

# **Cheltenham Borough Council Licensing Sub Committee-Alcohol and Gambling Minutes**

**Meeting date:** 25 March 2025

**Meeting time:** 5.30 pm - 8.40 pm

---

**In attendance:**

**Councillors:**

Julie Sankey, Simon Wheeler and Dr David Willingham

**Also in attendance:**

Michelle Bignell (Licensing and Public Protection Manager), Vikki Fennell (Senior Lawyer, One Legal) and Jacob Doleman (Licensing Officer)

---

## **1 Election of Chair**

Councillor Willingham was elected to chair the meeting. Before the meeting got underway, he put on record his thanks to members of the licensing, enforcement and public protection teams for their hard work during race week – it was much appreciated.

## **2 Apologies**

There were none.

## **3 Declarations of interest**

Councillor Willingham said he will be attending two music festivals later in the year in Germany, but these have no connection with Wychwood.

Councillors Willingham and Wheeler visited the site today.

Councillor Sankey attended Wychwood festival on the Sunday last year.

## **4 Determination of Application for Review of a Premises Licence - Wychwood Festival**

### **Introduction**

The Chair explained how the meeting would proceed, and the Licensing and Public Protection Manager introduced her report, setting out the main issues and options available to Members. She reminded Members that the festival has been at the racecourse for 20 years, with the main stage relocated in 2023. Live music ends at 11.00pm, and there have been no reported breaches of conditions or enforcement action taken against the premises licence holder.

In response to a Member's questions, she said the council has received no previous complaints in relation to the licensing objectives, other than noise, which will be covered in the environmental health officer's presentation.

There were no questions from the review applicant or premises licence holder.

### **Review applicant's case**

The review applicant thanked the licensing team for accepting the review, and environmental health officer Amy McArthur for her assistance. He said his application arose from having the ability to interpret the data and know it is evidential, and the severe effect the noise from the festival has on his seriously ill partner, as well as other residents. He made the following points:

- local residents don't want the licence to be revoked, but it is clear from the comments how loud and disruptive the music is, particularly the low frequency noise, which last year could be felt as well as heard inside houses in Park Lane over the entire weekend. With the festival growing each year, the hearing is an opportunity to future-proof the licence, and the easiest way to compromise audience enjoyment and public nuisance is a condition around where the stages are set, moving them to the other end of the helifield, further away from houses and facing away from residential areas;
- all comments show that the current licence is unclear and at the very least needs to be changed so that it is obvious whether or not a breach has taken place - important for the public and for the council when enforcing the conditions of the licence. To achieve this, the absolute level of 60dB should be dropped, and the licence should stipulate an absolute level of 55dB;
- it would be interesting to understand if the festival organisers, while not actually breaking the licence conditions, could be said to have bent the rules to suit themselves. The noise observation report for 2024 states that where the target level of 55dB is exceeded, suitable and appropriate action should be taken to meet that target, with the absolute noise level set at 60dB. It also states that the noise management plan will include details on the response level for any deviation from the target level, which would suggest that every time the level goes over 55dB, sound engineers should try to bring it down to 55dB, with a buffer created to stop it from going over 60dB. However, the report appendix, which details noise observation and the actions taken during the event to control and manage it, shows many examples of the levels going over 55dB and either

no action being taken to correct it or action being taken and the level still not being brought down. Technically, the festival organisers did not break the terms of the licence based on the absolute level of 60dB, but only because they could do so. The target level made no difference, and the festival is not complying with the licence – despite stating in its response that the sound level is always kept at 55dB.

### **Questions to review applicant**

In response to a Member's question, the review applicant confirmed that his partner has lived at the current address for over 15 years, but the problem with noise from Wychwood only arose in the last year.

There were no further questions for the review applicant.

### **Comments from Senior Environmental Health Officer**

Summarising his response to the review request, the senior environmental health officer said that:

- Wychwood Festival has been operating for a long time at this site, and is always monitored by CBC staff – though not in 2024. Based on the data provided by the on-site monitoring team, he did not consider that the licence had been breached, as it met the absolute limit of 60dB, occasionally rising above the target of 55dB but not sufficiently for formal enforcement action to be taken;
- the event has a history of being well run and monitored, and he is happy about the noise levels recorded by the council in 2023;
- the hearing can be used as an opportunity to update and modernise the conditions of the event licence, especially for low frequency noise, in view of the new ideas and guidelines for noise at outdoor music events arising from advances in technology which make it easier to measure and limit, and establish an expectation about what can be achieved;
- the summary from 2024 and data from 2023 indicate that the current absolute limit of 60dB is a suitable and workable limit for the event. Relocating the stage will make the limit more achievable, and the noise management plan allows for a degree of flexibility around weather and other factors, and scope for a more dynamic approach from Wychwood and CBC.

### **Questions to the Senior Environmental Health Officer**

In response to questions, the Senior Environmental Health Officer confirmed that:

- there have been some complaints about the festival over the years, but until last year, there were no significant complaints about noise and not keeping to the right levels;
- CBC's environmental health team will be monitoring all three days of the festival this year;
- it is true that low-frequency noise is less harmful than higher ranges, but is also what most upsets people. It is easier to monitor now than it was 15 years ago, with three new sound level meters available specifically for low frequency noise;

- a condition around weather monitoring could be added, but the noise consultant should be able to work out the effects of weather, such as wind speed and direction, on noise transmission;
- although some consultants use fixed remote noise monitoring equipment, mobile equipment with someone to operate it is the best way to respond to noise complaints, in view of changes in wind direction etc;
- the dB rating is recorded as a 15-minute average, which allows for some parts of a performance to be louder than others;
- as the permitted values ending in 0 or 5dB are taken from national guidance, there is nothing to be gained from small adjustments – 1 or 2dB – to the targets or more specific trigger levels; these would be undetectable to the human ear, and the sound engineer monitoring levels off site should react quickly when levels start to go over 55dB;
- with reference to the possible condition set out on Page 115 of the report, a time measurement, typically 15 minutes, should be attached to the 70dB limit, but that condition is lifted from guidance which is about to become obsolete – there are newer ways of assessing low frequency noise, which the licence holders will suggest;
- most equipment will measure peak noise, but this measurement is not commonly used for music noise – a sound engineer will keep a check on it, but doesn't generally look at anything as small as peak noises from drums, which is covered by the long-term average;
- the further away the stage is from houses, the easier it is to reduce the noise impact, though this gets complicated with orientation and spread patterns;
- the licence states that when the noise level rises above 55dB, action must be taken, but not having been present at the 2024 festival, he cannot say what was done. Some limited notes were provided but it is true to say that the point comes where despite the best efforts of the noise consultant, the levels will stay the same;
- CBC EH officers will be present on all three days of the festival this year, monitoring the levels at different points around the site. Tewkesbury Borough Council colleagues will also be invited to monitor their side of the border and take action if the noise levels are causing a statutory nuisance;
- regarding the possibility of setting up fixed monitoring points to get an independent record of noise levels – EH officers and noise consultants are professionals, they do the job properly and get it right. There is no need for a third party, and fixed monitoring in one place or another would be waste of effort and resource;
- if noise is recorded anywhere between 55 and 60dB, the licence requires the licence holder to take action. A level of 60.1dB is technically a breach of the licence, but officers have to decide how seriously to view that, how long it went on, whether corrective action was taken – noise is more complex than a number on a scale. If a breach lasts for five minutes, the council would expect the event organiser to take action to avoid it happening again, but it would be excessive to consider prosecution for that kind of offence.

## **Public comments**

One parish councillor, one ward councillor, and one resident spoke in support of the review applicant, making the following points:

- the change of stage location in the last two years has resulted in significantly more concerns about the noise levels from Southam residents. There is no specific monitoring in the Southam Lane area, with feedback provided from personal representations rather than measurements. Most residents very much enjoy the festival, but request that consideration be given to relocating the stage to the west end of the helifield, away from the houses;
- Wychwood is a great event, providing much joy and supporting the local economy – no-one wants to see it go elsewhere – but last year's festival was too loud for comfort: while a lot of festival goers resorted to protecting their hearing, residents over a mile away were driven indoors by the noise, and those living closer reported ornaments vibrating on shelves. The conditions of the licence may not have been breached, but this is not the point: if regulations state the sound can be no higher than XdB, that doesn't mean the noise has to be set there, and it is wrong for any event organiser to hide behind a regulatory limit when it causes such distress to local people who have no choice but to be there. The EH officer has said that a condition to monitor low frequency noise will go some way to address these concerns but if the event organisers are happy to put the necessary measures in place, they should also be prepared to add a condition which reduces the target level;
- low frequency noise carries better over flat ground, is more intrusive and has a more pronounced effect on human physiology, and with the code of practice on environmental noise control at concerts now 30 years out of date, it may be necessary to set additional criteria in respect of low frequency noise. It was particularly intrusive at the 2024 festival, and CBC's public protection team must conduct a survey and review low frequency noise at the site to establish absolute and target levels. The conditions of the licence should also be reviewed by the council's Overview and Scrutiny Committee to determine whether the conditions are fit for purpose and noise monitoring sufficiently independent to effectively control noise on site;
- last year, the people undertaking independent noise monitoring appeared to walk between sites rather than telephoning in the measurements, which is unsatisfactory in view of the dynamic nature of sound;
- the guidelines for higher frequency noise set out in the 1995 code of practice are not suitable for every site;
- as stated in the licensing conditions, the public protection team rely on a single set of acoustic data provided by the licensee-appointed noise management, with no verification or authentication – this is a sub-optimal level of public scrutiny. With noise complaints at an all-time high, and the stage located closer to residential properties, the public protection team must engage a separate acoustic consultancy to survey the event site, to independently determine the level of noise generated, and to use that data to specify the absolute target music levels, commensurate with the stage site, topography, and prevalent environmental conditions;
- the parameters stated in the licensing conditions are too high, with the mixer position fixed in a way that readily breaches the licensed target music noise level

of 55dB, and doesn't allow sufficient attenuation of the sound front down to the target noise level before it arrives at noise-sensitive premises. This could be mitigated by a sound-deadening wall between the stage and the houses, which would deaden and attenuate the low frequency noise front before it hits the nearest premises and would reduce the number of complaints. Higher frequency noise is weaker and doesn't propagate as far as low frequency, but reducing the target noise level and mixer desk levels would all help;

- at the 2024 event, the only noise monitoring was carried out by Nash Joynes, engaged by the licensee. The control limits set at the mixer desk were a minimum of 96dB, and at that level, the licensee was unlikely to meet 55dB limit of the licence. A reduction of the control limit to a maximum of 80dB and target music level of 50dB should be instigated for 2025; acoustic data results and noise complaints can then be analysed post-event to reach a satisfactory solution for both parties;
- it is accepted that CBC EH officers are independent when in attendance; 2024 was an anomaly, but demonstrates a substandard level of scrutiny.

One member of the public was present to speak in support of the festival. She said she has been a volunteer since 2013, enjoys it very much, and considers it a great contribution to the local economy. She added that the organisers have always been considerate of the local community.

### **Premises Licence Holder's response**

The solicitor, on behalf of the premises licence holder, began by pointing out that there were 19 representations in support of the review applicant and 13 in support of the licence holder, and rejecting any inference that festival management is sub-standard or less than trustworthy. He picked up on some of the points made so far and raised a number of issues for further deliberation:

- as confirmed by the EH officer, the level set should be akin to a refrigerator 1m away or an open plan office – Members should bear this in mind;
- it is true that more complaints have been received this year, and Wychwood recognises the need to improve, but it is not true to say there has been any breach of condition, and the previous 19 years without complaint must not be forgotten;
- the EHO's report confirms that noise in 2024 was well within the licensing conditions – the absolute level was not reached or exceeded, monitoring took place at appropriate locations and times, and action was taken to reduce noise levels proactively and reactively, and Wychwood accepted all recommendations at a mutual de-brief. Positive feedback was received from some residents in addition to the complaints, some of which were made after residents had been encouraged to complain as a result of a flier through their door;
- the pop code, referred to in the Wychwood licence, is old and redundant, but says the absolute level should be 65dB – 5dB higher than the festival's absolute level and 10dB higher than its target level. This has been the national government recommendation for the last 30 years;
- the EHO report significantly challenges assertions made this evening about what is fair, proportionate and reasonable. There is inevitably some impact on neighbours, but organisers do their best to manage and minimise this. All large-

scale licensing is about achieving a balance for attendees, neighbours and the town;

- the wording of the proposed condition proposes to take account of modern rather than historic guidance. Festival organisers are entirely open to discussion about where monitoring should take place, and a combination of static and mobile monitoring is generally considered the best option, with a permanent mobile monitor in immediate proximity to the residential area proposed for 2025;
- it is important to remember that the committee is only being asked to consider the noise of the festival, although all policies, protocols and procedures have been provided to demonstrate that this is a well-run event. No responsible authorities other than CBC's EH team have sought to engage with the review application. Tewkesbury Borough Council has reported a small number of complaints but taken no further action.

He reiterated that the festival has been well run at this site for 20 years, is always reliable and well trusted, and welcomed by the community, delivering to the highest standard and always doing the right thing. That said, there is clearly room for improvements, as set out in the submissions document, specifically:

- recognition that the stage position needs to be further away from residents, though not as far as requested. EH officers hold a neutral view in conditioning this, as the licence absolute and target levels remain the same, although this isn't to suggest that the stage position is of no consequence;
- the angle of the stage in 2024 merits improvements, having been overcorrected after the 2023 angle created audience pinch points, sending noise directly towards residents. This will be amended;
- for complete transparency, programming of the three stages will be adjusted to minimise the amount of time when two main stages are operating at the same time, from about seven hours last year to 90 minutes this year;
- a third mobile monitor will focus on the residential community in the immediate vicinity, and delay speakers – smaller speakers on stage plus additional speakers further back in the field – will delay and thus reduce sound transmission;
- dialogue is already underway to ensure sound produced from the PA is more easily managed and controlled.

He said another factor to take into consideration is that music generally stops at 10.30 or very soon after – Wychwood is a family event, and the organisers are respectful of people's need to sleep.

He continued:

- organisers clearly didn't get it as right in 2024 as previous years; the reference to a tripling of noise is demonstrably wrong, but a number of people were aggravated and for that the organisers are sorry. They strive to do things properly and in line with conditions, doing everything they can to keep everyone happy. Documents provided, including the 2024 noise management plan, noise consultant's response to the application document, and proposed 2025 noise management plan draft are all testament to this. They are not complacent about noise management, and if EH officers tell us that a refrigerator one metre away

registers at 50dB, it is hard to understand how this can be regarded as a public nuisance. It is true to say that more can be done, but to reduce sound levels below the national criteria for England and Wales is not appropriate, proportionate or necessary;

- in addition, being told where the stage should be situated is not for the applicant or the committee – it is for the festival organisers, with 20 years' experience, to decide how best to do this to manage the noise;
- it should be noted that the EH officer's response to a momentary breach of the condition would be to take no action; although it is technically a criminal offence, as is driving at 71mph on a motorway, the conditions were set when the licence was first granted, when it was determined that noise delivered to the set levels would not constitute a public nuisance, rather than to ensure that no complaints would ever be received.

In conclusion, he suggested that one of two things was appropriate: either that no further action was required or that issues of low frequency bass noise can be specifically addressed. Joynes Nash, the noise management consultants, have taken the view that a new condition for a redundant code from 1995 is not the best way forward and have proposed the condition set out in their report, with appropriate monitoring locations at sensitive receptor locations incorporated in the noise management plan and approved by the EH team. Members and the public can have complete confidence that the festival will deliver as it always has done to those levels – ideally 55dB, never over 60dB. This is the only required action, a fair and proportionate way to modernise and improve the licence based on the experience of 2024. The organisers are committed to delivering an event which does not cause any public nuisance, but it would be unrealistic to promise that no-one will ever be aggravated by the noise.

### **Questions to the licence holders**

In response to Members' questions, the licence holder's solicitor confirmed that:

- moving the stage to the far northwest of the site is not an option – following the variation to the licence in 2022, it was moved to the helifield in 2023 and caused no problems. To allow for safe movement of people, it has to remain at the bottom end of the field, facing upwards, and will be moved back towards its 2023 position going forward;
- it is acknowledged that low frequency noise is the biggest issue, and delay speakers will limit the amount of sound that needs to be generated from the stage speakers, including the bass and A-weighted upper levels; secondary speakers will be further up the field, with the sound coming from them further away from residents;
- it is incorrect to suggest that there is any delay in reporting back noise levels from mobile locations; people responsible for monitoring communicate and engage in dialogue all the time, via mobile phone;
- low frequency noise is a common theme from objectors, and while the current conditions set the overall sound generation from the site (A-weighting), the proposed additional condition will be concerned primarily with managing the deeper sounds (C-weighting); the sound consultant explained that this is



recommended in the emerging new guidance which has been adopted post-Covid for all national events;

- regarding the properties of different types of speaker and equipment available, sound consultants have been looking at sound propagation, weather dynamics and other factors which cause concern when seeking improvements for 2025, including improving the spec of cardioid sub-array speakers in addition to delay speakers and moving the stage to minimise the impact of low frequency noise.

### **Public questions to the licence holder**

In response to questions from the review applicant and other public speakers, the licence holder's solicitor said that:

- the festival's capacity is set out in the licence, and whether there are nine or 9000 people, the sound levels will be as prescribed;
- the delay speakers will be positioned further up the field, towards the racecourse and further away from residents;
- although changing the position of the stage will reduce the music noise level 1m from the façade of noise-sensitive premises, to stipulate a lower noise level in the licence would not deliver audience satisfaction or enjoyment; it is all about balance, and up to individuals whether or not they choose to wear ear defenders on site;
- the organisers do not accept that they do not follow protocol or make every effort to manage the sound according to the licence, although it may occasionally reach 60dB for short periods due to weather conditions or some other reason;
- regarding the noise management plan for 2025 - specifically the indicative noise response chart, the lack of clarity around the specific dB noise levels that will be worked to and the options available to sound engineers if there is a breach – this is not a matter for review by the applicant. It is currently in draft form, and awaiting approval by EH officers.

The senior environmental health officer confirmed that the proposed condition seems to be in accordance with emerging guidance, but if anything more restrictive emerges, it may require further review. The licence holder's solicitor said this may also be the case if the new national guidance is less restrictive, allowing levels to be raised.

### **Final comments**

Before adjourning, the Chair confirmed that:

- the Human Rights Act and Public Sector Equality Duty are being taken into consideration at the hearing;
- Members are not experts and must rely on the council's EH officer's opinion as to whether the suggested condition will make a positive impact, but in the absence of up-to-date guidance about low frequency noise, it appears to be a reasonable way forward; Members must focus on the outcome, and the position of the stage is down to the licensee's management of the site, in compliance with the conditions.

Members appreciated the impact of the noise on local residents, that the festival is a popular event, and that the organisers are making every effort to reduce the disturbance.

The review applicant said he hoped any changes would make a positive difference, and welcomed the opportunity to review the licence.

The senior environmental health officer said residents' concerns had been noted, and officers would undertake a lot more monitoring this year. He said he was reassured by the licence holder's plans, and felt this would be a suitable way to control the noise problem.

The licence holder's solicitor said there will always be some impact from this event, but he hoped Members would appreciate that the organisers do their best; last year was an exception, but after taking a long, hard look at the issues, have come up with sensible proposals which they hope will deliver.

The meeting was adjourned while Members considered the case in private session.

### **Decision**

At the hearing, the Sub-Committee heard from the applicant for the review,, Environmental health and the representative for the premises licence holder.

The review of the licence was requested by another person under the Public Nuisance licensing objective.

Save for the environmental health team, no representations were received from any of the other Responsible Authorities.

All relevant written submissions have been considered.

### **Legal Matters**

The Sub-Committee had due regard to:-

1. The Human Rights Act
2. The public sector equality duty
3. The provisions of the Licensing Act 2003 which confer the powers of the Licensing Authority to deal with the application.
4. The obligation to promote the four licensing objectives.
5. The relevant sections of the Council's Statement of Licensing Policy and Statutory Guidance.

The Licensing Sub-Committee considered that it must carry out its functions with a view to promoting the four licensing objectives, as set out in Section 4(2) of the 2003 Act. The Sub-Committee cannot take into account representations which do not relate to one or more of those licensing objectives, and acknowledges that any representations which are received must be relevant and evidenced-based. The screenshots provided in the evidence were not from a calibrated device and therefore the sub-committee could not take these into account.

The sub-committee considered all relevant verbal and written submissions from the Applicant, Other Persons, EH and the premises licence holder before making its decision on the application. They also had due regard to the council's Statement of Licensing Policy and Statutory Guidance.

The sub-committee believes everyone has acted in good faith, the event has been running for 19 years without incident. The applicant and other residents want to be able to enjoy their homes without disturbance. The licensee did acknowledge that there was room for improvement following the event in 2024.

In deciding the application, the sub-committee noted that save for the environmental health team, no other Responsible Authorities had commented on the application. They also considered the steps put forward by the premises licence holder in relation to the new proposed condition, the moving of the stage and the inclusion of delay speakers.

The sub-committee deem that the licence conditions need to focus on the outcomes not how the licensee achieves them.

So many of the objections referred to low frequency of the bass and the premises licence holder offered a condition to deal with this and this was supported by the council's expert environmental health officer. Some weight was given to the old guidance but the committee has taken on board from the experts that it is overdue for being updated.

**Therefore, the sub-committee believes that it is necessary to modify the conditions of the current licence, adding the condition proposed by the premises licence holder, and a condition that the licensee's acoustic consultants monitor noise both during sound checks as well as the event itself (as per page 113 of the bundle). The sub-committee deems it is necessary, proportionate and enforceable in order to mitigate the effects the nuisance is having on the residents.**

**This is a unanimous decision of the sub-committee**

The sub-committee hopes that the 2025 event is a success for all parties.

## **Appeal**

All parties are reminded that there are rights of appeal against this the Licensing Authority's decision pursuant to Section 181 of and Schedule 5 to the Licensing Act 2003. An appeal must be made to the Magistrates' Court and commenced within 21 days of notification of the Authority's decision.

**5 Any other items the Chairman determines to be urgent and which requires a decision**

There was no urgent business on this occasion.