

Representation from James Nellist

Cineworld Multiplex, Marriotts Walk, Witney, Oxfordshire OX28 6GW.

Firstly, I would like to thank Neil Shellard (Senior EHO) for his work to investigate and try to resolve this licensing issue. I would also like to thank Cineworld for the additional remedial works they have proposed in their revised Noise Management Plan (NMP2) in an effort to address their ongoing breaches of the existing license conditions.

As currently proposed, I object to the variation application by Cineworld (W/21/00428/PRMV) to their Premises License as it will not uphold or meet the licensing objective of preventing public nuisance. I respectfully ask that measurable dB noise limits (assessment criteria) are added to the license condition and more detail is added to NMP2. Without enforceable noise limits a public nuisance could occur with no means to prevent it. I very much hope Cineworld will be agreeable to this.

The existing premises license includes a condition that Cineworld must *"...ensure that noise from such activities is effectively inaudible inside neighbouring premises at all times."* However, I understand that this condition is considered too subjective and therefore is arguably difficult to enforce. This has allowed breaches of this existing license condition, by Cineworld, to continue unabated with no enforcement. I think changing the condition so it is enforceable is a sensible way forward.

However, as currently proposed the inaudible condition is to be removed and replaced with a Noise Management Plan (NMP2) that may, or may not, prevent public nuisance. Therefore, I respectfully ask that the change to the license conditions includes a condition that stipulates measurable dB noise level limits (that are not subjective) and that these limits are equivalent to the existing condition i.e. that the condition includes Db (linear) noise limits equivalent to noise levels that are *"effectively inaudible inside neighbouring premises at all times"* to ensure that the licensing condition is enforceable. This would ensure the licensing objective of preventing public nuisance was met.

An example of a measurable condition that I would respectfully ask Licensing Officers to consider as appropriate is the noise level limit condition (set by planning) that is in place for Cineworld Cheltenham. The planning condition for Cineworld Cheltenham (planning permission 03/00607/FUL condition number 27) stipulates that:

27	<p>The cumulative noise level (as an Equivalent Noise Level, Linear, 5 minutes) from internally generated noise (excluding fixed plant and equipment) shall not exceed the background noise level at the mid-octave bands of 63Hz, 125Hz and 250Hz at 1 metre from the façade of any noise sensitive property.</p> <p>Reason: To safeguard the amenities of occupiers of nearby buildings and properties in residential use in particular.</p>
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I think if a Cineworld cinema in nearby Cheltenham can be expected to meet this criterion it is entirely

reasonable to expect the Cineworld in Witney to do the same and for the same justifiable reason i.e. to

“safeguard the amenities of occupiers of nearby buildings and properties in residential use in particular”.

I am not an acoustic expert but I trust the remedial work proposed by Cineworld (as set out in NMP2 – their revised plan attached to this application) will prevent any further licensing breach. However, I am concerned if it does not, or if at some later date an issue arises, the licencing condition as currently proposed does not stipulate what corrective actions Cineworld would be required to take.

For example, without any assessment criteria (linear dB noise limits) in the event that the remedial work (set out in NMP2) fails to resolve noise being audible the licencing condition offers no remedy. In this situation the licensing condition, as currently proposed, would require no further action for up to four years. In this event the proposed licensing condition would not uphold the licensing objective of preventing public nuisance.

Similarly, without any assessment criteria (linear dB noise limits) it is possible for the remedial works (set out in NMP2) to successfully resolve noise being audible but then at a later date, if Cineworld were inclined to start showing films at a louder sound volume, for the noise to become audible. The licensing condition, as currently proposed, would require no further action for up to a four years and would not require Cineworld to take any action to prevent public nuisance occurring.

May I also respectfully ask that any assessment criteria (linear dB noise limits) condition includes an *“at the nearest noise sensitive location”* stipulation, to allow Cineworld to measure the noise limits at the boundary of their premises and neighbour properties to enable them to evaluate if they are complying with licensing conditions stipulated as measurable dB noise level limits from within the perimeter of their own premises.

May I also ask that the plan (set out in NMP2) provides details of how noise will be monitored on a day-to-day basis. As currently proposed NMP2 sets out how the building fabric will be assessed (every 4 years which seems too infrequent) but not how often Cineworld will check noise levels, at what locations or what the noise limits are to be. The NMP2 also fails to set out what actions will be taken and by whom in the event of complaints or if noise limits are exceeded, what timescales for responding to complaints will be and how complaints and corrective actions will be recorded and reviewed. I understand these are all very standard elements of a Noise Management Plan and their omission seems remiss.

It would also seem appropriate that NMP2 should clarify when the remedial work (eg surfaces to be covered with low frequency acoustic absorbent material, speakers re-arranged, etc) will take place and if once the remedial work (set out in NMP2) has been completed whether a full assessment will be carried out to evaluate if the remedial work has been effective. I think it is entirely appropriate that after the remedial work has been completed that there is a noise assessment (assessed against linear dB noise limit criteria) to check that any noise is below the background noise levels at the boundary of Cineworld with neighbouring properties in keeping with the Cineworld Cheltenham condition but at locations accessible to Cineworld.

Finally, may I also point out that there appears to be an error in the wording of the application (Section 15) available on the public records that states:

*“The existing condition that reads, “The designated premises supervisor or duty manager is to ensure the effective overall management of regulated entertainment from the cinema auditoria to ensure that noise from such activities is effectively inaudible inside neighbouring premises at all times” is to be deleted and replaced with the following condition that reads, “The premises will operate in accordance with the noise management plan submitted to and agreed with the Senior Environmental Health Officer on **1st October 2020.**” **The noise management plan is appended to this application.**”*

[Emphasise added in **bold**]

However, the Noise Management Plan appended to this application (W/21/00428/PRMV) is not the NMP agreed with the Senior EHO on 1st October 2020. The Noise Management Plan accompanying this application W/21/00428/PRMV is different (I have referred to as NMP2 in this document) and it includes sections A (External acoustic doors), B (Periodic testing of sound insulation performance of external acoustic doors), C (Permanent speakers) and D (Wall covering/surfaces). The plan agreed with the Senior EHO on 1st October 2020 was submitted with W/20/00690/PRMMV last year and the application was rejected. Could the wording of the condition please be revised so it is clear, and for the avoidance of any doubt, that is referring to the revised Noise Management Plan (NMP2) and not the previously rejected NMP please?

I very much hope this licensing matter can be resolved. I would agree to the variation to the license condition if appropriate dB noise level limits were added and if more detail was added to NMP2. I hope Cineworld will be agreeable to this.