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MID DEVON DISTRICT COUNCIL

LICENSING SUB-COMMITTEE B

A MEETING of the **LICENSING SUB-COMMITTEE B** will be held in the Exe Room on Friday, 10 August 2018 at 10.00 am

STEPHEN WALFORD

Chief Executive
26 July 2018

Councillors: D R Coren, Mrs F J Colthorpe and L D Taylor

A G E N D A

MEMBERS ARE REMINDED OF THE NEED TO MAKE DECLARATIONS OF INTEREST PRIOR TO ANY DISCUSSION WHICH MAY TAKE PLACE

- 1 **APOLOGIES AND SUBSTITUTE MEMBERS**
To receive any apologies for absence and notices of appointment of Substitute Members (if any).
- 2 **CHAIRMAN - ELECTION**
To elect a Chairman for the meeting.
- 3 **DETERMINE AN APPLICATION UNDER THE LICENSING ACT 2003 TO VARY THE PREMISES LICENCE FOR HAYNE BARN, ZEAL MONACHORUM, CREDITON, CREDITON, DEVON, EX17 6DE**
(Pages 3 - 58)

An application has been received to vary the premises licence for Hayne Barn, Zeal Monachorum, Devon, EX17 6DE. The Council has received ONE relevant representation. Accordingly, Mid Devon District Council as the licensing authority is obliged to hold a hearing to determine the application.

An induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter. If you require any further information, or

If you would like a copy of the Agenda in another format (for example in large print) please contact Carole Oliphant on:

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Public Wi-Fi is available in all meeting rooms.

REGULATORY SUB COMMITTEE

DATE OF HEARING: 10 AUGUST 2018

A HEARING TO DETERMINE AN APPLICATION UNDER THE LICENSING ACT 2003 TO VARY THE PREMISES LICENCE FOR HAYNE BARN, ZEAL MONACHORUM, CREDITON, CREDITON, DEVON, EX17 6DE

Cabinet Member(s): Cllr Colin Slade

Responsible Officer: Simon Newcombe, Group Manager, Public Health and Regulatory Services

Reason for Report:

An application has been received to vary the premises licence for Hayne Barn, Zeal Monachorum, Devon, EX17 6DE. The Council has received ONE relevant representation. Accordingly, Mid Devon District Council as the licensing authority is obliged to hold a hearing to determine the application.

Recommendation:

That the application is considered and a decision made in light of the Licensing Act and the licensing objectives, Section 182 Guidance and Mid Devon District Council Licensing Policy.

Relationship to Corporate Plan: N/A

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

Legal Implications: The applicant or 'other party' has a right of appeal should they be unhappy with the decision.

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.

Consultation carried out with: 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.

Additionally, this Council notifies the relevant town or parish council for where the premises is and applicants must also advertise their applications in two ways via a 'notice' – on the premises so as to be visible to passers-by and in a local newspaper.

1.0 PREMISES AND HISTORY

- 1.1 The premises has had a premises licence under the Licensing Act 2003 since 21 August 2015. The current licence is attached as Annex 1.
- 1.2 The premises was described in the initial application as *‘a 17th century grade 2 listed Threshing Barn with lean-to and a new extension which shall be used for events such as weddings, parties and concerts. The main barn is one room (14 metres x 5 metres in size) with a bar at the south end of the barn. The maximum occupancy of the main room in the Threshing Barn at any one time will be restricted to 135 people in respect of certain areas, parts or floors as specified by building regulations’.*

2.0 APPLICATION

- 2.1 The application to vary the existing premises licence was submitted on 18 June 2018. It is attached as Annex 2.
- 2.2 The application describes the variation application as follows:
- To adjust the close time from midnight on a Thursday to 01:30am for the sale of alcohol, late night refreshment, performances of live and recorded music (the difference of 90 minutes). Other than that, no variations are required.*
- 2.3 In summary, the following licensable activities have been applied for (relating to Wednesday night into Thursday morning):
- Live music: Extend hours from 00:00 until 01:30 (indoors only)
 - Recorded music: Extend hours from 00:00 until 01:30 (indoors only)
 - Late Night Refreshment: Extend hours from 00:00 until 01:30 (indoors and outdoors)
 - Supply of alcohol: Extend hours from 00:00 until 01:30 (consumption on and off the premises).

- 2.4 The application lists the opening hours for Wednesday into Thursday morning as 00:00 until 01:30. It should be noted that the opening hours of the existing licence are 00:00 – 00:00 (24 hours) and this reflects the fact that guests may be spending the night at the premises, not the fact that licensable activities will be carried out throughout the night. Guests would still therefore be able to spend the night at the premises as no licensable activities would be undertaken.

3.0 LICENSING OBJECTIVES AND EXISTING CONDITIONS

- 3.1 In a variation application like this, the applicant is requested to list any ‘additional’ steps they intend to take to promote the four licensing objectives, in light of the variations proposed. The four licensing objectives are:
- The prevention of crime and disorder

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

3.2 The applicant has stated:

There should be no variation from the steps we already ensure that are carried out under our present Premises licence.

3.3 The existing premises licence has a condition relating to noise from regulated entertainment and this condition can be seen in full as Annex 3. The licence holder employed a noise consultant to carry out a noise assessment (as required by the condition) and a copy of the full report will be available at the hearing should any party wish to make reference to it.

3.4 The sub-committee may be particularly interested in the following paragraph of the noise assessment:

'The results of the ambient sound survey indicate that the typical background sound pressure level at properties on the southern outskirts of Zeal Monachorum, is LA90,T 29 dB and LA90,T 24 dB, during the day and night time periods, respectively'.

3.5 These figures are the relevant ones to consider in relation to the condition on the premises licence. For clarity, the condition therefore essentially states that noise levels produced from the premises and measured at the external monitoring site identified on the relevant plan (shown in Annex 3) shall not exceed the following:

- 39 dB for more than a 15 minute period between 09:00 and 23:00
- 34 dB for more than a 5 minute period between 23:00 and 09:00

4.0 RESPONSIBLE AUTHORITIES

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

4.2 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

4.3 No representations have been received from Responsible Authorities for this application.

5.0 OTHER PERSONS

5.1 The Licensing Act allows 'other persons' to make representations provided they are relevant. To be relevant, a representation must relate to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives.

5.2 In this case the licensing authority received ONE representation from a Mr and Mrs Carey within the statutory 28 day period. In broad terms, it identified the following issues as creating 'excessive noise':

- Music from the premises
- Voices of people as they leave the premises or continue to party outside
- Noise from vehicles

5.3 The representation is attached in full as Annex 4. Mr and Mrs Carey confirmed to licensing that they have not previously made a complaint to Environmental Health as they were hoping '*a satisfactory resolution to the noise issue might otherwise be found*'.

6.0 COMPLAINT HISTORY AND ADDITIONAL CONSIDERATIONS

6.1 In light of the representation, Environmental Health would be considered the relevant responsible authority as they would ultimately investigate noise complaints. In this particular case, they would consider the noise from music but not necessarily the noise from people or cars, in so far as it would be unlikely to constitute a statutory nuisance.

6.2 Environmental Health are not a party to the hearing (because they did not make a representation) but have confirmed the following:

The Hayne noise condition offers residents a high degree of protection. Compliance with the noise condition is more stringent than the sound levels recommended by the World Health Organisation (WHO). The WHO recommends external sound levels in amenity areas as well as internal sound levels for daytime and night time. These levels are detailed as 40 dB (A) within a living room, 30 dB(A) within a bedroom and <50 dB(A) for external amenity areas.

Therefore, extending the licensing hours is not of a great concern to Environmental Health as long as the venue complies with the current noise condition.

6.3 The noise from people and cars is a consideration for the Licensing Authority because it is linked to the prevention of public nuisance licensing objective. It is

important to remember however, that conditions attached to licences must relate to matters which are within the control of the licence holder and relate to what happens at the premises or in its vicinity. The sub-committee may therefore wish to ask the licence holder (i.e. the applicant) what steps are currently taken to help reduce the impact of noise from people leaving. Examples of actions may include a member of staff actively monitoring the outside area or notices being on display requesting people leave quietly.

6.4 Enquires made by the licensing officer indicate that Environmental Health have received ONE complaint about noise from the premises and this was received in August 2015. Specifically, the complaint mentioned the volume of music and noise from partygoers. No further complaints have been received since this date.

6.5 In order to ensure the sub-committee have a complete picture, they should also be aware of the procedure should a complaint be received about a licensed premises because of noise as a statutory nuisance (in relation to regulated entertainment). In the first instance, noise diary sheets would be sent out to the complainant. If these are completed and returned to Environmental Health, they are then reviewed to see if the records indicate a problem. If they do, Environmental Health may then undertake noise monitoring and/or seek to directly witness the situation in order to make a professional judgement as to whether a nuisance is being or is capable of being caused. Should this investigation evidence that statutory nuisance is occurring then that team will:

- Take action under the Environmental Protection Act 1990, which could include serving an abatement notice; and would also work closely with Licensing officers to consider whether to
- Also take action under the Licensing Act 2003, which could include reviewing the premises licence

6.6 In addition to the above, it should also be noted that any breach of a condition on a premises licence is an offence under the Licensing Act which the Licensing Authority can investigate and enforce.

7.0 LICENSING POLICY

7.1 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 this Council formally adopted the current policy on 18 December 2013 and it came into effect 7 January 2014. It includes the following:

7.2 The Authority has a duty under s.4 of the Act to carry out its licensing functions with the aim of promoting the four licensing objectives. (Policy Paragraph 3.1)

7.3 Public nuisance can include low level nuisance affecting a few people living locally, as well as a major disturbance affecting the wider community. Nuisance is generally attributable to noise (from loud music or noisy customers), vibration, light pollution, noxious smells and

litter. Applicants will be required to demonstrate that they have adequate measures in place in their applications to prevent nuisance and disturbance. (Policy Paragraph 3.4.1)

- 7.4 Noise from people entering and leaving licensed premises, particularly late at night or in the early hours of the morning, can be a significant problem. Customers under the influence of alcohol are often less inhibited about their behaviour and may be unaware of the noise they are creating. As background noise levels are lower at night, any noise is more intrusive for residents trying to sleep. (Policy Paragraph 3.4.2)
- 7.5 The central purpose of the licensing function is to promote the licensing objectives through the effective regulation of licensed premises, qualifying clubs and temporary events. The Authority is keen to foster a safe and vibrant leisure economy and will work with applicants and licence holders to encourage and sustain well managed premises which make a positive contribution to the community. The Authority will expect applicants and licence holders to demonstrate that they have given thought to and have in place adequate measures to ensure that the operation of their premises will not have an adverse effect on the quality of life of persons living and/or working in the vicinity of the premises. (Policy Paragraph 4.1.4)
- 7.6 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. (Policy Paragraph 5.3.1)
- 7.7 Since the introduction of the Act, the Authority's experience is that the vast majority of complaints about licensed premises are caused by public nuisance, in particular excessive noise from live and recorded music and disturbance caused by customers congregating outside licensed premises. The Authority will expect applicants to have particular regard to these issues and, if considered appropriate, to include in their Operating Schedules adequate and effective steps to control noise and disturbance from their premises. Existing licence holders will also be expected to demonstrate – through the effective management of their premises – that they are taking appropriate and reasonable steps within their control to minimise disorder, antisocial behaviour and public nuisance. (Policy Paragraph 5.3.4)
- 7.8 It should be noted that when determining an application, the Authority is making a judgement 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. (Policy Paragraph 5.3.6)
- 7.9 The licensed hours will normally be approved where the applicant can show that the proposal would not adversely affect the licensing objectives. The Licensing Authority may, however, set an earlier terminal hour where it considers this is appropriate to the nature of the activities and the amenity of the area or is necessary to achieve one or more of the licensing objectives. (Policy Paragraph 6.3)
- 7.10 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 (Policy Paragraph 7.2)

7.11 Members must have regard to the policy when making their decision and a copy of it will be available at the hearing.

8.0 GOVERNMENT GUIDANCE

8.1 Members are also obliged to have regard to the Guidance produced under S.182 of the Licensing Act 2003. The relevant version for this application was published in April 2018. It includes the following:

8.2 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. (Policy Paragraph 1.17)

8.3 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. (Policy Paragraph 9.37)

8.4 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. (Policy Paragraph 9.38)

8.5 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. (Policy Paragraph 9.42)

8.6 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. (Policy Paragraph 9.43)

8.7 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. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business.... The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination. (Policy Paragraph 9.44)

8.8 A copy of S182 Guidance will be available to view at the hearing and the full Policy can also be viewed at <https://www.middevon.gov.uk/business/licensing/licensing-policies/>.

9.0 DETERMINATION

9.1 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
- Refusing the application

9.2 As this is an application to vary the premises licence, the only matters for the sub-committee to consider are those applied for in the variation application.

9.3 Reasons should be given for the decision which set out the matters taken into consideration and why such a decision was arrived at.

9.4 Members have five working days from the conclusion of the hearing to make a decision.

9.5 An adopted procedure for Hearings is available as Annex 5. This should help guide all parties through the hearing process.

10.0 APPEAL

- 10.1 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.

ANNEXES TO THIS REPORT

Annex 1	Existing premises licence
Annex 2	Application to vary the premises licence
Annex 3	Noise condition
Annex 4	Representation
Annex 5	Hearing procedures

Contact for more Information: Tom Keating / 01884 244618 / tkeating@middevon.gov.uk

Circulation of the Report: Legal / Regulatory Sub-Committee / Applicant

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Licensing Act 2003 Premises Licence

MDV PR0363

LOCAL AUTHORITY



Licensing Section
Mid Devon District Council
Phoenix House
Phoenix Lane
TIVERTON
DEVON
EX16 6PP

Part 1 - Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

Hayne Barn

Hayne, Zeal Monachorum, Crediton, Devon, EX17 6DE.

Telephone 01363 82515

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- a performance of a play
- an exhibition of a film
- a performance of live music
- any playing of recorded music
- a performance of dance
- entertainment of a similar description to that falling within a performance of live music, any playing of recorded music or a performance of dance
- provision of late night refreshment
- the supply of alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To	
A. Performance of a play (Indoors & Outdoors)	Monday to Thursday	9:00am	11:00pm	
	Friday and Saturday	9:00am	Midnight	
	Sunday	9:00am	11:00pm	
	New Years Eve			deregulated
	Outside Areas / All Days	9:00am	10:00pm	
B. Exhibition of films (Indoors & Outdoors)	Monday to Thursday	9:00am	Midnight	
	Friday and Saturday	9:00am	1:30am	
	Sunday	9:00am	Midnight	
	New Years Eve			deregulated
	Outside Areas / All Days	9:00am	10:00pm	
E. Performance of live music (Indoors & Outdoors)	Monday to Thursday	9:00am	Midnight	
	Friday and Saturday	9:00am	1:30am	
	Sunday	9:00am	Midnight	
	New Years Eve			deregulated
	Outside Areas / All Days	9:00am	11:00pm	

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES continued ...

Activity (and Area if applicable)	Description	Time From	Time To	
F. Playing of recorded music (Indoors & Outdoors)	Monday to Thursday	9:00am	Midnight	
	Friday and Saturday	9:00am	1:30am	
	Sunday	9:00am	Midnight	
	New Years Eve			deregulated
	Outside Areas / All Days	9:00am	11:00pm	
G. Performance of dance (Indoors & Outdoors)	Monday to Thursday	9:00am	Midnight	
	Friday and Saturday	9:00am	1:30am	
	Sunday	9:00am	Midnight	
	New Years Eve			deregulated
	Outside Areas / All Days	9:00am	10:00pm	
H. Entertainment of a similar description to that falling within E, F, or G (Indoors & Outdoors)	Monday to Thursday	9:00am	Midnight	
	Friday and Saturday	9:00am	1:30am	
	Sunday	9:00am	Midnight	
	Outside Areas / All Days	9:00am	11:00pm	
	New Years Eve			deregulated
	May Day	9:00am	1:30am	
	Summer Solstice	9:00am	1:30am	
	Bank Holidays	9:00am	1:30am	
I. Late night refreshment (Indoors & Outdoors)	Monday to Thursday	11:00pm	Midnight	
	Friday and Saturday	11:00pm	1:30am	
	Sunday	11:00pm	Midnight	
	New Years Eve			deregulated
	Summer Solstice	11:00pm	1:30am	
	May Day	11:00pm	1:30am	
	Bank Holidays	11:00pm	1:30am	
J. Supply of alcohol for consumption ON and OFF the premises	Monday to Thursday	10:00am	Midnight	
	Friday and Saturday	10:00am	1:30am	
	Sunday	10:00am	Midnight	
	New Years Eve			deregulated
	May Day	10:00am	1:30am	
	Bank Holidays	10:00am	1:30am	
	Summer Solstice	10:00am	1:30am	

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Sunday	Midnight	Midnight

WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

- J. Supply of alcohol for consumption ON and OFF the premises
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Licensing Act 2003
Premises Licence

MDV PR0363

Part 2

NAME, (REGISTERED) ADDRESS, TELEPHONE NUMBER AND EMAIL (WHERE RELEVANT) OF HOLDER OF PREMISES LICENCE

Timothy George Herniman

Camilla Herniman

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

NAME, ADDRESS AND TELEPHONE NUMBER OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

Timothy George HERNIMAN

PERSONAL LICENCE NUMBER AND ISSUING AUTHORITY OF PERSONAL LICENCE HELD BY DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES FOR THE SUPPLY OF ALCOHOL

Licence No. MDV PE0914

Issued by Mid Devon

ANNEXES

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

ANNEXES continued ...

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-

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

ANNEXES continued ...

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) 'valued 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.

Condition 7

Where the film classification body is specified in the licence, unless subsection (3) (b) applies, admission of the children must be restricted in accordance with any recommendation made by that body.

Where-

- a) The film classification body is not specified in the licence, or
- b) The relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question,

admission of the children must be restricted in accordance with any recommendation made by that licensing authority.

In this section

'children' means persons aged under 18; and

'film classification body' means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c 39) (authority to determine suitability of video works for classification).

ANNEX 2 - CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE

ANNEXES continued ...

ANNEX 3 - CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY - 20 AUGUST 2015

During the performance of any regulated entertainment from the licensed premises the Aweighted equivalent continuous noise level (LAeq) emanating from the premises, as measured at the monitoring point (detailed on the plan attached to this licence as 'Annex 3 - Noise Monitoring Point) at a minimum distance of 3.5m from any reflective buildings over any 15 minute period after 09.00 until 23.00 and any 5 minute period after 23.00 until 09.00 with entertainment taking place, must not increase by more than +10 dB as compared to the same measure, from the same position and over a comparable period, with no entertainment taking place.

To clarify, a noise control consultant should be employed to carry out a survey to determine the typical background noise level. The background sound level, LA90, T is defined as the A-weighted sound pressure level that is exceeded by the residual sound at the assessment location for 90% of a given time interval, T, measured using time weighting F and quoted to the nearest whole number of decibels'

In determining the representative decibel level the following information must be taken into consideration:

- 1 The sound levels are typical and representative of the surrounding area
- 2 They cover the time period concerned
- 3 They have been reliably taken by a competent person.

It must be remembered that the objective is not to obtain the lowest measured sound level but the most typically representative sound level for the surrounding area at that given time.

ANNEX 4 - PLAN OF PREMISES

See the following attached plans:

- Annex 4 - A - 20 August 2015
- Annex 4 - B - 20 August 2015
- Annex 4 - C - 20 August 2015
- Annex 4 - D - 20 August 2015

Signature of Authorised Officer

LOCAL AUTHORITY



Licensing Section
Mid Devon District Council
Phoenix House
Phoenix Lane
TIVERTON
DEVON
EX16 6PP

Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDANCE SURVEY MAP REFERENCE OR DESCRIPTION

Hayne Barn

Hayne, Zeal Monachorum, Crediton, Devon, EX17 6DE.

Telephone 01363 82515

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- a performance of a play
- an exhibition of a film
- a performance of live music
- any playing of recorded music
- a performance of dance
- entertainment of a similar description to that falling within a performance of live music, any playing of recorded music or a performance of dance
- provision of late night refreshment
- the supply of alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To	
A. Performance of a play (Indoors & Outdoors)	Monday to Thursday	9:00am	11:00pm	
	Friday and Saturday	9:00am	Midnight	
	Sunday	9:00am	11:00pm	
	New Years Eve			deregulated
	Outside Areas / All Days	9:00am	10:00pm	
B. Exhibition of films (Indoors & Outdoors)	Monday to Thursday	9:00am	Midnight	
	Friday and Saturday	9:00am	1:30am	
	Sunday	9:00am	Midnight	
	New Years Eve			deregulated
	Outside Areas / All Days	9:00am	10:00pm	
E. Performance of live music (Indoors & Outdoors)	Monday to Thursday	9:00am	Midnight	
	Friday and Saturday	9:00am	1:30am	
	Sunday	9:00am	Midnight	
	New Years Eve			deregulated
	Outside Areas / All Days	9:00am	11:00pm	

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES continued ...

Activity (and Area if applicable)	Description	Time From	Time To	
F. Playing of recorded music (Indoors & Outdoors)	Monday to Thursday	9:00am	Midnight	
	Friday and Saturday	9:00am	1:30am	
	Sunday	9:00am	Midnight	
	New Years Eve			deregulated
	Outside Areas / All Days	9:00am	11:00pm	
G. Performance of dance (Indoors & Outdoors)	Monday to Thursday	9:00am	Midnight	
	Friday and Saturday	9:00am	1:30am	
	Sunday	9:00am	Midnight	
	New Years Eve			deregulated
	Outside Areas / All Days	9:00am	10:00pm	
H. Entertainment of a similar description to that falling within E, F, or G (Indoors & Outdoors)	Monday to Thursday	9:00am	Midnight	
	Friday and Saturday	9:00am	1:30am	
	Sunday	9:00am	Midnight	
	Outside Areas / All Days	9:00am	11:00pm	
	New Years Eve			deregulated
	May Day	9:00am	1:30am	
	Summer Solstice	9:00am	1:30am	
	Bank Holidays	9:00am	1:30am	
I. Late night refreshment (Indoors & Outdoors)	Monday to Thursday	11:00pm	Midnight	
	Friday and Saturday	11:00pm	1:30am	
	Sunday	11:00pm	Midnight	
	New Years Eve			deregulated
	Summer Solstice	11:00pm	1:30am	
	May Day	11:00pm	1:30am	
	Bank Holidays	11:00pm	1:30am	
J. Supply of alcohol for consumption ON and OFF the premises	Monday to Thursday	10:00am	Midnight	
	Friday and Saturday	10:00am	1:30am	
	Sunday	10:00am	Midnight	
	New Years Eve			deregulated
	May Day	10:00am	1:30am	
	Bank Holidays	10:00am	1:30am	
	Summer Solstice	10:00am	1:30am	

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Sunday	Midnight	Midnight

WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

- J. Supply of alcohol for consumption ON and OFF the premises
--

NAME, (REGISTERED) ADDRESS OF HOLDER OF PREMISES LICENCE

Timothy George Herniman	Hayne, Zeal Monachorum, Crediton Devon, EX17 6DE.
Camilla Herniman	Hayne, Zeal Monachorum, Crediton, Devon, EX17 6DE.

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

Licensing Act 2003

Premises Licence Summary

MDV PR0363

NAME OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

Timothy George HERNIMAN

STATE WHETHER ACCESS TO THE PREMISES BY CHILDREN IS RESTRICTED OR PROHIBITED

Signature of Authorised Officer

Application to vary a premises licence under the Licensing Act 2003**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I/ Mr & Mrs T Herniman

We

(Insert name(s) of applicant)

being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in Part 1 below

Premises licence number

MDV PR0363

Part 1 – Premises Details

Postal address of premises or, if none, ordnance survey map reference or description

Hayne
Zeal Monachorum
Devon

Post town	Crediton	Postcode	EX17 6DE
-----------	----------	----------	----------

Telephone number at premises (if any)	[REDACTED]
Non-domestic rateable value of premises	£ 13750

Part 2 – Applicant details

Daytime contact telephone number	[REDACTED]
E-mail address (optional)	

last day for rps
16/7/18

paid £190.00
18/6/18

Current postal address if different from premises address			
Post town		Postcode	

Part 3 - Variation

Please tick as appropriate

Do you want the proposed variation to have effect as soon as possible? **YES**

If not, from what date do you want the variation to take effect? DD MM YYYY
?? ?? ?? ?? ?? ?? ??

Do you want the proposed variation to have effect in relation to the introduction of the late night levy? (Please see guidance note 1) **NO**

Please describe briefly the nature of the proposed variation (Please see guidance note 2)

To adjust the close time from midnight on a Thursday to 1.30am for the sale of alcohol, late night refreshment, performances of live & recorded music (the difference of 90 minutes). Other than that, no variations are required.

If your proposed variation would mean that 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend:

Part 4 Operating Schedule

Please complete those parts of the Operating Schedule below which would be subject to change if this application to vary is successful.

Provision of regulated entertainment (Please see guidance note 3) Please tick all that apply

- a) plays (if ticking yes, fill in box A)
- b) films (if ticking yes, fill in box B)
- c) indoor sporting events (if ticking yes, fill in box C)
- d) boxing or wrestling entertainment (if ticking yes, fill in box D)
- e) live music **YES**
- f) recorded music **YES**
- g) performances of dance (if ticking yes, fill in box G)
- h) anything of a similar description to that falling within (e), (f) or (g)
(if ticking yes, fill in box H)

Provision of late night refreshment YES

Supply of alcohol YES

In all cases complete boxes K, L and M

A

Plays Standard days and tim- ings (please read guid- ance note 8)			Will the performance of a play take place in- doors or outdoors or both – please tick (please read guidance note 4)	Indoors	
				Outdoors	
Day	Start	Finish		Both	
Mon			<u>Please give further details here</u> (please read guidance note 5)		
Tue					
Wed			<u>State any seasonal variations for performing plays</u> (please read guid- ance note 6)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list</u> (please read guidance note 7)		
Sat					
Sun					

B

Films Standard days and timings (please read guidance note 8)			Will the exhibition of films take place indoors or outdoors or both – please tick (please read guidance note 4)	Indoors	
				Outdoors	
				Both	
Day	Start	Finish	Please give further details here (please read guidance note 5)		
Mon					
Tue					
			State any seasonal variations for the exhibition of films (please read guidance note 6)		
Wed					
Thur					
			Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list (please read guidance note 7)		
Fri					
Sat					
Sun					

C

Indoor sporting events Standard days and tim- ings (please read guid- ance note 8)			<u>Please give further details</u> (please read guidance note 5)
Day	Start	Finish	
Mon			
Tue			<u>State any seasonal variations for indoor sporting events</u> (please read guidance note 6)
Wed			
Thur			<u>Non standard timings. Where you intend to use the premises for in- door sporting events at different times to those listed in the column on the left, please list</u> (please read guidance note 7)
Fri			
Sat			
Sun			

D

Boxing or wrestling entertainments Standard days and timings (please read guidance note 8)			<u>Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick</u> (please read guidance note 4)	Indoors	
				Outdoors	
				Both	
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 5)		
Mon					
Tue					
			<u>State any seasonal variations for boxing or wrestling entertainment</u> (please read guidance note 6)		
Wed					
Thur					
			<u>Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list</u> (please read guidance note 7)		
Fri					
Sat					
Sun					

E

Live music Standard days and tim- ings (please read guid- ance note 8)			Will the performance of live music take place <u>indoors or outdoors or both – please tick</u> (please read guidance note 4)	Indoors	YES
				Outdoors	
Day	Start	Finish		Both	
Mon			<u>Please give further details here</u> (please read guidance note 5)		
Tue					
Wed			<u>State any seasonal variations for the performance of live music</u> (please read guidance note 6)		
Thur	0.00	01.30			
Fri			<u>Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list</u> (please read guidance note 7)		
Sat					
Sun					

F

Recorded music Standard days and tim- ings (please read guid- ance note 8)			Will the playing of recorded music take place <u>indoors or outdoors or both</u> – please tick (please read guidance note 4)	Indoors	
				Outdoors	
Day	Start	Finish		Both	
Mon			Please give further details here (please read guidance note 5)		
Tue					
Wed			State any seasonal variations for the playing of recorded music (please read guidance note 6)		
Thur	0.00	01.30			
Fri			Non standard timings. Where you intend to use the premises for the <u>playing of recorded music at different times to those listed in the col- umn on the left, please list</u> (please read guidance note 7)		
Sat					
Sun					

G

Performances of dance Standard days and timings (please read guidance note 8)			<u>Will the performance of dance take place indoors or outdoors or both – please tick</u> (please read guidance note 4)	Indoors	
				Outdoors	
				Both	
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 5)		
Mon					
Tue			<u>State any seasonal variations for the performance of dance</u> (please read guidance note 6)		
Wed			<u>Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list</u> (please read guidance note 7)		
Thur					
Fri					
Sat					
Sun					

H

Anything of a similar description to that falling within (e), (f) or (g) Standard days and timings (please read guidance note 8)			Please give a description of the type of entertainment you will be providing		
Day	Start	Finish	<u>Will this entertainment take place indoors or outdoors or both – please tick</u> (please read guidance note 4)	Indoors	
Mon				Outdoors	
				Both	
Tue			<u>Please give further details here</u> (please read guidance note 5)		
Wed					
Thur			<u>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</u> (please read guidance note 6)		
Fri					
Sat			<u>Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list</u> (please read guidance note 7)		
Sun					

I

Late night refreshment Standard days and timings (please read guidance note 8)			<u>Will the provision of late night refreshment take place indoors or outdoors or both – please tick</u> (please read guidance note 4)	Indoors	
				Outdoors	
Day	Start	Finish		Both	
Mon			<u>Please give further details here</u> (please read guidance note 5)		
Tue					
Wed			<u>State any seasonal variations for the provision of late night refreshment</u> (please read guidance note 6)		
Thur	0.00	01.30			
Fri			<u>Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list</u> (please read guidance note 7)		
Sat					
Sun					

J

Supply of alcohol Standard days and timings (please read guidance note 8)			Will the supply of alcohol be for consumption – please tick (please read guidance note 9)	On the premises	
				Off the premises	
Day	Start	Finish		Both	
Mon			<u>State any seasonal variations for the supply of alcohol</u> (please read guidance note 6)		
Tue					
Wed					
Thur	0.00	01.30	<u>Non-standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list</u> (please read guidance note 7)		
Fri					
Sat					
Sun					

K

A later finish time than is currently allowed by 90 minutes on a Thursday morning.

Please tick as appropriate

☐ I have enclosed the premises licence

☐ I have enclosed the relevant part of the premises licence

If you have not ticked one of these boxes, please fill in reasons for not including the licence or part of it below

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 10).

L

Hours premises are open to the public Standard days and timings (please read guidance note 8)			<u>State any seasonal variations</u> (please read guidance note 6)
Day	Start	Finish	<u>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list</u> (please read guidance note 7)
Mon			
Tue			
Wed			
Thur	0.00	01.30	
Fri			
Sat			
Sun			

M Describe any additional steps you intend to take to promote the four licensing objectives as a result of the proposed variation:

a) General – all four licensing objectives (b, c, d and e) (please read guidance note 11)

There should be no variation from the steps we already ensure that are carried out under our present Premises Licence.

b) The prevention of crime and disorder

c) Public safety

d) The prevention of public nuisance

Signature	Camilla Herniman
Date	18th June 2018
Capacity	Owner

Contact name (where not previously given) and address for correspondence associated with this application (please read guidance note 15)			
Post town		Post code	
Telephone number (if any)			
If you would prefer us to correspond with you by e-mail, your e-mail address (optional)			

Notes for Guidance

This application cannot be used to vary the licence so as to extend the period for which the licence has effect or to vary substantially the premises to which it relates. If you wish to make that type of change to the premises licence, you should make a new premises licence application under section 17 of the Licensing Act 2003.

1. You do not have to pay a fee if the only purpose of the variation for which you are applying is to avoid becoming liable for the late night levy
2. Describe the premises. For example, the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place of consumption of these off-supplies of alcohol, you must include a description of where the place will be and its proximity to the premises.
3. In terms of specific regulated entertainments please note that:
 - Plays: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500.
 - Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
 - Indoor sporting events: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
 - Boxing or Wrestling Entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000. Combined fighting sports – defined as a contest, exhibition or display which combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.

- Live music: no licence permission is required for:
 - a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
 - a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.
 - a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.
- Recorded Music: no licence permission is required for:
 - any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - any playing of recorded music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.
- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500. However, a performance which amounts to adult entertainment remains licensable.
- Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
 - any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
 - any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
 - any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
 - any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

Noise

The noise climate of the surrounding rural area must be protected.

During the performance of any regulated entertainment from the licensed premises the Aweighted equivalent continuous noise level (LAeq) emanating from the premises, as measured at the monitoring point (detailed on the plan below on the access road in front of Chynoweth) at a minimum distance of 3.5m from any reflective buildings over any 15 minute period after 09.00 until 23.00 and any 5 minute period after 23.00 until 09.00 with entertainment taking place, must not increase by more than +10 dB as compared to the same measure, from the same position and over a comparable period, with no entertainment taking place.



To clarify, a noise control consultant should be employed to carry out a survey to determine the typical background noise level. The background sound level, LA90, T is defined as the A-weighted sound pressure level that is exceeded by the residual sound at the assessment location for 90% of a given time interval, *T*, measured using time weighting *F* and quoted to the nearest whole number of decibels'

In determining the representative decibel level the following information must be taken into consideration:

- 1 The sound levels are typical and representative of the surrounding area
- 2 They cover the time period concerned
- 3 They have been reliably taken by a competent person.

It must be remembered that the objective is not to obtain the lowest measured sound level but the most typically representative sound level for the surrounding area at that given time.

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Thomas Keating

From: [REDACTED]
Sent: 11 July 2018 22:15
To: Licensing
Subject: Application 022079

Follow Up Flag: FollowUp
Flag Status: Flagged

Dear Sir/Madam

Re: Application 022079 Mr Timothy Herniman, Hayne Barn, Zeal Monachorum.

We wish to register our objection to this application.

We live in the nearest private dwelling to Hayne Barn which our bedroom and living room overlook, about 500m away. On several occasions we have been unable to sleep due to excessive noise emanating from Hayne barn, after midnight: We have resorted to phoning Hayne when this is happening but got no answer and have also spoken directly to Mr Herniman, but unfortunately as soon as we see an event taking place at Hayne we know the chance of sleeping will be minimal!

It is especially detrimental to our quality of life during summer months when it is necessary to have our windows open. We always hope for rain, when at least the revellers at Hayne are not outside.

The music resounds across the valley, followed by excited voices as people leave, accompanied by the noise of vehicles, or continue to party outside until much later.

Monitoring of sound levels, as required by the current licence does not, if in fact carried out, achieve its purpose.

What was, until recently, a peaceful rural environment, is now suffering severely from noise pollution due to the weekend late licence and does not need to extend to weekdays.

Yours faithfully

Richard & Susan Carey

[REDACTED]

Sent from my iPad

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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

Hearing Procedures

- New premises licence application (attached)

Hearing Guidance

- General guidance to attendees (attached)

HEARING PROCEDURE: PREMISES LICENCE APPLICATION

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