

Public Document Pack

Mid Devon District Council

Licensing Sub-Committee B

Monday, 1 April 2019 at 10.30 am

Those attending are advised that this meeting will be recorded

Membership

Cllr Mrs F J Colthorpe
Cllr D R Coren
Cllr 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 **Chairman - Election**
To elect a Chairman for the meeting.
- 2 **Apologies and Substitute Members**
To receive any apologies for absence and notices of appointment of Substitute Members (if any).
- 3 **DETERMINATION OF A NEW PREMISES LICENCE APPLICATION FOR SPELT, 42 BROOK STREET, BAMPTON, DEVON, EX16 9LY**
(Pages 3 - 52)
An application has been received for a New Premises Licence for Spelt, 42 Brook Street, Bampton, Devon, EX16 9LY. As representations have been received, Mid Devon District Council, as the Licensing Authority, is obliged to hold a hearing to determine the application.

Stephen Walford
Chief Executive

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may not wish to be filmed. As a matter of courtesy, anyone wishing to film proceedings is asked to advise the Chairman or the Member Services Officer in attendance so that all those present may be made aware that is happening.

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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: coliphant@middevon.gov.uk

Public Wi-Fi is available in all meeting rooms.

LICENSING SUB COMMITTEE

DATE OF HEARING: 1 APRIL 2019 / 10:30AM

DETERMINATION OF A NEW PREMISES LICENCE APPLICATION FOR SPELT, 42 BROOK STREET, BAMPTON, DEVON, EX16 9LY

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 Spelt, 42 Brook Street, Bampton, Devon, EX16 9LY. As 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 New Premises Licence for Spelt, 42 Brook Street, Bampton, Devon, EX16 9LY was submitted by Paul and Donna Berry. The submitted form can be seen as **Annex 1** and the relevant plans are attached as **Annex 2**.

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:

‘Small restaurant/ bistro selling tapas style food, breakfast, lunch and dinner with alcoholic and non- alcoholic beverages. A selection of quality products including alcohol will also be for sale off the premises.

There will be seating for approximately 30 – 32 people.

We are experienced premises operators and will have best practice measures in place to ensure we uphold the licensing objectives.

The 1st floor flat shown on the plan is not connected to the premises’.

1.3 In summary, the following has been applied for:

Licensable Activity	Indoors / Outdoors	Days	Times
Live Music	Indoors	Mon – Sun	12:00 – 23:00
Recorded Music	Indoors	Mon – Sun	12:00 – 23:00
Supply of Alcohol	For consumption ON and OFF the premises	Mon – Sun	09:00 – 23:30
Opening Hours	N/A	Mon – Sun	08:00 – 00:00

- 1.4 In addition to these standard times, the application also requests the following non-standard timings for entertainment:

Dates	Requested times
During the week of Bampton Fair (Mon – Sun)	Until 00:00
Christmas Eve	Until 00:00
New Year’s Eve	De-regulated

- 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, and relevant to this application, Live Music and Recorded Music are considered ‘de-regulated’ between 08:00 – 23:00, if they take place on premises licensed for the supply of alcohol for consumption ON the premises; and in the presence of less than 500 people. This has the additional impact of ‘disapplying’ any conditions on a premises licence that are specifically linked to ‘de-regulated’ activities.
- 1.6 The practical implication of this de-regulation is that premises need not apply for a licence to provide Live Music and Recorded Music, assuming the application also includes the supply of alcohol for consumption ON the premises and there will be less than 500 people on site (as is the case with this application). Furthermore, as it is not considered licensable, it means that any specific representations relating to such activities are not considered relevant. This is discussed in more detail in Section 4 of this report.

NOTE: This application also includes the provision of Live and Recorded Music beyond 23:00 on certain occasions. Representations relating to this are considered relevant as they do not meet the criteria for any of the de-regulations.

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 conditions as part of the application and these can be seen in Section M of the application (**Annex 1**).

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 AND ADDITIONAL COMMENTS

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

4.2 In this case, the Licensing Authority has received TWO representations. These are attached as **Annex 3** and **4**.

4.3 In summary, the following points have been raised in the representations that have been received. Where considered appropriate, the Licensing Officer has provided additional information in relation to relevance.

Live and Recorded Music and potential public nuisance (relevant to Annex 4)

- 4.4 As stated in Paragraph 1.5 and 1.6 of this report, Live and Recorded Music are not considered licensable in certain circumstances. In this case, it is the Licensing Officers view that between 12:00 and 23:00 (Monday – Sunday) these activities can be provided at the premises in a manner that does not require a licence (i.e. it is considered ‘de-regulated’). This is because:
- it would place between 8AM and 11PM; and
 - it would take place at an alcohol on-licensed premises; and
 - the audience would be no more than 500 people
- 4.5 In practical terms, this means that the applicant need not have included them in the application. Regardless of this, the Licensing Officer believes that representations that relate to these specific activities are not relevant and should not therefore be considered by the Sub-Committee. S182 Guidance provides some relevant information and states that ‘... *representations should relate to the impact of licensable activities carried on from premises on the objectives*’ (Paragraph 9.4). The music in this case would not be considered a licensable activity.
- 4.6 For information purposes, the fact that the activities would not be considered licensable does not mean that subsequent issues or nuisance cannot be addressed under the Licensing Act. Interested Parties should be aware that any licence which benefits from such exemptions or de-regulations can be reviewed, and on review the activities can be treated as regulated entertainment. This means, for example, that conditions can then be applied, if considered appropriate.
- 4.7 The application does include a request for Live and Recorded Music beyond 23:00 on some specific occasions (i.e. Bampton Fair, Christmas Eve and New Year’s Eve). These ‘extensions’ are considered licensable and therefore representations are relevant, in so far as they apply to these occasions. For Members information, this means that any conditions relating to Live and Recorded Music placed on the licence would not have effect between 12:00 – 23:00, but would have effect should the premises provide these activities after 23:00.

Noise from customers departing and potential public nuisance (relevant to Annex 3)

- 4.8 The application form does not propose any conditions to address this and it has been raised as a potential issue in one of the representations received. This potential issue is a relevant consideration for the Sub-Committee.

Potential consequences to parking in local area (relevant to Annex 3)

- 4.9 The representation states that parking can be an issue in the area, especially when another licensed premises holds an event. It also raises a safety issue concerning children, who then have to walk longer distances when it is not possible to park

where they would prefer. Finally, it also states that there is a potential issue with the security of a van which cannot be parked nearby.

4.10 It is the view of the Licensing Officer that these concerns are not relevant under the Licensing Act and therefore should not be considered by the Sub-Committee. This is for the following reasons:

- The provision of parking in this area is not something that the applicant can control. Any person may park in the surrounding area and ultimately, they may do so regardless of whether or not the premises have a licence.
- The Public Safety licensing objective relates to the safety of those using the relevant premises. S182 Guidance (Paragraph 2.7) states that *'Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation'*. The applicant cannot therefore influence or control general road safety issues in this case.
- The security of the van is also not something that the applicant can control. Although the representation does not suggest that it would be customers of the premises that are of concern, it must be noted that *'licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned'* (S182 Guidance, Paragraph 14.13).

Potential conditions

4.11 If any Interested Party wishes to propose a potential condition (or conditions) that they believe could address any of the relevant issues raised, then they are encouraged to do so by emailing licensing@middevon.gov.uk OR alternatively, suggesting them at the hearing for discussion.

4.12 In order to assist and promote discussion about conditions, this Council have created a 'pool' of conditions and this document can be viewed here: <https://www.middevon.gov.uk/media/346400/appendix-c-pool-of-conditions.pdf>. It is important to note, however, that these conditions are being provided as examples only and alternative wording may be offered based on the merits of this specific application.

Withdrawn representation

4.13 For Members information, a third representation was received during the relevant 28 day period. Following successful discussions between the applicant and Interested Party, this representation has now been withdrawn. If Members wish to see paperwork confirming this it will be available at the hearing.

5.0 LICENSING POLICY

- 5.1 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:
- 5.2 *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)*
- 5.3 *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)*
- 5.4 *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)*
- 5.5 *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)*
- 5.6 *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)*
- 5.7 *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)

- 5.9 *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)*
- 5.10 *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)*
- 5.11 *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)*
- 5.12 *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)

5.13 *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)*

5.14 *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)*

Prevention of public nuisance

5.15 *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)*

5.16 *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)*

5.17 *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 ant-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)

- 5.18 Members must have regard to the policy when making their decision and copies will be available at the hearing.

6.0 GOVERNMENT GUIDANCE

- 6.1 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 a full copy will be available at the hearing. It includes the following information:

- 6.2 *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. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (see chapter 16). Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues. (Paragraph 2.17 of S182 Guidance)*

- 6.3 *Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave. (Paragraph 2.19 of S182 Guidance)*

- 6.4 *Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits*

from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night. (Paragraph 2.21 of S182 Guidance)

6.5 *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 of S182 Guidance)*

6.6 *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 of S182 Guidance)*

7.0 DETERMINATION

7.1 *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)

7.2 *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)*

7.3 *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)*

7.4 *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)*

7.5 *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)*

7.6 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
- 7.7 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.
- 7.8 Members have five working days from the conclusion of the hearing to make a decision.
- 7.9 An adopted procedure for Hearings is available as **Annex 5**. This should help guide all parties through the hearing process.

8.0 APPEAL

- 8.1 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:

Tom Keating (Specialist Lead – Licensing) / 01884 244618 / tkeating@middevon.gov.uk

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

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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.

I/We Paul Berry and Donna Berry

(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			
Spelt 42 Brook Street Bampton (Formally Bawdens the Bakers)			
Post town	Tiverton	Postcode	EX16 9LY

Telephone number at premises (if any)	None currently
Non-domestic rateable value of premises	£3,650

Part 2 - Applicant details

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

- | | | |
|--|--------------------------|-----------------------------|
| a) an individual or individuals * | ✓ | 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) | <input type="checkbox"/> | 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 checked="" type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
Surname Berry			First names Paul		
Date of birth [REDACTED]		I am 18 years old or over		Please tick <input checked="" type="checkbox"/>	
Nationality - British					
Current residential address if different from premises address		The swan Station road, Bampton, Devon,			
Post town	Bampton			Postcode	EX16 9NG
Daytime contact telephone number		[REDACTED]			
E-mail address (optional)		[REDACTED]			
Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), the 9-digit 'share code' provided to the applicant by that service (please see note 15 for information)					
[REDACTED]					

SECOND INDIVIDUAL APPLICANT (if applicable)

Mr <input type="checkbox"/>	Mrs <input checked="" type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
Surname Berry			First names Donna		
Date of birth over		I am 18 years old or <input checked="" type="checkbox"/> Please tick yes			
Nationality – British					
Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), the 9-digit 'share code' provided to the applicant by that service: (please see note 15 for information) [REDACTED]					
Current residential address if different from premises address		The swan Station road, Bampton, Devon,			
Post town	Bampton			Postcode	EX16 9NG
Daytime contact telephone number		[REDACTED]			
E-mail address (optional)	[REDACTED]				

(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
Address
Registered number (where applicable)

Description of applicant (for example, partnership, company, unincorporated association etc.)
Telephone number (if any)
E-mail address (optional)

Part 3 Operating Schedule

When do you want the premises licence to start? ASAP

DD	MM	YYYY
<input type="text"/>	<input type="text"/>	<input type="text"/>

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

DD	MM	YYYY
<input type="text"/>	<input type="text"/>	<input type="text"/>

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

Small restaurant/ bistro selling tapas style food, breakfast, lunch and dinner with alcoholic and non- alcoholic beverages. A selection of quality products including alcohol will also be for sale off the premises.

There will be seating for approximately 30 – 32 people.

We are experienced premises operators and will have best practice measures in place to ensure we uphold the licensing objectives.

The 1st floor flat shown on the plan is not connected to the premises.

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

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			
Mon			<u>Please give further details here</u> (please read guidance note 4)		
Tue					
Wed			<u>State any seasonal variations for performing plays</u> (please read guidance note 5)		
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 6)		
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"/>
				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 boxing or wrestling entertainment</u> (please read guidance note 5)		
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 6)		
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 checked="" 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	12.00	23.00			
Tue	12.00	23.00			
			<u>State any seasonal variations for the performance of live music</u> (please read guidance note 5) Bampton Fair takes place on the last Thursday in October. During the week of Bampton Fair - Monday to Sunday until 00.00 Christmas eve until 00.00		
Wed	12.00	23.00			
Thur	12.00	23.00			
			<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) New Year's Eve de-regulated		
Fri	12.00	23.00			
Sat	12.00	23.00			
Sun	12.00	23.00			

F

Recorded music Standard days and timings (please read guidance note 7)			Will the playing of recorded music take place indoors or outdoors or both – please tick (please read guidance note 3)		Indoors	<input checked="" type="checkbox"/>
					Outdoors	<input type="checkbox"/>
					Both	<input type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 4)			
Mon	12.00	23.00				
Tue	12.00	23.00				
Wed	12.00	23.00	State any seasonal variations for the playing of recorded music (please read guidance note 5)			
Thur	12.00	23.00	Bampton Fair takes place on the last Thursday in October. During the week of Bampton Fair - Monday to Sunday until 00.00 Christmas eve until 00.00			
Fri	12.00	23.00	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 (please read guidance note 6)			
Sat	12.00	23.00	New Year's Eve de-regulated			
Sun	12.00	23.00				

G

Performances of dance Standard days and timings (please read guidance note 7)			Will the performance of dance 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 the performance of dance</u> (please read guidance note 5)		
Wed					
Thur					
			<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)		
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 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			<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)		
Thur			<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)		
Fri					
Sat					
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			
Mon			<u>Please give further details here</u> (please read guidance note 4)		
Tue					
Wed			<u>State any seasonal variations for the provision of late night refreshment</u> (please read guidance note 5)		
Thur					
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 6)		
Sat					
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) Bampton Fair takes place on the last Thursday in October. During the week of Bampton Fair - Monday to Sunday until 00.00 Christmas eve until 00.00		
Mon	9.00	23.30			
Tue	9.00	23.30			
Wed	9.00	23.30			
Thur	9.00	23.30			
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)			New year's eve de-regulated		
Fri	9.00	23.30			
Sat	9.00	23.30			
Sun	9.00	23.30			

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 Paul Berry	
Date of birth 09/02/1967	
Address	
The swan Station road, Bampton, Devon,	
Postcode	EX16 9NG
Personal licence number (if known)	
139	
Issuing licensing authority (if known)	
South Oxfordshire District Council	

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).

None

L

Hours premises are open to the public Standard days and timings (please read guidance note 7)			<u>State any seasonal variations</u> (please read guidance note 5) Bampton Fair takes place on the last Thursday in October. During the week of Bampton Fair - Monday to Sunday until 00.30 Christmas eve until 00.30
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 6) New Year's Eve de - regulated
Mon	0800	00.00	
Tue	0800	00.00	
Wed	0800	00.00	
Thur	0800	00.00	
Fri	0800	00.00	
Sat	0800	00.00	
Sun	0800	00.00	

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)

We will consider advice from the responsible authorities.

b) The prevention of crime and disorder

We will consider advice from the responsible authorities.

Additionally:-

No open vessels containing alcohol or soft drinks will be taken out of the premises except for Bampton Fair when plastic glasses must be used.

c) Public safety

We will consider advice from the responsible authorities.

d) The prevention of public nuisance

We will consider advice from the responsible authorities.

e) The protection of children from harm

We will consider advice from the responsible authorities.

Additionally:-

1. 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 or my share code issued by the Home Office online right to work checking service (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.**

Declaration	<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, or have conducted an online right to work check using the Home Office online right to work checking service which confirmed their right to work (please see note 15)
Signature	Paul Berry
Date	05/02/2019
Capacity	Joint licence holder

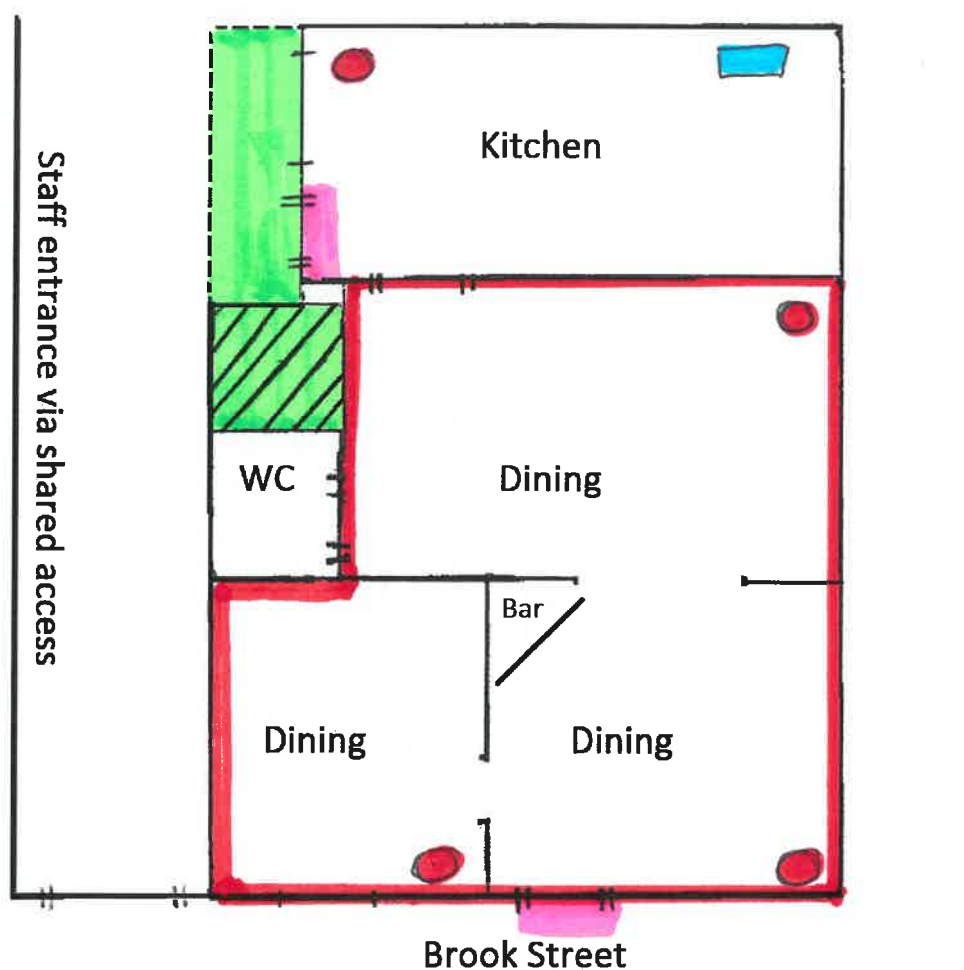
For joint applications, signature of 2nd applicant or 2nd applicant's solicitor or other authorised agent (please read guidance note 13). **If signing on behalf of the applicant, please state in what capacity.**








Signature	Donna Berry
Date	05/02/2019
Capacity	Joint licence holder

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 14) Paul and Donna Berry The Swan Bampton			
Post town		Postcode	
Telephone number (if any)			
If you would prefer us to correspond with you by e-mail, your e-mail address (optional) Paul Berry paul@theswan.co Donna Berry			

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Premises Plan - 42 Brook Street, Bampton EX16 9LY - Dated 01/02/2019



-  Fire exit
-  Fire extinguisher
-  Fire Blanket
-  Covered outside area and staff entrance
-  Windows
-  Access to private first floor flat
-  Area where licensable activities will take place including the sale and consumption of alcohol

Scale 1:10

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Brook Street
Bampton

4/3/19

Dear Sir/Madam,

We are writing to make you aware of our concerns regarding the licensing application for Spelt (open application reference 022935.)

We live directly opposite the intended premises and are concerned about two main issues; parking and noise.

This end of Brook Street is the more residential end of the street and yet already parking, particularly in the evenings, can be a major issue, especially when there is an event on at the Riverside Hall. We have three young children of 7, 4 and 8 months and we sometimes have to park the other end of town when there is no space in the vicinity of our house. When this occurs it is logistically extremely difficult and bordering on unsafe walking the children and belongings back home, particularly in the winter months. Beth is especially concerned and anxious about this becoming a regular occurrence and the impact on our lives and added stress it will have.

We are also concerned about the security of Aidan's work van if it has to be regularly parked a large distance away from the house as power tools essential for work are stored within it and we do not have any other viable storage options.

Our second concern is regarding noise, primarily the noise of customers leaving the premises late at night. We both work and have to be up early in the mornings so this is a genuine worry to us.

Yours Sincerely,

[Redacted signature]

Aidan and Beth Hanby



Thomas Keating

From: Licensing
Sent: 01 March 2019 11:02
To: Thomas Keating
Subject: FW:

TK 1/3/19 emailed

-----Original Message-----

From: Sallie Ling [REDACTED]
Sent: 01 March 2019 10:50
To: Licensing
Subject:

Application for new premises licence at 42 Brook Street, Bampton.

Dear Sirs

With reference to the above application, while there is no objection to a new restaurant I object very strongly to the provision of music, live or recorded. This is a very close residential area and loud music would severely impede on the lives of local residents, especially in the summer when doors and windows would be open and people would be sitting in their gardens, hopefully without any disruption from music, which more than likely would not be to their taste.

Yours faithfully. S. Ling. Ford Street. Bampton

Sent from my iPad

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

Hearing Guidance

- General guidance to attendees

HEARING PROCEDURE: NEW / VARIATION OF PREMISES OR CLUB

Introduction and Preliminary remarks

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

Statement by the licensing officer

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

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

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

Case for the applicant

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

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

- Responsible Authorities
- Other Parties
- Sub-Committee

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

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

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

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

- Applicant
- Other Parties
- Sub-Committee

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

Case for the 'other parties'

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

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

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

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

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

Discussion about conditions

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

Summary

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

- Applicant
- Responsible Authorities
- Other Parties

The decision

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

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

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

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

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

General guidance to attendees

RIGHTS OF A PARTY

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

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

FAILURE TO ATTEND THE HEARING

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

HEARING PROCEDURE

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

ADDITIONAL INFORMATION

Documents

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

Submissions

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

Time

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

Disruptive behaviour

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

DETERMINATION AND NOTIFICATION OF DECISION

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

ADDITIONAL INFORMATION

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