 1 year.

4. Process

4.1 Following receipt of the application a copy was circulated to the following Agencies/Services for consultation:

- Police Scotland
- Scottish Fire and Rescue Service
- Highland Council Environmental Health Service
- Highland Council Building Standards Service
- Highland Council Planning Service
- Highland Council Environment and Infrastructure Roads Section

5. Representation

5.1 All of the above Agencies/Services have confirmed that they have no objections to the licence being issued apart from the Council’s Environmental Health Service who confirmed they wish to make a representation to this application in light of an ongoing noise complaint.

6. Objection

6.1 An objection to this application was received from Mr Rankin on 5 March 2020. A copy of which is attached as **Appendix 1**.

6.2 Until the above outstanding matters have been addressed, the Principal Solicitor (Regulatory Services) is not currently in a position to issue the licence under delegated powers. As detailed in paragraph 3.2, the application requires to be determined by 11 February 2021.

7. History of noise complaint

7.1 Mr Rankin had previously submitted complaints in relation to noise levels at the premises which Environmental Health had investigated. A formal complaint in relation to the public entertainment licence was submitted by Mr Rankin to licensing on 26 April 2019. A copy of the complaint is attached as **Appendix 2**.

7.2 The nature of the complaint is linked to two of the conditions of the public entertainment licence:

1. **Condition 2.3** – Unless otherwise authorised in writing by the licensing authority, the premises shall be used for public entertainment only on Monday to Sunday 10:00am to 6:00pm during the duration of this licence.

2. **Condition 7.1** – The licence holder must ensure that no noise arising from the use of the premises shall give rise to reasonable cause for annoyance.

7.3 In relation to Condition 2.3, a letter was issued to the licence holder on 30 May 2019. A copy of which is attached as **Appendix 3**. It is noted that a public entertainment licence is required for when the facilities are being used for the purpose of entertainment or recreation to general members of the public. A public entertainment licence is not required to operate facilities when they are not being used by members of the public, for example for testing purposes.

7.4 In relation to Condition 7.1, this condition is linked to whether the conduct of the licensable activity has the possibility of causing undue public nuisance.

7.5 Given the nature of this complaint, Environmental Health took the lead in investigating this matter. A copy of the response to the complaint dated 30 May 2019 is attached as **Appendix 4**.

7.6 Environmental Health have held meetings with both Landmark and Mr Rankin and installed noise monitoring equipment at Mr Rankin's premises on two occasions (May 2019 and August 2019). However, further recordings are required to provide a definitive answer on noise nuisance.

7.7 Mr Rankin also submitted two video recordings on 9 April 2019 and 18 August 2019 which are attached as **Appendix 5** and **Appendix 6** respectively.

7.8 Due to a combination of the seasonal opening of the rides at the Visitor Centre, the Covid-19 pandemic significantly restricting the opening and operation of the rides, restricted numbers of patrons using the facility and the redeployment of Environmental Health Officers during the Covid-19 pandemic, it has not been possible to undertake any further representative noise monitoring to date.

7.9 Environmental Health have been invited to attend and will be able to provide a verbal update on the day of the Committee.

8. **Determining issues**

8.1 Paragraph 5(3) of Schedule 1 of the Act states that a licensing authority may refuse an application to grant or renew a licence where:

(a) the applicant or anyone else detailed on the application is not a fit and proper person;

(b) the activity would be carried out by a person other than the applicant who, if he had made the application himself, would have been refused;

(c) where the licence applied for relates to an activity consisting of or including the use of premises or a vehicle or vessel, those premises are not or, as the case may be, that vehicle or vessel is not suitable or convenient for the conduct of the activity having regard to

(i) the location, character or condition of premises or the character or condition of the vehicle or vessel,

- (ii) the nature and extent of the proposed activity,
- (iii) the kind of persons likely to be in the premises, vehicle or vessel,
- (iv) the possibility of undue public nuisance, or
- (v) public order or public safety; or

(d) there is other good reason for refusing the application.

- 8.2 In terms of taking any action under the licensing regime, when having regard to the suitability of the premises and the possibility of undue public nuisance, the conduct needs to be directly linked to the licensable activity, namely the use of the water and roller coaster rides when the facilities are being used for the purpose of entertainment or recreation to general members of the public.
- 8.3 There are two ways of addressing a problem in nuisance in Scotland, either through the common law (i.e. law made by the Courts in successive judgements) or, if applicable, through the statutory provisions in the Environmental Protection Act 1990 (“the 1990 Act”) (i.e. laws passed by Parliament). There are a number of situations that can be considered to be a nuisance under common law. However, under the 1990 Act only certain matters may constitute a statutory nuisance. For a statutory nuisance, the matter must either be a nuisance in its own right or be prejudicial to health. For a statutory nuisance to occur, there must be a common law nuisance, however, not all noise nuisances would amount to a statutory nuisance.
- 8.4 There is no clear objective definition as to what constitutes a nuisance. It has been interpreted as referring to a set of physical circumstances that are more than can be reasonably tolerated. The determination of whether a nuisance exists is a matter of judgement based upon the objective test of reasonableness.
- 8.5 The test of reasonableness is, therefore, not what is reasonable in the eyes of the complainer nor the licence holder but what objectively a normal person would find it reasonable to have to put up with.
- 8.6 Consideration requires to be given to the level of impact of the alleged nuisance, the locality and character of the neighbourhood, the time and frequency of the nuisance, the widespread practice or common usage in an area, the importance of an activity in respect of the community and whether any reasonable steps have been taken to minimise the impact. What is tolerable will depend on the facts and circumstances of each case including the nature of the locality. Consideration should also be given to any suggested remedies or mitigation by the noise source.
- 8.7 If required the Principal Solicitor – Regulatory Services will offer further particular advice on the criteria relating to this particular application.
- 8.8 A copy of this report has been sent to the licence holder, the objector and Environmental Health who have all been invited to attend the meeting and will be provided with the opportunity to be heard by the Committee. All parties have been advised of the procedure which will be followed at the meeting.

9. Policies

- 9.1 The following policies are relevant to this application:

9.2 Standard public entertainment licence conditions. A copy of these can accessed at http://www.highland.gov.uk/directory_record/738741/public_entertainment/category/498/entertainment_and_public_events

or a hard copy can be supplied where requested.

10. Implications

10.1 Not applicable.

Date: 13 November 2020

Author: Claire McArthur

Ref: PEL

Background Papers: Civic Government (Scotland) Act 1982

Appendix 1:	Letter of objection dated 5 March 2020
Appendix 2:	Letter of complaint dated 26 April 2019
Appendix 3:	Letter to Landmark dated 30 May 2019
Appendix 4:	Letter of response to complaint dated 30 May 2019
Appendix 5:	Video recording from objector received 4 April 2019
Appendix 6:	Video recording from objector received 18 August 2019

From: [REDACTED]

Sent: 05 March 2020 11:38

To: Susan Grant <Susan.Grant@highland.gov.uk>

Cc: Gregor MacCormick <Gregor.MacCormick@highland.gov.uk>; Michael Elsey <Michael.Elsey@highland.gov.uk>; Bob Murdoch <Bob.Murdoch2@highland.gov.uk>

Subject: PEL Renewal Objection Landmark Rollercoaster

Attn Susan Grant

10629 Visitor Centres Ltd 12/02/2020 Public Entertainment Landmark Forest Adventure Park, Carrbridge Renewal24 and 9 Standard B&S PE-37(O)

I wish to lodge an objection to the above application for renewal of Public Entertainments License ref 10629 as detailed on the Highland Council Register of civic government applications

The objection is made on the following grounds:

1. Ongoing complaint

- a. A complaint was lodged with the operator on 24th May 2014 and has not been addressed in a satisfactory manner, nor in my view has the operator made a satisfactory response with extended periods of ignoring correspondence requiring regular chasing by myself. Six years on and there is no visible actions to mitigate against the complaint.
- b. A complaint was lodged with Highland Council on 26th April 2019 and is deemed to be an ongoing and valid complaint under investigation.

The complaint is based on the following factors that cumulatively generate a reasonable annoyance and nuisance:

- **Ride Frequency:** Oppressive regularity every three to four minutes with up to 20 occurrences per hour during weekends and holiday periods and out with licensing operating hours.
- **Mechanical Ratcheting:** Each time the ride operates a loud grinding mechanical noise is heard. This is when the roller coaster carriages are hauled to the top to the ride.
- **Locking on Clunk (de-dogging):** The mechanical grinding noise was followed by a loud clunk as the roller coaster carriages engaged with a mechanism at the top to the lift phase. This noise has been eradicated as of spring 2019.
- **Screaming and shrieking:** With the carriages held at the top of the ride and then released to run to the bottom of the ride there follows a period of intense screaming and shrieking that is oppressive and to the extent of drowning conversation when in the garden. The noise can be heard in the house with windows closed, such is the volume of the screaming.
- **Location:** Carrbridge is a small village with mixed residences and businesses. The roller coaster ride has been built to the far north boundary of the amusement park in an area close to residences. The roller coaster has adversely changed the character and ambiance of the neighbourhood. Landmark has a large estate and has built the roller coaster in the wrong location.

- **Duration:** The complaint was recognised by Landmark in April 2014 and since then there has been no material change in the operation of the roller coaster to mitigate the cumulative impacts of 1-4 above. To date there has not been a sufficient or meaningful response to the complaint.

2. **Breaching of current license – the operator has failed to meet the terms of the current license**

- a. The operator has been recorded operating out-with the licensed hours or 10am – 18.00. Whilst the operator claims that running the roller coaster prior to 10.00 is seen to be for maintenance issues, such a fact does not diminish the contribution of this operation to the cumulative impact of the noise throughout the day. Any operation be it for maintenance or for enjoyment should be run within the operating hours set down in the license. Without such stipulation Landmark may choose to run maintenance runs at any time of the morning or evening, so causing more annoyance and cumulative negative impacts to the enjoyment of our property.
- b. The ride has been recorded operating with customers aboard after the 18.00 closure deadline. Despite complaints being made the ride has been operated out-with the licensed hours. To date this has been met with promises by the operator not to do so again. This however was short lived with operation out-with the hours occurring at peak weekends.

Given the above extended period of complaint with the operator and the current ongoing nature of the open complaint with Highland Council I feel any new license, if granted should have clear and succinct terms to be met both in daily operations and installation of noise mitigation equipment and screening.

Thank you and regards

Alan

Alan Rankin



[REDACTED]

Michael Elsey,
Senior Licensing Officer
Highland Council,
Town House,
Inverness,
IV1 1JJ

26th April 2019

Dear Mr Elsey,

Landmark Roller Coaster - breach the Civic Government (Scotland) Act 1982 Public Entertainments License

I wish to record a complaint against Landmark, Carrbridge regarding the operation of their roller coaster fun ride as I believe the operators are in breach of the above legislation and Public Entertainments License issued by Highland Council: B&S PE-37(0) 10th March 2017 to 9th March 2020.

1. Landmark are in breach of section 2.3

- a. Unless otherwise authorised in writing by the licensing authority, the premises shall be used for public entertainment only on Monday to Sunday from 10.00am to 6.00pm during the duration of this license.

2. Landmark are in breach of section 7.1

- a. The license holder must ensure that no noise arising from the use of the premises shall give rise to reasonable cause for annoyance.

The operation breaches the Civic Government (Scotland) Act 1982 Public Entertainments License by;

- a. Operating out with license hours.
- b. The operation gives rise to reasonable cause for annoyance and in doing so represents an ongoing public nuisance.

The roller coaster was commissioned in 2013, six years after we moved to our home at [REDACTED] Carrbridge. Despite raising continued complaints to Landmark since 2014 the ride continues to generate significant noise levels and disturbance to the ongoing detriment of the enjoyment of our property and had materially changed the characteristics of the neighbourhood.

I believe the operation of the ride constitutes a public nuisance as defined by Scottish Government Guidance and breaches the Civic Government (Scotland) Act 1982 Public Entertainments License

From Scottish Government guidance: <https://www.gov.scot/policies/pollution/noise-nuisance/>

- *A nuisance can be anything that has an adverse impact on a person's ability to enjoy their home or other premises.*

- *Noise is the largest nuisance problem. It is defined as unwanted sound that, when it reaches certain levels and intensities, can be annoying and adversely impact people's mental or physical health.*
- *Legislation is set around the control of noise, and issue guidance for its minimisation and prevention.*

The Complaint

The complaint is based on the following factors that cumulatively generate a reasonable annoyance and public nuisance:

1. **Ride Frequency:** Oppressive regularity every three to four minutes with up to 20 occurrences per hour during weekends and holiday periods and out with licencing operating hours. (Appendix 1)
2. **Mechanical Ratcheting:** Each time the ride operates a loud grinding mechanical noise is heard. This is when the roller coaster carriages are hauled to the top of the ride.
3. **Locking on Clunk (de-dogging):** The mechanical grinding noise was followed by a loud clunk as the roller coaster carriages engaged with a mechanism at the top of the lift phase. This noise has been eradicated as of spring 2019.
4. **Screaming and shrieking:** With the carriages held at the top of the ride and then released to run to the bottom of the ride there follows a period of intense screaming and shrieking that is oppressive and to the extent of drowning conversation when in the garden. The noise can be heard in the house with windows closed, such is the volume of the screaming.
5. **Location:** Carrbridge is a small village with mixed residences and businesses. The roller coaster ride has been built to the far north boundary of the amusement park in an area close to residences. The roller coaster has adversely changed the character and ambiance of the neighbourhood. Landmark has a large estate and has built the roller coaster in the wrong location.
6. **Duration:** The complaint was recognised by Landmark in April 2014 and since then there has been no material change in the operation of the roller coaster to mitigate the cumulative impacts of 1-4 above. (Appendix 2) To date there has not been a sufficient or meaningful response to the complaint.
7. **Supporting:** Appendices 1-3 provide further background supporting information.
 - a. Sample of roller coaster run-times in April 2019 (appendix 1)
 - b. The length of time the ride has operated with Landmark knowing of the complaint with no meaningful mitigation actions undertaken. 24th May 2014. (Appendix 2)
 - c. Landmarks recognition of the ride causing annoyance 26th May 2014 The interpretation of annoyance supplied by Highland Council senior Licencing Officer 2nd April 2019: (Appendix 3)

It is understood that nuisance is not defined in the legislation but has been interpreted in case law as referring to a set of physical circumstances that are more than can be reasonably tolerated based upon the objective test of reasonableness.

Consideration is given to the level of impact of the alleged nuisance, the locality and character of the neighbourhood, the time and frequency of the nuisance, the widespread practice or common usage in an area, the importance of an activity in respect of the community and whether any reasonable steps have been taken to minimise the impact.

Summary

Given that grounds have been substantiated there is reasonable annoyance and therefore public nuisance I believe this complaint is valid.

The continual and regular operation of the ride during weekends and holiday periods, when we are looking to enjoy our gardens, is causing significant impact on our life here in Carrbridge.

I believe we have acted with utmost neighbourly patience in alerting Landmark in 2014 to our concerns, recognising the role the park plays in the tourism economy. That goodwill has not been reciprocated with resultant long delays and inaction. Furthermore, we have made our complaint known to Highland Council since 2016 resulting in positive and helpful dialogue that has unfortunately not resulted in any material change to the imposition of the ride on our life.

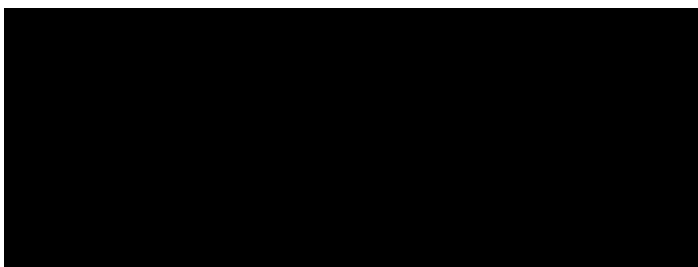
I believe the operation to breach the PEL and creates a public nuisance and as a consequence wish to see formal action with deadlines for improvements to be set.

Given that rate of progress to date, as evidenced that it has taken over four years to remedy one mechanical noise, we fear any instruction to install sound proofing baffles may take years to; model, design, specify and install so request the following is given consideration:

- Temporary closure of the ride or limiting frequency of the ride on selected days during the summer of 2019.
- Instruction to install sound mitigation equipment to dampen noise.
- A formal notice should be served on Landmark that unless meaningful work is completed prior to renewal date there will be no renewal of the PEL on 9th March 2020.

I write this letter in our house with closed doors and windows yet still I hear the grinding mechanical noise followed by screaming and shrieking.

Yours sincerely



Alan Rankin

Frequency

1. The ride operates up to 20 times and hour from approx. 9.45 through to 18.00. Timings vary depending on the season and weather. The frequency and regularity of the ride along with the volume and invasive nature of the screaming causes great distress and upset.
2. Frequency of the rides is at a higher level at weekends and during holiday periods and during good weather. This coincides when we wish to enjoy our garden.
3. The following outlines a sample of ride frequencies in April 2019. From this sample, during the Easter holidays, the ride operates between 12 to 19 times each hour. This I believe to be a gross invasion of our peace and quiet and represents a public nuisance.

Sample date Sample time period	9th April 16.14 to 17.23	15th April 11.30 to 12.33	16-Apr 14.20 to 15.04	18-Apr 09.45 to 09.58	18-Apr 16.35 to 17.12
Time of run	16:14:00	11:33:00	14:20:00	9:45:00	16:35:00
Time of run	16:18:00	11:38:00	14:21:00	9:50:00	16:40:00
Time of run	16:20:00	11:41:00	14:29:00	9:58:00	16:45:00
Time of run	16:25:00	11:46:00	14:35:00		16:47:00
Time of run	16:27:00	11:49:00	14:45:00		16:51:00
Time of run	16:31:00	11:55:00	14:47:00		16:53:00
Time of run	16:33:00	11:59:00	14:53:00		17:04:00
Time of run	16:38:00	12:05:00	15:02:00		17:06:00
Time of run	16:39:00	12:09:00	15:04:00		17:10:00
Time of run	16:44:00	12:12:00			17:12:00
Time of run	16:48:00	12:16:00			
Time of run	16:53:00	12:18:00			
Time of run	16:55:00	12:23:00			
Time of run	17:00:00	12:26:00			
Time of run	17:03:00	12:32:00			
Time of run	17:09:00	12:33:00			
Time of run	17:10:00				
Time of run	17:15:00				
Time of run	17:16:00				
Time of run	17:17:00				
Time of run	17:21:00				
Time of run	17:23:00				
Sample elapsed time	1:09:00	1:00:00	0:44:00	0:13:00	0:37:00
Number of runs	22	16	9	3	10
Runs per hour	19	16	12	14	16
Frequency	0:03:08	0:03:45	0:04:53	0:04:20	0:03:42

Period

The following is an outline of the period of complaint running from the first communication with Landmark in April 2014.

- 26th April 2019 after highly intrusive Easter holiday operations of rollercoaster AR lodges formal complaint with Highland Council (HC)
- 2nd April 2019 HC meet with Landmark. Landmark confirm 'de-dogging' mechanism noise now resolved and further work to be undertaken by noise consultants.
- 28th March 2019 AR meets with HC senior management
- 26th February 2019 AR contacts HC as no progress reported
- 9th September 2018 AR contacts HC as nothing heard or progress reported upon.
- 26th October 2017 Landmark Consultant takes recordings in garden during out of season quiet period. Nothing further heard from Landmark
- 23rd October 2017 Landmark advise noise consultant appointed and to take recordings at property
- 14th September 2017 HC Noise recording equipment placed in garden (end of holidays so low levels of roller coaster operations)
- 7th July 2017 HC Noise recording equipment placed in garden
- 5th July 2017 AR writes to B Murdoch advising no change to noise levels.
- 10th October 2017 B Murdoch HC confirms intention to raise complaint with landmark.
- **w/c 3rd October 2016 AR contacts Council as nothing heard from Landmark and noise levels during school holidays intolerable.**
- 1st July 2015 Landmark advise exploring deafening solutions. Nothing more heard
- 30th June 2015 AR writes to landmark due to levels of noise and asking what has been done to mitigate against noise.
- 26th May 2014 Landmark email acknowledging roller coaster as spoiling enjoyment of garden and will take measures to mitigate noise. Nothing further heard.
- **24th May 2014 AR The first complaint made directly to Landmark**

On Monday, 26 May 2014, 12:11, Danny Fullerton [REDACTED] wrote:

Hi Alan and Shona

I am sorry to hear all of this - we certainly do not wish to be spoiling the enjoyment of your garden. We will look into the possible measures we can take to mitigate the noise levels from the items you mention.

I will contact you again once we have carried out an investigation and maybe have some proposals.

Regards

Danny
Danny Fullerton
General Manager
Landmark Forest Adventure Park
T: 01479 841613
F: 01479 841384
www.landmarkpark.co.uk

-----Original Message-----

From: Alan Rankin [REDACTED]

Sent: Saturday, 24 May, 2014 15:37

To: [REDACTED]

Cc: Shona Rankin

Subject: Roller Coaster Noise

Danny

I write to you on the matter of the imposition of Landmark operations on our house and garden.

Since we moved to [REDACTED] in 2007 the advent of the roller coaster ride opening has impacted on the enjoyment of our garden. We also ask if there might be some action to reduce the carry of the tannoy announcements. The situation is such that it also leads Shona and I to have concerns over the impact should we choose to sell the house and be holding viewings at weekends.

The noise of the ride being ratcheted up the track, followed by a pause and then shrieks and screams of the passengers is now an unwelcome sign of summer returning. The noise can be quite imposing at times and has a cumulative impact over the course of a weekend.

I ask if there might be some possible intervention that could lead to a mitigation against the

noise of the ride and possible re-direction of the Tannoys away from the north side of the park.

We have held off from writing on the matter in previous years but felt we had to contact you after a sunny and noisy Saturday. We would be happy to meet to chat through our concerns.

Regards

Alan and Shona Rankin

[Redacted]
[Redacted]
[Redacted]

=====

Begin forwarded message:

From: Michael Elsey <Michael.Elsey@highland.gov.uk>

Date: 2 April 2019 at 12:24:17 BST

[Redacted]
[Redacted]
[Redacted]
[Redacted]

Subject: FW: Landmark Noise Complaint.

Dear Mr Rankin

Further to Gregor MacCormick's e-mail below please find attached, as requested, a copy of the public entertainment licence in respect of Landmark, Carrbridge. Please note that the licence has been redacted to remove any personal information in accordance with the Data Protection Act 2018. You will see from this that the date of renewal of this licence is 9 March 2020.

It is open for any member of the public to submit a complaint in relation to any licence issued under the Civic Government (Scotland) Act 1982. If a complaint is received consultation would take place with the relevant parties, including any relevant Council Services, to try and resolve the complaint or issue.

If this cannot be resolved, in terms of Paragraph 11 of Schedule 1 of the abovementioned Act, a licensing authority may, whether upon a complaint made to them or not, suspend a licence in accordance with the provisions of this paragraph where the carrying on of the activity to which the licence relates has caused, is causing or is likely to cause undue public nuisance or a threat to public order or public safety. This process would involve a report being submitted to a meeting of the Highland Licensing Committee and the licence holder, the complainant and any relevant Agency/Service would be invited to be heard by the Committee, who, once they had considered all the information before them and heard from all parties, would consider whether or not to suspend the licence. Any decision taken by the Committee can be appealed to the Sheriff providing every opportunity had been taken to put the case to the Committee.

With regard to the interpretation of the specific licence condition, *"The licence holder must ensure that no noise arising from the use of the premises shall give rise to reasonable cause for annoyance"*,

the Council's Principal Solicitor – Regulatory Services has been consulted in relation to this and her advice is that the wording of this condition is tied into whether the activity of a licence would cause undue public nuisance. The process of determining what level of noise constitutes a nuisance can be quite a subjective matter.

Nuisance is not defined in the legislation but has been interpreted in case law as referring to a set of physical circumstances that are more than can be reasonably tolerated. Essentially the determination of whether a nuisance exists is a matter of judgement based upon the objective test of reasonableness. Consideration is given to the level of impact of the alleged nuisance, the locality and character of the neighbourhood, the time and frequency of the nuisance, the widespread practice or common usage in an area, the importance of an activity in respect of the community and whether any reasonable steps have been taken to minimise the impact.

I trust that this is of assistance.

Regards

Mike Elsey

Michael Elsey,

Senior Licensing Officer

Highland Council,

Town House,

Inverness, IV1 1JJ

Tel: (01463) 785098

e-mail: michael.elsey@highland.gov.uk



Mr Daniel Fullerton,
Landmark Forest Adventure Park,
Carrbridge,
PH23 3AJ.

Please ask for:

Direct Dial:

Your Ref:

Our Ref:

Date:

Mr Michael Elsey
(01463) 785098

12/2/4

30 May 2019

Dear Mr Fullerton,

PUBLIC ENTERTAINMENT LICENCE
LANDMARK FOREST ADVENTURE PARK, CARRBRIDGE

I refer to the above and would advise you that we have received a complaint that the rides covered under the public entertainment licence for the above (B&S PE-37(O)), namely the rollercoaster and watercoaster, are being operated outwith the times detailed in condition 2.3 of your licence.

I would therefore ask you to ensure that these rides are operated only between the hours of 10.00am and 6.00pm and at no other times.

Yours sincerely

PRINCIPAL SOLICITOR
CLAIRE McARTHUR

Mr Alan Rankin,



Please ask for:

Direct Dial:

Your Ref:

Our Ref:

Date:

Mr Michael Elsey
(01463) 785098

12/2/4

30 May 2019

Dear Mr Rankin,

Civic Government (Scotland) Act 1982
Public Entertainment Licence
Landmark Roller Coaster

Thank you for your letter of 26 April 2019. I note the terms of your complaint and would respond as follows:

- Condition 2.3 – From the details of Appendix 1 attached to your letter it appears that the roller coaster ride has been operating outwith the times specified within the public entertainment licence. We will write to Landmark and remind them of the terms of their licence and that they must adhere to operating the roller coaster only within these specified times.
- Condition 7.1 – In relation to this issue, I can confirm that a joint meeting was held on 8 May 2019 with the Environmental Health service. In the first instance, noise levels need to be quantified. I understand that noise monitoring equipment was installed at your property last weekend but the weather was not beneficial to get sufficient results. I am told by Environmental Health that the noise monitoring equipment will be installed again over a weekend as soon as there is an appropriate weather window. Once these results are available, these would be shared with Landmark with a view to agreeing an action plan going forward. Based upon the results of the noise monitoring, Environmental Health hope that an appropriate noise criteria/target can be achieved by Landmark. I understand that Environmental Health have also asked Landmark to employ the services of an acoustic consultant to look at the rollercoaster operation again.

In terms of any action to be taken in terms of the public entertainment licence, this will be very much led by the results of the noise monitoring and whether the levels fall within what is deemed a tolerable standard. I would note that the public entertainment licence is only required for the watercoaster and the rollercoaster contained within the adventure park.

Therefore, in terms of any action to be taken under the licensing regime, any noise which could potentially be deemed unreasonable would need to be proven to be directly attributable to these activities. As you will appreciate this may be difficult to quantify given the nature of the site.

Yours sincerely

PRINCIPAL SOLICITOR
CLAIRE McARTHUR