

**Minutes of a Meeting of the
Licensing Committee
27 October 2015**

Councillor Emma Evans (Chairman)

Councillor Carson Albury
Councillor Ann Bridges
Councillor Pat Beresford
Councillor Stephen Chipp
Councillor Lyn Phillips

*Councillor Fred Lewis
Councillor David Lambourne
Councillor Peter Metcalfe
*Councillor Ben Stride

* Absent

LC/15-16/01 Declarations of Interest

There were no declarations of interest

LC/15-16/02 Confirmation of Minutes

Resolved: That the minutes of the of the Licensing Committee meeting of held on 7 January 2015 and the minutes of the Licensing Regulatory Sub committee held on the 23 March 2015 be approved

LC/15-16/03 Items Raised Under Urgency Provisions

There were no items.

LC/15-16/04 Questions and Statements by the Public

The Chairperson invited members of the public to ask questions or make statements about any matter for which the Council had a responsibility or which affected the District.

There were no questions or statements

LC/15-16/05 Procedure

Resolved: That the procedure for the meeting be approved

Part B – Licensing Act 2003 Applications

**LC/15-16/06 Licensing Act 2003 – Application for the Review of the Premises
Licence at the Wildlife Music Festival**

Before the Committee was a report by the Director for Communities, copies of which had been circulated to all Members and a copy of which is attached to the signed copy of these Minutes as Item 6. An application for a Review of premises licence authorising licensable activity at an annual outdoor music festival known as the 'Wildlife Music Festival', had been received from the Shoreham Society. As the licensing Authority it fell to the committee to determine the application for review. The application had sought to reduce permitted noise levels at the festival, limit the ability to increase the size of future events and consider the view that the airport was not suitable for such events. The request for review had been submitted along with a survey of local residents concerning the recent festival. As part of the statutory consultation representations had been received from Adur and Worthing Councils' Environmental Protection Team, 19 letters from the public in support of the Shoreham Society Application and 16 letters from public and local businesses supporting the licence holder.

Licensing Officer outlines the application

The Senior Licensing Officer outlined the application to the Committee. Members were told that reference to the number of festival tickets not being increased was not a proper grounds for the review because the Premises Licence contained no mechanism for the number of tickets to be increased beyond the existing licensed capacity (35,000 persons per day) and that as the application did not challenge the existing licensed capacity it was not a matter the Licensing Committee could consider. The Committee was advised that the applicant had made an assertion that the venue was not a suitable venue to hold the festival but had not provided any reason or evidence to suggest that the use of the venue was undermining the Licensing objectives.

The Senior Licensing Officer told members that the applicant had also produced the results of a survey they conducted following the inaugural festival and provided on request a breakdown of the results which had been included. Members were told that whilst the survey gives an insight into why the society decided to apply for a review, any review of a licence must be based on evidence. A survey of residents' views did not provide evidence. The outcome of a survey could not provide a basis by which the licensing authority could take action against a current premises licence even if the outcome of a survey were wholly negative towards a licence. Conversely, if the vast majority of those surveyed backed the licence holder it could not prevent the Licensing Committee having to take action against a licence if a review application proved that the licensing objectives were being undermined and the licence holder was not addressing the problem.

The Committee was given details about the results of the statutory consultation and ensuing mediation. As part of the consultation a representation had been received from Adur & Worthing Councils Environmental Protection Team which supported the current maximum noise levels but suggested amendment to a number of licensing conditions that would make them clearer and easier to enforce. Members were told that as a result of the Licence Holder agreeing to the amendments that the Environmental Protection Team had withdrawn its representation. Members were told that mediation between the applicant and the Licence holder had not been successful and because of the number and nature of the representations received from the public, mediation between the licence holder, applicant and public was deemed impractical.

Members' questions of the Senior Licensing Officer

There were no questions of the Senior Licensing Officer

Applicant invited to address the Committee

There were three members of the Shoreham Centre present to address the Committee on the Society's application. Their representation can be summarised as follows:

- the society was not against music and they wanted to seek solutions to meet everyone's needs;
- there was an assertion that following the conclusion of the festival, members of the public would be able to put forward their concerns and have them addressed and the society wanted to make sure that the difficulties were not overlooked;
- there was acknowledgement that there had been a great deal of technical care taken over the acoustics but it was the experience of some residents that it had not worked;
- Members were told of the methodology of the survey and that when compared to industry standards it could be an accurate representation of wider feeling throughout the area;
- it was felt that the 75dba level was a major intrusion and had caused a degree of upset amongst residents;
- it was stated that 65dba was a more appropriate level for Shoreham;
- it was claimed that the applicant's consultant and the councils' environmental protection team had played down Noise Council guidelines that the levels at the festival should only be heard at periods of ten minutes at a time;
- research from other festivals had shown that levels were set lower than the 75dba employed by the Wildlife festival, with some as low as 68dba;
- it was the society's contention that there was 'plenty of room' to reduce levels set as part of the premises licence.

Members' questions for the applicant

A Member noted that the results of the survey indicated that a majority of those surveyed did not agree that sound levels were unacceptable and that only 34 people had said that noise levels were unacceptable. The Shoreham Society representative stated that 25% of respondents to the survey had said that noise levels were unacceptable and that if this figure was extrapolated to the rest of the population (as had been suggested by industry survey modelling) in the area then a significant number of residents were being adversely affected by the noise generated by the festival.

A Member asked why the applicant was seeking to reduce sound levels to 65dba and not 68dba or some other lower figure. The applicant stated that the 65dba level had been suggested to match Noise Council guidelines although a reduction to 68dba would be warmly welcomed by the Shoreham Society.

Licence Holders' questions for the applicant

The licence holder's representative sought clarification on the results of the survey and put it to the applicant that 34 out of 14,150 residential homes had stated that noise levels were unacceptable. The Shoreham Society representative stated that the results should be extrapolated so the figure of 34 (25%) was representative of a much larger figure.

The licence holder's representative directed the applicant to measurements taken during the event that showed levels had been maintained well within the prescribed levels and asked whether the applicant accepted the Environmental Health Officer's opinion that sound levels were audible but not excessive. The applicant contested the comments of the Environmental Health Officer and related that the Society had found a large number of people had been very disturbed by the festival.

The licence holder's representative asked the applicant 'what is the evidence of public nuisance'. The applicant explained a personal experience of not being able to hear himself think. He asked consideration to be given to the large number of elderly residents that could be adversely affected by the high noise levels generated by the event.

The licence holder questioned the applicant on the validity of Noise Council guidelines when they had been discredited by the licence holder's noise consultant and the Councils' Environmental Health Officer. The applicant stated that the guidelines were national guidelines and they backed up the view that the levels set for the wildlife festival were not appropriate for Shoreham. The sound consultant for the licence holder told members that the Noise Council guidelines were for people working and that there was completely different guidance for festivals.

Those who had made representations

A resident related that whilst the festival was on she had suffered from a continual bass noise and that it was mainly low frequency sound disturbing her peace.

A resident wondered why the sound testing on Friday was less loud than Saturday and Sunday.

The Meeting adjourned at 8pm for a comfort break and reconvened at 8.05pm

A resident relayed a personal experience where his rehabilitating wife was disturbed by the noise from the festival which he stated was set at a level that was too high and should be lowered and did not believe that reducing levels would spoil people's fun. The Committee should be aware that the airport was an open site and was not somewhere that sound could be easily controlled. The resident asked the Committee to pay heed to the wishes of electors and represent their views.

The representative of the Lancing Manor Residents' network made a representation of the Committee which is summarised as follows:

- fears regarding excessive noise seem to have been well founded in Shoreham;
- a change in the wind direction could mean that Lancing Manor could suffer from excessive noise;
- it was put forward that a drop in the level of ambient sound late at night effectively doubled the noise level of the festival;
- members were told about a recent planning permission that was turned down due to noise levels from the A27 being at 72dba and purported that the festival noise could be used in comparison to the failed planning application;

Councillor Geoff Patmore made a further representation on behalf of the Lancing Manor resident's network and stated that residents should not have to suffer the noise levels for two days.

A resident stated that noise from the festival was not excessive and that beach dreams and the funfair created more noise. Members were told that the event was good for the community. The resident also told members that she had not received the Shoreham society survey and had not known of its existence.

A resident stated that when someone had been to his property to record the noise level he had refused to let the resident see the recording on the meter and was only able to communicate with the resident in between breaks in the music.

The Licensing Officer confirmed with the Applicant and the licence holder that his presentation had been an accurate representation of the application.

Questions for those making representations

There were no questions of those making representations from members or the licence holder.

Representation of the Licence Holder

The licence holder's representative and sound consultant made the following points during their representation

- bass noise had been raised as an issue and there were investigations underway to investigate a different type of speaker that reduced the escape of low frequency bass noise from the back of the speaker cabinet;
- fine tuning of stage placement was being undertaken to reduce the noise heard by residents;
- predictions of noise levels had been overestimated and readings from the festival had shown lower levels than had been originally allowed for;
- the sound check on the Friday night was a sound propagation test to identify where noise from the individual stages was being heard;
- strong winds on Saturday had carried the noise which is why the event appeared to be quieter on the Sunday;

- Following the event a debrief had been undertaken with the promoter, local authority and representatives from other authorities;
- the noise council advice regarding 65dba was relevant to people working because of exposure to sound over a long period of time and was not applicable to attendees at a festival over two days;
- if the sound levels were reduced to 65dba it would mean reducing sounds at the festival to 90dba which would mean that the event was not effective because the code of practice stated that events under 95dba would not be effective. The sound consultant gave members examples of where lower levels were used and the dissatisfaction that resulted from those lower levels;
- prior to and throughout the event organisers had worked closely with the Environmental Health Officers;
- the evidence was that the event had been managed successfully and there were no breaches of the licence;
- improvements would be made for the next festival;
- the survey had revealed that 65% of residents weren't bothered by the sound or didn't hear it.

Members questions for the licence holder

A Member asked if a reduction of 10 dba would really affect the enjoyment of the festival. The sound consultant stated that it would mean reducing levels to below 95 dba from the stage which according to experience and the code of practice would mean that the festival would become ineffective.

A Member asked if it was the licence holder's duty to make sure residents were not affected by the festival. The licence holder's sound consultant explained that residents would experience a degree of disturbance but it was his job to use the laws of physics mitigate that disturbance.

Applicant's questions for the licence holder

The licence holder was asked if there was a duty of care to local residents. The noise consultant stated that they did and to fulfil that a noise management plan was put in place.

The applicant asserted that the Health and Safety Executive advised that noise above 90 dba could damage hearing. The licence holder's noise consultant emphasised that the advice was relevant to prolonged exposure to noise of that level over a number of years.

The licence holder was questioned further on the long term effects of noise and measures in place at the festival to protect frequent festival goers.

Those who made representations questions for the licence holder

The licence holder was asked if the reflective nature of the sea had been taken into account. The sound consultant for the licence holder confirmed that the sea could affect the level of noise and that noise readings had been taken south of the festival site.

The licence holder was asked about the open topography of the site. The Committee was told that sound propagation testing took into account the topography of the site and some artificial barriers had been put into place.

The licence holder was asked what the noise level would be at the stage if it was reduced to 68dba. The Committee was told that the dba at the festival would need to be reduced to about 92-93dba.

Applicant summing up

The applicants were given the opportunity to sum up:

- the review had been applied for due to the high level of concern expressed by residents;
- there was a strong feeling that noise levels had been set too high;
- the society was interested in achieving a balance between lower noise levels for residents against enjoyable levels at the stage;
- Members were told that there was some room to change levels and a suggestion was made that a 70dba level for residents would mean a dba limit of 95 on stage.

Those who made representations summing up

- the representative of the Lancing Manor resident's network stated that he supported the application for the review of the Licence

Licence holder summing up

The licence holder's representative summed up his client's case:

- Members were told that the guidance Licensing Act gave significant weight to the advice of responsible authorities, The Councils' Environmental Health Officer had made a recommendation supporting the current maximum noise levels and in his judgement no public nuisance had been caused;
- The licence holder's noise consultants had put in a year's worth of work to ascertain the correct levels for the site, the process was complex and acoustics is a science and is not as simple as adjusting dba levels 'here or there'
- the Committee were asked to consider the basis for the review where 34 people responding to a survey had said that noise levels were unacceptable and the majority of respondents had not found noise levels unacceptable;
- The Licence holder agreed to the amendments to the conditions of the licence

the Committee adjourned at 9.26pm and those attending the Committee were told that the decision would be published within 5 working days

Resolved:

- i) that the application for review be rejected. the applications being from the Shoreham Society who had proposed the amendment of the condition on the current premises licence from 75db(A) 15 Minutes LAeq to 65db(A);
- ii) that the amended conditions relating to noise mediated between the Environmental Health section of the Council and the premises licence holder. These are contained in Appendix E pages 55 and 56 of the report attached to the signed copy of these minutes. They would remove the current condition 50 and amend clarify current conditions 51/52/53/55 and 56

Reasons for Decision: the applicant has not provided sufficient information or evidence to support their case that the current noise levels are undermining the licensing objectives. The Committee believes that the amended mediated conditions are sufficient to promote the licensing objectives.

Additional observations by Members: the committee is pleased to note that the premises licence holder has offered to address the issue of bass noise emanating from the festival by taking various practical steps to reduce its effect.

Advice to parties: The applicant for the review, the holder of the premises licence or any other person who has made representation in connection with this application are reminded that they may appeal against this decision, within 21 days beginning on the date the appellant was notified by the Licensing Authority of this decision

The Chairman closed the meeting at 9.26pm it having commenced at 7.00pm

Chairman