

(Report of the Licensing Officer, Samantha Potts 7364)

**Application – Removal of Licensing Conditions in respect of noise monitoring.
Premises – Faversham Town Centre (Hop Festival)**

Provisions	Days	Approved Hours
Live amplified music and dancing	Saturday 3 rd September 2011	09.00 – 17.00
	Sunday 4 th September 2011	09.00 – 17.00

Conditions applied to the licence by members in 2006 and rolled over in 2007, 2008 and 2009.

- Mr Durkin to monitor the Preston Street site to avoid excessive noise breakout.
- Mr Durkin to also be the main point of contact for the Preston Street site.
- Hop Festival Committee to provide a full contact list to residents.
- All bands to be written to explaining the conditions relating to noise levels.

Modified conditions applied to the licence in 2010

- Hop Committee to monitor the Preston Street site to avoid excessive noise breakout.
- There must be one main point of contact for the Preston Street site.
- Hop Festival Committee to provide a full contact list to residents.
- All bands to be written to explaining the conditions relating to noise levels.

Background

Faversham Hop Festival Limited (a newly formed company) have applied and had approved in principle a premises licence to cover Faversham Town Centre for the provision of Live Music and dancing over the weekend of the Hop Festival. The two areas for entertainment have been designated as the main Market Square by the Guildhall and at the top of Preston Street on the forecourt of the bus depot.

The licence is also subject to a site visit on the first morning of the event when Health and Safety checks are carried out and certificates for electrical installations and stages are submitted.

In 2006 the application for this event was made in the usual way, however due to resident complaints it was referred to the Licensing Committee. On the evidence that was presented at that hearing, members decided to add 4 specific conditions (see cover sheet) in relation to noise monitoring at the Preston Street site, members also specified that these conditions would automatically be carried over each year.

In 2010 these conditions were slightly modified to make them less onerous, it was felt at the time that they should remain on the licence but efforts were made to remove the responsibility for monitoring noise from just one person.

Between 2006 – 2010 Mr Durkin took responsibility for the noise monitoring at Preston Street and in 2010 he produced a noise report (see attached). As there have been no complaints in recent years it is requested that the conditions be removed.

Consultation

As this matter relates only to noise conditions, only the Pollution Manager has been asked to comment. Please see attached the response from David Ledger.

Conclusion

Faversham Hop Festival Limited request the removal of 4 conditions in respect of Noise Monitoring at the Preston Street site for the duration of the Hop Festival weekend.

David Ledger has put forward his comments in response to this request

Members have the following options:

- Remove the conditions
- Modify the conditions
- Retain the existing conditions

Supporting documents

Noise report from Mr Durkin
Comments from David Ledger

HOP FESTIVAL COMMITTEE

INVESTIGATION REPORT 2010

TITLE:	To determine the noise levels emitted by the various bands appearing at the Preston Street stage during the 2010 Hop Festival
LOCATION :	Stage @ pavement outside former bus depot /Coachworks Preston Street, Faversham
MEASUREMENT POSITIONS:	(1)18m,opposite stage (as in 2006 to 2009) (2) 1 st floor window opposite stage (as in 2009)
INVESTIGATION TYPE :	Noise :Sound Pressure Levels; dB(A) and Leq 15 min.
EQUIPMENT:	(1) Precision , Type 2, Mini Sound Level Meter (as used in 2006 to 2009) (2) CEL Model 450, Type 2 Integrating meter (as used in 2008 & 2009)
EQUIPMENT/SETTINGS:	(1) Hi scale (60–120dB(A): fast response. (2) A–Weighting Fast Response continuous recording
CALIBRATION:	Both meters calibrated with a CEL 110/2 calibrator before and after each use.
NOISE SOURCE:	Variety of bands, amplifiers routed via the off stage mixer desk limited to 98dB
REQUESTED BY :	Swale Borough Council's Licensing sub-committee

OPERATORS : Elizabeth A. Wheeler & Paul Durkin

CC: Hop Festival Committee ; Mr B. Planner & Mr.D. Ledger (SBC)

DATE/TIME : 4th and 5th September 2010 from 10.00h to 1630h

AUTHOR : Paul Durkin

REPORT DATE : 12 November, 2010

SUMMARY: Most music noise levels were well controlled and within permitted limits

INTRODUCTION:

This is the fifth year that the Licensing Committee of Swale Borough Council (SBC) has imposed a condition on the music stage at Preston Street during the Hop Festival. This condition reads as follows : the Council will *"see to ensure that the Organising Committee aim to achieve the appropriate values in the code (Pop Guide) at houses in Preston Street having ground floor habitable rooms."*

The condition was again imposed despite no complaints from residents during the previous four years. Furthermore the Council has commissioned a licensing officer to monitor the area and investigate complaints.

LEGISLATION:

Environmental Protection Act (EPA) 1990: Sections 79 and 82.

Control of Noise at Work Regulations (Noise Regs.) 2005.

These regulations to protect employees from noise came into force for the entertainment industry in April 2008.

However, these Noise Regs. Are not designed to prevent one-off or occasional events. Their focus is on regular exposure to loud music and they allow weekly averaging of workers exposure to be taken into account.

MUSIC STANDARDS/GUIDANCE:

There are five main documents giving guidance to noise output at music events:

1. Noise Council's Code of Practice (1995) on Environmental Noise Control at Concerts (Pop Guide).

The Pop Guide addresses the environmental problem of noise from the performance and sound check perspective only. This Guide suggests a maximum music noise level (MNL) for concerts of less than three days of 65dB(A) over a 15 minute period. However, the Guide also notes that research shows that levels below 95dB(A) are unlikely to provide satisfactory entertainment for the audience. It's more realistic guidance suggests that MNLs should not exceed the background noise level by more than 15dB(A) over a 15 minute period (1m from the façade of any noise sensitive premises).

2. The Event Safety Guide: A guide to health, safety and welfare at music and similar events (HSG 195) by HSE Books (1999).

Regards advice on noise for the audience this Guide (p 573) recommends that the event equivalent continuous sound level (Event Leq) in any part of the audience area should not exceed 117dB(A) and the peak sound pressure level (SPL) should not exceed 140dB.

3. Guide to managing H&S at Exhibitions and Events 2002 (The Red Book).

This includes information based on the Noise Regulations (1999) quoting maximum levels of background noise 80–85 dB(A) – Peak of 96dB and 110 dB (peak) in special enclosures.

4. Managing Large Events (Licensing Act 2003) A LACORS Guide (2005)

This deals with the relevant licensing act (2003) and gives a case study based on the Glastonbury Festival. Conditions given were that the Noise Regulations were complied; the peak sound pressure level should not exceed 140dB; the equivalent continuous sound level not exceed 110dB and no-one allowed within 2m of any loudspeaker with

a rated output in excess of 1KW.

5. Sound Advice : Control of noise at work in music and entertainment (2008) HSG 260 by HSE Books.

This book contains practical guidelines on the control of noise at work, in music and entertainment at a variety of indoor venues. Apart from marching bands and compliance with legislation there is very little advice concerning outdoor venues.

SOUND CONTROL EQUIPMENT (MIXER DESK):

4Kw PA system, including bass bins

16 channel mixing desk

Graphic equalisers on main and monitor outputs

Selection of good quality microphones, i.e. Shure, AKG, Microphone stands and Di boxes

Multi Effects Unit

4x speaker system with monitors on 1 or 2 sends.

METHOD:

As in 2009 to minimise audience interference & abuse (see 2009 article¹), the Integrating meter with data logging (CEL 450) was housed on a tripod inside the 1st floor window opposite the stage @ no4, Limes Place. From this remote location the CEL-450 was left undisturbed to accumulate equivalent continuous sound pressure levels (SPLs) over 15 minute periods (LAeq15min) on both days.

The mini sound level meter (SLM) used in previous years was used to perform spot-checks at the same location opposite the music stage as used since 2006. Spot-checks on ambient (crowd) noise; peak noise and LAeqs were also estimated using this meter

Both instruments were provided with windshields. Calibrations were performed using a CEL 110/2 acoustic calibrator before and after each days play.

¹ Durkin, P. (2009), Noise at the Hop, the Journal, Institute of Science and Technology, Winter 2009, pp 19-24.

The music stage as in 2008/9 was placed at the maximum possible distance the forecourt of the Coachworks site would allow i. e. 18 metres and the amplifiers directed away from the noise sensitive houses (57 and 58 Preston Street). .

RESULTS:

Table 1 gives the results of SPL readings at the event using two sound level meters. Figures in parenthesis refer to the residual reading when the ambient reading is deducted.

Table 1 Sound pressure level readings	Sound Pressure Level (dBA)				
	Music off	Mini sound level meter (Centre)		Integrating meter (CEL 450) (1st floor window)	
Groups	Ambient La eq	Peak	L _{Aeq}	Ambient music off	L _{Aeq} /15min
29 Ways	64	92	85	68	88 (20)
Home Sweet Hell	75	93	82	75	82(7)
Five Floors Up	75	89	79	75	82(7)
Richard Vanstone	69	87	82	69	83(14)
First born Heroes	72	95	87	72	87(15)
Redeye	72	85	79	72	79(7)
Green Diesel	72	92	82	72	85(13)
Sunday					
New Orleans Jazz	68	86	78	68	80(12)
Procession	72	85	84	72	80(8)
Restless Rangers	76	91	82	72	80(9)
Melissa Dawson-Bowling	67	72	72	72	72(0)
Radlers	72	97	80	72	86(14)
Castiel	74	95	86	74	82(8)
Kelly's Heroes	74	97	83	74	84(10)
Elbert Felc	74	94	86	74	85(11)
Labyrinth	74	89	81	74	79(5)

DISCUSSION:

The results from 2010 combined with results from the previous four years, confirm that there was effective noise control at the mixer desk. This is exemplified by the fact that after five years of monitoring there have been no official noise complaints. Additionally again this year after many complaints and abuse about our very presence this year we managed to effectively monitor from a remote position without interference. Results in comparison with the previous location also seem to suggest similar conformity. However, we are left with the impossible task of conforming to an out of date code. (Pop Guide 1995) which was never set up to deal with

one-off narrow (<18m) street events. Efforts over the years have been made to placate the individual² against the common good have been ridiculous. We are now at a stage where the music is moved as far away from the audience and residence as is possible. Achieving the Pop Guide's target of a MNL of 65dB(A) in front of a house when the ambient crowd noise level is greater (TABLE 1: range 64 to 76dBA) is impossible. A more sensible approach would be to set a level at the start then utilise a recommendation made by the officer³ who monitors the Notting Hill carnival i.e.: that the Leq 15 min should be limited to 15dB(A) above the ambient noise level with a peak of 98dB(A) , 1 m from the façade of any noise sensitive dwelling (as suggested in 2008). For a narrow street such as Preston Street for an annual pre-planned daytime event , this is eminently sensible and achievable. This recommendation is also mentioned in the Pop Guide. I would also contend that continuous monitoring is not required, merely spot-checks by a Licensing Officer during the day.

CONCLUSIONS:

The music noise levels at the 2010 Hop Festival were well controlled and only on start-up, when the background was low, was the 15dB(A) 15 minutes continuous sound pressure level above ambient (mentioned in the Pop Guide) exceeded..

Further evidence to support this claim is that the only complaints received since 2005 were either about why we bothered or that the music levels were too low.

RECOMMENDATIONS:

(1) That for future Hop Festivals the condition set should be that suggested by the EHO at the Royal Borough of Kensington and Chelsea.

(2) Noise monitoring is no longer required, if desired start-up checks only may be required, by a Council's (SBC) licensing officer.

(3) The sound engineers operated well under the constraints imposed and can be recommended for future years.

² The individual main complaints at the time of the 2010 festival was in Africa.

³ Keith Mucaffy, Senior Environmental Health Officer, Royal Borough of Kensington & Chelsea (private communication)

INTERNAL MEMORANDUM

TO: Licensing Manager
FROM: David Ledger, Environmental Services Department
DATE: 25th February 2011

SUBJECT: Hop Festival Licence Application 2011

I write with reference to the current application for the 2011 Hop Festival. I note from the recent Safety Advisory Group meeting that the Festival is now being organised by a limited company and there is continuing improvement in the running of the festival which is welcomed.

Section P (d) of the application specifically asks for the Licence Conditions relating to noise to be removed. It does not however offer any information about how the applicants will address public nuisance if the conditions are removed. It appears to rely on the fact that the conditions are simply unnecessary. I am disappointed that the application does not provide any safety net. It is my view that some safeguards need to be put in place and the application fails to address this, thus we have no confidence at this stage that there will be any control at all.

To give some history of the situation, I am unsure when the stage was first used for amplified music but records show that complaints about the uncontrolled level of noise were made by residents living nearby in 2004 and 2005. When the licence application was made in 2006, there was a combined objection by ten people in five properties which led to the matter being heard by the Licensing Sub-Committee on 16th August 2006. The Licence was granted and four conditions were imposed.

One of the Residents met with the Chief Executive and a Director of SBC after the 2006 event and said he was happier with the noise levels at the Hop Festival that year. He also said that he had employed an Acoustic Consultant to monitor the noise from his property and reference was made to a Code of Practice on 'Environmental Noise Control at Concerts' published in 1995 which he thought should be adhered to at the Festival. I have always maintained that the Code (which is not mandatory) is inappropriate for the Hop Festival and any other street festival. The Resident, with whom the SBC dialogue has been progressing, has held the converse view and in subsequent correspondence and meetings insisted that SBC brings the Code to the attention of the Festival Committee. This has been done in subsequent years, although the response is that the Committee do not feel it is appropriate to use it.

In effect the Code sets a national 'Minimum Noise Level' (MNL) of 65 dB LAeq (15 min) at the façade of the nearest dwelling. This would be a flat above a shop opposite the stage owned by someone who openly supports the Festival and is happy with the stage and music. As a concession, the above Resident was satisfied that the interpretation of 'the nearest dwelling' should be the closest dwelling with habitable rooms on the ground floor. As this is to the south west of the stage, with careful placement of the speakers, this may be more achievable, but the result is a lower volume in front of the stage and there may well

be problems of satisfying the audience. It must be said here that the Resident concerned has always maintained he also spoke for other nearby residents, not just himself.

I have always maintained that it would be inappropriate to set any specific noise levels as this raises expectations and gives rise to problems of needing to monitor and compare each year. This was stated at the 2006 Licensing Sub-Committee and I feel it still holds good today.

The Festival Committee in 2006 were required by condition to put in their own monitoring regime and this had to be supervised by a Committee Member who volunteered at the Sub-Committee meeting to carry this out, partly due to having a better understanding of noise and partly due to having access to a sound level meter that could be used. This was shown to be onerous and the Licensing Manager was happy to take his name out of the conditions for the 2010 Festival.

The same conditions have been applied to all the subsequent festivals and the vigilance shown by the Festival Committee has ensured that close Residents have largely been accepting the levels of noise from the Preston Street stage each year. There has been contact most years with Residents, both before and after Festivals. The Council has had to give assurances most years that the measures are still in place and that the Council will continue to be vigilant that the noise will be controlled. In 2008 one of the Council's Enforcement Officers was assigned to keep an eye on this aspect and be a further contact point between residents and the Festival Committee. However his remit has always been wider, looking at licensing issues in Faversham in the Festival weekend in the evenings as well as daytime. Another positive feature in this period is that the Festival has so far employed the same Sound Engineer for the Preston Street stage. There has been a close working relationship between him and the Committee through Mr Durkin which adds another level of control of bands at the mixer desk.

This shows to me that the conditions have worked but also that some form of control will always be necessary. The Committee may well argue that the conditions are unnecessary as no complaints have been made. This should be viewed positively not negatively. In my professional opinion, if some form of control is not in place, bands playing may well set levels themselves and after a noisy year generating complaints, the Licence for the following year will be again put under close scrutiny.

I am happy that the Licence conditions are being reviewed after five years and I think some adjustments can be made, I would not support the complete removal without some form of assurance that noise from amplified music will be controlled. The originally named Committee Member to oversee the noise monitoring is Paul Durkin and I understand he is now a Director of the Festival Company. In 2006 he carried out rigorous monitoring of every band that played at the Preston Street stage on both days. Each band plays for half an hour and there is a half hour break in between while bands change over. He and a colleague have continued to do this every year, although in one year because they overtly measure the noise in the street, they did get some angry people confront them. Since then they have monitored from the first floor flat of the closest property. Each year Mr Durkin produces a report about the monitoring carried out.

Mr Durkin and the Committee have been against continuing with the level of monitoring for some time now and it has been discussed through correspondence and verbally. I have informed them that the wording is looser than they are interpreting it. There has never been a stipulation that noise levels produced by every band must be measured and I am unsure why they continued with the amount of work involved. I have suggested that it is important to get the levels correct at the beginning and if that level at the mixer desk is strictly maintained throughout the day then apart from periodic checks, nothing further need be done.

I refer to this as guidance as different years may require different levels of monitoring and so would not want formal detailed constraints placed in conditions as flexibility is key. For the reasons above, I feel that conditions are needed as a safety net for local residents.

I recommend that the following conditions be applied to the 2011 and subsequent Hop Festival Licenses:

1. The Hop Festival Company Ltd is to monitor the Preston Street stage site to prevent excessive levels of noise at nearby residential properties with habitable rooms on the ground floor. The methods used are to be agreed with the Licensing Manager prior to the event.
2. The Hop Festival Company Ltd shall provide the Licensing Manager and residents in the vicinity of the Preston Street stage with a name and telephone number of a Steward or Organiser with whom they can make a complaint about noise and safety issues.
3. All bands performing on the Preston Street stage are to be advised that there are constraints with respect to noise levels and the Organiser and Sound Engineer's decisions on noise levels are final.

David Ledger
Environmental Protection Team Manager

For Head of Service Delivery

Appendix

Current conditions applied

- i. Hop Committee to monitor the Preston Street site to avoid excessive noise breakout.
- ii. There must be one main point of contact for the Preston Street site.
- iii. Hop Festival Committee to provide a full contact list to residents.
- iv. All bands to be written to explaining the conditions relating to noise levels.