

Public Document Pack

Mid Devon District Council

Licensing Sub-Committee C

Monday, 4 March 2019 at 10.30 am

Next ordinary meeting
Date Not Specified at Time Not Specified

Those attending are advised that this meeting will be recorded

Membership

Cllr R J Chesterton
Cllr T G Hughes
Cllr Mrs E J Slade

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 **Election of Chairman**
To elect a Chairman for the meeting.
- 3 **DETERMINATION OF A NEW PREMISES LICENCE APPLICATION FOR CLEAVE BARTON, BICKLEIGH, DEVON, EX16 8RG (Pages 3 - 58)**
An application has been received for a new Premises Licence for Cleave Barton, Bickleigh Devon EX16 8RG As representations have been received by Mid Devon District Council, as the Licensing Authority, is obliged to hold a hearing to determine the application.

Stephen Walford
Chief Executive
Date Not Specified

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

Tel: 01884 234310

E-Mail: slees@middevon.gov.uk

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LICENSING SUB COMMITTEE
DATE OF HEARING: 4 MARCH 2019

**DETERMINATION OF A NEW PREMISES LICENCE APPLICATION FOR CLEAVE BARTON,
BICKLEIGH, DEVON, EX16 8RG**

Cabinet Member(s): Cllr Colin Slade (Community Well Being)

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

Reason for Report:

An application has been received for a New Premises Licence for Cleave Barton, Bickleigh, Devon, EX16 8RG. As two representations have been received, Mid Devon District Council, as the Licensing Authority, is obliged to hold a hearing to determine the application.

Recommendation:

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

Relationship to Corporate Plan: N/A

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.

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.

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 APPLICATION FOR A PREMISES LICENCE

1.1 The application for a Premises Licence was submitted by Cleave Barton Partnership T/A Valleyside Escapes.

1.2 The application form asks the applicant to provide a general description of the premises. In this case, the following information has been provided:

‘Cleave Barton is the name of the former farm buildings formerly belonging to Millhayes farm, Bickleigh. The main barn was converted into a dwelling in 2001 and the remaining outbuildings currently have commercial use as pottery, artists studios and art gallery and form a single planning unit together with around five acres of agricultural land.

The site is situated just behind the commercial enterprise of Bickleigh Mill with the railway tourist attraction the Devon Railway Centre situated a short distance further to the west.

In May 2018 planning permission was granted for three glamping tents sleeping up to six people each and they are situated in the top field above the main domestic residence. This glamping site is trading under the name of Valleyside Escapes.

Currently, there is a planning application with Mid Devon council to convert two of the outbuildings into two, three bedroom, luxury holiday cottages and a further application is pending submission to the council to convert another outbuilding into an events space predominantly for weddings.

A further outbuilding is currently being converted into a small bar area. (See site map attached).

The primary use of the bar will be a place for guests in the glamping tents to come and purchase alcohol to take back to their tents to consume. We will stock locally produced wines, ciders and ales. The secondary use is during peak times to open the bar to glamping guests and local village residents one or two nights a week. In addition, we will be holding some ‘speciality events’ involving the consumption of alcohol. For example on Saturday September 21 and 28 September we are hosting an ‘apple pressing’ activity at the end of this activity we plan to offer tasting of local cider in the bar’.

1.3 In summary, the application is for the following:

Licensable Activity	Indoors / Outdoors	Days	Times
Supply of Alcohol	For consumption ON and OFF the premises	Mon - Sun	11:00 – 23:00
Opening Hours	N/A	Mon – Sun	11:00 – 23:30

1.4 A copy of the application is attached to this report as **Annex 1** and the accompanying plans are attached as **Annex 2**.

1.5 It must be noted that many activities that previously required a licence are no longer themselves licensable under the Licensing Act (assuming specific requirements are met) (see <https://www.gov.uk/guidance/entertainment-licensing-changes-under-the-live-music-act> for more information). For example, Recorded Music is considered ‘de-regulated’ between 08:00 – 23:00, if it takes place on premises licensed for the supply of alcohol for consumption ON the premises; and in the presence of less than 500 people.

2.0 THE LICENSING OBJECTIVES

2.1 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
- The protection of children from harm

2.2 The applicant has offered the following conditions as part of the application (which can be seen in Section M of **Annex 1**):

Condition 1

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

- i. The Challenge 25 scheme in operation at the premises, including the forms of identification that are acceptable*
- ii. The hours and activities permitted by the premises licence issued under the Licensing Act 2003 and conditions attached to the licence*
- iii. Recognising the signs of drunkenness*

- iv. *The operating procedures for refusing service to any person who is drunk, under-age or appears to be under-age, or appears to be making a proxy purchase*
- v. *Action to be taken in the event of an emergency, including reporting an incident to the emergency services*

Training shall be recorded in documentary form and shall be regularly refreshed at no greater than 12 month intervals. Training records shall be made available for inspection and copying at reasonable times upon request of an authorised officer of a responsible authority.

Training records will be retained for at least 12 months.

Condition 2

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 3

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.

3.0 RESPONSIBLE AUTHORITIES

3.1 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.

3.2 The Responsible Authorities are:

- Police

- Fire Service
- Environmental Health (nuisance and health and safety)
- Licensing Authority
- Planning Authority
- Health and Safety Executive
- Weights and Measures
- The body responsible for Child Protection
- The local Director of Public Health
- Home Office

3.3 No representation was received from any Responsible Authority concerning this application.

4.0 OTHER PERSONS

4.1 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 (Paragraph 9.4) states that '*... representations should relate to the impact of licensable activities carried on from premises on the objectives*'.

4.2 In this case, the Licensing Authority has received (and accepted in part) two representations. These are attached as **Annex 3** and **Annex 4**. Not all elements of these representations are considered relevant and additional information is provided about this below.

4.3 For Members information, a further representation was received but this was not accepted as valid under the Licensing Act. In brief, this was because it only mentioned that there were already licensed premises in the area and that trade may not be sustainable.

5.0 LICENSING OFFICER COMMENTS

5.1 In order to focus the hearing and aid discussion, the following comments are made in relation to the representations received and the application. It must be noted that these comments do not prevent Interested Parties from providing further information on relevance, should they wish. Additionally, and where relevant, guidance issued under Section 182 of the Licensing Act has been highlighted.

5.2 In summary, it is the view of the Licensing Officer that the representations contain the following relevant considerations:

Location of the premises within a Zone 3 flood area

- 5.3 This has been raised in both representations and relates to the public safety licensing objective. S182 Guidance 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. Physical safety includes the prevention of accidents and injuries...'* (Paragraph 2.7 of S182 Guidance).
- 5.4 At the time of writing this report, the Licensing Officer has contacted the Environment Agency for further information about this and any specific requirements that may apply to the premises. Hopefully an update on the situation can be provided to the Sub-Committee either in advance of the hearing or at the hearing itself.

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

- 5.5 These issues have been raised in one representation and relate to the prevention of public nuisance licensing objective. As this particular application is for a new premises licence, there is no relevant licensing history that can be reviewed. However, what must be considered is the applied for activity (in this case the supply of alcohol) 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).
- 5.6 The following S182 guidance should also be noted:
- 5.7 *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)
- 5.7 *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)
- 5.8 *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)

5.9 *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)*

5.10 *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)*

5.11 The following matters have been mentioned in the representations received but are not considered relevant for the Licensing Authority to consider:

- The mere fact that the premises is situated in a conservation area. Nothing in the Licensing Act prevents the issuing of a licence to a premises in such an area.
- The fact that planning permission has not been applied for and / or granted (for further information see Paragraph 6.0 below).
- The concept of 'need' for the premises is not relevant, as is the commercial impact on other premises.
- General road traffic concerns which are not within the control of a licence holder

6.0 PLANNING CONSIDERATIONS

6.1 Members should be aware that various planning issues are outstanding in relation to the premises. In order to try and clarify the considerations of the Sub-Committee, the following sections of Mid Devon District Council Licensing Policy are highlighted:

6.2 *The Licensing Authority recognises that licensing applications should not be seen as a re-run of the planning application process and that there should be a clear separation of the planning and licensing regimes to avoid duplication and inefficiency. (Paragraph 3.20)*

- 6.3 *The Licensing Authority recognises that it is legally permissible for applications for licences to be made before any relevant planning permission has been sought or granted by the planning authority. However the grant of a licence under the Act does not remove the need for applicants to obtain all the necessary planning consents. It should also be noted that grant of a licence in no way means that any planning application would also be granted and vice versa. (Paragraph 3.21)*
- 6.4 *It is strongly recommended that prospective applicants contact the Local Planning Authority in advance of making a licence application in order to check, or seek advice on, any planning consents or any conditions relevant to the use of the premises. It makes operational sense to ensure that planning and licensing are compatible. (Paragraph 3.22)*
- 6.5 *Where, as a condition of planning permission, a terminal hour has been set for the use of the premises for commercial purposes that is different to the licensing hours, the licensee must observe the earlier closing time in order to avoid any breach of planning permission (and vice versa where the licensing hours finish earlier than the planning permission). (Paragraph 3.23)*
- 6.6 Planning have been asked to provide a summary of where they stand in relation to the premises for information purposes only. It must be noted however that they have not made a representation in relation to the Premises Licence application. Once this is received, it will, if appropriate, be circulated to the Sub-Committee. If necessary, an update will also be provided at the hearing.

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's policy came into force on 7 January 2019. The policy must be referred to in its entirety, but in order to assist those reading this report and at the hearing, the following sections are highlighted:
- 7.2 *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)*
- 7.3 *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. (Paragraph 6.6)

- 7.4 *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)*
- 7.5 *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)*
- 7.6 *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)*
- 7.7 *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)*
- 7.8 *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)*
- 7.9 *In reaching a decision on whether or not to grant a licence, the Licensing Authority, if relevant representations are made, may take account of any non-compliance with other statutory requirements brought to its attention, if these undermine the licensing objectives. This is because any non-compliance with other statutory requirements may demonstrate that the premises are unsuitable for the activities proposed, or that the management of the premises is not adequate to protect the public from harm or nuisance. (Paragraph 6.14)*
- 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 (Paragraph 6.22)*

7.11 *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)*

7.12 *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)*

7.13 *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)*

7.14 *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)*

Public Safety

- 7.15 *When addressing public safety, an applicant or licence holder should initially identify any particular issues (having regard to their particular type of premises and/or activities), which are likely to adversely affect the promotion of the public safety objective. Such steps as are required to deal with these identified issues may be suitable to include within the applicant's Operating Schedule. (Paragraph 8.11)*
- 7.16 *Consideration should be given to matters to ensure that:*
- *when disabled people are present, adequate arrangements exist to enable their safe evacuation in the event of an emergency*
 - *disabled people on the premises are made aware of those arrangements*
 - *disabled people may have physical and / or mental problems which should be considered (Paragraph 8.13)*

Prevention of public nuisance

- 7.17 *Public nuisance is not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include issues around nuisance, noise, disturbance, light pollution, noxious smells, vermin and pest infestations and accumulations of rubbish and litter. (Paragraph 8.16)*
- 7.18 *The Licensing Authority recommends that applicants and licensees apply a higher standard of control to minimise the potential for any public nuisance that may arise from their operation of the premises where:*

- *They are located in a residential or noise sensitive area*
- *They have or are proposing extended open hours (Paragraph 8.17)*

7.19 *The Licensing Authority recognises that beyond the immediate vicinity of the premises the control that a licence holder can exert over its customers diminishes and individuals who engage in anti-social behaviour are accountable in their own right. The licensing regime is not a mechanism for the general control of nuisance and anti-social behaviour by individuals once they are beyond the direct control of the licence holder. (Paragraph 8.18)*

7.20 Members must have regard to the policy when making their decision and copies 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 and various sections have already been referenced in this report. In addition to these points, it includes the following information on conditions:

8.2 *Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. The use of wording such as “must”, “shall” and “will” is encouraged. Licence conditions:*

- *must be appropriate for the promotion of the licensing objectives;*
- *must be precise and enforceable;*
- *must be unambiguous and clear in what they intend to achieve;*
- *should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation;*
- *must be tailored to the individual type, location and characteristics of the premises and events concerned;*
- *should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;*
- *should not replicate offences set out in the 2003 Act or other legislation;*
- *should be proportionate, justifiable and be capable of being met;*
- *cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and*
- *should be written in a prescriptive format. (Paragraph 1.16)*

8.3 *Conditions include any limitations or restrictions attached to a licence or certificate and essentially are the steps or actions that the holder of the premises licence or the club premises certificate will be required to take or refrain from taking in relation to the carrying on of licensable activities at the premises in question. Failure to comply*

with any condition attached to a licence or certificate is a criminal offence, which on conviction is punishable by an unlimited fine or up to six months' imprisonment. The courts have made clear that it is particularly important that conditions which are imprecise or difficult for a licence holder to observe should be avoided. (Paragraph 10.2)

9.0 DETERMINATION

9.1 *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 of S182 Guidance)*

9.2 *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 of S182 Guidance)*

9.3 *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 of S182 Guidance)*

9.4 *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) of S182 Guidance*

9.5 *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 of S182 Guidance)

9.6 The Sub-Committee have the following options:

- 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 to specify a Designated Premises Supervisor
- Rejecting the application

9.7 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.

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

9.9 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.

ANNEXS TO THIS REPORT

Annex 1	Copy of the Premises Licence application
Annex 2	Copy of the plans
Annex 3	Representation (1)
Annex 4	Representation (2)
Annex 5	Procedure for hearings

Contact(s) for more information:

Simon Newcombe (Group Manager for Public Health for Regulatory Services) / 01884 244615 / snewcombe@middevon.gov.uk

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

**Application for a premises licence to be granted
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.

We Cleave Barton Partnership T/A Valleyside Escapes
(Insert name(s) of applicant)

apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in Part 1 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003

Part 1 – Premises details

Postal address of premises or, if none, ordnance survey map reference or description Cleave Barton Bickleigh			
Post town	Tiverton, Devon	Postcode	EX16 8RG

Telephone number at premises (if any)	01884 855538
Non-domestic rateable value of premises	£427.20

Part 2 - Applicant details

Please state whether you are applying for a premises licence as Please tick as appropriate

- | | | |
|--|--------------------------|-----------------------------|
| a) an individual or individuals * | <input type="checkbox"/> | please complete section (A) |
| b) a person other than an individual * | | |
| i as a limited company/limited liability partnership | <input type="checkbox"/> | please complete section (B) |
| ii as a partnership (other than limited liability) | x | please complete section (B) |
| iii as an unincorporated association or | <input type="checkbox"/> | please complete section (B) |
| iv other (for example a statutory corporation) | <input type="checkbox"/> | please complete section (B) |
| c) a recognised club | <input type="checkbox"/> | please complete section (B) |
| d) a charity | <input type="checkbox"/> | please complete section (B) |

- e) the proprietor of an educational establishment please complete section (B)
- f) a health service body please complete section (B)
- g) a person who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales please complete section (B)
- ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in an independent hospital in England please complete section (B)
- h) the chief officer of police of a police force in England and Wales please complete section (B)

* If you are applying as a person described in (a) or (b) please confirm (by ticking yes to one box below):

I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or

I am making the application pursuant to a statutory function or

a function discharged by virtue of Her Majesty's prerogative

(A) INDIVIDUAL APPLICANTS (fill in as applicable)

Mr <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
Surname			First names		
Date of birth			I am 18 years old or over <input type="checkbox"/> Please tick yes		
Nationality					
Current residential address if different from premises address					
Post town				Postcode	
Daytime contact telephone number					
E-mail address (optional)					

SECOND INDIVIDUAL APPLICANT (if applicable)

Mr <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
Surname			First names		
Date of birth			I am 18 years old or over <input type="checkbox"/> Please tick yes		
Nationality					
Current postal address if different from premises address					
Post town				Postcode	
Daytime contact telephone number					
E-mail address (optional)					

(B) OTHER APPLICANTS

Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.

Name Cleave Barton Partnership T/A Valleyside Escapes
Address Emma and Matthew Wright Cleave Barton Bickleigh Tiverton Devon EX16 8RG
Registered number (where applicable) 279 8763 25
Description of applicant (for example, partnership, company, unincorporated association etc.) Partnership
Telephone number (if any) 01884 855538
E-mail address (optional) emma@valleysidescapes.co.uk

Part 3 Operating Schedule

When do you want the premises licence to start?

29	03	2019
┆	┆	┆
┆	┆	┆
┆	┆	┆

If you wish the licence to be valid only for a limited period, when do you want it to end?

DD	MM	YYYY
┆	┆	┆
┆	┆	┆
┆	┆	┆

Please give a general description of the premises (please read guidance note 1)

Cleave Barton is the name of the former farm buildings formerly belonging to Millhayes farm, Bickleigh. The main barn was converted into a dwelling in 2001 and the remaining outbuildings currently have commercial use as pottery, artists studios and art gallery and form a single planning unit together with around five acres of agricultural land.

The site is situated just behind the commercial enterprise of Bickleigh Mill with the railway tourist attraction the Devon Railway Centre situated a short distance further to the west.

In May 2018 planning permission was granted for three glamping tents sleeping up to six people each and they are situated in the top field above the main domestic residence. This glamping site is trading under the name of Valleyside Escapes.

Currently, there is a planning application with Mid Devon council to convert two of the outbuildings into two, three bedroom, luxury holiday cottages and a further application is pending submission to the council to convert another outbuilding into an events space predominantly for weddings.

A further outbuilding is currently being converted into a small bar area. See site map attached.

The primary use of the bar will be a place for guests in the glamping tents to come and purchase alcohol to take back to their tents to consume. We will stock locally produced wines, ciders and ales. The secondary use is during peak times to open the bar to glamping guests and local village residents one or two nights a week. In addition, we will be holding some 'speciality events' involving the consumption of alcohol. For example on Saturday September 21 and 28 September we are hosting an 'apple pressing' activity at the end of this activity we plan to offer tasting of local cider in the bar.

If 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend.

n/a

What licensable activities do you intend to carry on from the premises?

(please see sections 1 and 14 and Schedules 1 and 2 to the Licensing Act 2003)

- Provision of regulated entertainment (please read guidance note 2) 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 (if ticking yes, fill in box E)
- f) recorded music (if ticking yes, fill in box F)
- 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 (if ticking yes, fill in box I)

Supply of alcohol (if ticking yes, fill in box J)

In all cases complete boxes K, L and M

A

Plays Standard days and timings (please read guidance note 7)			Will the performance of a play take place indoors or outdoors or both – please tick (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 4)		
Mon					
Tue			<u>State any seasonal variations for performing plays</u> (please read guidance note 5)		
Wed					
Thur			<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 6)		
Fri					
Sat					
Sun					

B

Films Standard days and timings (please read guidance note 7)			<u>Will the exhibition of films take place indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 4)		
Mon					
Tue			<u>State any seasonal variations for the exhibition of films</u> (please read guidance note 5)		
Wed					
Thur			<u>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</u> (please read guidance note 6)		
Fri					
Sat					
Sun					

C

Indoor sporting events Standard days and timings (please read guidance note 7)			<u>Please give further details</u> (please read guidance note 4)
Day	Start	Finish	
Mon			
Tue			<u>State any seasonal variations for indoor sporting events</u> (please read guidance note 5)
Wed			<u>Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list</u> (please read guidance note 6)
Thur			
Fri			
Sat			
Sun			

D

Boxing or wrestling entertainments Standard days and timings (please read guidance note 7)			<u>Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	<input type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon			<u>Please give further details here</u> (please read guidance note 4)	Both	<input type="checkbox"/>
Tue			<u>State any seasonal variations for boxing or wrestling entertainment</u> (please read guidance note 5)		
Wed			<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 6)		
Thur					
Fri					
Sat					
Sun					

E

Live music Standard days and timings (please read guidance note 7)			<u>Will the performance of live music take place indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
Both	<input type="checkbox"/>				
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 4)		
Mon					
Tue			<u>State any seasonal variations for the performance of live music</u> (please read guidance note 5)		
Wed					
Thur			<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 6)		
Fri					
Sat					
Sun					

F

Recorded music Standard days and timings (please read guidance note 7)			<u>Will the playing of recorded music take place indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon			<u>Please give further details here</u> (please read guidance note 4)		
Tue					
Wed			<u>State any seasonal variations for the playing of recorded music</u> (please read guidance note 5)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list</u> (please read guidance note 6)		
Sat					
Sun					

G

Performances of dance Standard days and timings (please read guidance note 7)			<u>Will the performance of dance take place indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 4)		
Mon					
Tue					
Wed					
Thur					
Fri					
Sun					
			<u>State any seasonal variations for the performance of dance</u> (please read guidance note 5)		
			<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 6)		
Sat					
Sun					

H

Anything of a similar description to that falling within (e), (f) or (g) Standard days and timings (please read guidance note 7)			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 3)	Indoors	<input type="checkbox"/>
Mon				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Tue			<u>Please give further details here</u> (please read guidance note 4)		
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 5)		
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 6)		
Sun					

I

Late night refreshment Standard days and timings (please read guidance note 7)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 3)	Indoors	<input type="checkbox"/>			
				Outdoors	<input type="checkbox"/>			
				Both	<input type="checkbox"/>			
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 4)					
Mon								
Tue								
Wed						<u>State any seasonal variations for the provision of late night refreshment</u> (please read guidance note 5)		
Thur								
Fri								
Sat						<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 6)		
Sun								

J

Supply of alcohol Standard days and timings (please read guidance note 7)			Will the supply of alcohol be for consumption – please tick (please read guidance note 8)	On the premises	<input type="checkbox"/>
				Off the premises	<input type="checkbox"/>
				Both	<input checked="" type="checkbox"/>
Day	Start	Finish	State any seasonal variations for the supply of alcohol (please read guidance note 5)		
Mon	11.00	23.00			
Tue	11.00	23.00			
Wed	11.00	23.00			
Thur	11.00	23.00			
Fri	11.00	23.00			
Sat	11.00	23.00			
Sun	11.00	23.00			
			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 (please read guidance note 6)		

State the name and details of the individual whom you wish to specify on the licence as designated premises supervisor (Please see declaration about the entitlement to work in the checklist at the end of the form):

Name Emma Wright	
Date of birth 31 March 1979	
Address Cleave Barton Bickleigh Tiverton Devon	
Postcode	EX16 8RG
Personal licence number (if known)	
Issuing licensing authority (if known)	

K

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 9).

n/a

L

Hours premises are open to the public Standard days and timings (please read guidance note 7)			State any seasonal variations (please read guidance note 5) n/a
Day	Start	Finish	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 (please read guidance note 6) n/a
Mon	11.00	23.30	
Tue	11.00	23.30	
Wed	11.00	23.30	
Thur	11.00	23.30	
Fri	11.00	23.30	
Sat	11.00	23.30	
Sun	11.00	23.30	

M

Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b, c, d and e) (please read guidance note 10)

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

- i. The *Challenge 25* scheme in operation at the premises, including the forms of identification that are acceptable.
- ii. The hours and activities permitted by *the premises licence* issued under the Licensing Act 2003 and conditions attached to the *licence*.
- iii. Recognising the signs of drunkenness.
- iv. The operating procedures for refusing service to any person who is drunk, under-age or appears to be under-age, or appears to be making a proxy purchase.
- v. Action to be taken in the event of an emergency, including reporting an incident to the emergency services.

Training shall be recorded in documentary form and shall be regularly refreshed at no greater than *12 month* intervals. Training records shall be made available for inspection and copying at reasonable times upon request of an authorised officer of a responsible authority.

Training records will be retained for at least 12 months.

b) The prevention of crime and disorder

c) Public safety

d) The prevention of public nuisance

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.

e) The protection of children from harm

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.

Checklist:

Please tick to indicate agreement

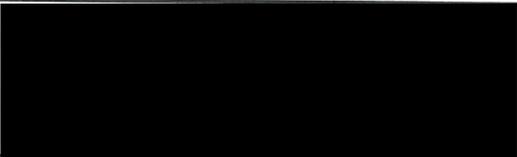
- I have made or enclosed payment of the fee.
- I have enclosed the plan of the premises.
- I have sent copies of this application and the plan to responsible authorities and others where applicable.
- I have enclosed the consent form completed by the individual I wish to be designated premises supervisor, if applicable.
- I understand that I must now advertise my application.
- I understand that if I do not comply with the above requirements my application will be rejected.
- [Applicable to all individual applicants, including those in a partnership which is not a limited liability partnership, but not companies or limited liability partnerships] I have included documents demonstrating my entitlement to work in the United Kingdom (please read note 15).

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971 FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OR WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED.

Part 4 – Signatures (please read guidance note 11)

Signature of applicant or applicant’s solicitor or other duly authorised agent (see guidance note 12). **If signing on behalf of the applicant, please state in what capacity.**

<p>Declaration</p>	<ul style="list-style-type: none"> • [Applicable to individual applicants only, including those in a partnership which is not a limited liability partnership] I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK (please read guidance note 15). • The DPS named in this application form is entitled to work in the UK (and is not subject to conditions preventing him or her from doing work relating to a licensable activity) and I have seen a copy of his or her proof of entitlement to work, if appropriate (please see note 15)
<p>Signature</p>	

Date	10.1.19
Capacity	

For joint applications, signature of 2nd applicant or 2nd applicant's solicitor or other authorised agent (please read guidance note 13). If signing on behalf of the applicant, please state in what capacity.

Signature	
Date	
Capacity	

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 14)			
Post town		Postcode	
Telephone number (if any)			
If you would prefer us to correspond with you by e-mail, your e-mail address (optional)			

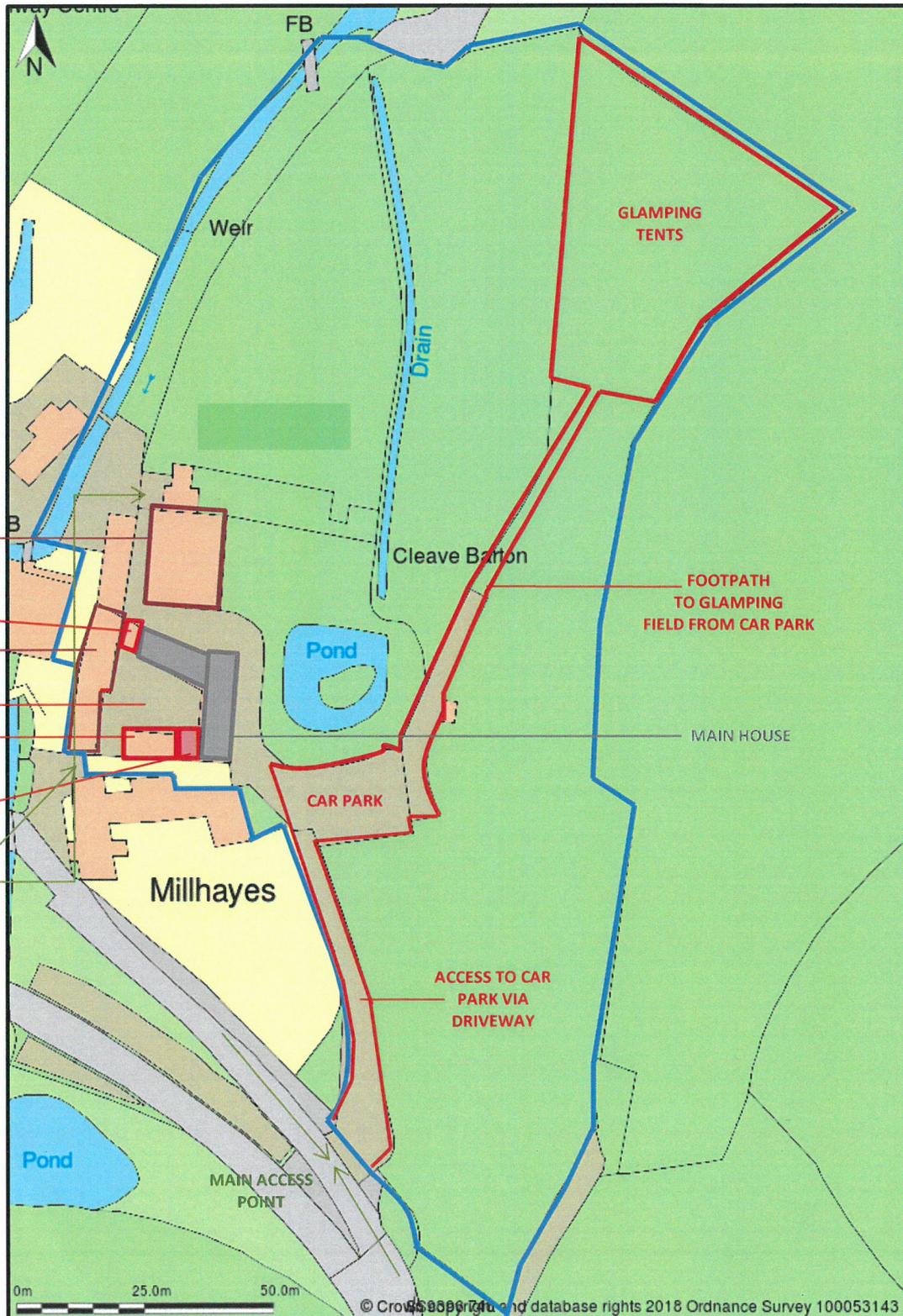
Notes for Guidance

1. 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 for consumption of these off-supplies, you must include a description of where the place will be and its proximity to the premises.
2. 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

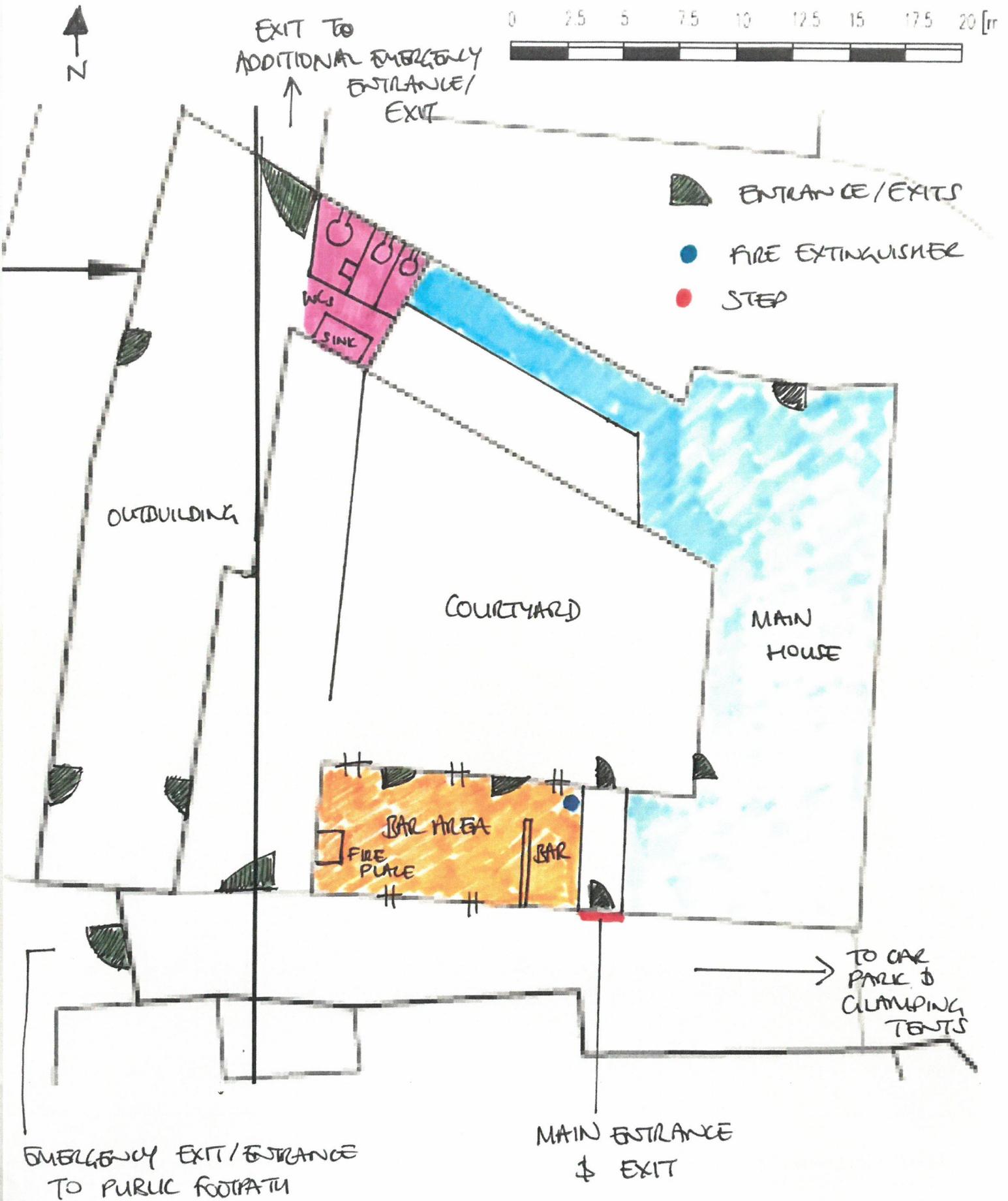


CLEAVE BARTON SITE MAP (SCALE: 1:1250) PLAN 1 – OVERVIEW OF SITE

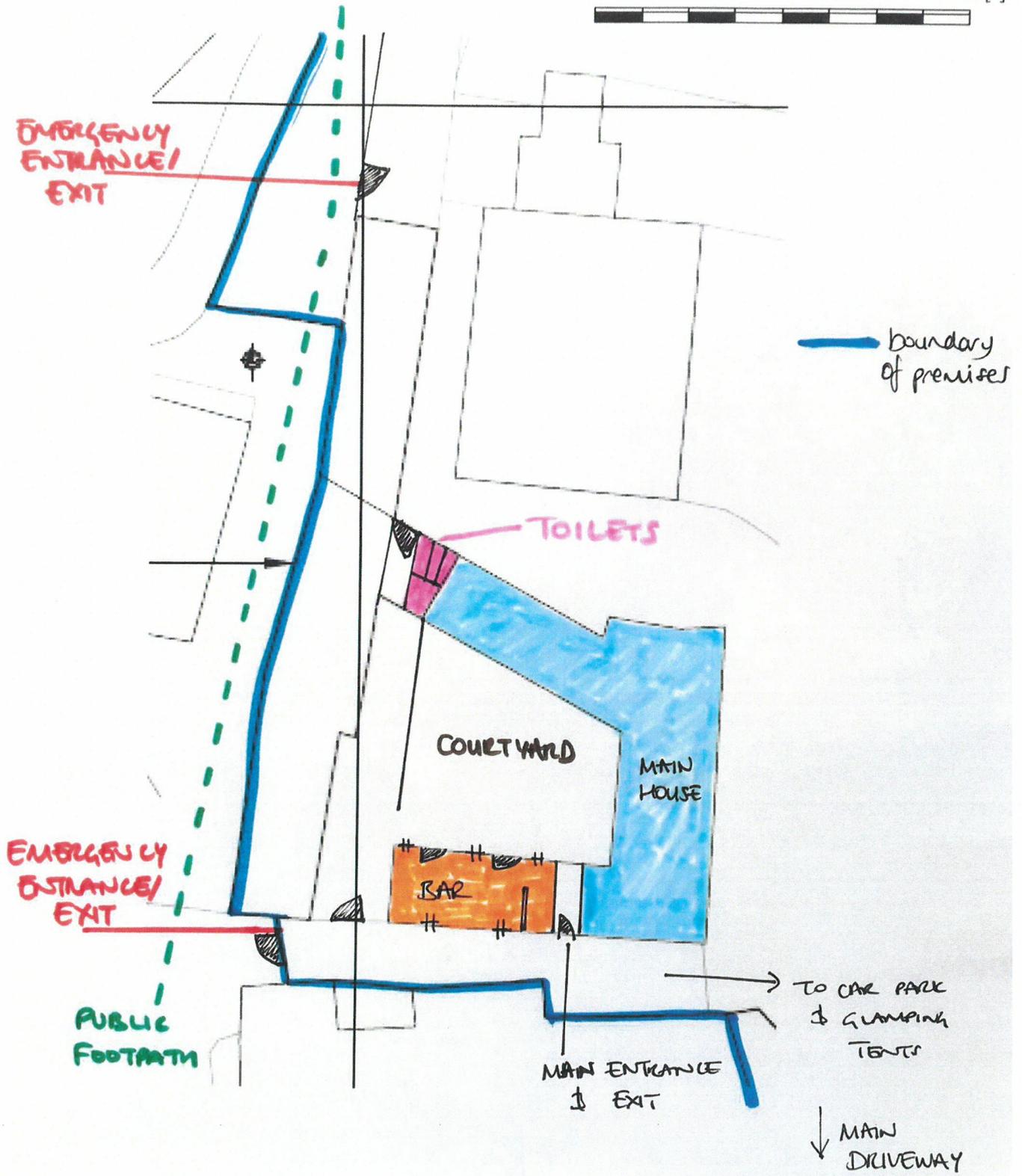
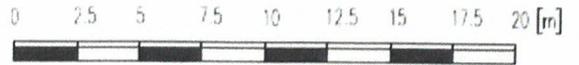
Consumption will take place within the blue boundary line



VALLEYSIDE ESCAPES: ALCOHOL LICENSE APPLICATION – PLAN OF BAR AND AMENITIES

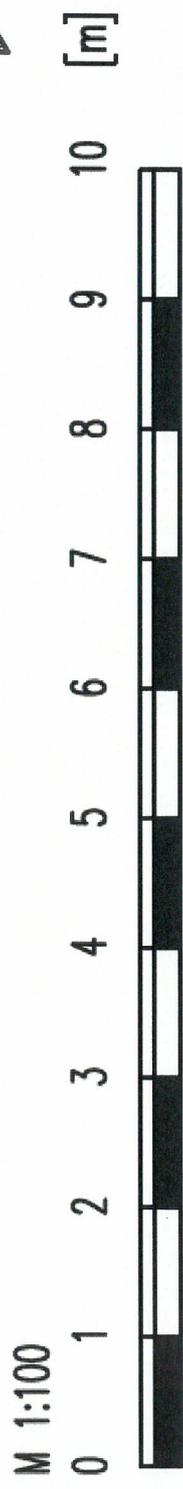
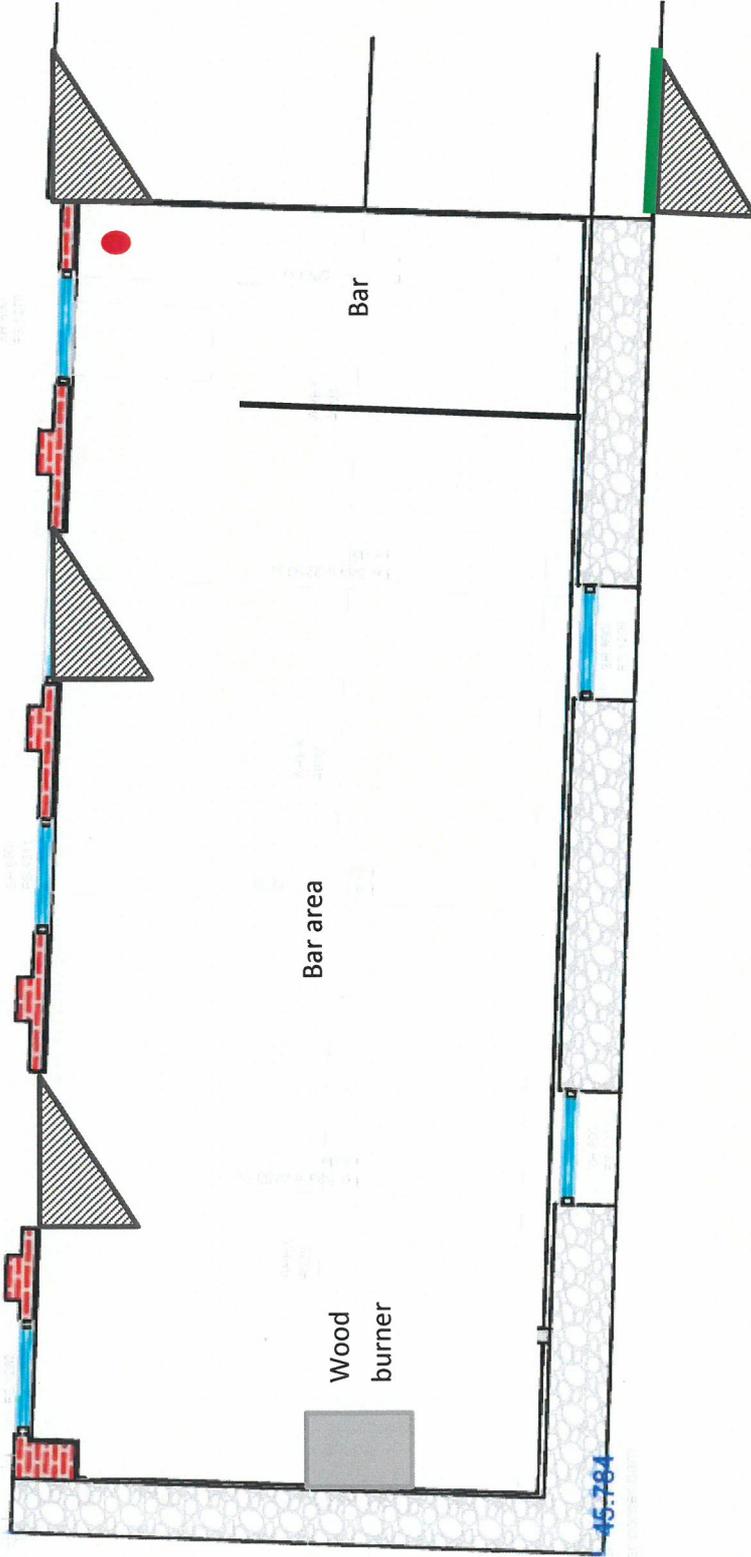
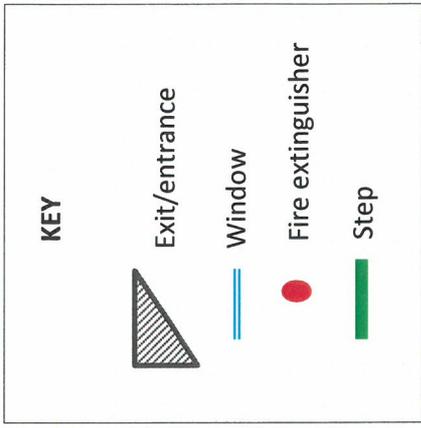


VALLEYSIDE ESCAPES: ALCOHOL LICENSE APPLICATION – PLAN OF BAR, AMENITIES AND ACCESS



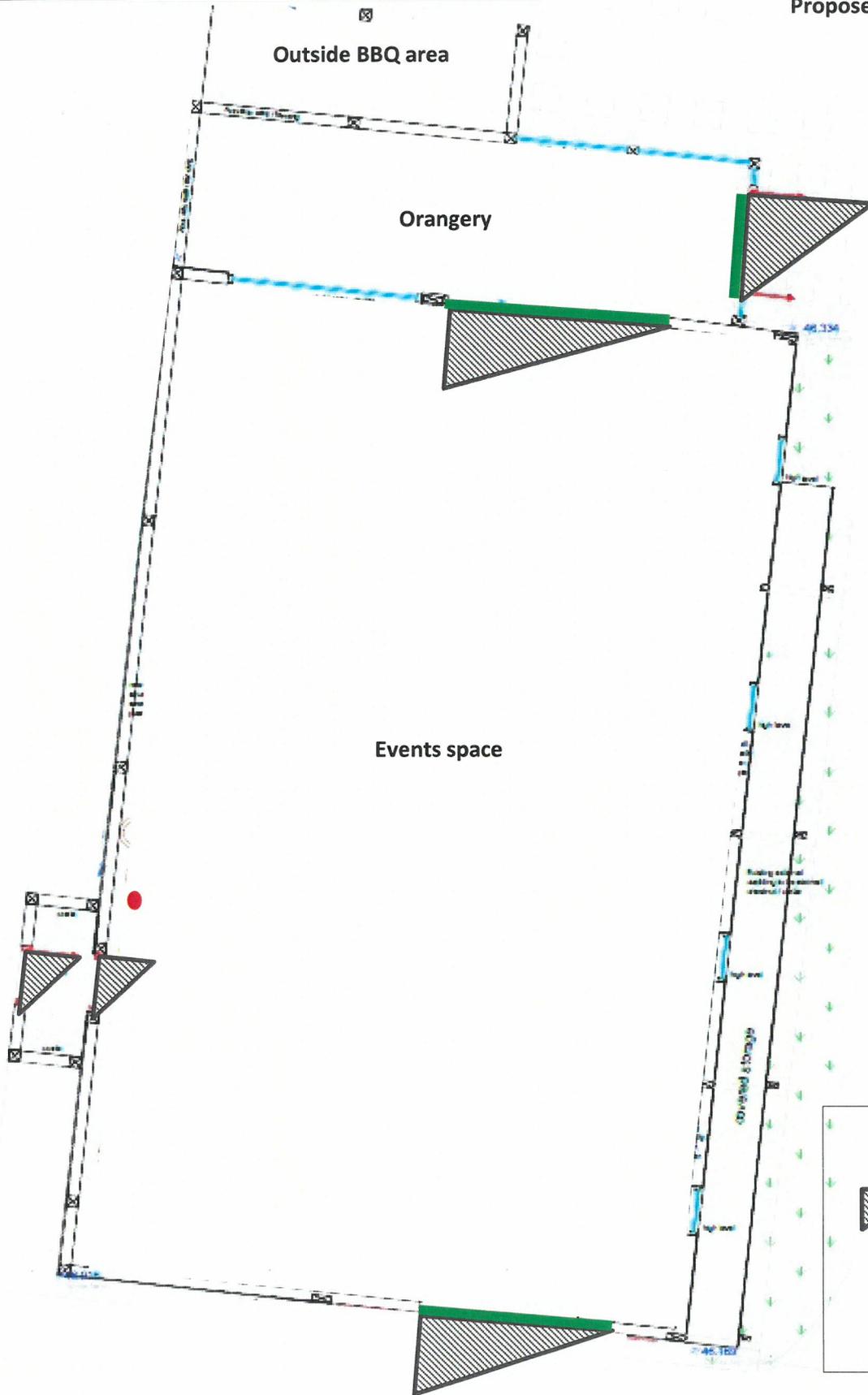
Cleave Barton: Plan 4 - Bar

(Scale 1:100)





Cleave Barton:
 Plan 5
 Proposed wedding/events barn
 (scale 1:100)



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Thomas Keating

From: [REDACTED]
Sent: 05 February 2019 13:56
To: Thomas Keating
Subject: Cleave Barton New Licence Application ref: 022838

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Mr Keating

Further to our recent telephone conversation

We are Cleave Barton's only permanent residential neighbour with a "greater interest". Whilst responding to this Licence Application it is impossible to differentiate between the licence application itself without taking the applicants future intentions into account as they are clearly detailed in the application.

If they were applying for a restricted hours licence to sell glamping customers some local cider etc, with a facility for a couple of cider themed weekends in the Autumn, that would seem proportionate.

However, we strongly object to the application for a 'Licence to sell Alcohol' as it stands on grounds of :

Public Safety

To prevent Public Nuisance

The licence application '*open hours requested*' is from 11.00am to 23.30pm 7 days a week.

This seems entirely inappropriate, disproportionate and unjustified considering Cleave Barton currently only has consent for a glamping business which will mainly consist of families.

The application makes it clear that Cleave Barton's future plans include a current application for 2 Holiday Cottages, and a further application for a Wedding Venue. The Holiday Cottage application is proving very controversial with strong objections from the EA on grounds of the site being in a Zone 3 Flood Area, therefore carrying an actual risk to life. The wedding venue will also undoubtedly be extremely controversial for the same reasons, and in addition because the site lies within the designated Bickleigh Conservation Area.

Whilst these are planning rather than licensing issues, we object to the licence application as it stands, particularly given the stated hours of opening should it be given on the basis of consent for future plans which may or may not be granted.

Similarly, the 'Public Bar' area mentioned in the application has been completed with no planning application or application for change of use. We understand the conversion will have to go through these correct channels to enable it to be used as a 'Public Bar'. As the 'Public Bar' is located within the same courtyard as the proposed Holiday Cottages this is unlikely to be straightforward on the grounds of public safety.

The only potential customers to purchase alcohol currently would be glampers who may or may not wish to purchase alcohol for consumption on the glamping site or elsewhere. There is no consent granted to date for anything else on site, be it Holiday Cottages, a Wedding Venue or a Public Bar.

On the basis of this application we also strongly object regarding the 'Public Bar' intentions.

The outbuilding which has been converted, as yet without consent into the proposed 'Public Bar' is only a 5 bar gate width from Millhayes, our property.

Whilst we appreciate again that this is a planning issue, we would strongly object to the 'Public bar' being granted retrospective permission and therefore the '*open hours requested*' in this licence application.

The evenings at our residence are tranquil and undisturbed in a conservation area that enhances and protects the neighbourhood. This amenity and quality of life would be adversely affected by unaccustomed noise and light pollution generated by a Public Bar open until 11.30pm.

Similarly, should the Public bar be open to 'outsiders' as suggested we would have huge concerns concerning the noise generated, particularly as customers depart the premises late at night. The potential for security issues in connection with our property would also be of concern.

There are sufficient licensed premises in the immediate vicinity to Cleave Barton to meet the needs of residents and visitors. A village with a population of less than 350 people does not need another facility.

Cleave Barton has very limited parking for it's glamping business. There is not sufficient additional parking for 'outsiders' to visit the proposed on site 'Public Bar' by car.

Although the application mentions other nearby commercial premises, it makes no mention of our property, Millhayes, which shows a disregard of any adverse effect we as immediate residents would experience.

In Cleave Barton's planning applications to date, the contribution to existing local business' (licensed premises) is cited. Should Cleave Barton have a licence to sell alcohol, particularly if it includes a Public bar area, the contribution to other local establishments would undoubtedly be greatly reduced.

Yours sincerely

Janet and Joe Ashworth

--

Bickleigh House
 Bickleigh
 EX16 8RB
 4th February 2019



The Licensing Team
 Mid Devon District Council
 Phoenix House
 Tiverton

Cleave Barton Bickleigh
 Application to sell Alcohol on and off the Premises.
 APP 270 46

Dear Sirs/ Mesdames,

I strongly object to the application for the granting of a licence to the premises at Cleave Barton.

There are three fully licensed premises within a quarter of a mile of Bickleigh Bridge and on the basis that the Trout will re-open as a Public House that makes four. One of the reasons the owners of Cleave Barton gave for gaining "planning" on their yurts was to bring business to the locality. Another open house is unnecessary and will detract from the already functioning sites.

I should also like to make the point that Cleave Barton is in Zone 3 of the Flood Plain to have even more inebriated persons swanning around is not in the interests of the locality, after heavy rain the fast-flowing river is dangerous even before it floods onto the plain.

The A396 is a very busy road and on the Bickleigh Bridge stretch of it prone to accidents. Extra casual traffic will exacerbate such problems. to the surrounding areas. When the bridge is closed the chaos to the surrounding villages is considerable, involving police ambulances and in extreme cases the Air Ambulance.

Yours etc.

A solid black rectangular box redacting the signature of Jill Brownlow.

Jill Brownlow



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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 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 / 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 general of the condition and the intention of them. Specific wording in line with the Sub-Committee's 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