

# Public Document Pack

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## MID DEVON DISTRICT COUNCIL

### LICENSING SUB-COMMITTEE C

**A MEETING** of the **LICENSING SUB-COMMITTEE C** will be held virtually on Monday, 21 September 2020 at 10.30 am

To join the Zoom Meeting please use the following link:

<https://zoom.us/j/94810168246?pwd=UGtVVitBQVpQbW1ZUytEMXJQNnQydz09>

Meeting ID: 948 1016 8246

Passcode: 577275

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### STEPHEN WALFORD

Chief Executive

4<sup>th</sup> September 2020

**Councillors:** D R Coren, D J Knowles and A Wilce

## A G E N D A

**MEMBES 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 Sub Committee Hearing

**3 Determination of a new premises licence for Rull Orchard, Northdown Road, Bickleigh, Devon, EX5 5LN (Pages 3 - 72)**

An application has been received for a new premises licence for Rull Orchard, Northdown Road, Bickleigh, Devon, EX5 5LN.

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

**Covid-19 and meetings**

The Council will be holding some meetings in the next few weeks, but these will not be in person at Phoenix House until the Covid-19 crisis eases. Instead, the meetings will be held remotely via Zoom and you will be able to join these meetings via the internet. Please see the instructions on each agenda and read the Protocol on Remote Meetings before you join.

If you require any further information please contact Carole Oliphant on:

E-Mail: [coliphant@middevon.gov.uk](mailto:coliphant@middevon.gov.uk)

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

E-Mail: [coliphant@middevon.gov.uk](mailto:coliphant@middevon.gov.uk)

## LICENSING SUB COMMITTEE

DATE OF HEARING: 21 SEPTEMBER 2020

### DETERMINATION OF A PREMISES LICENCE APPLICATION FOR RULL ORCHARD, NORTHDOWN ROAD, BICKLEIGH, DEVON, EX5 5LN

**Cabinet Member(s):** Cllr Dennis Knowles, Cabinet Member for 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 Rull Orchard, Northdown Road, Bickleigh, Devon, EX5 5LN.

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

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

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

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

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

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

**Relationship to Corporate Plan:** Not applicable

**Impact on climate change:** Not applicable

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

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

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

## **1.0 THE PREMISES**

- 1.1 The application has been submitted for a new premises licence for Rull Orchard, Northdown Road, Bickleigh, Devon, EX5 5LN. The following description of the premises is provided in the application:

*‘Existing cider production facility housed in a Farm building in a rural location. A serving hatch will allow customers to try and buy ciders and be tutored in the production of cider. We would like to supply alcohol for consumption both on and off the premises. There is a small outside seating area as shown on the plan where tutoring and consumption will take place.*

*We will also provide a delivery service where we will be delivering the alcohol ourselves, orders will be taken over the telephone or via the website’.*

## **2.0 THE APPLICATION**

- 2.1 The application was submitted by Rull Orchard Ltd. In summary, the following has been applied for:

<b>Activity</b>	<b>ON / OFF the premises</b>	<b>Days</b>	<b>Times</b>
Supply of alcohol	For consumption both ON and OFF the premises	Monday - Sunday	12:00 – 20:00
Hours premises open to the public	N/A	Monday – Sunday	12:00 – 20:30

- 2.2 The application form is attached as **Annex 1** and the plan submitted with the application is attached as **Annex 2**.

## **3.0 LICENSING OBJECTIVES**

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

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



3.2 The applicant has provided information and proposals on this, and in summary, the steps they intend to take are as follows:

- No self-service of alcohol on the premises
- Regular collection of glasses / bottles
- The adoption and operation of a 'Challenge 25' Policy
- Safeguards in relation to the ordering and subsequent delivery of alcohol for consumption off the premises.

Full details of these proposals can be seen within section M of the application (attached as **Annex 1**).

#### **4.0 RESPONSIBLE AUTHORITIES**

4.1 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.

4.2 The Responsible Authorities are:

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

4.3 No representation was received from any Responsible Authority concerning this application and as a result, they are not party to the hearing.

#### **5.0 OTHER PERSONS**

5.1 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).

5.2 In this case, the Licensing Authority received SEVEN letters / representations concerning the application.

5.3 It should be noted that TWO of these were in support of the application (or 'positive') but they have not been accepted as relevant representations. This is because, in the view of the Licensing Officer, they did not relate to the likely effect of the grant of a licence on the promotion of one or more of the licensing

objectives. As a result, the Sub-Committee should not take them in to account and they are not included in this report bundle.

- 5.4 With regards to the FIVE remaining letters / representations, they were in opposition to the application (or 'negative'). ONE of these representations was not accepted as relevant as it related to the use of the local road and the walking of dogs. As a result, the Sub-Committee should not take it in to account and it is not included in this report bundle.
- 5.5 The remaining FOUR representations contained some issues that are relevant and some that are not (in the view of the Licensing Officer). **Table 1** (below) provides details of who has submitted these representations, along with a very brief note of what is, and what is not consider relevant within their submissions. All of these representations are attached to this report in full (as identified in Table 1). It should be noted that further information (and justification) about what is and what is not considered relevant is provided in section 6 in this report.

<b>Name of party</b>	<b>Issue(s) raised considered relevant</b>	<b>Issue(s) raised not considered relevant</b>
Mrs O Westlake (attached as <b>Annex 3</b> )	Security of site	Traffic and use of nearby narrow road(s) and a possible need for drivers to reverse
Mr David Giles and Ms Diane Beckett (attached as <b>Annex 4</b> )	Noise from the site (including reference to 'numbers of people')	The mere fact that somebody may not 'live' on site  The narrow road and 'blind' corners
Mr John Greenslade (attached as <b>Annex 5</b> )	Drink driving  Noise from the site	The narrow road and 'blind' corners  The information that a 'similar project' has been a failure elsewhere and capacity of the business to produce fruit
Mr Richard Pocock (attached as <b>Annex 6</b> )	Security of site  Noise from events with numerous people	The narrow road, traffic and 'blind' corners  Increase of rural crime in the area (in general)
<b>Table 1.</b> Brief summary of representations and relevance to licensing		

- 5.6 A map showing the location of the premises in relation to those that have submitted representations will be sent to Members of the Sub-Committee prior to the hearing.

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

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

### **Overview of issues considered relevant**

- 6.6 **Issue 1:** The security of the site and it being a potential 'target' for criminals.

**Officer comment:** This relates to possible crime on the premises itself and is considered relevant. The applicant can provide Members with more information about this and any safeguards they may have in place, including how alcohol is to be stored. Additionally, the applicant can also provide details of the existing use of the premises (and whether it has included cider production) and if there are any existing concerns regarding crime.

The Police have not submitted a representation with regards to crime and disorder so at the time of writing this report, the Licensing Authority are not aware of any issues prior to the submission of the application.

6.7 **Issue 2:** Noise from the site (which includes reference to the number of people on site and possible events).

**Officer comment:** The potential for noise is relevant (in terms of public nuisance) but the representations that mention this do not give much information. As a result, any party that has raised the issue of noise is asked to provide further details in their response to the 'Notice of Hearing'. It should be noted that no form of regulated entertainment has been applied for and the Sub-Committee will likely want to know:

- What kind or type(s) of noise parties are concerned about
- What kind or type(s) of events parties are concerned about
- What days / times do parties believe public nuisance will occur (if there are any particular days / times).

6.8 **Issue 3:** Drink driving

**Officer comment:** This presumably relates to people drinking too much alcohol at the premises and subsequently driving. As a result, this is considered relevant but further information must be provided by the relevant party at the hearing to clarify this representation. This approach is supported by S182 Guidance (Paragraph 9.9) which states:

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

The Licensing Officer does not believe that just because a premises can sell alcohol it will result in its customers drink driving. However, that is not to say it could not happen and whether it does or not is largely dependent on the premises having the right processes and management controls in place. The Sub-Committee may wish to explore this at the hearing.

NOTE: It is an offence under the Licensing Act to knowingly sell alcohol, or attempt to sell alcohol, to a person who is drunk. It is also illegal to allow alcohol to be sold to someone who is drunk.

Finally, the premises cannot be held responsible for the actions of a customer who may purchase alcohol for consumption 'off' the premises (in a 'sober' state) and then subsequently drink that alcohol elsewhere later on and commit offences – any such individual is responsible in their own right.

**Overview of issues NOT considered relevant**

6.9 **Issue 4:** The issue of the local road, its use, blind corners and possible traffic.

**Officer comment:** The general use of the road is not something that the applicant can control and the Licensing Officer does not believe that these matters should be considered as relevant. People are able to use the road (regardless of whether or not a licence is in place) and each individual is responsible for how they drive and conduct themselves on a highway.

Additionally, some of the representations mention the risk to the general public should they use the road and it should be noted that reference the public safety licensing objective, 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'*. Accordingly, the Licensing Officer does not believe that the applicant would be responsible for the safety of those that are not actually using the relevant premises.

As mentioned in Paragraph 6.3 of this report, the fact that such issues are not considered as relevant under the Licensing Act does not mean that the issues are not in themselves valid - other legislation and processes may exist to address them. With regards to the local road network, this may be considered via a planning process and further information is provided about planning later in this report (along with the requirement for licensing to avoid duplicating other statutory requirements or other duties or responsibilities placed on the employer by other legislation).

- 6.10 **Issue 5:** The mere fact that someone may not necessarily live on the site.

**Officer comment:** The Licensing Officer does not know if this is the case but there is no requirement in the Licensing Act for anyone to actually live on (or near) the licensed premises. As a standalone statement, it doesn't link to a licensing objective and so is not considered relevant.

- 6.11 **Issue 6:** Similar project(s) not being successful and the capacity of the business to produce fruit.

**Officer comment:** The viability of a business (or the need for it) does not relate to the licensing objectives (and the impact of licensable activities on them). For this reason, these issues are not considered to be relevant.

- 6.12 **Issue 7:** General potential for increased rural crime in the locality (which is not linked to the premises, as is the case for issue 1).

**Officer comment:** The general issue of local rural crime is not considered relevant. It must be noted that individuals remain responsible and accountable in their own right for their actions and the licence holder cannot be held accountable for issues that they cannot actually control.

- 6.13 In addition to the points above, TWO representations have made a general point that the applicant has a Personal Licence and can therefore sell alcohol from other premises. This is not a relevant representation but as a point of

clarification, this is not necessarily the case. A Premises Licence is required at the location in which alcohol is 'appropriated to the contract' (i.e. the place where it is identified and specifically set apart for delivery to the purchaser). If this takes place on this premises, then it will require a Premises Licence.

- 6.14 In summary, the Licensing Officer believes the following to be potentially relevant / not relevant for the Licensing Sub-Committee to consider:

<b>Relevant (or potentially relevant but requires more information)</b>	
Issue 1	The security of the site and it being a potential 'target' for criminals.
Issue 2	Noise from the site (which includes reference to the number of people on site and possible events).
Issue 3	Drink driving

<b>Not relevant</b>	
Issue 4	The issue of the local road, its use, blind corners and possible traffic.
Issue 5	The mere fact that someone may not necessarily live on the site
Issue 6	Similar project(s) not being successful and the capacity to produce fruit
Issue 7	General potential for increased rural crime in the locality

## **7.0 PLANNING CONSIDERATIONS**

- 7.1 Members should be aware that various planning issues may be relevant in relation to this premises (including the issues surrounding the local road network). In order to try and clarify the considerations of the Sub-Committee and the separation between planning and licensing, the following sections of Mid Devon District Council Licensing Policy are highlighted:
- 7.2 *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)*

- 7.3 *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)*
- 7.4 *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)*
- 7.5 *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)*
- 7.6 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.

## **8.0 LICENSING POLICY**

- 8.1 The Licensing Act requires the Council, as the Licensing Authority, to formally adopt a policy setting out how it will deal with its duties under the Act. That policy must be reviewed every five years and the current Policy came into effect on 7 January 2019. It must be considered in its entirety, but in order to help proceedings, the following information is highlighted in advance of the hearing.
- 8.2 *In carrying out its licensing function the Licensing Authority must promote the following four licensing objectives:*
- *The prevention of crime and disorder*
  - *Public Safety*
  - *The prevention of public nuisance*
  - *The protection of children from harm (Paragraph 2.2)*
- 8.3 *It is recognised that the licensing function is only one means of securing the delivery of the above objectives and should not therefore be seen as a “cure all” for solving all problems within the community... (Paragraph 3.2)*

- 8.4 *Where no relevant representations are received, the application will be granted on the terms applied for. Where relevant representations are received, the application will be considered by a Licensing Sub Committee at a hearing...* (Paragraph 5.13)
- 8.5 *Any party to a hearing may expand on their representation but may not introduce new or different representations.* (Paragraph 5.14)
- 8.6 *When determining a licence application, the overriding principle adopted by this authority will be that each application will be determined on its merits. The authority will have regard to any guidance issued by the Home Office, this Statement of Licensing Policy and any measures it deems necessary to promote the licensing objectives. The authority may depart from the guidelines in this Policy if it has justifiable and compelling reasons to do so. The authority will give reasons for any such departure from policy.* (Paragraph 6.3)
- 8.7 *The authority will expect applicants to demonstrate in their applications active steps for the promotion of the licensing objectives. When determining an application, a key consideration for the authority will be the adequacy of measures proposed in the Operating Schedule to promote the licensing objectives having regard to the type of premises, the licensable activities to be provided, the nature of the location and the needs of the local community.* (Paragraph 6.4)
- 8.8 *The authority will also have regard to wider considerations affecting the residential population, businesses and the amenity of an area. These include alcohol-related violence and disorder, antisocial behaviour, littering and noise, particularly late at night and in the early morning.* (Paragraph 6.5)
- 8.9 *When determining an application, the authority will consider all relevant evidence, both oral and written, provided by parties to a hearing. Evidence which is irrelevant will be disregarded. The authority encourages applicants and persons making representations to attend hearings so that they can give evidence. Where an individual fails to attend the hearing, the authority will consider their application or representation but may attach less weight to it.* (Paragraph 6.7)
- 8.10 *It should be noted that, when determining an application, the authority is making a judgment about risk. A key purpose of the licensing function is not to respond to crime and disorder, nuisance or public harm once it has happened but to make an informed assessment of the risk of such things occurring if a licence is granted and to take such steps as it considers appropriate to prevent or minimise such risks.* (Paragraph 6.8)
- 8.11 *Licence conditions will be tailored to the individual application and only those considered appropriate to meet the licensing objectives will be imposed. Licence conditions will not be imposed where other regulatory regimes provide sufficient protection, for example Health and safety at work, fire safety legislation etc.* (Paragraph 6.9)



- 8.12 *The Licensing Authority will also take into account when making its decision that licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour, especially once individuals have left licensed premises and are therefore beyond the direct control of licensees. However, when making a decision, the authority will focus on the direct impact of the activities taking place on the licensed premises on members of the public living, working or engaged in normal activity in the area concerned. (Paragraph 6.10)*
- 8.13 *The 'need' or demand for a licensed premises of any kind or the commercial damage that competition from a new licensed premises would do to other licensed premises in an area will not be matters that the authority will consider when discharging its decision making function. (Paragraph 6.11)*
- 8.14 *The Licensing Authority will deal with the issue of licensing hours on the individual merits of each application. When the authority's discretion is engaged consideration will be given to the individual merits of an application but the presumption will be to grant the hours requested unless there are objections to those hours raised by Responsible Authorities or Other Persons on the basis of the licensing objectives. (Paragraph 6.15)*
- 8.15 *In general, applications for licensed premises located in residential areas wishing to open beyond 23.00, and those operating a beer garden or outside area beyond 21:00, will be expected to have a higher standard of control included within their operating schedule to address any potential public nuisance issue. (Paragraph 6.16)*
- 8.16 *Where representations are received, stricter conditions relating to noise control may be appropriate and necessary in sensitive locations such as residential areas. (Paragraph 6.17)*
- 8.17 *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)*
- 8.18 *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)*
- 8.19 *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)*
- 8.20 *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)*
- 8.21 *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)*
- 8.22 *Members must have regard to the Licensing Authorities Policy when making their decision and it can be viewed in full here:*

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

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

## **9.0 GOVERNMENT GUIDANCE**

- 9.1 Members are also obliged to have regard to the Guidance produced under S.182 of the Licensing Act 2003. The most recent version of this was published in April 2018 and some relevant sections are highlighted below. The Guidance can be viewed here:

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

- 9.2 *Each application must be considered on its own merits and in accordance with the licensing authority's statement of licensing policy; for example, if the application falls within the scope of a cumulative impact policy. Conditions attached to licences and certificates must be tailored to the individual type, location and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should be avoided and indeed may be unlawful where they cannot be shown to be appropriate for the promotion of the licensing objectives in an individual case. (Paragraph 1.17)*
- 9.3 *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)*
- 9.4 *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)*

- 9.5 *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)*
- 9.6 *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. For example, a representation from a local businessperson about the commercial damage caused by competition from new licensed premises would not be relevant. On the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be relevant. In other words, representations should relate to the impact of licensable activities carried on from premises on the objectives. For representations in relation to variations to be relevant, they should be confined to the subject matter of the variation. There is no requirement for a responsible authority or other person to produce a recorded history of problems at premises to support their representations, and in fact this would not be possible for new premises. (Paragraph 9.4)*

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

- 10.1 *Section 182 Guidance states that: ‘As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation and should be allowed sufficient time to do so, within reasonable and practicable limits’. (Paragraph 9.37)*
- 10.2 *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)
- 10.3 *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)
- 10.4 *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)
- 10.5 *Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters...* (Paragraph 9.44)

#### Options of the Sub-Committee

- 10.6 The Committee must take such steps as it considers appropriate for the promotion of the licensing objectives. This may include:
- Granting the licence as applied for
  - Granting the licence subject to appropriate modifications necessary for the promotion of the licensing objectives
  - Excluding from the scope of the licence any of the licensable activities to which the application relates
  - Refusing to specify a Designated Premises Supervisor
  - Rejecting the application
- 10.7 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.
- 10.8 Members have five working days from the conclusion of the hearing to make a decision.

## 11.0 APPEAL

- 11.1 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.

## 12.0 THE PROCESS FOR THIS HEARING

- 12.1 The Council have an adopted procedure for hearings and this attached to this report as **Annexe 7**. In so far as is possible and practicable, the Licensing Authority will work in accordance with this procedure.
- 12.2 As a result of the current Coronavirus (COVID-19) pandemic, one of the most significant changes for this hearing is that it will be conducted using the video-conferencing platform 'Zoom' (as opposed to being held in a meeting room at the Council offices).
- 12.3 A practical guide on using Zoom has been produced by Kings Chambers and this is attached as **Annex 8**. The Licensing Authority request that all parties install and familiarise themselves with this system at least 48 hours prior to the hearing. A link which will take you to the meeting is provided in the agenda section of this report bundle. If there are any issues (or if you are unable to attend the hearing) you should notify the licensing team ([licensing@middevon.gov.uk](mailto:licensing@middevon.gov.uk)) as soon as possible.
- 12.4 In theory, attendees can, with the consent of all parties, produce documentary information at the hearing. In practice, and because of how the hearing is now being held, this may be difficult and the Licensing Authority is requesting that if any party has documentary information they wish to provide or rely on, this be sent to the licensing team ([licensing@middevon.gov.uk](mailto:licensing@middevon.gov.uk)) with their response to the Notice of Hearing (which must be submitted 5 working days before the hearing).
- 12.5 In addition, and to try and ensure the hearing runs as smoothly as possible, the following points should be noted and followed during the hearing:
- Parties should ensure that they are in a private, quiet space where they will not be disturbed. Other occupants of the household should be reminded not to interrupt the participant during the hearing. The door to the room in which the participant is based should be closed and, if possible, locked.
  - Other noise sources should be silenced including telephones, mobile phones, tablet devices, Amazon Echo & Google Home devices, door bells, dishwashers etc.
  - Participants should organise their workspace carefully in advance. Clear it of anything that is not related to the hearing.
  - Attendees should, if possible, ensure that they have a plain wall as a background.

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

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

**Contact for more Information:** Tom Keating (Specialist Lead, Licensing) / 07967 179666 / [tkeating@middevon.gov.uk](mailto:tkeating@middevon.gov.uk) OR Simon Newcombe (Group Manager for Public Health and Regulatory Services) / 07967 679939 / [snewcombe@middevon.gov.uk](mailto:snewcombe@middevon.gov.uk)

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

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

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

- Licensing Act 2003 - <https://www.legislation.gov.uk/ukpga/2003/17/contents>
- Section 182 Guidance - <https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>
- Mid Devon District Council Licensing Act Policy - <https://www.middevon.gov.uk/business/licensing/new-statement-of-licensing-policy-licensing-act-2003/>



## 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 Rull Orchard Ltd

(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			
Rull Orchard Between Lee Cross Farm and Chilton Farm Northdown Road Bickleigh Devon			
Post town	Bickleigh	Postcode	EX5 5LN

Telephone number at premises (if any)	
Non-domestic rateable value of premises	

#### 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 checked="" 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 ☐ 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)	
<div style="background-color: black; height: 40px;"></div>			
Current residential address if different from premises address			
E-mail address (optional)			
<div style="background-color: black; height: 40px;"></div>			

--

**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			
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)			
Current residential 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 Rull Orchard Ltd
Address Rull Orchard Between Lee Cross and Chilton Farms Northdown Road Bickleigh Devon EX55LN



Registered number (where applicable) [REDACTED]
Description of applicant (for example, partnership, company, unincorporated association etc.) Limited Company [REDACTED]

### Part 3 Operating Schedule

When do you want the premises licence to start? ASAP

DD		MM		YYYY			
0	1	0	9	2	0	2	0

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

DD		MM		YYYY			

Existing cider production facility housed in a Farm building in a rural location. A serving hatch will allow customers to try and buy ciders and be tutored in the production of cider. We would like to supply alcohol for consumption both on and off the premises. There is a small outside seating area as shown on the plan where tutoring and consumption will take place.

We will also provide a delivery service where we will be delivering the alcohol ourselves, orders will be taken over the telephone or via the website.

We will implement best practice measures relating to staff training, refusals and incidents at 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.

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**

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

# B

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

# C

<b>Indoor sporting events</b> Standard days and timings (please read guidance note 7)			<b>Please give further details</b> (please read guidance note 4)
Day	Start	Finish	
Mon	-----	-----	
Tue	-----	-----	
Wed	-----	-----	<b>State any seasonal variations for indoor sporting events</b> (please read guidance note 5)
Thur	-----	-----	<b>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</b> (please read guidance note 6)
Fri	-----	-----	
Sat	-----	-----	
Sun	-----	-----	



# D

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

# E

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

# F

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

# G

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



# H

<b>Anything of a similar description to that falling within (e), (f) or (g)</b> 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	<b><u>Will this entertainment take place indoors or outdoors or both – please tick</u></b> (please read guidance note 3)	Indoors	<input type="checkbox"/>
Mon	-----	-----		Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Tue	-----	-----	<b><u>Please give further details here</u></b> (please read guidance note 4)		
Wed	-----	-----			
Thur	-----	-----	<b><u>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</u></b> (please read guidance note 5)		
Fri	-----	-----			
Sat	-----	-----	<b><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></b> (please read guidance note 6)		
Sun	-----	-----			

# I

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

**J**

<b>Supply of alcohol</b> Standard days and timings (please read guidance note 7)			<b>Will the supply of alcohol be for consumption – please tick</b> (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	<b>State any seasonal variations for the supply of alcohol</b> (please read guidance note 5) None      <b>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</b> (please read guidance note 6) None		
Mon	12:00 -----	20:00 -----			
Tue	12:00 -----	20:00 -----			
Wed	12:00 -----	20:00 -----			
Thur	12:00 -----	20:00 -----			
Fri	12:00 -----	20:00 -----			
Sat	12:00 -----	20:00 -----			
Sun	12:00 -----	20:00 -----			

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 Mike Shorland <div style="background-color: black; height: 200px; width: 100%;"></div>
--

**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

<b>Hours premises are open to the public</b> Standard days and timings (please read guidance note 7)			<b><u>State any seasonal variations</u></b> (please read guidance note 5)
Day	Start	Finish	<b><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></b> (please read guidance note 6)
Mon	12:00	20:30	
Tue	12:00	20:30	
Wed	12:00	20:30	
Thur	12:00	20.30	
Fri	12:00	20.30	
Sat	12:00	20.30	
Sun	12:00	20.30	

## 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)



We will consider recommendations from the responsible authorities

**b) The prevention of crime and disorder**

We will consider recommendations from the responsible authorities

There shall be no self-service of alcohol on the premises.

**c) Public safety**

We will consider recommendations from the responsible authorities

The collection of glasses and bottles shall be undertaken at regular intervals to ensure there is no build-up of empties in and around the premises.

**d) The prevention of public nuisance**

We will consider recommendations from the responsible authorities

**e) The protection of children from harm**

We will consider recommendations from the responsible authorities

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.

**Conditions relating to online / telephone sales of alcohol and delivery**

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

Alcohol delivery will be refused if the delivery driver believes that the alcohol was purchased on behalf of another person who is not 18 years or over.

If a delivery driver considers the recipient of alcohol to appear under 25, recognised photographic identification (refer to mandatory conditions) will be requested and must be provided evidencing the recipient to be at least 18 years of age before any alcohol is handed over

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

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

**Checklist:**

**Please tick to indicate agreement**

- I have made 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.**

<b>Declaration</b>	<ul style="list-style-type: none"> <li>[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).</li> <li>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)</li> </ul>
<b>Signature</b>	
<b>Date</b>	19/07/2020
<b>Capacity</b>	Director

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

<b>Signature</b>	
<b>Capacity</b>	

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 combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.

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

- any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.
3. Where taking place in a building or other structure please tick as appropriate (indoors may include a tent).
  4. For example the type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.
  5. For example (but not exclusively), where the activity will occur on additional days during the summer months.
  6. For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.
  7. Please give timings in 24 hour clock (e.g. 16.00) and only give details for the days of the week when you intend the premises to be used for the activity.
  8. If you wish people to be able to consume alcohol on the premises, please tick 'on the premises'. If you wish people to be able to purchase alcohol to consume away from the premises, please tick 'off the premises'. If you wish people to be able to do both, please tick 'both'.
  9. Please give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups or the presence of gaming machines.
  10. Please list here steps you will take to promote all four licensing objectives together.
  11. The application form must be signed.
  12. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
  13. Where there is more than one applicant, each of the applicants or their respective agent must sign the application form.
  14. This is the address which we shall use to correspond with you about this application.
  - 15. Entitlement to work/immigration status for individual applicants and applications from partnerships which are not limited liability partnerships:**

A licence may not be held by an individual or an individual in a partnership who is resident in the UK who:

- does not have the right to live and work in the UK; or
- is subject to a condition preventing him or her from doing work relating to the carrying on of a licensable activity.

Any premises licence issued in respect of an application made on or after 6 April 2017 will become invalid if the holder ceases to be entitled to work in the UK.



Applicants must demonstrate that they have an entitlement to work in the UK and are not subject to a condition preventing them from doing work relating to the carrying on of a licensable activity. They do this in one of two ways: 1) by providing with this application copies or scanned copies of the documents listed below (which do not need to be certified), or 2) by providing their 'share code' to enable the licensing authority to carry out a check using the Home Office online right to work checking service (see below).

#### **Documents which demonstrate entitlement to work in the UK**

- An expired or current passport showing the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the UK and Colonies having the right of abode in the UK [please see note below about which sections of the passport to copy].
- An expired or current passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland.
- A Registration Certificate or document certifying permanent residence issued by the Home Office to a national of a European Economic Area country or Switzerland.
- A Permanent Residence Card issued by the Home Office to the family member of a national of a European Economic Area country or Switzerland.
- A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK.
- A **current** passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK.
- A **current** Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A birth or adoption certificate issued in the UK, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A certificate of registration or naturalisation as a British citizen, **when produced in combination with** an official document giving the person's permanent National

Insurance number and their name issued by a Government agency or a previous employer.

- A **current** passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity.
- A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to work relation to the carrying on of a licensable activity.
- A **current** Residence Card issued by the Home Office to a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights or residence.
- A **current** Immigration Status Document containing a photograph issued by the Home Office to the holder with an endorsement indicating that the named person may stay in the UK, and is allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A Certificate of Application, **less than 6 months old**, issued by the Home Office under regulation 18(3) or 20(2) of the Immigration (European Economic Area) Regulations 2016, to a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights of residence.
- Reasonable evidence that the person has an outstanding application to vary their permission to be in the UK with the Home Office such as the Home Office acknowledgement letter or proof of postage evidence, or reasonable evidence that the person has an appeal or administrative review pending on an immigration decision, such as an appeal or administrative review reference number.
- Reasonable evidence that a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights of residence in exercising treaty rights in the UK including:
  - evidence of the applicant's own identity – such as a passport,
  - evidence of their relationship with the European Economic Area family member – e.g. a marriage certificate, civil partnership certificate or birth certificate, and
  - evidence that the European Economic Area **national** has a right of permanent residence in the UK or is one of the **following** if they have been in the UK for more than 3 months:
    - (i) working e.g. employment contract, **wage slips**, letter from the employer,
    - (ii) self-employed e.g. contracts, invoices, **or audited accounts with a bank**,



- (iii) studying e.g. letter from the school, college or university and evidence of sufficient funds; or
- (iv) self-sufficient e.g. bank statements.

Family members of European Economic Area nationals who are studying or financially independent must also provide evidence that the European Economic Area national and any family members hold comprehensive sickness insurance in the UK. This can include a private medical insurance policy, an EHIC card or an S1, S2 or S3 form.

**Original documents must not be sent to licensing authorities.** If the document copied is a passport, a copy of the following pages should be provided:

- (i) any page containing the holder's personal details including nationality;
- (ii) any page containing the holder's photograph;
- (iii) any page containing the holder's signature;
- (iv) any page containing the date of expiry; and
- (v) any page containing information indicating the holder has permission to enter or remain in the UK and is permitted to work.

If the document is not a passport, a copy of the whole document should be provided.

Your right to work will be checked as part of your licensing application and this could involve us checking your immigration status with the Home Office. We may otherwise share information with the Home Office. Your licence application will not be determined until you have complied with this guidance.

#### **Home Office online right to work checking service**

As an alternative to providing a copy of the documents listed above, applicants may demonstrate their right to work by allowing the licensing authority to carry out a check with the Home Office online right to work checking service.

To demonstrate their right to work via the Home Office online right to work checking service, applicants should include in this application their 9-digit share code (provided to them upon accessing the service at <https://www.gov.uk/prove-right-to-work>) which, along with the applicant's date of birth (provided within this application), will allow the licensing authority to carry out the check.

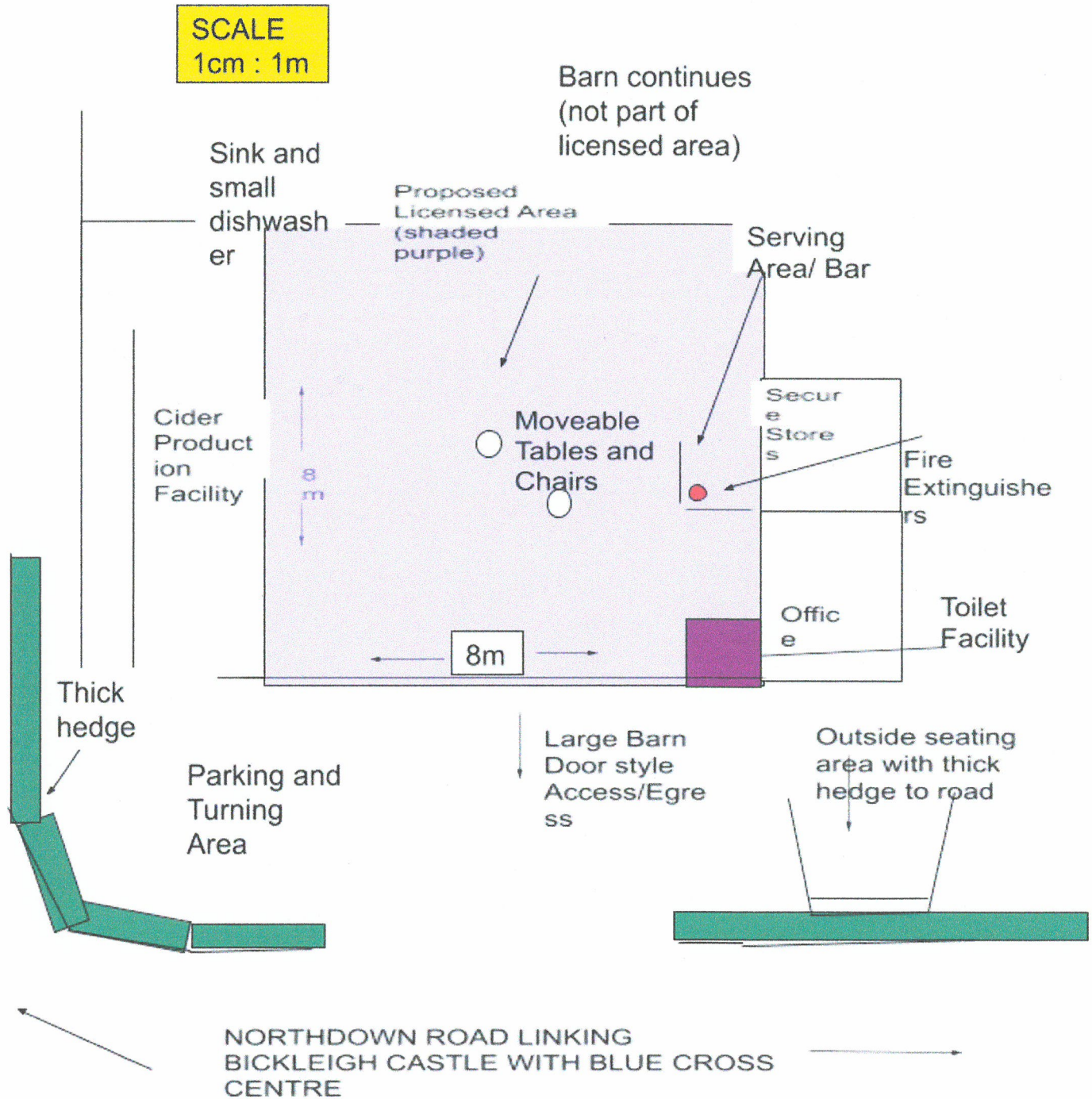
In order to establish the applicant's right to work, the check will need to indicate that the applicant is allowed to work in the United Kingdom and is not subject to a condition preventing them from doing work relating to the carrying on of a licensable activity.

An online check will not be possible in all circumstances because not all applicants will have an immigration status that can be checked online. The Home Office online right to work checking service sets out what information and/or documentation applicants will need in order to access the service. Applicants who are unable to obtain a share code from the service should submit copy documents as set out above.

Rull orchard premise Plan  
North Down Road  
Bickleigh  
EXS SW.

27/7/20

ANNEX 2



MID DEVON DISTRICT COUNCIL  
Mid Devon Licensing Authority  
Licensing Act 2003

17 AUG 2020  
**REPRESENTATION FORM**



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

Your name/organisation name/name of body you represent (see note 3)	MRS O. M. WESTLAKE
Organisation name/name of body you represent (if appropriate) (see note 3)	N/A
Postal and email address	[REDACTED] CHADLEIGH TIVERTON EX16 8RT
Contact telephone number	[REDACTED]
Name of the premises you are making a representation about	RULL ORCHARD
Address of the premises you are making a representation about.	NORTDOWN ROAD BICKLEIGH, DEVON, EX5 5LN

Your representation must relate to one of the four Licensing Objectives (see note 4)

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

Please suggest any conditions that could be added to the licence to remedy your representation or other suggestions you would like the Licensing Sub Committee to take into account.

Signed:

Date:

Please see notes on reverse

#### NOTES

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

Mid Devon Licensing Authority  
Phoenix House  
Phoenix Lane  
Tiverton  
Devon EX16 6PP

Tel: 01884 244617/8/9

Email: [licensing@middevon.gov.uk](mailto:licensing@middevon.gov.uk)

Mrs O M Westlake

Cadeleigh  
Tiverton  
Devon  
EX16 8RT

11th August 2020

Reference: Premises Licence Application 024549 - Rull Orchards Ltd

Dear Sir

I wish to object to the granting of the above Premises Licence on the following grounds.

**The Prevention of Crime and Disorder**

The site of Rull Orchard is on an unclassified, narrow, poorly maintained lane (Northdown Road) in an extremely rural location. The site is not business or residential but on agricultural land and around 280 yards from the nearest local resident and is not visible from any neighbouring properties. It can reasonably be assumed that there will be alcohol and possibly cash stored on site overnight. For this reason I believe it will be seen as an easy target for potential thieves. Because of the inaccessibility of the site it may be some time before police could react and make their presence known.

**Public Safety**

The licence applied for is for on and offsite sales between the hours of Noon to 20:30hrs 7 days a week 52 weeks a year. Northdown Road is not used as a 'cut through' to any other location and so is currently only used by a small number of local residents, farmers and horseriders. The site entrance is only 50 yards from a blind corner in one direction and about 12 yards from a blind corner in the other direction. With the granting of this licence it will enable and encourage a substantial increase in traffic with drivers who may be unfamiliar with narrow Devon lanes (the lane is less than 3 yards wide in many places). Farmers use tractors and trailers on the lane for transporting animals and feed. I believe the combination of narrow lanes, blind corners, unfamiliar road users and heavy farm traffic constitutes a potential public safety issue which cannot be overcome.

**The Prevention of Public Nuisance**

Northdown Road is only easily accessed from the A3072 at two points and the total length between these points is 2.63 miles of narrow single track lane with limited passing places and at least 8 blind corners. Local people know the passing places but casual visitors to Rull Orchard will be unfamiliar with them and when confronted with an impasse, it will probably be the local resident or farmer who will have to do the reversing. This is currently tolerable due to the sparse population along the lane but when you add in a potentially significant increase in traffic due to orchard offsales and on site events then the situation will become a nuisance to the local public.

I understand that the Applicant, Mr Mike Shorland, already possesses a personal licence to sell alcohol from other licensed premises and so by refusing this current application, it does not prevent him from future trading.

I contend that, for the above reasons, this is an inappropriate site for a premises licence and I urge the local authority to deny permission.

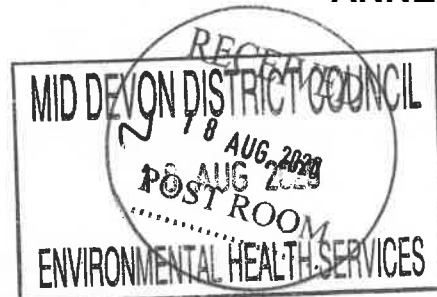
Regards

Mrs O M Westlake



Mid Devon Licensing Authority  
Licensing Act 2003

REPRESENTATION FORM



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

Your name/organisation name/name of body you represent (see note 3)	DAVID GILLES + DIANE BECKETT
Organisation name/name of body you represent (if appropriate) (see note 3)	N/A
Postal and email address	[REDACTED]
	THORVERTON EX5 5LN
Contact telephone number	[REDACTED]

Name of the premises you are making a representation about	RULL ORCHARD, BICKLEIGH EX5 5LN
Address of the premises you are making a representation about.	NORNDOWN ROAD, BICKLEIGH, EX5 5LN

Your representation must relate to one of the four Licensing Objectives (see note 4)

Licensing Objective	Yes Or No	Please detail the evidence supporting your representation or the reason for your representation. Please use separate sheets if necessary
To prevent crime and disorder	YES	THERE IS NO RESIDENCE SO NO BODY LIVES ON THIS SITE, BUT
Public safety	YES	ACTUALLY RESIDE IN BRISTOL. UG27 NARROW LANG. BLIND ENTRY TO ORCHARD.
To prevent public nuisance	YES	NOISE, NUMBERS OF PEOPLE
To protect children from harm	YES	NEIGHBOURS HAVE UG27 YOUNG CHILDREN, FAMILIES ACCESS NARROW LANG.

Please suggest any conditions that could be added to the licence to remedy your representation or other suggestions you would like the Licensing Sub Committee to take into account.	SEE SEPARATE SHEET
--	--------------------

Signed

Date:

16.8.20

**Please see notes on reverse**

### **NOTES**

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

**Mid Devon Licensing Authority**  
**Phoenix House**  
**Phoenix Lane**  
**Tiverton**  
**Devon EX16 6PP**

**Tel: 01884 244617/8/9**

**Email: [licensing@middevon.gov.uk](mailto:licensing@middevon.gov.uk)**

[REDACTED]  
THORWORTH  
EXS SLU  
16.8.20

Dear Sir / Madam,

RE :- LICENSING APPLICATION FOR  
RULL ORCHARD, NORTHDOWN ROAD,

WE WOULD LIKE TO EXPRESS OUR CONCERNS,

- 1) AS IMMEDIATE NEIGHBOURS WITH LIVESTOCK IN FIELD,  
NOISE, NUMBERS OF VISITORS TO SITE,
- 2) LANE VERY NARROW, DAMAGE TO THE LANE IS  
UNDER DAILY REVIEW BY THE COUNCIL HIGHWAYS  
DEPARTMENT, CORDONED OFF DAMAGE, CONES ETC,
- 3) ENTRY TO RULL ORCHARD ON BLIND CORNER,
- 4) OWNERS OF RULL ORCHARD LIVE IN BRISTOL.  
NO ONE LIVES ON SITE BUT ALCOHOL STORED  
TINERS, SEVERAL TINERS, SOLD FROM THERE.

[REDACTED] [REDACTED]  
16.8.20



Mid Devon Licensing Authority  
Licensing Act 2003

REPRESENTATION FORM



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

Your name/organisation name/name of body you represent (see note 3)	J. GREENSLADE
Organisation name/name of body you represent (if appropriate) (see note 3)	
Postal and email address	THORVERTON FRETHER EX5 5LN
Contact telephone number	

Name of the premises you are making a representation about	PULL ORCHARDS LTD
Address of the premises you are making a representation about.	PULL ORCHARD THORVERTON

Your representation must relate to one of the four Licensing Objectives (see note 4)

Licensing Objective	Yes Or No	Please detail the evidence supporting your representation or the reason for your representation. Please use separate sheets if necessary
To prevent crime and disorder	YES	DRINK DRIVING
Public safety	YES	NARROW ROADS AND UNSAFE ENTRANCE ON A BEND AND FEW PASSING PLACES
To prevent public nuisance	YES	NOISE IN EVENING
To protect children from harm	NO	

Please suggest any conditions that could be added to the licence to remedy your representation or other suggestions you would like the Licensing Sub Committee to take into account.	A SIMILAR PROJECT AT BIERLEIGH HAS BEEN A FAILURE
--	---

Signed:

[Redacted Signature]

Date:

7/8/2020

Please see notes on reverse

## Licensing

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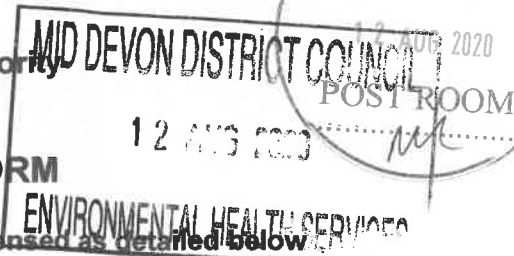
**From:** [REDACTED]  
**Sent:** 07 August 2020 08:48  
**To:** Licensing  
**Subject:** RULL ORCHORDS LTD

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

I wish to object to the above application for a license to sell alcoholic products on and of the premises at RULL ORCHARD THORVERTON . I do for the following reasons -1 The property is in a unclassified road with very few passing places .-2 the entrance is on a blind bend .-3 There could be a noise problem for near neighbours .-4 d Does the premises have the capacity to produce enough fruit to make it a viable business? because i have seen a similar one near Bickleigh not come to fruition! yours sincerely j Greenslade [REDACTED] Thorverton EX5 5LN

Mid Devon Licensing Authority  
Licensing Act 2003

REPRESENTATION FORM



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

Your name/organisation name/name of body you represent (see note 3)	Richard Pocock
Organisation name/name of body you represent (if appropriate) (see note 3)	Neighbour
Postal and email address	[REDACTED] Cadeleigh, EX16 8RT
Contact telephone number	[REDACTED]

Name of the premises you are making a representation about	Rull Orchard,
Address of the premises you are making a representation about.	Northdown Road Thorverton EX5 5LN

Your representation must relate to one of the four Licensing Objectives (see note 4)

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

Please suggest any conditions that could be added to the licence to remedy your representation or other suggestions you would like the Licensing Sub Committee to take into account	See separate sheet
---	--------------------

Signed:

[REDACTED]

Date: 11.8.20

Please see notes on reverse

NOTES

## **Objections to licensing at Rull Orchard:**

### **Re crime and disorder**

The site is not occupied outside the opening hours. There will be alcohol and other produce unguarded and if there is general access local criminals will be aware of this and be attracted to burgle the site. They will also be aware of neighbouring properties particularly the farms and there is the potential for increased rural crime in the locality.

### **Public safety:**

The entrance to the site is just after and before two blind bends. Significant numbers of people visiting will inevitably lead to accidents. The lane access is a narrow road with few passing places it is mainly used to access the local houses and farms but is frequently used by walkers and horses and increased traffic will also create a risk.

### **Public nuisance:**

The area is a quiet rural area and there are houses within 200 yards. Events with numerous people will inevitably create noise.

### **General comments**

The owner has a personal license so he can function without an additional licence however to help his business an off licence would not be unreasonable and he will clearly need to allow tasting but I feel there should be restrictions on any in house licence limiting the number of events that can be held (say 8 per year), opening hours to close at 5.30 rather than 8PM and restricting general drinking activity.

## Hearing Procedures

The Council has a 'Protocol and Procedure for Licensing Sub-Committee Hearings' and this document starts from the next page.

### Coronavirus (COVID-19) and Licensing Act hearings

Hearings would normally be held at the Council offices but as a result of the current Coronavirus (COVID-19) pandemic, this hearing will be held via the video-conferencing platform 'Zoom'. Although the Council still plan to follow the standard procedures (in so far as is possible and practicable) the following information should be noted:

- a) Members of the public can still attend this hearing, but in order to facilitate this they will have to give their details to the clerk (Member Services) the day before the hearing (i.e. they will have to 'pre-register'). This is to ensure the hearing itself is not disrupted. As is standard, they can then only observe the hearing and they will not be able to speak at the meeting itself.
- b) Attendees can, **with the consent of all parties**, produce documentary information at the hearing. In practice, and because of how the hearing is now being held, this may be difficult and the Licensing Authority is requesting that if any party has documentary information they wish to provide or rely on, this be sent to the licensing team ([licensing@middevon.gov.uk](mailto:licensing@middevon.gov.uk)) with their response to the Notice of Hearing (which must be submitted 5 working days before the hearing).
- c) In addition to the standard role of Member Service (i.e. making a record of proceedings), they will also be responsible for 'hosting' the Zoom meeting and the general administration of the platform.

## **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](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.

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## VIDEO CONFERENCE (ZOOM) PROCEDURE

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

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

### Prior to the Hearing

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

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

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

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

**Check your Camera and Microphone are working**

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

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

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

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

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

## During the Hearing

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

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

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

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

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

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

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

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

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

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

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

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

## Breakout Rooms

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

## Emergency Procedure – the virtual 'hand' raise

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

## Recording the Hearing

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

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