



## Licensing Sub-Committee

**Date:** Tuesday, 21 December 2021  
**Time:** 10.00 am  
**Venue:** A link to the meeting can be found on the front page of the agenda.

**Membership: (Quorum 3 )**

Councillors Jon Andrews, Les Fry and Emma Parker

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**Chief Executive:** Matt Prosser, County Hall , Dorchester, Dorset DT1 1XJ

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## **Evidence to Support Grounds of Application**

The following evidence supports the grounds of the application to review the licence of The Duke of Cornwall. It focuses on the Licensing Objectives and matters of relevance only.

### **The Group**

[Hearing - Respect Weymouth](#)

### **Group Commendation**

[Hearing - Group Commendation](#)

### **Noise Impacts and Action Mandate**



[Hearing - Noise Impacts and Action Mandate REDACTED](#)

### **Statutory Nuisance Noise Log**

[Hearing - Statutory Nuisance Noise Log - Sample Recordings](#)

### **Statement of Licensing Policy**

[Hearing - Statement of Licensing Policy\(2\)](#)

### **Noise Limits and Guidance**

[Hearing - Limits and Guidance](#)

### **Exploring Abated Noise and Limits for a Noise Management Plan**

[Abated Noise and Limits](#)

## Respect Weymouth

**Who are we?** We are a small, tightly focussed resident group that has come together to support each other around issues in ASB, public disorder and licensing breaches around the North harbourside of Weymouth. Particularly around Helen Lane, Mitchell Street, Governors Lane, East Street, and the lower end of St Marys Street. We support each other via the lead of the group and, overall, about 40 residents and businesses have contributed to direct action when needed. We don't have a social media presence. And we aren't an open public group.

**Are we needed?** We live and work in the heart of a conservation area, which is also part of a Cumulative Impact Area. We know what it means to live here. It's vibrant and it's busy. We all love it here and we aren't expecting peace. The area has supported families, commerce, industry, the church and entertainment for hundreds of years. It's nothing new. But a respectful balance has been lost, and the approach to dealing with this has become increasingly challenging and complex. Some residents have chosen to move from the area because of the problems. If there was ever a need for a support group, it's here. And it's now.

**What are we doing?** Contrary to allegations, we are not serial complainers. And we don't go looking for things to complain about. We simply respond to criminal activity and breaches of law, particularly in relation to The Environmental Protection Act and The Licensing Act. We also respond to licensing applications or variations that could have a detrimental impact on the area.

**Are we achieving anything?** To those we support and represent, yes. A real difference has been made on the ground. This includes constructive relationships with some of those we have needed to challenge. We have made representations or lobbied for the following in the last 24 months:

A summary licence review of The Fat Cat, applied for by the police.

A new licence application for The Tropical Turtle, which resulted in new conditions to ensure the licensing objectives could be upheld.

An application to vary the licence of The Closet, which resulted in new conditions to ensure the licensing objectives could be upheld, including a Noise Management Plan.

Joint working with The Closet, to help with the Noise Management Plan. This is ongoing but results so far have been excellent. Inside noise is now being managed to the satisfaction of Environmental Protection, The Closet, residents, and nearby businesses.

Lobbying the police, local councillors, the council, and our MP for better management of ASB in the area. This resulted in better support, including the provision of council CCTV for the area, and reductions in problems being experienced, such as public toileting.

## Group Commendation

### **This is an excerpt from a Licensing Determination following a hearing for the Variation of The Closet Licence, May 2021**

*“The Sub-Committee understood the reasons why representations had been made by Weymouth Town Council and the Respect Weymouth group in relation to noise and disturbance and was very encouraged to see the constructive way that the parties had worked together to try to agree conditions which would be acceptable to everyone. It was evident in particular that the Applicant and Respect Weymouth had worked hard to try to achieve a balance between the needs of the business and the needs of the local residents. It was also clear to the Sub-Committee that the Applicant was very willing to work with the Environmental Protection Team to address noise issues and had already undertaken works to seek to address such issues.*

*As a result the Sub-Committee decided to grant the application to vary the premises licence with the addition of a number of new conditions, including the requirement for a Noise Management Plan which was necessary to deal with matters relating to noise and disturbance to the local residents.”*

This is what things were like before the Noise Management Plan. The lead of the group meets with the licensee regularly to discuss issues and improvements. The NMP is ongoing and still has a few things to iron out, such as noise outside in the breakout area, but it is mostly there.

From this:

[OldCloset.MOV](#)

To this:

[Duke.11.12.21.1.MP4](#)

During investigations for statutory nuisance, a noise impact questionnaire was completed by residents in noise sensitive properties close to The Duke of Cornwall.

Name	Noise Sensitive Property	Children	Questionnaire Completed	Wants Formal Action
[REDACTED]	[REDACTED]	Yes	Yes	Yes
[REDACTED]	[REDACTED]	Yes	Yes	Yes
[REDACTED]	[REDACTED]	No	Yes	Yes
[REDACTED]	[REDACTED]	Yes	Yes	Yes
[REDACTED]	[REDACTED]	No	Yes	Yes
[REDACTED]	[REDACTED]	Yes	Yes	Yes
[REDACTED]	[REDACTED]		Yes	Yes
[REDACTED]	[REDACTED]		Yes	Yes
[REDACTED]	[REDACTED]	No	Yes	Yes
[REDACTED] t	[REDACTED]	No	Yes	Yes
[REDACTED]	[REDACTED]	Yes	No	-
[REDACTED]	[REDACTED]	No	No	-
[REDACTED]	[REDACTED]	No	No	-
[REDACTED]	[REDACTED]	No	No	-
[REDACTED]	[REDACTED] t	Yes	Yes	Yes
[REDACTED]	[REDACTED]		Yes	Yes
[REDACTED]	[REDACTED] t	No	Yes	No
[REDACTED]	[REDACTED] t	No	Yes	Yes
[REDACTED]	[REDACTED] t	No	Yes	Yes
[REDACTED]	[REDACTED] t	No	Yes	Yes
[REDACTED]	[REDACTED] t	No	No	-
[REDACTED]	[REDACTED] t	No	No	-

## **Noise Impacts**

### ***Respondents***

*12 noise sensitive properties were represented by respondents to the questionnaire.*

*6 noise sensitive properties did not want to contribute to the questionnaire. Various reasons were given, ranging from fear of retaliation to being woken but not wanting to be involved.*

*5 of 12 homes represented have children living in the accommodation.*

*16 adult residents completed the questionnaire.*

### ***When asked about noise impacts in the last 6 months***

*0 residents (0%) said No, we haven't suffered any impacts.*

*2 residents (12.5%) said Yes, we've suffered occasional impacts, but they've been acceptable.*

*14 residents (87.5%) said Yes, we've suffered regular impacts (at least once a week) that have interfered with our home and privacy.*

### ***When asked if they could be sure the noise source was from the Duke of Cornwall***

*2 residents (12.5%) said No, adjacent venues were also playing live music of the same type/times/duration*

*14 (87.5%) residents said Yes, adjacent venues were not playing live music of the same type/times/duration*

### ***When residents were asked what the regular noise impacts were***

11 identified that it interfered with enjoyment of home entertainment

7 identified that it interfered with relaxed conversations in the home

12 identified they had been forced to close windows and suffer excess heat and stale air

8 identified they suffered word for word song lyrics or live music inside their homes

12 identified they had been woken by loud noise bursts of live music

12 identified they were unable to get to sleep when the live music was playing

9 identified that children/grandchildren had disturbed sleep because of live music

5 identified that children/grandchildren had been overtired because of disturbed sleep

5 identified that children found it hard to concentrate for school homework

8 identified that they avoided having guests to dine or sleep over because the music was too loud

***When asked if there was anything else they would like to say***

Abuse from landlord when asking for noise to be controlled better

It feels confrontational

My partner and I made a conscious decision to request notice with our landlord within the last three months and this was a huge contributing factor. We have now left and would not move back to the area, primarily because of the noise concerns from this particular venue.

Verbal abuse and threats when asked landlord to turn noise down

Whilst other venues have been constructive, this one seems to think we should just put up with loud and intrusive noise. Clearly action must be taken.

Yes please address this to make this area a better place to live. I have lived here 21 years and the noise has become unbearable and the anti-social behaviour from late night pubs.

As my property is rented out during school holidays and other times, comments are made on my property. It very often mentions the noise at very late hours/early mornings. It has been said "This needs sorting out"

As a local resident we just want proper care taken to minimise the noise pollution. We all have to live here in harmony

The live music is so intrusively loud, it is simply being played at an unreasonable level with no attempt to curb the noise escaping the ill equipped building



Why spend time and money doing up the harbour to improve our image and attract family visitors, if the work is then undone.

the Duke of Cornwall should comply with laws and regulations for or area

We expect a certain amount of noise living in this area , but the amplified live music is excessive and often late

## **Action Mandate**

***When asked to identify a preference out of, Take no action, Try to work things out informally with the licensee, or Continue with formal action to try and secure better licence conditions.***

*15 (94%) residents wanted to take formal action to secure better licence conditions.*

*1 Resident wanted to try and work things out informally.*

## STATUTORY NUISANCE INVESTIGATION - SAMPLE RECORDINGS from >100 records

It is understood that the assessment of statutory nuisance must be determined by a subjective 'audibility' assessment. The following noise limits have been defined in research by the World Health Organisation (WHO), The Department for the Environment and Rural Affairs (DEFRA). They are presented in the log to add context to nuisance suffered by residents.

An average of 30dB(A) is recommended for a bedroom (WHO)

An average of 31dB(A) of regulated entertainment noise is 'just acceptable' in a bedroom (DEFRA)

Waking from sleep happens above 42dB(A) (WHO Night Time Noise)

An average of 45dB(A) is recommended outside a bedroom, (WHO, a cracked window stops 10 to 15dB)

Noise bursts more than 57dB(A) outside can cause waking (WHO)

Average levels of bass/low frequency noise should not exceed 60-65dB(C) outside (DEFRA)

An average of 50dB(A) is the recommended level of noise for outside a home in the day (WHO)

Where possible, it is understood that these limits will be applied.

Measurements for this noise log have been taken with the following app. <https://skypaw.com/decibel10.html>, The phone and app used has been compared next to formally calibrated EH equipment, and it differed by 1 to 2 dB only. It is understood that changes up to 3 dB are not discernable to the human ear.

**Note: highlighted recordings are of particular relevance.**

Day Date	Duration	Noise and Source	Impact
Weds 29.09.21	Around 21.27	Live Jam, Duke of Cornwall Licensee involved	<p><b>Supports EP noise kit investigation</b> Shows low background outside, before band Drums and cymbals very intrusive Audible inside lounge/bedroom Not masked by passing car</p> <p>CCTV recording outside <a href="#">Duke.29.09.09.21.ii.MP4</a></p>
Sunday 05/09/21	19.00 to 22.00	Martin Freed, Duke of Cornwall Licensee	<p>Audible inside the house Pub door was open</p> <p>CCTV recording outside <a href="#">Duke.05.09.21.ii.MP4</a></p>
Weds 08/09/21	20.30 to 00.00	Live Jam Night, The Duke of Cornwall Licensee involved	<p>Audible inside bedroom, sleep was affected Not masked by passing cars Loud noise bursts</p> <p>Noise report from inside bedroom (sound recording available if required) <a href="#">Duke.08.09.21.ii.pdf</a></p> <p>CCTV recording outside <a href="#">Duke.08.09.21.i.MP4</a></p> <p>CCTV recording outside <a href="#">Duke.09.09.21.i.MP4</a> noise bursts</p> <p><b>45dB</b> in bedroom with window just cracked Estimated <b>60dB</b> outside (plus 15dB) <b>At least 3 times louder than WHO/DEFRA guidance</b></p>

Weds 15/09/21	21.00 to 00.00	Live Jam Night, The Duke of Cornwall Licensee involved	<p>Low background levels Audible inside bedroom, sleep affected Not masked by cars or voices Drums intrusive Loud noise bursts</p> <p>Background, <b>low 47dB</b> <a href="#">Duke.15.09.21.iii.wav</a> <a href="#">Duke.15.09.21.iii.pdf</a></p> <p>Sample Outside: <a href="#">Duke.15.09.21.ii.wav</a> <a href="#">Duke.15.09.21.ii.pdf</a> <b>60dB</b></p> <p><b>Up to 3 times louder than WHO/DEFRA guidance</b></p> <p>Sample Noise <i>inside</i> Bedroom: <a href="#">Duke.15.09.21.iv.wav</a> <a href="#">Duke.15.09.21.iv.pdf</a></p> <p>Average of <b>51dB</b> with window just cracked <b>Up to 4 times louder than WHO/DEFRA guidance</b></p>
<b>Monday 11/10/21</b>		<b>Abatement Notice Served</b>	<b>Investigation and Monitoring Continued</b>
Weds 03/11/21	21.00 to 00.00	Live Jam Night, Duke of Cornwall Licensee involved	<p><b>Supports EP noise kit investigation</b> <b>Noise not being abated</b> Low background noise outside Very audible inside bedroom, sleep was affected</p> <p>CCTV recording outside <a href="#">Duke.03.11.21.v.MP4</a></p>
Weds 03/11/21	21.00 to 00.00	Live Jam Night, Duke of Cornwall Licensee involved	<p><b>Supports EP noise kit investigation</b> <b>Noise not being abated</b> Low background noise outside Drums and cymbals intrusive Audible inside bedroom, sleep affected</p> <p><a href="#">Duke.03.11.21.vi.MP4</a> CCTV outside</p>
Fri 05/11/21		Hamish, Duke of Cornwall	<p><b>Supports EP noise kit investigation</b> Background voices/cars just about mask acoustic set No drums and cymbals makes a massive difference <b>Barely audible inside home</b></p> <p>CCTV recording outside <a href="#">Duke.05.11.21.i.MP4</a></p>
Sat 06/11/21	22.00 to 01.00	The Riffs, Duke of Cornwall Licensee in band	<p><b>Supports EP noise kit investigation</b> <b>Noise not being abated</b> Moderate background noise outside Drums and cymbals not masked by voices outside Audible inside bedroom, sleep was affected</p> <p><a href="#">Duke.06.11.21.via.MP4</a> CCTV outside</p>
Weds 10/11/21	21.00 to 00.00	Live Jam Night, The Duke of Cornwall Licensee involved	<p><b>Noise not being abated</b> Low background noise outside Audible inside home Drums and cymbals</p> <p>CCTV recording outside <a href="#">Duke.10.11.21.iii.MP4</a></p>

Frid 19/11/21	22.00 to 01.00	The Surfin Birds	<p><b>Noise not being abated</b> Moderate background noise outside Loud noise bursts, sleep affected</p> <p>Background no band, 23.37 <a href="#">Duke.19.11.21.i.MP4</a></p> <p><a href="#">Duke.19.11.21.ii.MP4</a> CCTV outside, <b>noise burst</b> <a href="#">Duke.19.11.21.iii.MP4</a> CCTV outside, whistles</p>
Sat 27/11/21	22.00 to 01.00	The Wurlitzers, The Duke of Cornwall	<p><b>Noise not being abated</b> Moderate background noise outside Not masked by background voices or cars Audible inside bedroom, sleep affected</p> <p><a href="#">Duke.27.11.21.ii.MP4</a></p>
Thurs 02/12/21	21.00 to 00.00	Open Mic, Duke of Cornwall Licensee involved	<p>Clearly people can sing what they like, so they do, 'I shot a man in Weymouth, just to watch him die' Audible in bedroom</p> <p><a href="#">Duke.02.12.21.iii.MP4</a> CCTV outside</p>
Thurs 02/12/21	21.00 to 00.00	Open Mic, Duke of Cornwall Licensee involved	<p><b>Noise not being abated</b> Low background noise outside Audible inside bedroom, Amplification feels just as high</p> <p><a href="#">Duke.02.12.21.iv.MP4</a> CCTV outside</p>
Sat 27/11/21	22.00 to 01.00	<p><b>COMPARISON</b> <b>The Closet, Club Night</b></p> <p>Respect Weymouth have worked with the licensee to produce a locally driven Noise Management Plan</p> <p>Noise limits have been set <u>inside</u> the venue to achieve 45dB(A) <u>outside</u> a noise sensitive property. Similar to the approach of a noise limiter. <u>It Works.</u></p>	<p><b>For comparison</b>, this is The Closet, an adjacent night club in full swing on a club night, with bass beats inside, club music, barely audible outside. Same inaudible noise condition as this venue.</p> <p>CCTV recording outside <a href="#">Closet.27.11.21.i.MP4</a></p> <p>CCTV recording outside <a href="#">Duke.11.12.21.1.MP4</a></p>
Frid 03/12/21	22.00 to 01.00	<p><b>COMPARISON</b> <b>The Closet, Leggomen, Charity Event</b></p>	<p><b>For comparison</b>. No music from The DoC at this time. This is an annual event for The Closet. A big night. One of the most popular and loudest bands in Weymouth. Barely audible. No drums. No bass or electric guitars.</p> <p><a href="https://www.facebook.com/closetweymouth/posts/2064001723749943">https://www.facebook.com/closetweymouth/posts/2064001723749943</a></p> <p>CCTV recording outside <a href="#">Duke.03.12.21.i.MP4</a></p>
Weds 15.12.21	23.25	<p><b>What <u>Can</u> be Achieved</b> The Duke of Cornwall</p>	<p><b>Latest recordings demonstrate that The Duke of Cornwall can meet the guidance of WHO and DEFRA if it wants to.</b></p> <p><b><u>This means that outside limits could be applied with a target of 45dB(A) and absolute maximum of 50dB(A).</u></b></p> <p><b><u>Increases to internal sound levels could be formally assessed against a noise management plan.</u></b></p> <p><a href="#">Duke.15.12.21.xi.MOV</a></p>

## **Relevant Paras from Dorset Council's Statement of Licensing Policy**

1.11 Applicants for premises licences should be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take in order to promote the licensing objectives.

2.17 Weymouth has a particularly vibrant night time economy area and the council is keen to support businesses who operate responsibly.

3.11 The council will encourage investment and growth within the leisure and retail industry within Dorset, and will seek to minimise any potentially negative impacts from existing and new licensed premises operating in the Dorset Council area.

4.1 The council will carry out its functions under the Licensing Act 2003 with a view to promoting four licensing objectives. These are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

4.2 Each objective is of equal importance, and the four objectives will be paramount considerations for the council at all times.

4.4 The council recommends that applicants risk assess their operation against the four licensing objectives to identify potential areas of concern.

### **Public Nuisance**

4.18 In considering the promotion of this licensing objective, applicants need to focus on the effect of licensable activities on people living and working in the area around the premises which may be disproportionate and unreasonable. The council is aware that the prevention of public nuisance is not narrowly defined in the Act and can include low-level nuisance perhaps affecting a few people living locally as well as major disturbance affecting the whole community.

4.20 Applicants are recommended to consult Environmental Health for advice on measures that may need to be incorporated into an operating schedule.

4.25 The council recognises that it is necessary to balance the rights of local residents, businesses and others with those wishing to provide licensable activities, and those who wish to use such facilities.

4.28 The protection of children from harm includes protection from physical and psychological harm, neglect and exploitation.

## **HumanRights**

5.3 The European Convention on Human Rights makes it unlawful for a public authority to act in a way that is incompatible with a Convention right. The council will have particular regard to the following relevant provisions of the European Convention on Human Rights:

- Article 6 that in determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.
- Article 8 that everyone has the right to respect for his home and private life.
- Article 1 of the first protocol that every person is entitled to the peaceful enjoyment of his or her possessions.

5.39 Where a representation is received which is not from a responsible authority the council will in the first instance make a judgement on whether it is **relevant**, i.e. based upon one or more of the four licensing objectives.

5.40 `Relevant representations' are representations which are;

- about the likely effect of the premises licence on the promotion of the licensing objectives, and
- which have not been withdrawn and are not, in the opinion of the council, frivolous or vexatious.

## **Risk assessments**

6.27 The council recommends that applicants complete a risk assessment of their business in order to understand what steps are required to complete the operating schedule in a manner which enables the council and responsible authorities to assess how they will seek to promote the licensing objectives.

## **Conditions**

6.45 The council may only impose conditions where relevant representations are made following an application to grant or vary a licence or where a review request is being considered.

6.46 The council recognises that the only conditions that should be imposed on a licence are those which are appropriate and proportionate to the promotion of the licensing objectives. There may be circumstances where existing legislation and regulations already effectively promote the licensing objectives and no additional conditions are required.

6.47 Where conditions are imposed they will be tailored to the individual style and characteristics of the premises and events concerned.

6.49 ...The council will never attach any set of conditions as a matter of routine and would not expect applicants to do so either. Any conditions which are applied to a licence must be as a result of conducting a risk assessment or attached by committee following due consideration of the merits of each individual application, any representations received and the specific measures required to promote the licensing objectives.

### **Live Music Act & licensing deregulation**

6.63 Where licensable activities continue to take place on premises any licence conditions relating to 'live' music will be suspended, but it will be possible to impose new, or reinstate existing conditions following a review.

### **Cumulative Impact**

7.12 The cumulative impact assessment has shown that the number or types of licence applications granted in the following area(s) are having a cumulative impact and this is leading to problems which are undermining the licensing objectives in Weymouth Town Centre.

### **Enforcement and Reviews**

13.1 The Licensing Act contains measures to ensure that the council, and responsible authorities, are able to deal with premises that wilfully and persistently undermine the licensing objectives. The council and responsible authorities are committed to encouraging a thriving day time and night time economy but will not tolerate those premises whose activities break the law or infringe upon the quality of life for local residents and businesses.

13.6 The council has a zero tolerance to antisocial behaviour and environmental crime.

## Limits and Guidance

**The following is needed to clarify noise levels that may be considered as part of a noise management plan.**

*Guidelines for Community Noise, The World Health Organisation 1999, research states:*

*“For bedrooms, the critical effect is sleep disturbance. Indoor guideline values for bedrooms are 30dB LAeq for continuous noise and 45dB LAMax for single sound events. Lower noise levels may be disturbing, depending on the nature of the noise source. At night time, outside sound levels about 1 metre from facades should not exceed 45dB LAeq, so that people may sleep with bedroom windows open.”*

Validation of the 15dB difference with a window open is covered below, as is the need for protection against maximum, not just average levels, to protect residents from waking events like noise bursts.

*Night Time Noise for Europe, The World Health Organisation 2009, research states:*

*“Sleep is an essential part of healthy life and is recognized as a fundamental right under the European Convention on Human Rights<sup>1</sup> (European Court of Human Rights, 2003), Article 8:1. Everyone has the right to respect for his private, family life, his home and his correspondence.”*

*“The WHO paper on community noise (WHO, 1999) recommends that people should be able to sleep with their bedroom windows open.”*

*“When windows are slightly open, outside sound levels are usually reduced by 10–15 dB.”*

*“Sleep disturbance attributable to the most annoying forms of neighbourhood noise and noise from neighbours (contact noise and human noises in the environment) is on a similar scale to disturbance attributable to the most annoying sources of road traffic noise (mopeds and passenger cars).”*

*“Comparing the above statement<sup>1</sup> with the recommendations, it is clear that new information has made more precise statements possible. The thresholds are now known to be lower than LAMax of 45 dB for a number of effects.”*

*“Changes in duration of various stages of sleep, in sleep structure and fragmentation of sleep, occur at LAMax, 35dB” and “Waking up in the night or too early in the morning occurs at LAMax, 42dB.”*

*“Medical condition of Environmental Insomnia <occurs with> LN<sub>Night, outside</sub><sup>2</sup> of 42dB, Note that environmental insomnia is the result of diagnosis by a medical professional.”*

Given the latest research and its stated relationship with the 1999 report, the new sleep impacts would apply. Therefore, **maximum** noise limits inside a bedroom have been revised down from 45dB, to between 35dB and 42dB (note that 45dB is twice as loud to the human ear as 35dB).

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<sup>1</sup> The noise limit summary from the original 1999 research

<sup>2</sup> Refers to the EU definition in Directive 2002/49/EC: equivalent outdoor sound pressure level associated with a particular type of noise source during night-time (at least 8 hours), calculated over a period of a year



This means that transition from a state of sleep to a state of consciousness happens at 35dB, and behavioural waking happens at 42dB, the latter being defined by a conscious action. Licensed venues should be preventing this from happening. The important thing to note here is that both are states of waking and both have sufficient, evidenced health impacts by the WHO. A new objective limit should aim to prevent maximum noise levels to between 35dB and 42dB.

*“Although children appear to tolerate a single night of restricted sleep with no detrimental effect on performance of brief tasks, perhaps more prolonged restriction and prolonged tasks similar to those required in school would show negative effects. In addition, as children seem to require more time to recuperate fully from nocturnal sleep restriction than adults (Carskadon, Harvey and Dement, 1981a), with additional nights of partial sleep deprivation, cumulative sleepiness might become a significant problem.”*

In addition to the prevention of public nuisance, the licensing duty covers the need to protect children from harm given the vulnerable status of children in noise sensitive properties.

*“The rule of thumb that a noise can be considered masked if the signal is 10 dB below the background is only valid if the noises have the same frequency composition and if they actually occur at the same time.”*

This appears to explain why repetitive drums and cymbals have been so disruptive. It can't be masked by unenforced background noise of the same frequency or intensity, so it always stands above it.

***The Building Performance Centre School of the Built Environment Napier University (For DEFRA)  
NANR116: Open/Closed Window Research, Sound Insulation Through Ventilated Domestic Windows***

*This research concluded that, for amplified music, the range of measured sound insulation ratings for a window with a free open area of 0.05m<sup>2</sup> was 15 to 20dB(A).*

Given the variation in window styles and glazing standards within the area, which are restricted by listed and conservation requirements, the lower figure should be used. This also validates the figures used for the WHO research.

***Noise from Pub and Clubs (Phase II) Final Report (Research by British Research Establishment and Capita Symonds on behalf of DEFRA)***

This extensive research aimed to identify the most suitable criteria and methodology for assessing entertainment noise for council enforcement and licensee compliance. It observed levels from different styles of music in bedroom conditions. The table below shows the results.

Semantic descriptor	Score	$L_{Aeq,5 \text{ minutes}}$
Clearly acceptable	1	17.0
	2	20.4
	3	23.8
	4	27.2
Just acceptable	5	30.6
Just unacceptable	6	34.0
	7	37.4
	8	40.8
	9	44.2
Clearly unacceptable	10	47.5

The research identified that the noise metric providing the best overall prediction of subjective ratings, across all entertainment noise types tested by ordinary members of the public, was the Absolute LAeq (varying sound levels given as a single number, or 'average'), as used in the WHO research and EH for enforcement.

The research established a 'just acceptable' level of 30.6dB over 5 mins. This virtually replicates the health findings of the WHO above, resulting in a similar level from a health and annoyance/nuisance perspective. This limit offers a fair representation of the 'inaudible' standard. It is louder.

These results validate the use of an objective licence condition with a maximum average of 30dB inside a bedroom with windows closed, or 45dB at the facade of the building with them cracked open.

### ***Council Licence Condition for Low frequency Noise after 23.00***

#### ***LARMER TREE FESTIVAL***

*“Between the hours of 23.00 and 09.00 the control limits set on site shall ensure that a Target MNL of 40dB LAeq (15mins), measured at the monitoring locations, shall be achieved. Where the Target MNL of 40dB LAeq (15mins) is exceeded then suitable and appropriate action shall be taken to meet this Target Level. An Absolute MNL of 45dB LAeq (15mins), measured at the monitoring locations, shall not be exceeded between the hours of 23.00 to 09.00hrs.”*

*“In addition there will be a target level of 65dB in 63Hz octave frequency bands. (The monitoring positions are then listed.)”*

Note the night time limit here reflects the yearly recommendation by the WHO, for 40dB outside. Even though this is for an annual event. Given the town centre location here, the upper limit of 45dba would seem more appropriate.

The council's measurements also reflect the following guidance.

*A Simple Criterion for Low Frequency Noise Emission Assessment*<sup>3</sup>

**8. RECOMMENDATION**

Ideally, LFN criteria should be set for indoors where the LFN complaints normally occur. However, for the purpose of planning, it is much easier to set criteria for outside residences.

Based on a review of many case histories and the literature, the author recommends the following criteria:

<b>Criteria for Assessment of LFN</b>			
	Sensitive Receiver	Range	Criteria Leq (dBC)
Residential	Night time or plant operation 24/7	Desirable Maximum	60 65
	Daytime or Intermittent (1 – 2 hours)	Desirable Maximum	65 70
Commercial/ Office/	Night time or plant operation 24/7	Desirable Maximum	70 75
	Industrial	Daytime or Intermittent (1 – 2 hours)	Desirable Maximum

If the measured LFN SPL is fluctuating at least +/- 5 dBC, then a "penalty" of 5 dBC to the proposed criteria (ie a reduction in the proposed limit) is recommended.

Limits have been set by the council against the maximum range for residential impacts at night, at Leq of 65dB(C). This can be used for a condition here.

<sup>3</sup> Broner, Norm. (2010). A Simple Criterion for Low Frequency Noise Emission Assessment. Journal of Low Frequency Noise Vibration and Active Control

## Exploring Abated Noise and Proposed Limits

Environmental Protection Proposal	Avge dB(A)	Comments
<p>A limit of 55dB(A) outside, over 5 minutes, where WHO/DEFRA guidance is 45dB(A)</p>	<p><b>55</b></p>	<p>It seems 55dB(A) could actually condone statutory nuisance by worsening the level of protection that is already provided under the Environmental Protection Act. Especially when background levels are low. This is the basis of the current 'inaudible' standard in the licence, which is enforceable under this statute and the criminal law. It is <u>only</u> 'unenforceable' in common law, under the Licensing Act.</p> <p>Setting a target of 55dB(A) when average background noise is often below 46dB(A) Sunday to Thursday is very likely to cause audible music in a noise sensitive property. It could weaken the level of statutory protection for the same circumstances and <u>double</u> the permitted music level in the street.</p> <p>Setting a target of 55dB(A) outside will override WHO and DEFRA guidance of 45dB(A) - for 30dB(A) in a bedroom - by 10dB(A). This would <u>double</u> the recommended noise level in a bedroom.</p> <p>If WHO and DEFRA guidance helps to provide a line in the sand, licensees have a responsibility to meet this with adjustments to regulated entertainment, or investment in soundproofing. Rather than have the noise enforcement bar raised, which is a bit like allowing individuals different rules and dispensations for a 30 mph speed limit.</p> <p>A noise burst with a limit of 55dB(A) would be twice as loud as a noise burst at 45dB(A), and these can't be stopped. This is more likely to cause waking at 42dB(A) (WHO).</p> <p>A 55dB(A) limit presents a significant loss in the level of community protection that has already been supported by the council in a noise management plan of an adjacent venue, at 45dB(A).</p> <p>A 55dB(A) limit is likely to trigger inconsistency issues around enforcement and community protection standards.</p> <p>A recording time of 5 minutes could include 1 to 2 minutes of low background noise. This could skew the impact of the music itself. Statutory nuisance investigations use 2 ½ minutes. This might better reflect a band's actual impact.</p> <p>This is what 55dB(A) sounds like outside, taken from Noise Log records with a <u>low background</u>, Audible over background noise and likely to be audible in a bedroom with a window cracked.</p> <p><a href="#">Duke.15.09.21.i.wav</a>  <a href="#">Duke.15.09.21.i.pdf</a></p>

		<p>There is no need to raise acceptable noise limits from WHO and DEFRA 45dB(A), to 55dB(A), if it can be shown that regulated entertainment can be contained by changing amplification levels or providing better soundproofing.</p> <p>Internal limits could be locally set for soundchecks in the noise management plan. Enforcing bodies would <u>not</u> need to go inside for enforcement, as 45dB(A) outside is still 'the' limit to be achieved..</p> <p>An internal limit enables management of a 45dB(A) outside when background levels are high/fluctuating. And this ensures the limit can't be exploited.</p> <p>A 45dB(A) level would reduce the waking impacts of noise bursts by a considerable margin. They would be half as loud.</p>
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**OVERALL NOISE LEVELS - 5 MINUTES**

	Date	Time	Avg dB(A)	Min dB(A)	Max dB(A)	Comments
<a href="#">Duke.15.12.21.i.JPG</a>	15.12.21	<b>20.45</b>	<b>45.9</b>	39.9	59.4	Background no music
<a href="#">Duke.15.12.21.ii.JPG</a>	15.12.21	<b>22.14</b>	<b>50.1</b>	35.9	65.3	Average raised by a few cars only, band played under 46dB(A) (see samples below)
<a href="#">Duke.15.12.21.iii.JPG</a>	15.12.21	<b>22.55</b>	<b>46.4</b>	35.0	58.4	As above, band played under 46dB(A) (see samples below)
<a href="#">Duke.15.12.21.iv.JPG</a>	15.12.21	<b>23.01</b>	<b>47.5</b>	36.1	63.1	As above, band played under 46dB(A) (see samples below)
<a href="#">Duke.15.12.21.v.JPG</a>	15.12.21	<b>23.25</b>	<b>45.4</b>	34.1	57.2	As above, band played under 46dB(A) (see samples below)
Sound recordings are available for all the above if required.			<b>45-50</b>			

**BACKGROUND SAMPLES**

	Date	Time	dB(A) Range of Sample	Comments
<a href="#">Duke.15.12.21.vi.MOV</a>	15.12.21	<b>20.43</b>	<b>39 to 42</b>	<b>Background</b> only, very low
<a href="#">Duke.15.12.21.vii.MOV</a>	15.12.21	<b>22.13</b>	<b>31 to 46</b>	<b>Background</b> only, very low, raised by chanting from adjacent venue
<a href="#">Duke.15.12.21.viii.MOV</a>	15.12.21	<b>22.53</b>	<b>36 to 43</b>	<b>Background</b> only, very low

<a href="#">Duke.15.12.21.ix.MOV</a>	15.12.21	<b>23.22</b>	<b>36 to 46</b>	Background only, very low
			<b>31 to 46</b>	Allowing noise to escape at 55dB(A) will make it audible in bedrooms of noise sensitive properties.
<b>BAND SAMPLES</b>				
	<b>Date</b>	<b>Time</b>	<b>dB(A) Range of Sample</b>	<b>Comments</b>
<a href="#">Duke.15.12.21.x.MOV</a>	15.12.21	<b>10.54</b>	<b>41 to 46</b>	<p>This demonstrates 45dB(A) could be achieved outside, even with a full band.</p> <p>This recording includes drums, cymbals, electric guitars and vocals.</p> <p>Internal limits could be locally set for soundchecks. Enforcing bodies would <b>not</b> need to go inside for enforcement, as 45dB(A) outside would still apply.</p> <p>An internal limit enables management of 45dB(A) outside when background levels are high/fluctuating.</p> <p>A 45dB(A) level would reduce the waking impacts of noise bursts.</p>
<a href="#">Duke.15.12.21.xi.MOV</a>	15.12.21	<b>23.22</b>	<b>39 to 43</b>	As above
<a href="#">Duke.15.12.21.xii.MOV</a>	15.12.21	<b>23.25</b>	<b>42 to 46</b>	As above