



All Members

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**Date 14.03.2022**

Dear Member

**Licensing Sub-Committee 28.03.2022**

I am now able to enclose, for consideration at the next meeting of the **Licensing Sub-Committee A**, the following information that was unavailable when the agenda was printed.

**“Section 4.2 of the Sub-Committee report refers to Annex 5 (copy of existing licence). This has not been included as this information has also been contained in Annex 1 (the application).”**

Yours sincerely

C Oliphant  
Member Services Officer

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## LICENSING SUB COMMITTEE

DATE OF HEARING: 28 MARCH 2022

### DETERMINATION OF A PREMISES LICENCE APPLICATION FOR THE SIP SHED & POST OFFICE, CROSSWAY HOUSE, UPLOWMAN, DEVON, EX16 7DP

**Cabinet Member(s):** Cllr Dennis Knowles, Cabinet Member for Community Well-being

**Responsible Officer:** Simon Newcombe, Corporate Manager for Public Health, Regulation and Housing

**Reason for Report:** An application has been received for a new premises licence for the Sip Shed & Post Office, Crossway House, Updown, Devon, EX16 7DP

Representations have been received and the licensing authority (Mid Devon District Council) must hold a hearing to determine the application.

**RECOMMENDATION:** That this application be decided in accordance with the licensing objectives.

**Financial Implications:** The potential cost of defending an appeal in the courts.

**Legal Implications:** If there is an appeal against the decision the Council could find itself bearing the costs.

**Risk Assessment:** If the decision is not reasonably and lawfully made it could be overturned on appeal to the Magistrates' Court.

**Equality Impact Assessment:** No equality issues identified for this report.

**Relationship to Corporate Plan:** Not applicable

**Impact on climate change:** Not applicable

**Additional information relevant to this application:** The process of applying for these licences is prescribed by regulations made under the Licensing Act 2003. The applicant must copy their applications to the "Responsible Authorities" consisting of the Police, Fire Service, Weights and Measures, body responsible for Health and Safety (Environmental Health), Environmental Health for nuisance, the Planning Authority, the Licensing Authority, the local Director of Public Health, the body responsible for Child Protection and the Home Office. If the application is submitted online the Licensing Authority must forward it to all Responsible Authorities.

Although not a requirement under the Licensing Act, this Council also notifies the relevant town or parish council for where the premises are located.

Applicants are also obliged to advertise their applications in two ways – on the premises and in a local newspaper.

## **1.0 THE PREMISES**

- 1.1 The application has been submitted to vary a premises licence for the Sip Shed & Post Office, Crossway House, Updown, Devon, EX16 7DP. The following description of the premises is provided from the previous application:

*‘Attractive detached period cottage, situated in centre of sought after Mid Devon village, currently home to the local post office. The applicants are keen to promote good quality local produce and provide fun and educational tasting experiences. They would also stock and promote low and no alcohol products.*

*The premises currently open for the sale of alcohol between the hours of 09:00 and 21:30 and close to the public at 22:00*

*Within these times the following applies.*

*The premises licence MDV PR0442 covers the current post office for off sales only Monday to Sunday 09:00 – 19:00. The post office is indicated on the plan in yellow.*

*The Sip Shed (in the current dining room) is used to host cocktail, gin, wine and other tasting events and demonstrations for a limited number of people. Alcohol is for sale for consumption on and off the premises Monday to Sunday 11:00 – 21:30 with a premises closing time of 22:00 – the area used for this activity is indicated in blue on the plan.*

*There is also a mail order element to the business. The area used for the packing and dispatch of alcohol operates from the dining room and is shown in blue on the plan. Parcels are dispatched via the post office or via other couriers.*

*The applicant has applied for removal of condition 12 that states “there shall be no consumption of beverages from the premises in an outside area which is under the control of the license holder and in the immediate vicinity of the premises. This includes both the front and rear garden areas of the property. Note this condition does not restrict the licence holder’s ability to use outside areas (including gardens) for their own personal use”.*

*The variation is to allow creation of a licensed café to the garden area to the front of the business due to popular demand and create a new Sip Shed tasting room.*

*There is no change to internal capacity.*

*The applicant has applied to increase trading hours to the Post Office and Sip Shed in line with customer demand with the addition of on sales, as well as off sales, to the Post Office.*

*Removal of condition 12 is to allow creation of a licensed café to the front of the property and to allow for the creation of a new Sip Shed tasting room converted from the garage.*

*Demand is cited from a proven local target market which is heavily female 30-50 year olds.*

## 2.0 THE APPLICATION

2.1 The applicant to vary this premises licence is Sip Shed Ltd.

2.2 In summary, the following has been applied for:

Activity	Indoors / Outdoors (or both)	Days	Times
Removal of condition 12	The of consumption of beverages in an outside area under the control of the licence holder  <i>(condition 12 currently applies)</i>	Monday - Sunday	09:00 – 23:30
Supply of alcohol Post Office area	For consumption both ON and OFF the premises  <i>(currently off sales only)</i>	Monday - Sunday	09:00 – 23:00
Supply of alcohol Sip Shed area	For consumption both ON and OFF the premises  <i>(condition 12 currently applies)</i>	Monday - Sunday	11:00 – 23:00
Hours premises open to the public		Monday - Sunday	09:00 – 23:30  <i>(current hours 09:00 – 21:30)</i>

2.3 The application form is attached as **Annex 1** and the plan submitted with the application is attached as **Annex 2** and a further map showing the proximity of neighbouring properties in show as **Annex 3**

### **3.0 CIRCUMSTANCES IN WHICH ENTERTAINMENT ACTIVITIES ARE NOT LICENSABLE**

- 3.1 So all parties are aware, many activities that previously required a licence are no longer themselves licensable under the Licensing Act (assuming specific requirements are met). Further details about this can be found here:

<https://www.gov.uk/guidance/entertainment-licensing-changes-under-the-live-music-act>

### **4.0 LICENSING OBJECTIVES**

- 4.1 All applicants are required to set out in their application the steps they intend to take to promote the four licensing objectives. These are:

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

- 4.2 The applicant is satisfied with the current conditions attached to the premises licence, other than condition 12, and has not provided any additional information and proposals on this other than to take advice from the responsible authorities. A copy of the existing licence and conditions is attached as **Annex 5**.

- 4.3 Full details of this submission can be seen within section L and M of the application, attached as **Annex 1**.

### **5.0 RESPONSIBLE AUTHORITIES**

- 5.1 Responsible Authorities under the Licensing Act are notified of all new premises licence applications. The onus is on each Responsible Authority to determine when they have appropriate grounds to make a representation.

- 5.2 The Responsible Authorities are:

- Police
- Fire service
- Environmental Health (nuisance and health and safety)
- Planning Authority
- Licensing Authority
- Health and Safety Executive
- Weights and Measures
- the body responsible for Child Protection

- the local Director of Public Health
- Home Office

5.3 No representation have been received from the Responsible Authorities other than Devon & Somerset Fire & Rescue Service and a general requirement for the responsible person to carry out a fire risk assessment, record the significant findings and take appropriate action.

## **6.0 OTHER PERSONS**

6.1 The Licensing Act allows 'Other Persons' to make representations provided they are relevant and not considered frivolous or vexatious. To be relevant, a representation must relate to the likely effect of the grant of a licence on the promotion of one or more of the licensing objectives. S182 Guidance states that '*... representations should relate to the impact of licensable activities carried on from premises on the objectives*' (Paragraph 9.4).

6.2 In this case, the Licensing Authority received representations from FORTY THREE parties concerning the application, as summarised:

- NINE representations were in opposition to the application (or 'negative').
- THIRTY FOUR representations were in favour to the application (or 'positive')

6.3 However, it is the opinion of the Licensing Officer that various comments, or aspects of comments, cannot be considered as relevant representations under the Licensing Act. For clarity, and based on the individual merits of this case, a brief overview of these issues and subsequent reasons for non-relevance is provided in Section 7 of this report.

6.4 Given the requirement to issue this report 10 working-days before the hearing, it has not been possible to communicate directly with each individual person who has made a representation to discuss what they have specifically commented on. Instead, all Interested Parties (i.e. those that have made a relevant representation) have been sent a copy of this report, along with a Notice of Hearing and the hearing procedure.

## **7.0 LICENSING OFFICER ASSESSMENT AND COMMENTS ON THE REPRESENTATIONS RECEIVED**

### **Not relevant under the Licensing Act 2003**

7.1 As stated in Paragraph 4.1 of this report, representations must relate to the four licensing objectives and the licensable activities being proposed. Although THIRTY FOUR representations were in favour if the application, however all were considered not relevant to the four licensing objectives. In addition, it must be noted that 'licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or

authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of the holistic approach to the management of the evening and night-time economy in town and city centres” (S182 Guidance, Paragraph 14.13). Individuals remain responsible and accountable in their own right for their actions.

### **Provision and legality of parking**

- 7.2 A number of representations mention the availability of parking in the surrounding area. The provision of parking in this area is not something that the applicant can control and the Licensing Officer does not believe that this can be considered by the Licensing Authority. Any person may park in the surrounding area and ultimately, they may do so regardless of whether or not the premises have a licence.
- 7.3 Additionally, the legality of parking has been raised and this is an issue where each individual road user is accountable for their actions. For example, if people park and cause an obstruction or a hazard, legislation exists to address these issues and it is not considered relevant for the Licensing Authority to consider. If residents have concerns about illegal parking they should report these to Devon County Council (see: <https://new.devon.gov.uk/roadsandtransport/parking/>).
- 7.4 The Devon & Somerset Fire & Rescue Service, as a responsible authority, have made no representations as regard to any difficulty with access for emergency vehicles.
- 7.5 Although issues around parking and traffic have not been considered as relevant under the Licensing Act, both issues can be considerations by Mid Devon as the Local Planning Authority (LPA). The LPA are, in themselves, a Responsible Authority and have not made a representation against this application or otherwise raised any concerns.

### **Safety of the general public**

- 7.6 Some representations concern the health and safety of the general public (i.e. not people using the licensed premises) and includes comments around additional traffic and parking. This is not relevant and cannot be taken into account by the Licensing Authority as defined by s182 Guidance (Paragraph 2.7) states that ‘Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation’. General road traffic concerns are not within the control of a licence holder and are not considered relevant.

### **No longer relevant to this application**

- 7.7 The application is to remove condition 12 to allow creation of a licensed café to the front of the property and to allow for the creation of a new Sip Shed tasting room converted from the garage. As a result, representations that relate to the rear of the premises being used is not valid (i.e. excessive noise



and light pollution) and will no longer be considered relevant as they do not relate to proposed licensable activities.

### **Relevant under the Licensing Act 2003**

- 7.8 The following matters relate to NINE representations in objection to the application which do relate to one of the four licensing objectives, either wholly or in-part.

#### **Anti-social behaviour**

- 7.9 A number of representations made reference to the potential for what can be termed as general anti-social behaviour (ASB) as a result of the increased drinking hours or customers wandering on the road between the Sip Shed and the licensed Redwoods Inn, located opposite and within 15 meters.
- 7.10 It must be remembered that the Police have not made a representation in connection with this application (as a Responsible Authority) and as such, cannot be considered an Interested Party. However, given the role Police have in dealing with ASB, it is right that they be made aware of the concerns raised, s182 Guidance (Paragraph 2.1) states that *'Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP)'*.
- 7.11 The Police have confirmed (at the time of writing) there have been no records of ASB relating to the Redwoods Inn.
- 7.12 As mentioned in Paragraph 7.1 of this report, it must be noted that 'licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned' (S182 Guidance, Paragraph 14.13).

#### **Fire safety**

- 7.13 One representation made reference to there being no consideration for fire safety associated with the premises.
- 7.14 As mentioned in Paragraph 5.3 of this report, the Devon & Somerset Fire & Rescue Service, being the Responsible Authority for Fire Safety, made no representation to this application other than a general requirement for the responsible person to carry out a fire risk assessment, record the significant findings and take appropriate action and as such cannot be considered an Interested Party.

## **Toilet facilities**

- 7.14 A number of representations made reference to a lack of toilet facilities for the increased number of customers and concern this could lead to customers relieving themselves elsewhere.
- 7.16 This authority has adopted standards under Section 20, Local Government (Miscellaneous Provisions) Act 1976 to require certain sanitary facilities to be provided and maintained for the use of the public in any “relevant place” where they are expected to assemble. This provision includes premises for “the sale of food or drink to members of the public for consumption at the place” and remains the primary legislation for the enforcement of toilet provision rather than licensing law.
- 7.17 In relation to customers relieving themselves elsewhere, as stated in Paragraph 7.1 of this report, it must be noted that ‘licensing law is not the primary mechanism for the general control of anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned’.

## **Potential noise from people using the licensed premises (including when leaving) and potential light pollution and tobacco smell pollution**

- 7.18 These issues have been raised in a number of representations and relate to the prevention of public nuisance licensing objective. As this application is to vary an existing premises licence, it should be noted that there is no relevant complaint history that can be reviewed. However, what must be considered is the applied for activity (in this case the of consumption of beverages in an outside area and extended hours) and the likelihood of issues. This is because a representation is relevant if ‘*it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives*’ (Paragraph 9.4 of S182 Guidance).
- 7.19 The following S182 guidance should also be noted:
- 7.20 *The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter. (Paragraph 2.15)*
- 7.21 *Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept*

*closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time... (Paragraph 2.17)*

- 7.22 *Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave. (Paragraph 2.19)*
- 7.23 *Measures to control light pollution will also require careful thought. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues. (Paragraph 2.20)*
- 7.24 *Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night. (Paragraph 2.21)*

### **Protection of Children from Harm**

- 7.25 A number of representations made reference to “children use the outside area for a tuck shop when leaving school” and the potential for children to be exposed to inappropriate language and behaviour.
- 7.26 The following S182 Paragraph 2.22 guidance should be noted “*The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives.*”.

### **Ensuring safe departure of those using the premises**

- 7.27 A number of representations made reference collectively to customers leaving the premises on to an unlit and unrestricted road or with no pavements.

## **8.0 LICENSING OFFICER ASSESSMENT AND COMMENTS ON THE REPRESENTATIONS RECEIVED**

- 8.1 In order to assist the Licensing Sub-Committee, the general topics that have been raised in the representations received are summarised below along with a Licensing Officer comment. This section of the report does not seek to reproduce the representations in full, as they are attached in their entirety.
- 8.2 It must be noted that what follows is the view of the Licensing Officer based on the information available at the time of completing this report. If any Interested Party has comments or observations to make about what follows, or believes anything has been left out, they are asked to contact the Licensing Team on receipt of this report and provide any information in support of their view. This can be done by emailing [licensing@middevon.gov.uk](mailto:licensing@middevon.gov.uk). The Sub-Committee can then consider the issue(s) that have been raised at the hearing.
- 8.3 It must also be noted that just because something has not been considered as relevant (or potentially relevant), this does not mean that the issue itself is not deserving of attention. It just means that it is not an issue that the Licensing Sub-Committee should consider with regards to their decision on this application. Other legislation and processes may apply, such as health and safety and Planning.
- 8.4 Additionally, although something may be considered as being relevant the Licensing Sub-Committee must still then make a decision on the likelihood of the issue occurring and the potential for the licensing objective(s) to be undermined. This is a judgement about the level of risk and will dictate what action, if any, is appropriate and necessary.
- 8.5 In some paragraphs, S182 Guidance is referenced and further information about this Guidance can be found in section 9 of this report.

#### **Further consideration of specific issues considered relevant**

- 8.6 **Issue 1: Possible safety of customers when exiting the premises**
- 8.7 **Officer comment:** This is considered relevant and S182 Guidance (Paragraph 2.10) states that '*Licence holders should make provision to ensure that premises users safely leave their premises*'.
- 8.8 However, a distinction must be made between the safety of people as they leave the premises and then the safety of those people once they have left the immediate vicinity of the premises. Once they have left the immediate vicinity, a licence holder (or applicant) cannot be expected to manage the behaviour of customers.
- 8.9 **Issue 2: Impact on peaceful enjoyment of neighbouring property as a result of the use of the garden**
- 8.10 **Officer comment:** This is considered relevant as stated in Paragraph 7.17 – 7.27 of this report

- 8.11 It has been confirmed that the rear garden area will not be used for the consumption of alcohol that has been purchased at the premises. To this end, a relevant condition to include specific reference to the rear garden could be imposed. For example, and without prejudice, it could state:

*There shall be no consumption of beverages purchased from the premises in an outside rear garden area which is under the control of the licence holder and in the immediate vicinity of the premises. .*

- 8.12 If any party has any comments on this (or any suggestions for amendments) they can be raised and discussed at the hearing.

### 8.13 **Issue 3: Possible protection of children from harm issues**

- 8.14 **Officer comment:** This is possibly relevant (in relation to the protection of children from harm) but the Licensing Officer is not entirely sure what the specific concerns are regarding this application. The hearing will allow the relevant party to expand on and clarify this specific point and in such cases, it should be noted that Paragraph 9.9 of S182 Guidance states:

*'It is recommended that, in borderline cases, the benefit of the doubt about any aspect of a representation should be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it'.*

- 8.15 This means the Sub-Committee are considering the representations of NINE parties as listed below and detailed in **Annex 4**.

1. Submitted by Mr and Mrs Baugh
2. Submitted by Mr and Mrs Burge
3. Submitted by Mr and Mrs Clark
4. Submitted by Mr Hayman
5. Submitted by Mr and Mrs Milner
6. Submitted by Ms Mary Moore, Chair Upplowman Parish Council
7. Submitted by Mr and Mrs Willis
8. Submitted by Mr Kingston
9. Submitted by Ms Simmons

## 9.0 **LICENSING POLICY**

- 9.1 The Licensing Act requires the Council, as the Licensing Authority, to formally adopt a policy setting out how it will deal with its duties under the Act. That policy must be reviewed every five years and the current Policy came into effect on 7 January 2019. It must be considered in its entirety, but in order to help proceedings, the following information is highlighted in advance of the hearing.

- 9.2 *In carrying out its licensing function the Licensing Authority must promote the following four licensing objectives:*

- *The prevention of crime and disorder*
  - *Public Safety*
  - *The prevention of public nuisance*
  - *The protection of children from harm (Paragraph 2.2)*
- 9.3 *It is recognised that the licensing function is only one means of securing the delivery of the above objectives and should not therefore be seen as a “cure all” for solving all problems within the community... (Paragraph 3.2)*
- 9.4 *Where no relevant representations are received, the application will be granted on the terms applied for. Where relevant representations are received, the application will be considered by a Licensing Sub Committee at a hearing... (Paragraph 5.13)*
- 9.5 *Any party to a hearing may expand on their representation but may not introduce new or different representations. (Paragraph 5.14)*
- 9.6 *When determining a licence application, the overriding principle adopted by this authority will be that each application will be determined on its merits. The authority will have regard to any guidance issued by the Home Office, this Statement of Licensing Policy and any measures it deems necessary to promote the licensing objectives. The authority may depart from the guidelines in this Policy if it has justifiable and compelling reasons to do so. The authority will give reasons for any such departure from policy. (Paragraph 6.3)*
- 9.7 *The authority will expect applicants to demonstrate in their applications active steps for the promotion of the licensing objectives. When determining an application, a key consideration for the authority will be the adequacy of measures proposed in the Operating Schedule to promote the licensing objectives having regard to the type of premises, the licensable activities to be provided, the nature of the location and the needs of the local community. (Paragraph 6.4)*
- 9.8 *The authority will also have regard to wider considerations affecting the residential population, businesses and the amenity of an area. These include alcohol-related violence and disorder, antisocial behaviour, littering and noise, particularly late at night and in the early morning. (Paragraph 6.5)*
- 9.9 *When determining an application, the authority will consider all relevant evidence, both oral and written, provided by parties to a hearing. Evidence which is irrelevant will be disregarded. The authority encourages applicants and persons making representations to attend hearings so that they can give evidence. Where an individual fails to attend the hearing, the authority will consider their application or representation but may attach less weight to it. (Paragraph 6.7)*
- 9.10 *It should be noted that, when determining an application, the authority is making a judgment about risk. A key purpose of the licensing function is not to respond to crime and disorder, nuisance or public harm once it has happened*

*but to make an informed assessment of the risk of such things occurring if a licence is granted and to take such steps as it considers appropriate to prevent or minimise such risks. (Paragraph 6.8)*

- 9.11 *Licence conditions will be tailored to the individual application and only those considered appropriate to meet the licensing objectives will be imposed. Licence conditions will not be imposed where other regulatory regimes provide sufficient protection, for example Health and safety at work, fire safety legislation etc. (Paragraph 6.9)*
- 9.12 *The Licensing Authority will also take into account when making its decision that licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour, especially once individuals have left licensed premises and are therefore beyond the direct control of licensees. However, when making a decision, the authority will focus on the direct impact of the activities taking place on the licensed premises on members of the public living, working or engaged in normal activity in the area concerned. (Paragraph 6.10)*
- 9.13 *The 'need' or demand for a licensed premises of any kind or the commercial damage that competition from a new licensed premises would do to other licensed premises in an area will not be matters that the authority will consider when discharging its decision making function. (Paragraph 6.11)*
- 9.14 *The Licensing Authority will deal with the issue of licensing hours on the individual merits of each application. When the authority's discretion is engaged consideration will be given to the individual merits of an application but the presumption will be to grant the hours requested unless there are objections to those hours raised by Responsible Authorities or Other Persons on the basis of the licensing objectives. (Paragraph 6.15)*
- 9.15 *In general, applications for licensed premises located in residential areas wishing to open beyond 23.00, and those operating a beer garden or outside area beyond 21:00, will be expected to have a higher standard of control included within their operating schedule to address any potential public nuisance issue. (Paragraph 6.16)*
- 9.16 *Where representations are received, stricter conditions relating to noise control may be appropriate and necessary in sensitive locations such as residential areas. (Paragraph 6.17)*
- 9.17 *In considering relevant representations, the Licensing Authority will consider the adequacy of measures proposed to deal with the potential for nuisance and/or public disorder having regard to all the circumstances of the case. (Paragraph 6.19)*
- 9.18 *The Licensing Authority recognises that fixed and artificially early closing times in certain areas can lead to peaks of disorder and disturbance on the streets when large numbers of people tend to leave licensed premises at the same time. Flexible licensing hours in relation to the sale of alcohol may*

*therefore be considered as a potential means of reducing friction at late night food outlets, taxi ranks and other 'flashpoints' in areas where there have already been incidents of disorder and disturbance. (Paragraph 6.20)*

9.19 *Conditions are crucial in setting the parameters within which premises can lawfully operate. Any contravention of a condition on a premises licence or club premises certificate is a criminal offence so it is essential that conditions are worded clearly, precisely and unambiguously. In addition, conditions must:*

- be appropriate, reasonable and proportionate*
- be enforceable*
- not duplicate other statutory requirements*
- be relevant to the particular type, location and character of the premises concerned*
- not be standardised*
- should be justifiable and capable of being met*
- not replicate offences set out in the Act or in other legislation*
- be written in a prescriptive format. (Paragraph 6.22)*

9.20 *The Authority will pay particular attention to the effect (or potential effect) of licensable activities on those living, working or otherwise engaged in the area concerned and, where relevant representations are received, may attach conditions if it considers it appropriate for the promotion of the licensing objectives. (Paragraph 6.27)*

9.21 *Conditions attached by the Authority to Premises Licences and Club premises certificates will relate to matters falling within the control of individual licensees. It is recognised that the licensing function cannot be a mechanism for the control of disorderly behaviour by individuals once they are beyond the direct control of the licence holder. However, the Licensing Authority and Responsible Authorities may take action where it can be established that there is a clear linkage between disorderly behaviour and a specific premises. (Paragraph 6.28)*

9.22 *The Authority will not impose inappropriate or over-burdensome conditions on licences. The Authority may, however, if its discretion is engaged, impose conditions where existing legislation does not provide adequate controls and additional measures are considered to be appropriate for the promotion of the licensing objectives. (Paragraph 6.29)*

9.23 *When determining the appropriate set of conditions the Licensing Authority will focus primarily on the individual style of the premises and the licensable activities proposed. Consideration should also be given to the following:*



- *The size, nature and style of operation*
- *Whether the premises is part of a multiple operator's chain and therefore more likely to have an operating schedule that is tried and tested*
- *The cumulative effect of conditions in terms of cost and practical implementation*
- *The likely cost of the condition(s) for the operator*
- *Whether a simpler or better way of dealing with a perceived problem could be found*
- *Whether there is an actual risk of undermining an objective, as opposed to a conceivable risk. In the latter case, there is no need for the condition*
- *Whether the condition will be enforceable, if it is not specific or could be considered subjective it may not be enforceable. (Paragraph 6.30)*

9.24 Members must have regard to the Licensing Authorities Policy when making their decision and it can be viewed in full here:

<https://www.middevon.gov.uk/business/licensing/new-statement-of-licensing-policy-licensing-act-2003/>

9.25 It should be noted that the Policy contains various Appendices, some of which may be of use to Parties attending the hearing. This includes a 'Pool of Conditions' (<https://www.middevon.gov.uk/media/346400/appendix-c-pool-of-conditions.pdf>) and a 'Code of Good Practice' (<https://www.middevon.gov.uk/media/346401/appendix-d-code-of-good-practice.pdf>).

## **10.0 GOVERNMENT GUIDANCE**

10.1 Members are also obliged to have regard to the Guidance produced under S182 of the Licensing Act 2003. The most recent version of this was published in April 2018 and some relevant sections are highlighted below. The Guidance can be viewed here:

<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

10.2 *Each application must be considered on its own merits and in accordance with the licensing authority's statement of licensing policy; for example, if the application falls within the scope of a cumulative impact policy. Conditions attached to licences and certificates must be tailored to the individual type, location and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions.*

*Standardised conditions should be avoided and indeed may be unlawful where they cannot be shown to be appropriate for the promotion of the licensing objectives in an individual case. (Paragraph 1.17)*

- 10.3 *Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave. (Paragraph 2.19)*
- 10.4 *Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night. (Paragraph 2.21)*

## **11.0 DETERMINATION AND OPTIONS OF THE SUB-COMMITTEE**

- 11.1 *Section 182 Guidance states that: 'As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation and should be allowed sufficient time to do so, within reasonable and practicable limits'. (Paragraph 9.37)*
- 11.2 *In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:*
- *the steps that are appropriate to promote the licensing objectives;*
  - *the representations (including supporting information) presented by all the parties;*
  - *this Guidance;*
  - *its own statement of licensing policy. (Paragraph 9.38)*

- 11.3 *Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be. (Paragraph 9.42)*
- 11.4 *The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve. (Paragraph 9.43)*
- 11.5 *Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters... (Paragraph 9.44)*

#### Options of the Sub-Committee

- 11.6 The Committee must take such steps as it considers appropriate for the promotion of the licensing objectives. This may include:
- Granting the licence as applied for
  - Granting the licence subject to appropriate modifications necessary for the promotion of the licensing objectives
  - Excluding from the scope of the licence any of the licensable activities to which the application relates
  - Rejecting the application
- 11.7 Reasons must be given for the decision and they must set out the matters taken into consideration and why such a decision was arrived at.
- 11.8 Members have five working days from the conclusion of the hearing to make a decision.

## **12.0 APPEAL**

- 12.1 If any party (i.e. applicant or 'other person') is dissatisfied with the decision made then they have the right of appeal to the Magistrates' Court within 21 days of formal notification of the decision.

### **13.0 THE PROCESS FOR THIS HEARING**

- 13.1 The Council have an adopted procedure for hearings and this attached to this report as **Annex 6**. In so far as is possible and practicable, the Licensing Authority will work in accordance with this procedure.
- 13.2 As a result of the current Coronavirus (COVID-19) pandemic, one of the most significant changes for this hearing is that it will be conducted using the video-conferencing platform 'Zoom' (as opposed to being held in a meeting room at the Council offices).
- 13.3 A practical guide on using Zoom has been produced by Kings Chambers and this is attached as **Annex 7**. The Licensing Authority request that all parties install and familiarise themselves with this system at least 48 hours prior to the hearing. A link which will take you to the meeting is provided in the agenda section of this report bundle. If there are any issues (or if you are unable to attend the hearing) you should notify the licensing team ([licensing@middevon.gov.uk](mailto:licensing@middevon.gov.uk)) as soon as possible.
- 13.4 In theory, attendees can, with the consent of all parties, produce documentary information at the hearing. In practice, and because of how the hearing is now being held, this will be difficult and the Licensing Authority is requesting that if any party has documentary information they wish to provide or rely on, this be sent to the licensing team ([licensing@middevon.gov.uk](mailto:licensing@middevon.gov.uk)) with their response to the Notice of Hearing (which must be submitted 5 working days before the hearing).
- 13.5 In addition, and to try and ensure the hearing runs as smoothly as possible, the following points should be noted and followed during the hearing:
- Parties should ensure that they are in a private, quiet space where they will not be disturbed. Other occupants of the household should be reminded not to interrupt the participant during the hearing. The door to the room in which the participant is based should be closed and, if possible, locked.
  - Other noise sources should be silenced including telephones, mobile phones, tablet devices, Amazon Echo & Google Home devices, door bells, dishwashers etc.
  - Participants should organise their workspace carefully in advance. Clear it of anything that is not related to the hearing.
  - Attendees should, if possible, ensure that they have a plain wall as a background.

- Ensure that you are well lit by natural or artificial light. Avoid sitting with your back to a window or other light source. This can result in only your silhouette appearing on screen.
- Parties should attend the hearing alone, unless they are sat together with another attendee. The room should be one that has a good Wi-Fi/internet connection and has good lighting.
- Participants should dress in a similar manner to the way they would dress if attending a traditional hearing.
- No food should be eaten during a remote hearing. A glass of water or coffee / tea should suffice for refreshment.
- Parties should remain seated during the hearing.
- Parties should check that their microphone, camera and sound settings are working. This should preferably be done as early as possible. This will allow any technical issues to be raised and dealt with without the need to delay the hearing. A computer or other device's in-built camera, microphone and speaker will usually suffice.
- Avoid setting your device to the highest volume, since this is likely to cause feedback when you are speaking.
- Participants should log in at least 15-20 minutes before the hearing starts to confirm that they are having no technical difficulties.
- In case of a technological problem concerning the internet or Wi-Fi connection, you should have a telephone on hand. You should ensure that the number for this phone is provided to the licensing team in your response to the Notice of Hearing.
- If there is a technical failure that cannot be fixed, then the hearing may have to be adjourned.
- Parties should mute their audio when they are not speaking. A failure to do so may disrupt the hearing.
- When it is your turn to speak, remember to unmute your microphone. Speak directly into the microphone.
- Parties should keep their video cameras on at all times if possible. They should be aware that many video-platforms will show your entered name and (if chosen) picture if the camera is turned off. Parties should check their name is correct and their picture is appropriate.
- When speaking, maintain eye contact with the camera. This will ensure you appear to be looking at your audience.

- Ensure that you are clearly visible by maintaining a reasonable distance from the camera, to show your head and upper body. Too close and your image may blur and fill the screen, too far and you will appear distant and detached from the hearing.
- Be mindful that the camera records a wider area than one sees on one's own screen.
- Remember that others are watching even if you cannot see them. In cases involving multiple participants, thumbnail video images may appear on screen, but these thumbnails often move off screen to allow participants to see the face of the person talking, or the document being shared. Observers may also be present. As such, often there are people present at the hearing who are not visible.
- Oral submissions should be structured, relevant to the issues, and not repetitive. Concentrate on the substance. Brevity and precision are key. Aim to present your case in a low-key, courteous and measured way.
- In a remote hearing, a brief delay typically occurs between the video image of the person speaking and their voice being heard by the court/tribunal and witness. This connection delay may lead participants to believe a person has finished speaking before they have, in fact, done so and is liable to result in participants inadvertently speaking over one another.
- Do not interrupt. Let a speaker finish before speaking. Be especially careful not to interrupt another speaker.
- After each party is finished speaking the video hearing should always revert back to the Chair to invite the next speaker. No one should speak without being invited to do so by the Chair.

**Contact for more Information:** Simon Newcombe (Corporate Manager for Public Health, Regulation and Housing) / 07967 679939 / [snewcombe@middevon.gov.uk](mailto:snewcombe@middevon.gov.uk)

### **Circulation of the Report:**

Legal Services / Members of Licensing Sub-Committee / Applicant / Other Parties (as per the Licensing Act)

### **List of Background Papers:**

- Licensing Act 2003 - <https://www.legislation.gov.uk/ukpga/2003/17/contents>
- Section 182 Guidance - <https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

- Mid Devon District Council Licensing Act Policy - <https://www.middevon.gov.uk/business/licensing/new-statement-of-licensing-policy-licensing-act-2003/>

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# Annex 1

## Licensing Act 2003 - Premises Licence Register as at 15:57 on 11 March 2022

### Post Office

Crossways House, Updown, Devon, EX16 7DP

### Open application 026066 which is a Variation Application for Premises Licence

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### Applicant(s)

Full Name	Sip Shed Ltd
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### Designated Premises Supervisor

Full Name	Lorne Maclean
-----------	---------------

### Permitted Activities

- the supply of alcohol

#### Premises Open Hours Requested

	Time From	Time To
Monday to Sunday	09:00	23:30

#### Activities - Times Requested

	Time From	Time To
J. Supply of alcohol for consumption ON and OFF the premises		

Monday to Sunday	09:00	23:00	Post Office area (off sales)
Monday to Sunday	11:00	23:00	The Sip Shed area (on / off sales)

### Additional Conditions

- Proposed Variation**

Post Office area

Current hours - 0900 - 1900 Monday to Sunday off sales only

Proposed hours - 0900 - 2300 Monday to Sunday - on and off sales

Sip Shed Area

Current hours - 1100 to 2130 Monday to Sunday

Proposed hours - 1100 to 2300 Monday to Sunday - on and off sales

Opening hours premises

Current hours - 0900 to 2130 Monday to Sunday

Proposed hours - 0900 to 2330 Monday to Sunday

See plan A

No amends to website or delivery side of business

Removal of condition 12 below:

‘There shall be no consumption of beverages purchased from the premises in an outside area which is under control of the license holder and in the immediate vicinity of the premises. This includes both the front and

rear garden areas of the property. Note this condition does not restrict the license holder's ability to use outside areas (including gardens) for their own personal use'

## **ANNEX 1 - MANDATORY CONDITIONS**

### Condition 1

No supply of alcohol may be made under the premises licence -

(a)

at a time when there is no designated premises supervisor in respect of the premises licence, or

(b)

at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

### Condition 2

(1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises-

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to-

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

### Condition 3

The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

#### Condition 4

- (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either-
  - (a) a holographic mark, or
  - (b) an ultraviolet feature.

#### Condition 5

The responsible person must ensure that-

- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures-
  - (i) beer or cider: ½ pint;
  - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
  - (iii) still wine in a glass: 125 ml;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.”

#### Condition 6

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
2. For the purposes of the condition set out in paragraph 1-
  - a) ‘duty’ is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
  - b) ‘permitted price’ is the price found by applying the formula-

$$P = D + (D \times V)$$

Where-

i.

P is the permitted price,

ii.

D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

iii.

V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

c) 'relevant person' means, in relation to premises in respect of which there is in force a premises licence-

i.

the holder of the premises licence,

ii.

the designated premises supervisor (if any) in respect of such a licence, or

iii.

the personal licence holder who makes or authorises a supply of alcohol under such a licence;

d) 'relevant person' means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

e) 'value added tax' means value added tax charged in accordance with the Value Added Tax Act 1994.

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

## **ANNEX 2 - CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE**

### Condition 7

Clear and legible notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and to leave the vicinity as quickly and quietly as possible.

### Condition 8

There will be in place a written age verification policy in relation to the sale or supply of Alcohol, which will specify a *Challenge 25 proof* of age requirement. This means that staff working at the premises must ask individuals who appear to be under 25 years of age, attempting to purchase alcohol, to produce identification. The only acceptable identification documents will be:

- A photo driving licence
- A passport

- An identification card carrying the PASS hologram

Unless such identification is produced the sale of alcohol must be refused.

This policy will include documented steps taken to prevent adults from purchasing alcohol for or on behalf of children under 18.

#### Condition 9

All staff engaged in licensable activity at the premises will receive training and information in relation to the following;

1.

The Challenge 25 scheme in operation at the premises, including the forms of identification that are acceptable.

(a)

A photo driving licence.

(b)

A passport.

2.

How to complete and maintain the refusal register in operation at the premises (in relation to the sale of alcohol).

3.

Recognising the signs of drunkenness.

4.

The procedures for refusing service to any person who is drunk, underage or appears to be underage, or appears to be making a proxy purchase.

5.

Action to be taken in the event of an emergency, including reporting an incident to the emergency services.

#### Condition 10

An incident log shall be kept and maintained at the premises which will include a log of the following;

1.

Any incidents of disorder or of a violent or anti-social nature.

2.

All crimes reported to the premise, or by the premise to the police.

Records must be completed within 24 hours of any incident, and will contain the time and date, the nature of the incident, the people involved, the action taken and details of the member of staff reporting the incident.

#### Condition 11

Open containers of alcohol shall not be removed from the premises. Only containers with a lid, which is covered and closed, containing alcohol can be removed from the premise.

#### Condition 12

There shall be no consumption of beverages purchased from the premises in an outside area which is under the control of the licence holder and in the immediate vicinity of the premises. This includes both the front and rear garden areas of the property. NOTE: *This condition does not restrict the licence holder's ability to use outside areas (including gardens) for their own personal use.*

#### Condition 13

No customers carrying open or sealed bottles, cans or other receptacles containing alcoholic liquor shall be admitted to the premises at any time that the premises are open to the public.

#### Condition 14

An alcohol sales refusal register shall be kept at the premises and be maintained to include details of all alcohol sales refused. The register will include;

1.

The date and time of refusal.

2.

The reason for refusal.

3.

Details of the person refusing the sale.

4.

Description of the customer.

5.

Any relevant observations.

All entries must be made within 24 hours of the refusal.

#### Conditions relating to the ordering and delivery of alcohol for consumption off the premises

Ordering:

Alcohol can only be ordered for delivery to a residential address and not to a public place.

Alcohol can only be ordered for delivery to the person placing the order.

Full address details, including postcode, must be given when placing an order for alcohol.

At the time an order for alcohol is placed a declaration will be required from the person placing the order that the person is over 18 years of age.

Customers will be reminded that it is a criminal offence for a person under 18 to purchase or attempt to purchase alcohol and that it is also an offence to purchase alcohol on behalf of a person under 18.

All licence conditions pertaining to the online sale of alcohol must be part of the 'Terms and Conditions' which must be displayed on the website or any other promotional material and expressly brought to the attention of the buyer at the time of ordering in particular the right and obligation of the driver to refuse delivery in specified circumstances.

#### Delivery:

Drivers will not deliver alcohol to any person anywhere other than at the residential address given when the order was placed.

Alcohol will only be delivered to the person who placed the order and whose name appears on the credit/debit card.

Alcohol delivery will be refused if the driver considers the person receiving the delivery to be under the influence of alcohol or drugs.

If a delivery driver considers the recipient of alcohol to appear under 21, recognised photographic identification will be requested and must be provided evidencing the recipient to be at least 18 years of age before any alcohol is handed over.

All alcohol delivery drivers will be 18 years or over.

Any delivery must be signed for by a person over 18 years of age.

All drinks will be sold in sealed containers.

Drivers will not have to enter a customer's address aside from to place the order to the customer.

Any non-delivery (no answer at the door) - will be recorded.

Any violence or abuse of delivery staff will be reported to the police.

Delivery staff employed by the licence holder will not carry cash when delivering alcohol.

Delivery staff employed by the licence holder will not carry extra stock of alcohol when delivering.

### **ANNEX 3 - CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY**

N/A

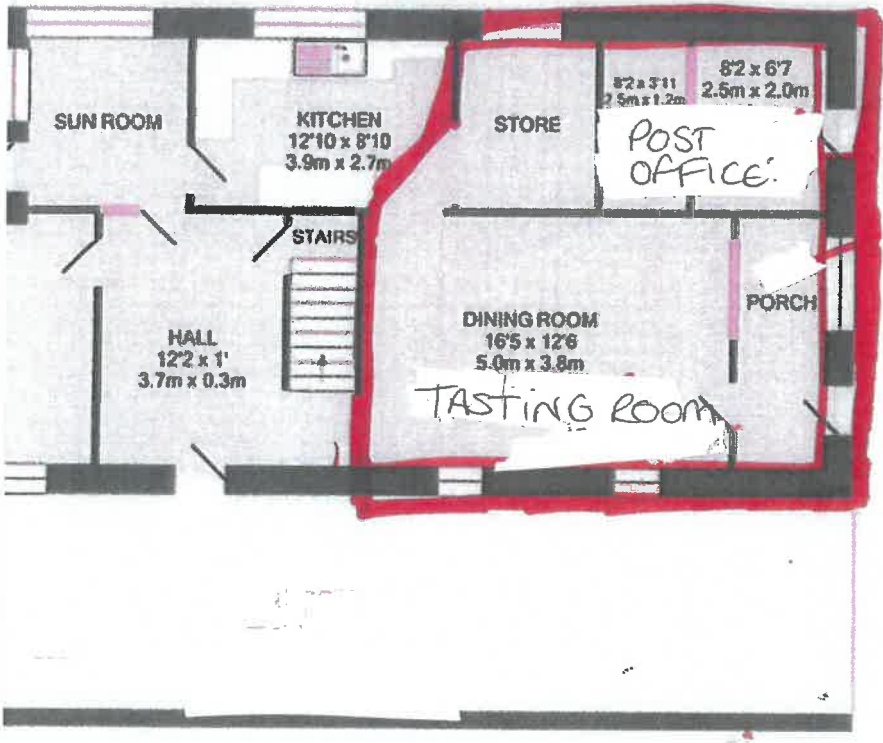
### **ANNEX 4 - PLAN OF PREMISES**

See the attached plan marked as 'Annex 4'. The Plan highlights the different areas of the premises, that being the 'post office' (highlighted in yellow) and 'the sip shed' (highlighted in blue). It should be noted that the two areas have different permissions and times and this is also highlighted on the plan.

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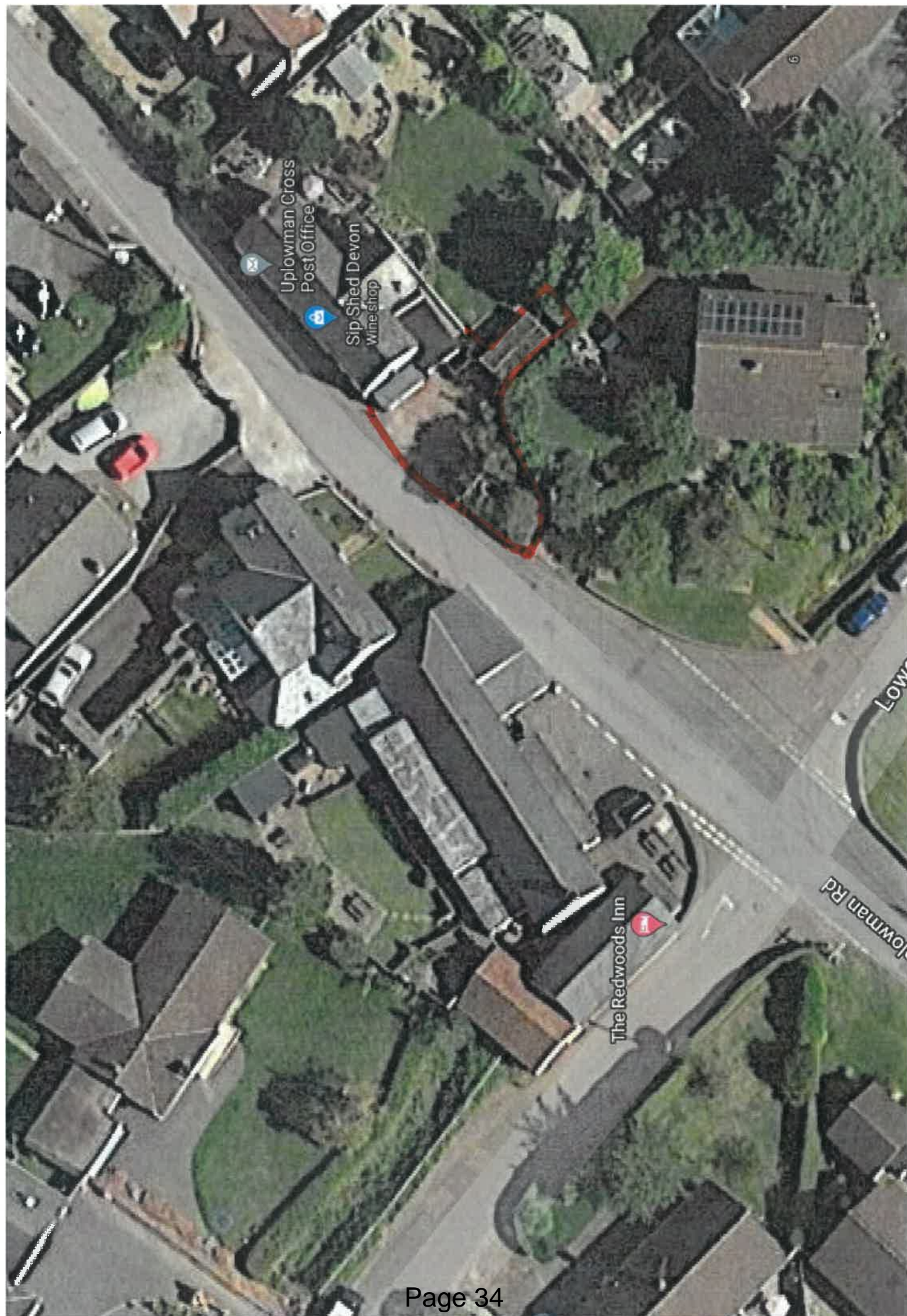


# PLAN A.



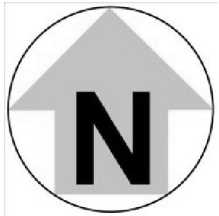
— PROPOSED. PLAN  
FOR ALL LICENSABLE  
ACTIVITIES.

PUNB  
dashed.



— Proposed area for licensable activities.



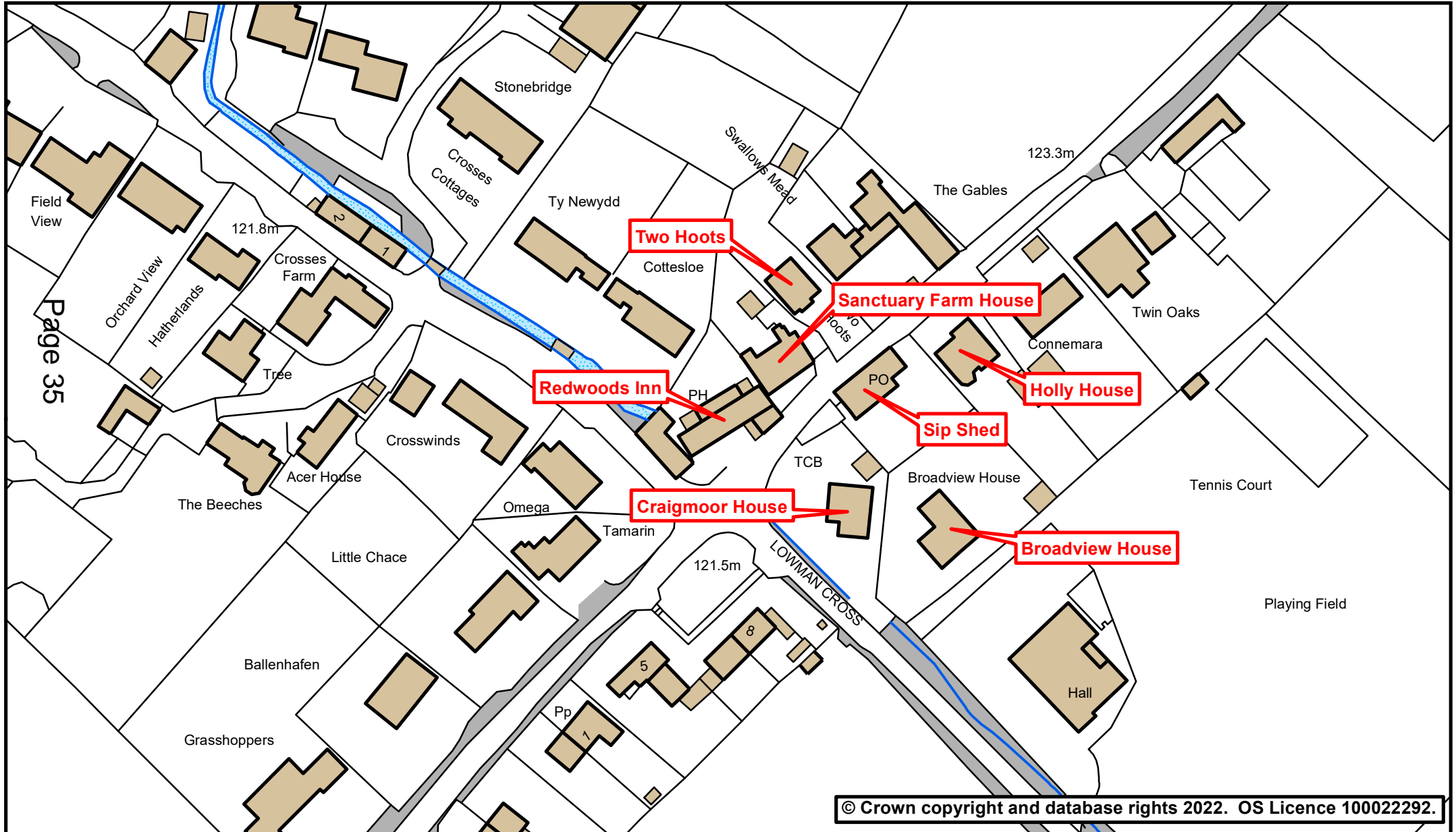


# Licensing Services

Scale 1:1,250 @ A4	Date 28 February 2022
Drg. No. Uplowman, Tiverton, EX16 7DP	Produced by GMS Unit

Phoenix House  
Phoenix Lane, Tiverton EX16 6PP

Tel: 01884 255255  
Website: [www.middevon.gov.uk](http://www.middevon.gov.uk)



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# Mid Devon District Council – Licensing Act 2003

## REPRESENTATION FORM

This representation is made about the premises to be licensed as detailed below:

<b>Your full name</b>	Kevin and Vicki Baugh
<b>The name of the organisation / body you represent (if appropriate)</b>	
<b>Postal address</b>	Two Hoots, Upflowman, Tiverton, Devon EX167DP
<b>Email address</b>	
<b>Contact telephone number</b>	

<b>Name of the premises you are making a representation about</b>	Sip Shed
<b>Address of the premises you are making a representation about</b>	Crossway House, Upflowman, Tiverton, Devon, <b>EX167DP</b>

Your representation must relate to one of the four Licensing Objectives

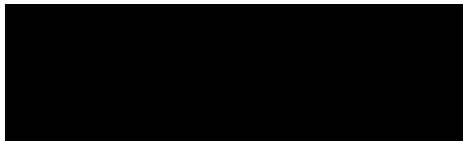
<b>Licensing Objective</b>	<b>Yes Or No</b>	<b>Please detail the evidence supporting your representation or the reason for your representation. Please use separate sheets if necessary</b>
<b>To prevent crime and disorder</b>	Yes	<p>Longer drinking equals more time to consume alcohol leading to problems in the village.</p> <p>The SIP Shed has limited toilet facilities for customers. People will go where they can, possibly on private property.</p>
<b>Public safety</b>	Yes	<p>There is no street lighting or Footpath in the village. Late night drinkers will be walking into a dark narrow 60MPH road.</p> <p>There is no consideration for fire safety associated with the premises.</p>
<b>To prevent public nuisance</b>	Yes	<p>We live directly opposite the garden proposed in the application for the consumption of alcohol. Use of the front garden is not an appropriate place to consume alcohol. It is too close to residential properties.</p> <p>The drinking of alcohol purchased on the premises is currently not permitted outside. There will be less control in an outside space. The garden is not screened, people could be there all-day consuming alcohol getting louder and louder.</p> <p>There is currently no outside lighting. No doubt the garden will be lit up causing a light nuisance. There is no street lighting in the village.</p> <p>There is limited parking in the village. The crossroads is often a parking disaster which restricts access for emergency and large vehicles. Late night revellers will be returning to cars in darkness.</p>

		<p>We already have a pub and village hall both able to sell alcohol. More alcohol consumption only brings more noise and more disturbance.</p> <p>People are loud and the noise will increase. Opening later will compound the problem.</p>
<b>To protect children from harm</b>	Yes	<p>The road is the main route for Primary Children attending the village school. I have young children with bedroom windows that face the Sip Shed and the proposed garden area.</p> <p>There could be inappropriate language and behaviour.</p>

<p><b>If you are making a representation against a new application or full variation, please suggest any conditions that could be added to the licence to remedy your representation (or other suggestions you would like the Licensing Sub Committee to take into account).</b></p>	<p>No outside drinking. Retention of condition 12. Including the garage area in the application is wrong as it could, in the short term be used for drinking in a covered area "outside". In the long term no one knows what the intentions are for this area apart from the applicant. Small steps leading to a conclusion of which we know nothing.</p>
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Signed: Kevin and Vicki Baugh

Date: 27<sup>th</sup> Feb 2022



**Please see notes on reverse**

## NOTES

**If you are making a representation in relation to a 'new' premises or a 'full variation' please read the following notes:**

1. If you do make a representation you will be able to attend a meeting of the Licensing Authority's Committee and any subsequent appeal proceeding. If you do not attend, the Committee will consider any representations that you have made in your absence.
2. This form must be returned within the statutory period of 28 days following submission of a valid application to the Licensing Authority.
3. You may make a representation wherever you live in relation to the premises but your representation must be relevant.
4. Representations can only relate to the four licensing objectives.

5. Your representation will be passed to the applicant, to allow them the opportunity of addressing your concerns. Your representations will be published in the report available to the Licensing Committee, which will be publicly available.
6. Please return this form when completed to:

Licensing, Mid Devon District Council, Phoenix House, Phoenix Lane,  
Tiverton, Devon, EX16 6PP.

Alternatively, you can email it to [licensing@middevon.gov.uk](mailto:licensing@middevon.gov.uk).

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**If you are making a representation in relation to a 'minor variation' please read the following notes:**

1. If you do make a representation, you should be aware that the application will be determined by an Officer. There will be no hearing and there is no right of appeal.
2. This form must be returned within the statutory period of 10 working days following submission of a valid application to the Licensing Authority.
3. You may make a representation wherever you live in relation to the premises but your representation must be relevant.
4. Representations can only relate to the four licensing objectives.
5. Please return this form when completed to:

Licensing, Mid Devon District Council, Phoenix House, Phoenix Lane,  
Tiverton, Devon, EX16 6PP.

Alternatively, you can email it to [licensing@middevon.gov.uk](mailto:licensing@middevon.gov.uk).

# Mid Devon District Council – Licensing Act 2003

## REPRESENTATION FORM

This representation is made about the premises to be licensed as detailed below:

<b>Your full name</b>	Simon & Nicola Burge
<b>The name of the organisation / body you represent (if appropriate)</b>	
<b>Postal address</b>	Sanctuary Farm House, Upplowman, Tiverton EX16 7DP
<b>Email address</b>	
<b>Contact telephone number</b>	

<b>Name of the premises you are making a representation about</b>	The Sipshed
<b>Address of the premises you are making a representation about</b>	Crossways House, Upplowman, Tiverton EX16 7DP

Your representation must relate to one of the four Licensing Objectives

<b>Licensing Objective</b>	<b>Yes Or No</b>	<b><i>Please detail the evidence supporting your representation or the reason for your representation. Please use separate sheets if necessary</i></b>
<b>To prevent crime and disorder</b>	Yes	<p>The front garden of Crossways House(The Sipshed) is in very close proximity to the front outside drinking area of the Redwoods Inn. If condition 12 is removed it could lead to loud and disorderly behaviour going on between the two areas. Customers may wander on the road between the two areas, possibly carrying beer/wine glasses, this would be very difficult for either licensee to police and only made worse by the additional drinking hours applied for.</p> <p>The number of customers is currently limited by the size of the room used as The Sipshed, the toilet facilities (not shown on the plan) are unsuitable for an increased number of customers, this could lead to customers relieving themselves elsewhere.</p>
<b>Public safety</b>	Yes	<p>Customers emerging from The Sipshed do so on to a narrow, unlit and unrestricted road (not shown on the plan), this poses a danger to themselves and other road users.</p> <p>The additional traffic and parking requirement generated by an increase in capacity of The Sipshed, would add an additional burden to the already dangerous parking situation around the busy cross roads in the village and is a matter of public safety.</p>



To prevent public nuisance	Yes	<p>Our house lies directly opposite the front garden of The Sipshed and within 10m of it. We have 6 rooms with windows facing this area.</p> <p>This garden area is already used as a cafe providing coffee etc., but <u>not</u> food.</p> <p>The application requests the removal of condition 12 to allow for the creation of a licensed cafe in this area, but as no food is served, this would become a beer garden in all but name.</p> <p>The application requests the removal of condition 12 to allow for the creation of a new Sipshed tasting room. This room does not exist so how can it be included in this application. Condition 12 relates to the outside consumption of alcohol, so has nothing to do with the creation of a room which is presumably for the indoor consumption of alcohol.</p> <p>When the tasting sessions are taking place in The Sipshed customers use this area for smoking, and at the end of the sessions leave via this area. These activities are already an intrusion on us both visually and audibly and are barely within acceptable limits.</p> <p>If later drinking hours are granted and condition 12 is removed by this variation then the above activities, together with the need for outside lighting, will become unacceptable and cause a greater public nuisance.</p> <p>Any consumption or selling of alcohol, noise and/or light pollution in that, or any of the outside areas of Crossways House (The Sipshed), will have a direct and unacceptable impact on neighbouring properties, the character of the village and on our peaceful enjoyment of our house thereby creating a public nuisance.</p>
To protect children from harm	No	

<p><b>If you are making a representation against a new application or full variation, please suggest any conditions that could be added to the licence to remedy your representation (or other suggestions you would like the Licensing Sub Committee to take into account).</b></p>	<p>We consider the existing licensed activities are barely acceptable. We suggest the application to vary it be refused.</p> <p>We also suggest the <b>Licensing Sub Committee</b> take a close look at this application, and the plans attached to it, and ask whether it complies with the Guidelines made under the Licensing Act 2003 and whether the application is even valid.</p>
--	--

Signed: 

Date: 28th February 2022

## NOTES

**If you are making a representation in relation to a 'new' premises or a 'full variation' please read the following notes:**

1. If you do make a representation you will be able to attend a meeting of the Licensing Authority's Committee and any subsequent appeal proceeding. If you do not attend, the Committee will consider any representations that you have made in your absence.
2. This form must be returned within the statutory period of 28 days following submission of a valid application to the Licensing Authority.
3. You may make a representation wherever you live in relation to the premises but your representation must be relevant.
4. Representations can only relate to the four licensing objectives.
5. Your representation will be passed to the applicant, to allow them the opportunity of addressing your concerns. Your representations will be published in the report available to the Licensing Committee, which will be publicly available.
6. Please return this form when completed to:

Licensing, Mid Devon District Council, Phoenix House, Phoenix Lane,  
Tiverton, Devon, EX16 6PP.

Alternatively, you can email it to [licensing@middevon.gov.uk](mailto:licensing@middevon.gov.uk).

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**If you are making a representation in relation to a 'minor variation' please read the following notes:**

1. If you do make a representation, you should be aware that the application will be determined by an Officer. There will be no hearing and there is no right of appeal.
2. This form must be returned within the statutory period of 10 working days following submission of a valid application to the Licensing Authority.
3. You may make a representation wherever you live in relation to the premises but your representation must be relevant.
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Licensing, Mid Devon District Council, Phoenix House, Phoenix Lane,  
Tiverton, Devon, EX16 6PP.

Alternatively, you can email it to [licensing@middevon.gov.uk](mailto:licensing@middevon.gov.uk).

Dear Mr White

Please find the completed representation form above and further points to our objection detailed below, to the amendment to the licensing conditions, especially Condition 12 regarding outside use and the later night times.

We wish to draw attention to potential nuisance caused by

a) Excessive noise and b) Road obstruction

Please see attached photograph

Dear Mr White

Please find the completed representation form above and further points to our objection detailed below, to the amendment to the licensing conditions, especially Condition 12 regarding outside use and the later night times.

We wish to draw attention to potential nuisance caused by

a) Excessive noise and b) Road obstruction

Please see attached photograph

10:10 Fri 18 Feb



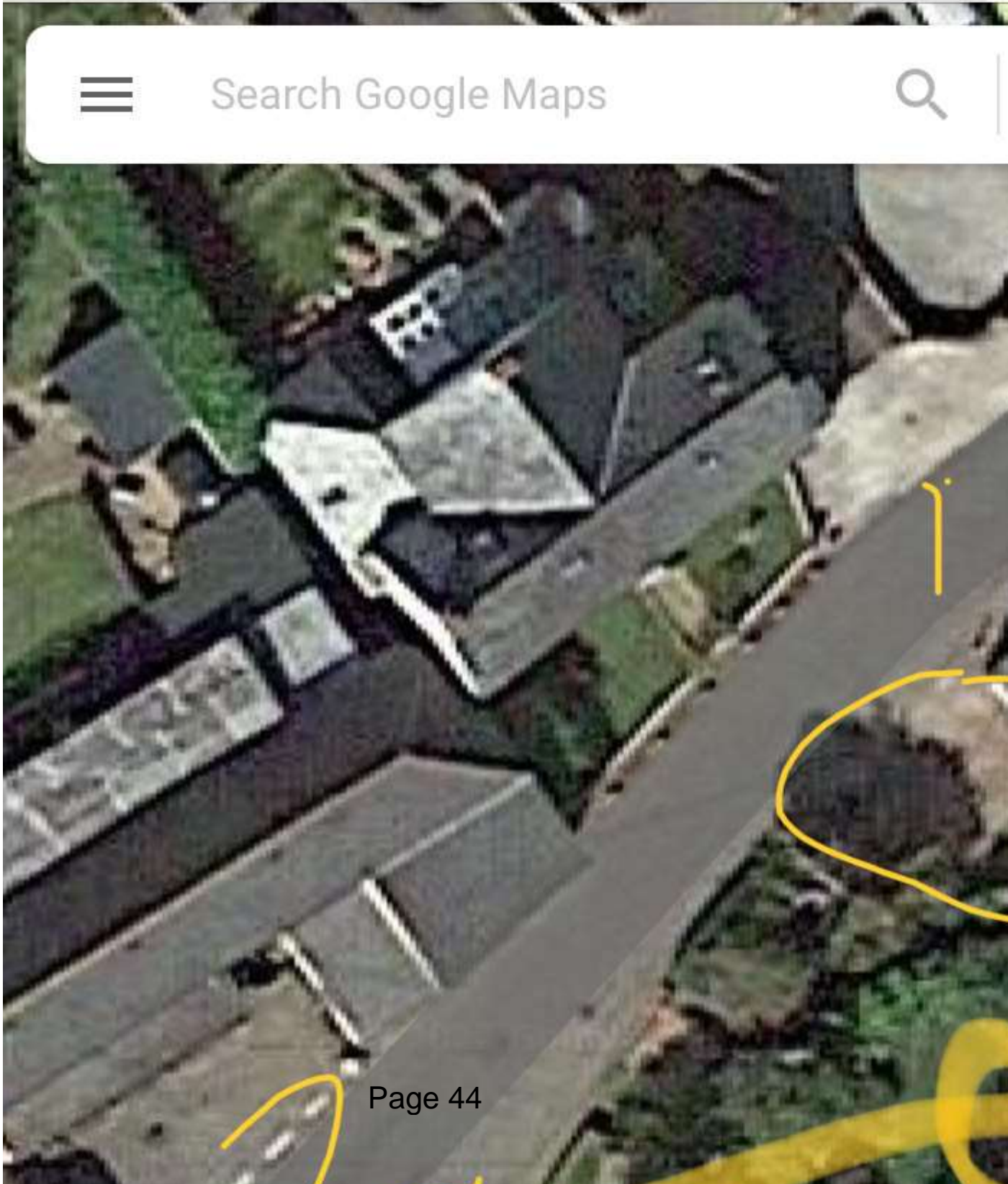
AA



Licensing Act 2003 - Premises Licence Regis...



Search Google Maps



of our property and you may see that we are a matter of meters from the proposed siting of an outdoor drinking area: literally over the fence.

When the existing application was made we took a neighbourly view and did not object as we were led to believe that it was for the purpose of small groups of people tasting wines inside etc prior to purchase.

It seemed unreasonable to object, we all have the right to earn a living etc.

However the reality is a hosted drinking session which gets pretty lively and a considerable amount of alcohol is imbibed.

Fine for a lively City centre social scene but not sure for a small residential Devon village.

The bare fact is that our garden outdoor social area is directly adjacent to the proposed areas (see satellite image).

1) Proposed outdoor drinking area

2) Craigmoor House back garden and socialising area.

The outside space noise levels during last summer were already on the edge of acceptable, at times precluding “normal” conversation and necessitating us leaving the garden. This was, in fairness, for limited time and relatively small numbers so no objection was raised, however unpleasant- we tend to go for live and let live.

However with increased numbers, increased opening times and drinking alcohol, any furtherance of the model will effectively lead to a situation whereby we have next door neighbours having a party every night, especially as our observation and comments from neighbours and clients is that the current licence times are routinely ignored. Thus no evidence is available to suggest any new stipulations will be adhered to either.

Hence the proposed expansion would be a wholly unacceptable proposal ruining our quality of life and potentially reducing the value of our property (regarding which we are currently taking legal advice).

The further concern is parking.

Devon Highways have for many years expressed concern about parking and obstruction around Uplowman Cross.

There is little parking available around the site of the SipShed and the road is very narrow.

Furthermore some customers take the option of abandoning the car and taking a taxi, the position of the car being usually OK in the evening but causing an obstruction next morning (as there is no driver) to agricultural and other larger vehicles, plus blocking our own entrance from time to time obstructing our entrance to which we have regular deliveries ( for 3 days in one instance!).

This situation is not going to improve with an expansion of business.

There is a Village Hall car park which allows parking for the Pub and School as a concession, which I was involved in at the time as a Trustee (these are community assets) but I am unaware that this



extends to private commercial concerns such as the SipShed and the car park is often not big enough for Hall events.

I hope that we have been clear in this matter and are happy to assist to clarify any matters arising.

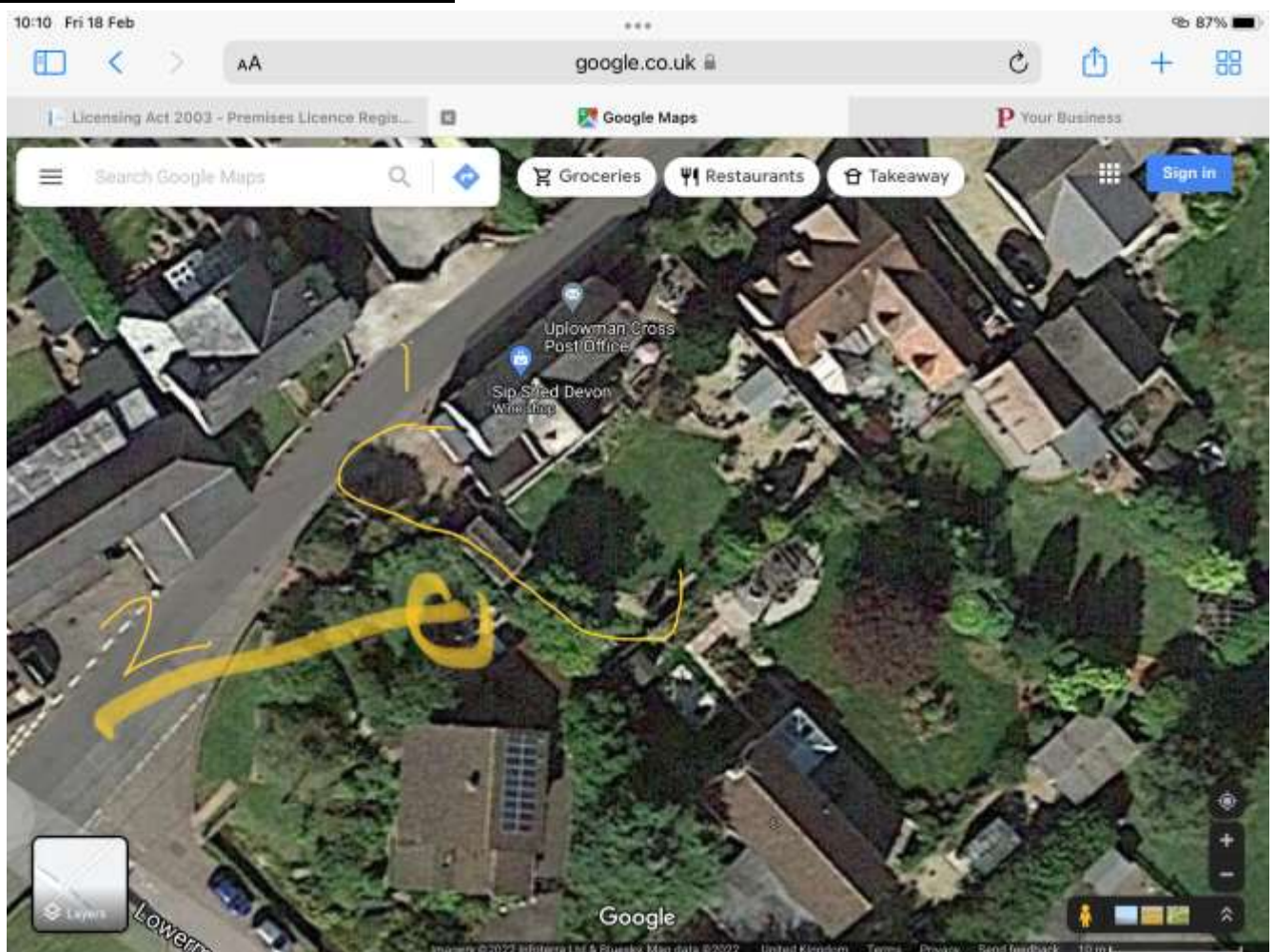
Richard and Janet Clark

Craigmoor House

Uplowman

Tiverton

Devon EX167DP



of our property and you may see that we are a matter of meters from the proposed siting of an outdoor drinking area: literally over the fence.

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It seemed unreasonable to object, we all have the right to earn a living etc.

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Fine for a lively City centre social scene but not sure for a small residential Devon village.

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However with increased numbers, increased opening times and drinking alcohol, any furtherance of the model will effectively lead to a situation whereby we have next door neighbours having a party every night, especially as our observation and comments from neighbours and clients is that the current licence times are routinely ignored. Thus no evidence is available to suggest any new stipulations will be adhered to either.

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There is little parking available around the site of the SipShed and the road is very narrow. Furthermore some customers take the option of abandoning the car and taking a taxi, the position of the car being usually OK in the evening but causing an obstruction next morning (as there is no driver) to agricultural and other larger vehicles, plus blocking our own entrance from time to time obstructing our entrance to which we have regular deliveries ( for 3 days in one instance!).

This situation is not going to improve with an expansion of business.

There is a Village Hall car park which allows parking for the Pub and School as a concession, which I was involved in at the time as a Trustee (these are community assets) but I am unaware that this extends to private commercial concerns such as the SipShed and the car park is often not big enough for Hall events.

I hope that we have been clear in this matter and are happy to assist to clarify any matters arising.

Richard and Janet Clark  
Craigmoor House  
Uplozman  
Tiverton

████████████████████  
██

## Mid Devon District Council – Licensing Act 2003

### REPRESENTATION FORM

This representation is made about the premises to be licensed as detailed below:

<b>Your full name</b>	
<b>The name of the organisation / body you represent (if appropriate)</b>	The Redwoods Inn
<b>Postal address</b>	
<b>Email address</b>	
<b>Contact telephone number</b>	

<b>Name of the premises you are making a representation about</b>	
<b>Address of the premises you are making a representation about</b>	

Your representation must relate to one of the four Licensing Objectives

<b>Licensing Objective</b>	<b>Yes Or No</b>	<b><i>Please detail the evidence supporting your representation or the reason for your representation. Please use separate sheets if necessary</i></b>
<b>To prevent crime and disorder</b>		
<b>Public safety</b>		
<b>To prevent public nuisance</b>		We did not make a representation to original application as we understood that all alcohol consumption would be taking place indoors and finishing at 9.30pm. We feel that this application to vary the licence, if approved, would make the Sipshed basically a pub. The outside space at the front of our pub is within 15m, and in direct line of sight, of the area proposed to be used for drinking. This, together with the proposed additional drinking hours is sure to create unacceptable noise and disturbance in this normally quite village setting. We are also concerned that customers will be tempted to wander between the two drinking venues again causing a public nuisance and difficult to police.
<b>To protect children from harm</b>		



		We consider the existing licence is fine as it is, so we suggest the application to vary it be refused
--	--	--


Signed:

Date:

## Mid Devon District Council – Licensing Act 2003

### REPRESENTATION FORM

This representation is made about the premises to be licensed as detailed below:

<b>Your full name</b>	Mary Moore
<b>The name of the organisation / body you represent (if appropriate)</b>	Uplowman Parish Council
<b>Postal address</b>	Lower Beer, Uplowman EX167PF
<b>Email address</b>	
<b>Contact telephone number</b>	

<b>Name of the premises you are making a representation about</b>	Sip Shed
<b>Address of the premises you are making a representation about</b>	Crossway House, Uplowman, Tiverton, Devon, <b>EX167DP</b>

Your representation must relate to one of the four Licensing Objectives

<b>Licensing Objective</b>	<b>Yes Or No</b>	<b><i>Please detail the evidence supporting your representation or the reason for your representation. Please use separate sheets if necessary</i></b>
<b>To prevent crime and disorder</b>	No	.
<b>Public safety</b>	Yes	There are no pavements or lighting for those entering or leaving the property on a narrow road and walking the 100 m+ to the Village Hall car park. Extending the offer of the Sip Shed would attract more customers wanting to park a car. There is limited parking in the village close by and the crossroads is often restricted with parked cars with people who don't want to walk to the carpark 100m away. This both impacts the safe passage of cars and pedestrians crossing at the Crossroads and can impact access for emergency and large vehicles.
<b>To prevent public nuisance</b>	Yes	Noise outside will increase and affect three neighbours directly opposite and two directly adjacent to the open area where drinking is proposed. Anyone sitting outside will require outside lighting in the outdoor area causing light pollution in what is an unlit village and such light will directly impact the neighbouring properties.
<b>To protect children from harm</b>	No	

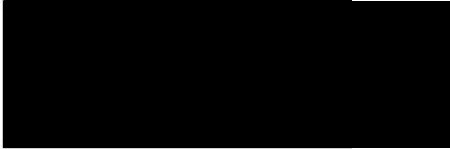
<b>If you are making a representation</b>	No outside drinking.
---	----------------------

**against a new application or full variation, please suggest any conditions that could be added to the licence to remedy your representation (or other suggestions you would like the Licensing Sub Committee to take into account).**

Retention of condition 12.  
Removal of the garage area from the application.  
Councillors support an extension of licensing hours to 11 pm for the existing cocktail proposition in its current licensed location.

Signed:

Date: 28/02/2022



Chair, Uplowman Parish Council

**Please see notes on reverse**

## **NOTES**

**If you are making a representation in relation to a 'new' premises or a 'full variation' please read the following notes:**

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5. Your representation will be passed to the applicant, to allow them the opportunity of addressing your concerns. Your representations will be published in the report available to the Licensing Committee, which will be publicly available.
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Licensing, Mid Devon District Council, Phoenix House, Phoenix Lane,  
Tiverton, Devon, EX16 6PP.

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**If you are making a representation in relation to a 'minor variation' please read the following notes:**

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# Mid Devon District Council – Licensing Act 2003

## REPRESENTATION FORM

This representation is made about the premises to be licensed as detailed below:

Your full name	Mr Martin Willis and Jackie willis
The name of the organisation / body you represent (if appropriate)	
Postal address	Swallows Mead Uplozman Tiverton Devon
Email address	
Contact telephone number	

Name of the premises you are making a representation about	Sip Shed Ltd
Address of the premises you are making a representation about	Sip Shed and Post Office ,Crossways House ,Uplozman ,Tiverton Devon

Your representation must relate to one of the four Licensing Objectives

Licensing Objective	Yes Or No	Please detail the evidence supporting your representation or the reason for your representation. Please use separate sheets if necessary
To prevent crime and disorder		
Public safety	yes	With longer hours and larger premisses right next to the public highway this will increase parking on very busy crossroads and increase the risk of traffic accidents ,
To prevent public nuisance	yes	Having a license to sale alcohol 7days a week and longer hours outside will increase the noise levels to the Village. The reason we moved to this village was because it was so quite
To protect children from harm		

If you are making a representation against a new application or full variation, please suggest any conditions that could be added to the licence to remedy your representation (or other suggestions you would like the Licensing Sub Committee to take into account).	
--	--

Signed:

[Redacted Signature]

Date:

28/02/22.

Please see notes on reverse

## NOTES

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# Mid Devon District Council – Licensing Act 2003

## REPRESENTATION FORM

This representation is made about the premises to be licensed as detailed below:

Your full name	Mr T Milner
The name of the organisation / body you represent (if appropriate)	
Postal address	Broadview House, Uplozman EX16 7DN
Email address	
Contact telephone number	
Name of the premises you are making a representation about	SipShed
Address of the premises you are making a representation about	Post Office, Uplozman EX16 7DP

Your representation must relate to one of the four Licensing Objectives

Licensing Objective	Yes Or No	Please detail the evidence supporting your representation or the reason for your representation. Please use separate sheets if necessary
To prevent crime and disorder		
Public safety		
To prevent public nuisance	Yes	Existing condition 12 recognises that the outside area especially the garden is close to 3 other neighbours and would generate noise and nuisance from groups drinking. There is nothing to suggest that this condition could be relaxed. <b>See Email attached or sent previously.</b>
To protect children from harm	Yes	Children use the outside area for a tuck shop when leave school. The same area being asked to serve alcohol

If you are making a representation against a new application or full variation, please suggest any conditions that could be added to the licence to remedy your representation (or other suggestions you would like the Licensing Sub Committee to take into account).	Change of hours and use of garden represents a major change so condition 12 should remain. It is not possible to limit numbers and any numbers would be a nuisance. Also the use of the garage space is too close to neighbours and not sound insulated
--	---

Signed:



Date: 21/02/22

Please see notes on reverse



## NOTES

**If you are making a representation in relation to a 'new' premises or a 'full variation' please read the following notes:**

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# Mid Devon District Council – Licensing Act 2003

## REPRESENTATION FORM

This representation is made about the premises to be licensed as detailed below:

Your full name	Simon Kingston
The name of the organisation / body you represent (if appropriate)	—
Postal address	GULMOOR UPLOWMAN EX16 7DR
Email address	
Contact telephone number	

Name of the premises you are making a representation about	Sipshed, Updownman
Address of the premises you are making a representation about	Sipshed, Updownman

Your representation must relate to one of the four Licensing Objectives

Licensing Objective	Yes Or No	Please detail the evidence supporting your representation or the reason for your representation. Please use separate sheets if necessary
To prevent crime and disorder		
Public safety		Concerned regarding parking on the crossroads in the village
To prevent public nuisance		Concerned regarding noise levels in the centre of the village
To protect children from harm		

If you are making a representation against a new application or full variation, please suggest any conditions that could be added to the licence to remedy your representation (or other suggestions you would like the Licensing Sub Committee to take into account)	
---	--

Signed:

Date:

1/3/22

Please see notes on reverse

# Mid Devon District Council – Licensing Act 2003

## REPRESENTATION FORM

This representation is made about the premises to be licensed as detailed below:

Your full name	JACQUELINE SIMMONS.
The name of the organisation / body you represent (if appropriate)	
Postal address	HOLLY HOUSE, UPLAWMAN EX16, 7DP.
Email address	
Contact telephone number	

Name of the premises you are making a representation about	Sip Shed L.T.D.
Address of the premises you are making a representation about	CROSSWAYS HOUSE UPLAWMAN, EX16, 7DP.

Your representation must relate to one of the four Licensing Objectives

Licensing Objective	Yes Or No	Please detail the evidence supporting your representation or the reason for your representation. Please use separate sheets if necessary
To prevent crime and disorder	NO	
Public safety	NO	
To prevent public nuisance	YES	Please read attached paper.
To protect children from harm	NO	

If you are making a representation against a new application or full variation, please suggest any conditions that could be added to the licence to remedy your representation (or other suggestions you would like the Licensing Sub Committee to take into account).	
--	--



Signed [Redacted]

Date: 20 - 2 - 22

Please see notes on reverse

To Whom Concerned

I am very much opposed to the full removal of Condition 12 on the Sip Shed application no 026066.

I do object to the rear garden being used to serve alcohol during the evenings (7 days a week!) as this would have a detrimental impact on all the neighbouring properties due to excessive noise and light pollution caused.

An example is that our bedroom window is only a couple of metres from the Sip Shed rear garden so you can just imagine how intrusive this would be!

I have had a conversation with Mr Maclean and he has assured me that the rear garden will not be used for serving alcohol and because of this I feel that this should have been amended on the application.

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## **MID DEVON DISTRICT COUNCIL – LICENSING COMMITTEE**

### **Protocol and Procedure for Licensing Sub-Committee Hearings**

#### **1.0 Introduction**

- 1.1 The role of the Sub-Committee is to determine Applications / Notices in an impartial manner in accordance with the relevant provisions of the Licensing Act 2003, national guidance and the Council's Policies.

#### **2.0 Composition of Sub-Committee**

- 2.1 The Sub-Committee shall usually consist of three Councillors drawn on a "panel" basis from the membership of the Licensing Committee.
- 2.2 In forming the Membership of the Licensing Sub-Committee for a hearing, and where Councillors availability permits, Members Services shall try to ensure that:

- There are at least two experienced Members in attendance
- Rotation of Membership

'Experienced' is defined as having previously taken part in two separate hearings.

- 2.3 Members may sit on a Hearing which relates to their own Ward as long as there is no conflict of interest 'and any relevant declarations are made at the beginning of the meeting.
- 2.4 The Chairman for a Hearing shall be selected from the Members that form the Sub-Committee.
- 2.5 When unforeseen circumstances require, or an urgent matter has arisen, the Sub-Committee may be made up of two Councillors as opposed to three.

#### **3.0 Hearings to be held in public**

- 3.1 Licensing Hearings shall take place in public. However, the Sub-Committee may exclude the public (including a party to the hearing) from all or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking place in public.
- 3.2 The Sub-Committee may require any person attending the hearing who is in their opinion behaving in a disruptive manner to leave the hearing and may:
- a) refuse to permit that person to return, or

- b) permit him/her to return only on such conditions as the Sub-Committee may specify,

but such a person may, before the end of the hearing, submit to the Sub-Committee in writing any information which they would have been entitled to give orally had they not been required to leave.

#### **4.0 Time of Hearings**

- 4.1 Hearings of the Licensing Sub-Committee shall usually be held at the Council Offices during the day.

#### **5.0 Notice of Hearing**

- 5.1 The Licensing Authority shall give parties to the Hearing a notice stating the date, time and place where the Hearing is to be held. This is the 'Notice of Hearing' and must be given in accordance with the provisions of the regulations.
- 5.2 The Notice of Hearing shall be accompanied by information regarding the following:
  - a) the rights of a party provided for in regulations 15 and 16 of the Licensing Act 2003 (Hearings) Regulations 2005
  - b) the consequences if a party does not attend or is not represented at the Hearing
  - c) the procedure to be followed at the hearing; and
  - d) any particular points on which the Licensing Authority considers that it will want clarification from a party at the hearing.
- 5.3 Each party shall respond to the Notice of Hearing within the time prescribed by regulations which shall be stated on the Notice itself. The response must state:
  - a) whether he/she intends to attend or be represented at the hearing;
  - b) whether he/she considers a hearing to be unnecessary

#### **6.0 Right of Attendance, Assistance and Representation**

- 6.1 Subject to paragraphs 3.1 and 3.2, a party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified. A party may be assisted or represented by their Ward Councillor. Any Councillor undertaking such a role would not take part in the determination of the matter before the Sub-Committee.

## **7.0 Hearings held on more than one day**

- 7.1 When a hearing is to be held on more than one day, the hearing must be arranged to take place on consecutive working days.

## **8.0 Right to dispense with a hearing**

- 8.1 If all parties agree that a hearing is unnecessary, then with the agreement of the Licensing Authority, the hearing may be dispensed with.

## **9.0 Right to postpone or adjourn a hearing**

- 9.1 The Sub-Committee may postpone or adjourn a hearing where it considers this to be necessary for its consideration of any representations or notice made by a party.

## **10.0 Report**

- 10.1 A report prepared by the Licensing Authority will be put before the Sub-Committee.
- 10.2 A copy of the report will be made available to all parties in advance of the hearing.

## **11.0 Detailed Procedural notes**

- 11.1 Detailed procedural notes for the most regularly heard hearings are available and will be circulated in advance of the relevant hearing. These procedural notes cover the following applications / notices:

- New Premises Licence / Variation of existing Premises Licence (or Club Premises Certificate)
- Temporary Event Notices
- Review of a Premises Licence or Club Premises Certificate

## **12.0 Procedure at hearing - General**

- 12.1 At the beginning of the hearing, the Chairman and members of the Sub-Committee will introduce themselves, invite parties to identify / introduce themselves and then explain the procedure that the Sub-Committee intends to follow.
- 12.2 If applicable, the Sub-Committee will then consider any request made by a party for any other person to appear at the hearing. Permission shall not be unreasonably withheld.
- 12.3 Where the written evidence or information provided by the applicant or any other party has raised legal issues or submissions, the Chairman may request that any legal

representatives present at the hearing and the legal representative of the authority address the Sub-Committee on the legal points raised.

- 12.4 The hearing shall take the form of a discussion led by the Sub-Committee on any matter that is relevant to the application, notice or review.
- 12.5 The Chairman should indicate that members of the Sub-Committee have read the circulated papers; therefore there is no need for parties to repeat points that have already been made in representations.
- 12.6 In circumstances where there are a number of parties who wish to make the same or similar representations the nomination of a single spokesperson will usually be encouraged, and would normally be expected. This does not prevent those who have made representations from speaking during the hearing.
- 12.7 Applicants and other parties will not usually be given a time limit to present their application / representations but the Sub-Committee may stop them should they begin to repeat themselves or straying from what is considered to be relevant matters.
- 12.8 In considering any representations or notice made by a party the Sub-Committee may take into account documentary or other information produced by a party either before the hearing or, with the consent of all other parties, at the hearing. A party introducing documentary evidence at a hearing should bring sufficient copies for all other parties and the Sub-Committee.
- 12.9 Members of the Sub-Committee may ask any question of any party or other person appearing at the hearing.
- 12.10 The Sub-Committee will disregard any information given by a party that is not relevant to the application, notice or representations made.
- 12.11 Parties may question any other party if permission is given by the Sub-Committee. Cross examination will not be allowed unless the Sub-Committee considers that it is required for it to consider the representations, application or notice as the case may require.
- 12.12 Hearsay evidence is admissible but consideration will always be given to the weight, if any, to be attached to such evidence, depending on the circumstances in which it arises.



### **13.0 Roles of Officers**

#### Representative of Legal Services

- 13.1 The role of the representative of Legal Services will be to deal with any questions of law, matters of practice and procedure and where appropriate assist the Sub-Committee in formulating the reasons for its decision. They may ask questions of parties and witnesses in order to clarify the evidence and any issues in the case.

#### Representative of Member Services

- 13.2 The role of the representative of Member Services will be to make a record of the proceedings both by way of notes of the evidence / information given and a minute of the decision reached, inclusive of the reasons for the decision.

#### Licensing Officer

- 13.3 The role of the Licensing Officer will be to introduce the application / notice, outline the relevant facts and any issues involved through the presentation of their report.

### **14.0 Determination of Applications / Notices**

- 14.1 Unless the matter being considered by the Sub-Committee falls within one of the categories listed in point 14.2, the Sub-Committee has five working days to make their determination beginning with the day, or the last day, on which the hearing was held.
- 14.2 In relation to the following matters, the Sub-Committee must make its decision at the conclusion of the hearing:
- a) A counter notice following an objection to a temporary event notice
  - b) Review of a premises premises licence following closure order

### **15.0 Record of proceedings**

- 15.1 A record of the hearing shall be made by authority and kept for six years from the date of the determination or, where an appeal is brought against the determination of the authority, the record must be kept for six years from the date of disposal of the appeal. The authority may also record the proceeding through audio tape.

### **16.0 Appeals**

- 16.1 Either those who have made an application or those who have made a representation on an application may have the right to appeal the authorities decision to the Magistrates Court.

- 16.2 An appeal must be commenced within twenty one days beginning with the day on which the appellant was notified by the licensing authority of their decision.

#### **17.0 Irregularities**

- 17.1 Proceedings will not be rendered void only as a result of failure to comply with any provision of the Hearing Regulations.
- 17.2 Where the authority considers that any person may have been prejudiced as the result of an irregularity relating to the Hearing Regulations, it will take such steps, as it thinks fit to cure the irregularity, before reaching its determination.
- 17.3 Clerical mistakes in any document recording a determination of the authority, or errors arising in such a document as the result of an accidental slip or omission, may be corrected by the authority.

### **The following information and procedures are associated with this document**

#### **Legislation**

- The Licensing Act 2003 (Hearings) Regulations 2005:
  - [http://www.legislation.gov.uk/uksi/2005/44/pdfs/uksi\\_20050044\\_en.pdf](http://www.legislation.gov.uk/uksi/2005/44/pdfs/uksi_20050044_en.pdf)

#### **Hearing Procedures**

- New / Variation of Premises or Club
- Temporary Event Notices
- Review

#### **Hearing Guidance**

- General guidance to attendees

## **HEARING PROCEDURE: NEW / VARIATION OF PREMISES OR CLUB**

### **Introduction and Preliminary remarks**

1. The following parties will introduce themselves:
  - The Chairman of the Sub-Committee
  - Members of the Sub-Committee
  - Council Officers (legal advisor, member services officer and licensing officer)
2. The Chairman will ask for any declarations of interest.
3. The Chairman will announce if the hearing is to be held in public or private session.
4. The Chairman will ask those present to introduce themselves. This will be the order in which they present their case and is as follows:
  - Applicant and any person representing or assisting them
  - Responsible Authorities that have made a relevant representation
  - Other Parties who have made a relevant representation. If a spokesperson has been appointed / nominated for a group they should be identified.
5. The Sub-Committee will consider any requests by a party for any other person to appear at the hearing. Such permission shall not be unreasonably withheld provided proper notice has been given in response to the Notice of Hearing.
6. The Chairman will confirm that members of the Sub-Committee have received and read the paperwork and as such, parties will not need to repeat verbatim what they have already submitted.
7. The Chairman will state that time limits will not be set for speakers but if it is felt that matters are being repeated or are irrelevant, they or the legal advisor may move the discussion on.

### **Statement by the licensing officer**

8. The Chairman will ask the officer to summarise the matter under consideration and present the salient points of the report.
9. Each other party (if permitted by, and via the Chairman) may then ask questions of the licensing officer based on what they have heard. This will be in the following order:

- Applicant
- Responsible Authorities
- Other Parties
- Sub-Committee

10. The licensing officer may respond to any new issues raised.

**Case for the applicant**

11. The applicant (or their representative) to present case in support of the application.

12. Each other party (if permitted by, and via the Chairman) may then ask questions of the applicant (or their representative) based on what they have heard. This will be in the following order:

- Responsible Authorities
- Other Parties
- Sub-Committee

13. The applicant (or their representative) may then respond to any new issues raised

**Case for responsible authorities (i.e. Police, Environmental Health)**

14. The representative of each responsible authority will be invited in turn to present the views of their organisation.

15. Each other party (if permitted by, and via the Chairman) may then ask questions of the representative based on what they have heard. This will be in the following order:

- Applicant
- Other Parties
- Sub-Committee

16. The representative may then respond to any new issues raised.

**Case for the 'other parties'**

17. Those who have made representations will be invited to present their views.

18. If a spokesperson has agreed to speak on behalf of a several people, all of those he/she represents may add any further points after.

19. Each other party (if permitted by, and via the Chairman) may then ask questions of the other party based on what they have heard. This will be in the following order:

- Applicant
- Responsible Authorities
- Other Parties
- Sub-Committee

20. The other party may then respond to any new issues raised.

### **Discussion about conditions**

21. If it appears to any party that one or more of the issues raised during the hearing could be dealt with by means of a condition attached to the licence, that person may put forward the suggestion(s) to the Chairman at this stage. All other parties are to be given an opportunity to comment and express a view on any proposed condition.

### **Summary**

22. Any party wishing to summarise his or her views may do so, in the order in which they presented their case. This will usually be as follows:

- Applicant
- Responsible Authorities
- Other Parties

### **The decision**

23. The Sub-Committee will retire to reach a decision in private, accompanied by the Council's representatives from legal and members services.

24. Members of the Sub-Committee return. Any legal advice given in the absence of the parties will be repeated in public and all parties given an opportunity to respond before a decision is announced.

25. The Chairman to announce the Sub-Committee's decision if one has been made. This can include giving reasons (if finalised). If the Sub-Committee is minded to grant with the addition of conditions they may give the generals of the condition and the intention of them. Specific wording in line with the Sub-Committees direction may then be delegated to the Licensing Officer to prepare and send out in the decision notice.

26. The Council's legal officer will then outline the rights of appeal.

27. The decision and rights of appeal will be confirmed in writing by the licensing officer.

## **General guidance to attendees**

### **RIGHTS OF A PARTY**

As a party to the hearing, you are entitled to:

- Attend the hearing
- Be assisted or represented at the hearing by another person, whether or not that person is legally qualified
- Give further information in support of your application or representation in circumstances where the Licensing Authority has given you notice that clarification on a point is required
- Question any other party if given permission to do so by the Licensing Authority
- Address the Licensing Authority

### **FAILURE TO ATTEND THE HEARING**

- If you or your representative are unable to attend the hearing, the hearing may proceed in your absence (in which case the Licensing Authority will consider the application, representation or notice made by you)
- Alternatively, the Licensing Authority may, where it is in the public interest, adjourn the hearing to another date and notify all parties

### **HEARING PROCEDURE**

- The procedure to be followed at the hearing is contained in the document 'Protocol and Procedure for Licensing Sub-Committee Hearings'.

### **ADDITIONAL INFORMATION**

#### **Documents**

- You may produce documents or other information in support of your application, representation or notice (as applicable) either before the hearing, or with the consent of all the other parties, at the hearing
- In considering the representations or notice made by you, the Licensing Authority may take into account any documents produced in accordance with this provision.

### Submissions

- You must confine your submission at the hearing to the representations you have made within the statutory prescribed period. You may not raise new representations at the hearing.

### Time

- There is no set time limit for verbal submissions at the hearing. The Chairman or Councils legal advisor may move the discussion on if you begin to repeat yourself or introduce points that are not relevant.
- Where a number of parties attending a hearing wish to make the same or similar points, the Chairman may invite parties to appoint a spokesperson (if they have not done so already). You will then be entitled to add anything you consider the spokesperson has omitted.

### Disruptive behaviour

- Any person attending the hearing who is deemed by the Licensing Authority to be behaving in a disruptive manner will be required to leave the hearing.

### **DETERMINATION AND NOTIFICATION OF DECISION**

- The Licensing Authority will try to make its decision on the same day as the hearing whenever possible
- The Licensing Authority will notify each party in writing of its determination and the rights of appeal

### **ADDITIONAL INFORMATION**

Should you require any further information about the hearing process please contact the Licensing Authority on 01884 255255



## VIDEO CONFERENCE (ZOOM) PROCEDURE

**The procedure outlined below should be followed when conducting a hearing via Zoom.**

**It is intended for public distribution to assist with the conducting of Virtual Hearings via Zoom**

### Prior to the Hearing

**Sign Up and Download 'Zoom' (found at <https://zoom.us> )**

- it is free to sign up and download a 'personal account'.
- This will allow you to attend Zoom hearings.

**Please ensure that you are in a private, quiet space where you will not be disturbed. You should attend the meeting alone, unless you are sat together with another attendee**

- Choose a room that has good wifi/internet connection
- Choose a room that has good lighting

**Check your Camera and Microphone are working**

- To test your camera – open the Zoom application, go to settings (the cog symbol usually in right hand corner), go to 'Video', check the camera works and picture is clear.
- To test your microphone - open the Zoom application, go to settings (the cog symbol usually in right hand corner), go to 'Audio', test speaker and microphone

**The Zoom 'Chat' function will be turned off by the Host.**

- Instead if private conversation (such as between Applicant and Representative) is required it is recommended that this is done via text/What's App over the phone.
- This is less disruptive and runs no risk of private messages being broadcast to the rest of the Hearing

**The Host of the Hearing will take precautions to protect the hearing from unauthorised/ disruptive participants**

- The Hearing will be Password protected
- If the hearing is public –
  - o The number of people who can share their screen will be limited – this is to prevent any disruption
  - o The hearing will be "locked" once it has started – preventing anyone new from joining – this can be done via the participants panel.
  - o In the event that any unintended persons join they will be removed from the connection this can be done via the participants panel and clicking on the person's name

## During the Hearing

**When you are not speaking please mute the audio, a failure to do so may disrupt the hearing**

- To mute/unmute click on the microphone symbol in bottom left corner of the screen at the left end of the taskbar. The text under the symbol will change from 'Mute' to 'Unmute'

**Please ensure you keep the camera on at all times, even if you are not speaking**

- If you need to do something that might distract the hearing you can turn you camera on/off by clicking the Camera icon in left corner next to the microphone at the left end of the taskbar. The text will change from 'Stop Video' to 'Start Video'
- Be aware that once video is stopping your name or a picture (if selected) will appear in place of your image. Make sure you have an appropriate name and/or picture

**Select the 'Grid View' instead of the 'Speaker View'**

- This is done by clicking on the appropriate option in the right-hand corner of the screen.
- Grid view enables the viewer to see all the participants in a grid.
- Speaker view automatically enlarges and brings to the forefront the current participant speaking but can be unreliable and distracting.

**All participants should have the relevant documents for the hearing in front of them physically or on their computer.**

- Zoom will continue to run in the background (with microphone and video on) even if the participant is looking at a document in a different window.

**We advise that participants have independent access to documents. However the Host will be able to show relevant documents throughout the Hearing through the 'Screen Share' function**

- This allows for the 'video feed' of the Host to instead show what is on their computer screen. A document can be therefore be loaded onto a computer and showed to the Hearing.
- This is done by the Host selecting the 'Share Screen' option in the middle of the task bar.
- We recommend that only the Host have the power to Screen Share.
  - o It can be used to direct the attention of the Hearing to a particular document – which itself can be annotated
- If a document is submitted 'late' on the day of the Hearing it should be emailed to the relevant Officer to be displayed to the hearing on Screen Share if it cannot be distributed earlier.

**To expand the document you are viewing on Screen Share:**

- Go to the dropdown menu to the right of the Green Bar on your screen
- Click on the dropdown menu
- Choose to expand the screen to an appropriate % (150% etc)
- This will allow you to expand the document without the participant sharing the screen having to do so for the entire hearing.

## Breakout Rooms

- If certain participants wish to hold private discussions while remaining in Zoom the Host can create a virtual 'Breakout Room'.
- The Breakout Room function must, prior to the meeting, be made available in the settings on the webpage account of the Host.
- The Host will then be able to create a Breakout Room via a button on the taskbar. They can choose which participants are allowed in
- Chosen participants will receive an invitation to join the Breakout Room. They will then be transported to a private Zoom meeting with those participants.
- During this time the 'main' Zoom Hearing will continue to be live, but those in the main meeting will not be able to hear or see those in the Breakout Room.
- Once those in the Breakout Room have finished their private conversation, they can request the help of the Host. The Host will then return to the Breakout Room, cease the Breakout Meeting, and return those participants to the Main Hearing.
- This is suitable for when Committee Members need to take legal advice or come to their determination.

## Emergency Procedure – the virtual 'hand' raise

- If you are experiencing technical difficulty and need to get the attention of the 'Host'
- Click the 'participants' tab in the taskbar at the bottom of the screen.
- This will open a sidebar to the right of the screen
- At the bottom of the side bar click 'Raise Hand'
- This will virtually raise a blue hand icon in the top left of your video
- The Host will be able to see your hand and come to you at an appropriate moment in the hearing

## Recording the Hearing

- If you are the 'Host' and wish to record a hearing
- Click the record button in the taskbar
- The zoom hearing will be recorded – as indicated by a red dot in the top left corner of the screen.
- Once the hearing ends the video of the hearing will be saved on the Host's computer

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