

To: Licensing Section
Kim Tuckey

From: Louise Coveney
Environment & Neighbourhoods Officer

Date: 24 April 2019

Your ref:

Our ref: WK/201913176



Epping Forest District Council

Licensing Act 2003 Zen Fest, High Ongar Road, High Ongar, Essex, CM5 9LZ

I refer to an application made under the Licensing Act 2003 regarding the above-mentioned premises that I received on 09 April 2019.

I would like to make the following representations regarding the Licensing objective – prevention of public nuisance.

Summary

I have reservations regarding the proposed event, due to the issues which occurred with a smaller event held in September 2018. This event was granted under a Temporary Event Notice, and the Council's Environment & Neighbourhoods Team received 7 complaints on the day it occurred. This resulted in the Environment & Neighbourhood Manager visiting, and forming the opinion that the level of music was loud, due to the low background noise level in the area. However, as the event finished at the prescribed time, and was a "one off" no formal action was taken regarding the noise disturbance.

Last year's event was approximately 50m from nearby residents, whilst the proposed event for this year is approximately 400m from the closest residents. This will afford some degree of protection to residents, but will still be disturbing due to the level of music required at the venue to provide a good experience to customers.

The Code of Practice on Environmental Noise Control at Concerts, issued by the Noise Council (1995) recommends that for concerts in rural areas, the maximum Music Noise Level (MNL) should not exceed 65dB(A) measured over a 15 minute period (between 09:00-23:00 hrs). Whilst this Code has been withdrawn, there is no replacement code, and the guidance has some significant merit in terms of what could be deemed acceptable noise disturbance from such an event.

65dB(A) would provide a noise level of 83dB(A) at 50m from the "stage", which may not provide an acceptable experience for customers. To provide a more desirable 90-93dB(A), this would provide a 72-75dB(A) level at the nearest noise sensitive premises. This will cause a public nuisance, even if the event is of a limited duration.

As such, I am unable to recommend that the event is allowed to take place, due to the event being likely to cause a public nuisance. However, it is for the licensing committee to determine if they consider that the benefit of the event outweighs the

impact of the event on neighbouring residents. The event runs for 11 hours (from 12:00-23:00hrs, and therefore residents will be subjected to noise from the amplified music for this time. Therefore, unless the applicant can satisfy the Environment & Neighbourhoods Team that the impact can be suitably reduced, the impact on residents is likely to be significant, especially due to the rural nature of the area.

If the Licensing Committee are minded granting the application, I would recommend that the following conditions are included to the licence in order to reduce the extent of the public nuisance.

1) Prior to the event

The Designated Premises Supervisor (or named representative) shall appoint a suitably qualified and experienced noise control consultant, to the approval of the Licensing Authority, no later than 4 weeks prior to the event. The noise control consultant shall liaise between all parties, including the DPS, Promoter, Sound System Supplier, Sound Engineer and Licensing Authority on all matters relating to noise control prior to, and during the event.

Reason: In order to ensure that a suitably qualified person is responsible for ensuring that a public nuisance is controlled before the event occurs.

2) Setting up the sound system

A noise propagation test shall be undertaken at least 24 hours prior to the start of the event in order to set appropriate control limits at the venue. The sound system shall be configured and operated in a similar manner as intended for the event. The sound source used for the test shall be similar in character to the music likely to be produced during the event.

Reason: In order to set noise levels before the event occurs to ensure that a public nuisance does not exist.

3) Control of DJs.

The DPS shall ensure that the promoter, sound system supplier and all individual sound engineers/DJs are informed of the sound control limits and that any instructions from the noise control consultant and/or DPS (or representative) are implemented immediately.

Reason: In order to ensure adequate control over the volume of music played to prevent a public nuisance from occurring

4) Preventing public nuisance from amplified sound

4a) Overarching condition

It is important that the volume of any music including the bass content is adjusted accordingly to a level that does not cause a public nuisance. Whilst the venue is some distance from residents, as it is in the open air, there is no means of physically controlling the noise from the music, especially the bass beat of the music.

I would, therefore recommend the following condition to control the overall noise from the event.

The Premises Supervisor (or representative) shall monitor the volume of music emanating from the premises and adjust the volume to ensure that any amplified sound or other music from the licensed premises does not cause a public nuisance. The Premises Supervisor (or representative) can ensure that music from the premises does not cause a public nuisance by ensuring that the music is inaudible at the boundary of any properties where the occupiers are likely to be sensitive to noise.

Reason: To ensure that any music and amplified sound from the licensed premises does not cause a public nuisance.

Adjusting the volume of music to a level that is inaudible at any properties where the occupiers are likely to be sensitive to noise is a tighter restriction than required to prevent public nuisance. However, any music that is audible at this point has the potential to cause annoyance and lead to public nuisance.

The advice on inaudibility at the boundary of neighbouring noise sensitive premises has been provided to try and reduce any ambiguity in the condition, and provides the Premises Supervisor with a clear benchmark for compliance.

In practical terms, it is possible that the music can be audible beyond this point and this condition still complied with, however the Premises Supervisor would be at risk of causing a public nuisance depending on the circumstances at that time.

4b) Monitoring of the noise

Whilst the above condition ensures that the applicant should not cause a public nuisance, the event needs to be monitored adequately to ensure that this does not occur. I would, therefore recommend the following conditions to ensure that adequate monitoring of the event occurs:

The Premises Supervisor (or named representative) shall monitor the volume of music emanating from the venue at two hourly intervals from the start of the event until 21.00 hours, and then hourly until the event finishes. This will occur at various locations in and around the event site at points agreed with the Licensing Authority. The specific locations should be agreed no later than 14 days before the event is scheduled to take place.

If the music is audible at the set locations the Premises Supervisor (or representative) shall contact the venue immediately discuss the matter with the person responsible on site and they shall decide if the volume of the music shall be reduced so that it does not cause a public nuisance at the monitoring points. The ultimate decision shall rest with the person responsible on the site.

A written log of site visits should be made and kept for inspection by the Licensing Authority if requested. This should include any a record of any telephone conversations with the responsible person on site and any remedial action taken to reduce the noise level. If no action is taken, reasons for this shall also be recorded.

Reason: To prevent a public nuisance

5) Contact for complaints

At least 14 days prior to the event, the licence holder shall provide Epping Forest District Council with a name and telephone number for a responsible person who can respond to any complaints throughout the duration of the event. This person shall also be the point of contact for the noise patrols and be responsible for maintaining the level of music and other amplified sound at an appropriate level.

Reason: To provide a point of contact should the Council receive complaints

6 Absolute noise limits

If the Licensing Committee are minded granting the application, and would prefer specific noise limits, I would suggest the following conditions. However, such conditions will require the applicant to employ a dedicated noise consultant on the nights of the events, as it is not be the responsibility of the Local Authority to monitor the noise as a consultant. Spot checks may be carried out during the event, by the duty noise officer, but the Council should not be expected to act as a consultancy service for the event.

For the duration of the event, music noise levels (LAeq,15mins) shall not exceed the background noise level (LA90, 15min) by more than 15dB(A) over any 15 minute period when measured at 1 metre from the façade of any noise sensitive premises. The specific locations of such monitoring points shall be agreed no later than 14 days before the event is scheduled to take place with the Licensing Authority.

Reason: To control the overall noise level so as not to cause a public nuisance

This condition may provide a noise level lower than that recommended by the Code of Practice, but conversely may provide a higher level at the venue, depending on the background noise level at the time. As such, this is a dynamic condition, which will change as the day progresses.

I would recommend that the conditions imposed are not those which use absolute noise levels, as they are time consuming to implement and will need a degree of technical expertise. The use of the generic conditions allows any person to assess if they are complying with the conditions, however the person monitoring the noise should have an understanding of Public Nuisance.

If you wish to discuss any of my comments please contact me on (01992) 564751.

Louise Coveney
Environment & Neighbourhoods Officer