

Appendix B

Charlbury
Chipping Norton
OX7 3QA
4th June 2014

Head of Community Services
West Oxfordshire District Council
Elmfield
Witney
OX28 1PB

Re : Wilderness Festival license application

Dear Madam or Sir,

I am writing in support of the proposed license for the Wilderness Festival.

Since this event was established it has developed into an innovative and respected festival and is often listed in the top twenty festivals in the Country. It has also supported local activities and charities by making available fundraising opportunities for the Primary School, Thomas Gifford Trust and Pre School.

Despite some local concerns about noise, the event manages to have little negative effect on Charlbury, and any issues are far outweighed by the benefits the event brings. Traffic management has been effective and the monitoring of any nuisance by the Local Authority has provided confidence that any matters are quickly dealt with.

Yours sincerely

Jim Holah

A handwritten signature in black ink, appearing to read 'Jim Holah', written over a horizontal line.

Charlbury

OXON

OX7 3EH

UK

26/05/14

RECEIVED 27 MAY 2014

Dear Sir

Ref: Wilderness Festival Ltd – Event Licence

I attend an open evening at The Bell in Charlbury this year where Wilderness Ltd presented their proposals for changes required for the licensing of the festival for the upcoming year and beyond.

We are one of the closest local residents to Wilderness Festival site and have enjoyed all the editions to date.

It would not be true to say that the event has no impact on us but it is something that brings diversity, money and opportunity to the community whilst enabling large numbers of people to enjoy the experience of the ancient parkland and woodland of Cornbury and the Wychwood.

I can see there being no additional issue with the proposals outlined in the public meeting or the revised licence application and feel that the suggested changes will improve the management of an already well run and managed event.

I fully understand the need for the increase in capacity to effectively manage and make the festival sustainable.

The proposed changes in the times have little or no material impact on what is already happening.

The change to a Wilderness license rather than a Cornbury Park license is eminently sensible as it cuts out a feedback loop between the community and the council and MAMA group, as organiser.

Therefore I fully support the proposed changes to the licensing and wish the festival every success for this year's and future events.

Your sincerely



Russell Robson

Debra Courtenay-Crane

From: Mark Hofman
Sent: 10 June 2014 13:43
To: Debra Courtenay-Crane
Subject: Application for new Premises licence for the Wilderness Festival, Cornbury Park
Attachments: MAS - Cornbury-Wilderness - 10 June 2014.pdf

Dear Ms Courtenay-Crane

I am writing to you as the relevant officer at West Oxfordshire District Council for the licence application referenced above, to request you to accept this e-mail as a relevant representation in relation to the application.

I am a resident of Charlbury. I have been affected by licensable activities at Cornbury Park in the past, and I would reasonably expect to be affected by at least some of the activities which may be carried out under the terms of the licence if it is granted. I am therefore an interested party since I live in the vicinity of the premises.

I object to the grant of the licence applied for on the terms proposed on the grounds that it would be contrary to one of the objectives which the Licensing Authority is required to promote under section 4 of the Licensing Act 2003, namely, that it would be contrary to the prevention of public nuisance.

You will recall that at the time of my appeal in May 2011 against the terms of the licence granted to Lord Rotherwick for Cornbury Park, certain terms which were proposed by my noise consultant for the prevention of nuisance were accepted by the Council and by the applicant, and these terms were approved by the court. The present application varies a number of those terms and those variations are such as would permit nuisance to occur. That would be incompatible with the purposes of the Act and these proposed terms should be rejected by the Council.

I would like to suggest a few amendments, listed below, to the proposed conditions, and I have provided reasons for the amendments in the following notes. These amendments are similar to the conditions accepted for the previous licence applying to the Wilderness Festival. If complied with, these amendments would be likely to prevent nuisance from noise occurring.

Compliance with conditions similar to the existing conditions would also prevent the kinds of complaints about noise from the Wilderness Festival which have arisen since 2011 as a result of breach of those conditions, by contrast with the proposed conditions, which would almost inevitably give rise to increased levels of complaint even if complied with.

Suggested amendments to the Applicable Conditions:

1. Amend condition 2 (d): change the "Minimal level" definition to read: "At this level music noise shall not be audible inside any off site noise sensitive premises with windows open."
2. Amend condition 2 (e): change the initial wording to read: "Noise from Licensable Activities authorised by the Licence shall be limited to the levels provided for in condition 2(d) above during the following hours:" For Friday, Saturday and Sunday, set the level for the period 23:00 to 10:00 at Minimal level.

[Note 1: as drafted both the 44dB (Lower Level) and the 40dB (Minimal Level) levels would be sufficient to cause sleep disturbance to residents. This is the conclusion of many studies. The suggested amendments reflect the condition set out in the CIEH/Noise Council Code of Practice on Environmental Noise Control at Concerts. This code has been endorsed by Defra and many local authorities. It was accepted by the Council

at the time of the appeal in 2011 as the appropriate condition. The suggestion that this condition is unscientific is incorrect. On the contrary, it is the most appropriate means of control for music noise. It reflects widespread practice and operates on the basis of evidence given by residents. It has been accepted by the High Court and the Court of Appeal as an appropriate condition for testing the level above which nuisance from sleep disturbance can occur. It has the significant advantage that it does not require the use of specialist equipment, thus enabling the ordinary resident to provide evidence of breach of the condition. (As with any other evidence, that evidence can be challenged in court.) In the first instance it is also prima facie evidence on which a licensing authority can act, especially if there are a number of residents who complain. Particularly in the case of one-off events, such as music festivals, it is also a more useable condition than one requiring monitoring by specialist equipment. Please see that attached letter from MAS Environmental Consultants for discussion and evidence on these issues.

[Note 2: as drafted, there is no limit on noise from any Licensable Activity authorised by the licence (as listed on page 1 of the draft conditions) other than from music at outdoor concerts. Evidently this would permit all the other types of authorised Licensable Activities, most of which have taken place at Wilderness festivals in the past, to be carried on without any restriction on noise under the licence. This is incompatible with the objectives of the Act.

[Note 3: provided that the amendments above are incorporated and complied with, it is accepted that the extension of time for Licensable Activities to 04:00 on Friday and Saturday should not result in any increase in nuisance to local residents. However, without those amendments the extension of the Lower level noise to 02:00 and Minimal level noise to 04:00 undeniably makes it possible for local residents to be subjected to sleep-disturbing levels of noise, contrary to the objectives of the Act, and as could not be the case under the “not audible” condition.]

On the assumption that this matter will go to a hearing, I would like to apply to speak at that hearing. I would also like to inform you that, with the support of a significant number of local residents and the advice of my noise consultant, I am prepared, if need be, to take this matter to appeal again.

yours sincerely

Mark Hofman



Local Gov Issues, Acoustics, Health & Safety, Food Hygiene, Planning, Pollution, Licensing, Nuisances, Catering Design, *Training*.

Mr Hofman
The Old Farmhouse
The Playing Close
Charlbury
Oxfordshire
OX7 3QP
mark.hofman@btinternet.com

Let/Hof/MAS140610
10th June 2014

SENT BY EMAIL

Dear Mr Hofman,

Cornbury Festival – Proposed changes to night time noise limits permitting serious nuisance.

I refer to your communications in this matter and the proposed changes for night time noise. In my 39 years experience addressing matters of this nature and investigating unreasonable noise and nuisance, I can conclude the proposal represents a serious and adverse change. Furthermore the previous control mechanism is both appropriate and readily enforceable. An argument that inaudibility is not a scientific control mechanism is fundamentally flawed and fails to recognise the difficulties and inability to measure decibel levels using a sound level meter below the background noise as would be required to provide protection. Conversely the decibel level proposed is substantially above the previous limit and permits serious night time noise intrusion.

Thus on its face the new proposal appears a means to allow serious noise intrusion and substantial night time noise to occur that must be expected to cause serious sleep disturbance. It also appears it will clearly cause a public and statutory nuisance and if approved the Council should serve an Abatement Notice under section 80 of the Environmental Protection Act 1990 to prohibit the occurrence of nuisance before the event. This would mean the Council would need to take enforcement action against noise it was permitting. For the avoidance of any doubt the courts have confirmed any licence level permitted cannot exempt it from nuisance action. To licence such noise impact would be contrary to the aims and objectives of the Licensing Act.

The reason for using inaudibility or lack of discern-ability rather than a measured decibel level is sound in science and the most appropriate means of control for music noise. In general if the far field music noise is audible outside dwelling windows it WILL be audible internally. The reason for this is that over distance the music noise becomes bass biased due to atmospheric absorption of the higher frequencies. As a consequence this noise reduces less than the background noise when going from outside a building to inside, leading to reduced masking of the noise. Internal background levels in an area like Cornbury can typically be 10-15dBA and lower requiring specialist microphones to measure it. Furthermore there is less screening at first floor bedrooms than at ground floor level so the music noise can be louder in bedrooms.

The human ear is generally capable of discerning sound at levels well below that at which a field sound level meter can determine the music noise contribution. In other words music noise is generally immeasurable in a practical sense at levels when it is still highly intrusive. This was confirmed in the High Court case of Godfry v Conwy County Borough Council 2000 where the courts confirmed music noise could still be a nuisance despite being immeasurable but when obtrusive and incongruous in relation to the sound environment.

www.masenv.co.uk 14 SOUTH ROAD, IMPINGTON, CAMBS CB24 9PB Tel: 01223 510430 / 441671 Mob: 07867977222

mail@masenv.co.uk Directors: MIKE STIGWOOD FRSPh, MIOA TERRI STIGWOOD FRSPh, MIA

MAS ENVIRONMENTAL LTD is registered in England and Wales. Reg no 7501856.

Recent emergence of night time intrusion at some late night music events. In recent times a number of venues have been trying to extend their activity into the night time with similar noise levels as proposed here. It is critical to recognise they are NOT levels applied to protect the community which should be their intent. They are levels the organisers need for night time dancing and entertainment other than as background music. Thus the levels are not promoted or proposed for the licensing objectives but to permit the activities they want to undertake. There has been a degree of success for event organisers applying this approach, in some cases, either through the lack of understanding by some local authority officials who confuse music noise controls with the WHO Community Night Noise Guidelines that are not transferable to this type of noise impact, or because in some cases local authority officers have actively promoted this type of event due to other remits and as an alleged benefit for the wider community regardless of the adverse consequences for the local community. This is not an acceptable balance as the need for protection in the home and sleep is a critical human requirement and right that local authorities are duty bound to protect.

In my experience most organisers are well aware that these noise levels, as proposed in this case, equate to serious night time intrusion. The consequence of loss of sleep is serious with impaired driver ability, reduced functioning the next day at work, reduced cognitive skills and adverse effects due to the loss of the restorative effects of sleep. In general Environmental Health Practitioners who support such levels of noise, inflicted upon communities in their homes at night, would not be able to fulfil their responsibility for public health protection.

What the proposals of 40-44dB LAeq equate to. The area around Cornbury can expect external night time background noise levels down to 18-20dBA or lower in some circumstances. Commonly it will be below 30dBA. This could be readily demonstrated. Cornbury is well away from major road networks and will have background noise with little low frequency noise content. Conversely the music noise will be dominated by low frequency noise when at the distances which exist from the venue to residents. In any event music noise is incongruous and starkly different to the background noise environment in such an area.

For music noise to be inaudible / not discernible in most cases its decibel levels need to be 10-15dBA below the background noise level, especially in an area which is not dominated by road transport noise like that surrounding Cornbury. In other words the music noise is unlikely to be wholly masked and inaudible in this area, on many occasions when downwind (warm cloudless evenings when windows are open) unless it reduces to levels of the order of 10-15dBA LA90. In many circumstances inaudibility might be achieved at music noise levels of 20-25dBA depending on the content of the music and the background noise. As background noise levels rise so could the music noise levels¹.

Limitations of dBA for music noise. It is well recognised that dBA fails to adequately reflect music noise impact in communities and that inaudibility criteria or 1/1 and 1/3rd octave band limits need to be applied. Alternatively a Noise Rating Curve can be applied which is weighted so that low frequencies are limited. It is notable that for regular music noise the Institute of Acoustics guidance (2003) for Pubs and Clubs indicates it should be inaudible inside dwellings, at whatever time of day it occurs.

Taking a background noise range of 18-30dBA for the Cornbury/Charlbury area means that for the first three hours of trying to get to sleep and falling into a deep sleep (necessary for restorative processes in the brain) the proposed music noise levels will not only exceed the background noise levels by 14-26dBA (more than 2-4 times louder than the background noise), they will totally dominate and change the sound environment when at the levels of 44dB LAeq proposed. They will dominate even when substantially below the limit. The LAeq index are the average levels and as a consequence the bass beats will be considerably higher in level with the troughs in the noise lowering the average.

¹ This element is demonstrated in BS4142 1997 for industrial noise where the standard does not provide a positive indication of no complaints until noise levels are 10-15dBA below the background noise level.

These levels are, on average 20-32 dBA higher than the likely point of inaudibility. This is about 4-8 times louder than the level needed for inaudibility and equates to very serious intrusion. It would be highly intrusive even in an area of high road traffic background noise or in a major city centre. The reduction proposed of 4dBA between 02:00-04:00 hours is a barely discernible reduction and may provide an illusion of improvement but going from very loud to slightly less loud appears no more than a "smoke and mirrors" style gesture of appearing to reflect the need to get quieter during the important core sleep hours but achieving almost nothing.

Whilst 40-44dBA can be argued as not loud in a traditional sense, relative to the background noise it is loud, as I have identified. The loudness values given above are conservative as in the low frequencies loudness increases with smaller changes in dB values. The best way to demonstrate to a licensing panel or court what is being sought to be permitted is to replicate such noise levels in a room where the background noise is of the order of 15dBA and equally outside noise comparisons with the actual background noise recorded in the area. We now commonly use replaying the noise to show what decibel levels equate to in nuisance cases in the courts and this could equally be applied to licensing matters.

Put the decibel limits another way, the new proposal goes from one appropriately protecting sleep to one permitting increases of 20-30dBA and possibly more than this with the complete loss of sleep likely in many scenarios / locations and if levels reach those proposed it will impose serious levels of night time noise intrusion. Naturally bedrooms screened from the noise will not experience this and similarly residents sleeping with windows closed will be afforded greater protection but this is not an appropriate basis for assessing acceptability.

Loss of one nights sleep or part thereof has been held both a nuisance and prejudicial to health. It is commonly held to be such a nuisance by the courts and local authorities who seem to have little difficulty so concluding. It is interesting that in the Supreme Court case of *Coventry v Lawrence* 2014 for daytime motor sport, limits set were not higher than 45dB and as the evening progressed after 20:00 hours this dropped to 37dBA. Music noise is equally or more intrusive.

Where impact is widespread and indiscriminate as is indicated likely to occur here, it is also a public nuisance, which is potentially a direct criminal matter enforceable both by the Council and the Police. Furthermore the extant Noise Council's Concert Code 1995 has been deliberated in the Courts, for example in the case of *Roper v Tussauds* 2004, where it was clear that music noise should be inaudible or not discernible after 23:00 hours.

If the Council condone such high levels of this type of noise intrusion which prevents or disturbs sleep at low decibel levels and there is a loss of sleep and other consequences, then they will likely fail their duty under Article 8 of the Human Rights Convention as well as fail in their absolute duty to act to address the nuisance under the Environmental Protection Act 1990 as well as breach the main obligations of the Licensing Act to avoid public nuisance.

Yours sincerely,

Mike Stigwood

Environmental Health Practitioner

Director MAS Environmental Ltd.



Head of Community Services
West Oxfordshire District Council
Elmfield
Witney
Oxfordshire
OX28 1PB

RECEIVED 28 MAY 2014

Dear Sir or Madam

Wilderness Festival licence application

I am writing on behalf of the Charlbury School Association (CSA), the parent-led fundraising body of Charlbury Primary School, in support of the Wilderness Festival's current licence application.

The Wilderness Festival is one of the highlights of the summer for many families with school-age children in Charlbury. The popularity of the festival is such that local tickets sell out soon after release leaving many families disappointed. The CSA has been lucky, in the last couple of years, to have secured tickets for the festival (kindly donated by Wilderness) as our top raffle prize at the School Summer Fair. The high demand for these means that our raffle is a very successful fundraiser. Without them, I doubt it would be half as successful.

The Festival is also a great opportunity for local groups, such as ourselves, to raise funds through having a presence there. In previous years, the CSA has run a tea and cake tent at the Festival which has raised several thousand pounds for Charlbury School – no small amount considering the current budgetary situation that the School, as many others, is in.

The CSA supports the Wilderness Festival as it enhances Charlbury's individual character as a vibrant and thriving town where families live, work and play.

Yours faithfully

A handwritten signature in black ink that reads 'Alice Millea'.

Alice Millea

CSA Secretary

Debra Courtenay-Crane

From: charlbury town council <charlburytc@btinternet.com>
Sent: 02 June 2014 09:46
To: Debra Courtenay-Crane
Cc: Liz Leffman External; Hywel Davies
Subject: Wilderness conditions

Debra, thank you for the opportunity to comment. I note that Liz has emailed you before me, however, these are the "official" Town Council responses.

1. We have no problem with the separation to a stand alone licence for Wilderness.
2. The increase in capacity to the next banding is considered acceptable.
3. Timings; We would request that sound monitoring is very carefully undertaken particularly in the early hours of the morning to ensure that there is minimal disturbance. can the 2-00a.m. finish into Monday morning be reduced to a midnight finish please.
4. We consider that this application should go to a licensing panel before any approval is given.
5. Fireworks should not be permitted at all.
6. Traffic management plans must ensure that site set up is also covered in signage, that is that signs are put in place in sufficient time to prevent wayward vehicle entering the narrow one way streets and causing traffic chaos as happened last year.

Roger Clarke Town Clerk

Sent: 30 May 2014 09:50
To: Debra Courtenay-Crane
Subject: Wilderness application

Dear Debra

Following the meeting of Charlbury Town Council on Wednesday, I have a couple of points I would like to make regarding the application for transfer of the license for the Wilderness festival.

I think it is an excellent move to include specific decibel levels in the application, as this will make it much easier for residents to understand.

There are a couple of issues that arose in the Town Council meeting that I would like you to consider and take to the SAG.

Last year, in spite of there being a ban, fireworks were let off and caused a good deal of disturbance. Can we please make sure that the ban on fireworks is included and reinforced, and that the organisers know that if they do not control this they will be penalised.

Secondly, there was traffic chaos before the festival in Charlbury due to lorries coming into the town and not knowing where to go as the signs were not up in good time. Can we make sure that signs are in place well in advance to prevent this happening in future.

Thirdly, there is concern that there will be music up to 2am on Sunday night, even at 40 decibels max. Would it be possible to take that back to midnight, please.

Otherwise Charlbury is generally happy, I think, with few comments on the website. I look forward to a lovely festival again this year.

Best regards

Liz