

# Public Document Pack

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## MID DEVON DISTRICT COUNCIL

### LICENSING SUB-COMMITTEE B

**A MEETING** of the **LICENSING SUB-COMMITTEE B** will be held Virtually on  
Wednesday, 20 January 2021 at 11.00 am

#### STEPHEN WALFORD

Chief Executive

6<sup>th</sup> January 2021

To join Zoom Meeting:

<https://zoom.us/j/92019108613?pwd=am90OFFQR1oyU00zSUI0R202TkVxdz09>

Meeting ID: 920 1910 8613

Passcode: 436912

One tap mobile

08003582817,,92019108613#,,,,\*436912# United Kingdom Toll-free

08000315717,,92019108613#,,,,\*436912# United Kingdom Toll-free

Dial by your location

0 800 358 2817 United Kingdom Toll-free

0 800 031 5717 United Kingdom Toll-free

0 800 260 5801 United Kingdom Toll-free

Meeting ID: 920 1910 8613

Passcode: 436912

**Councillors:** Mrs F J Colthorpe, D R Coren and J M Downes

## 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 **Chairman - Election**  
To elect a Chairman for the meeting.
- 2 **Remote Meetings Protocol** (*Pages 3 - 8*)  
Members to note the Remote Meetings Protocol
- 3 **Apologies and Substitute Members**  
To receive any apologies for absence and notices of appointment of

Substitute Members (if any).

4      **New premises licence application (for Frankies Bar, Cullompton)**  
(Pages 9 - 86)

An application has been received for a new premises licence for Frankies Bar, 40 High Street, Cullompton, Devon, EX15 1AE.

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)

## **Mid Devon District Council - Remote Meetings Protocol**

### **1. Introduction**

The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations permit remote attendance in Local Authority meetings.

Remote attendance is permitted as long as certain conditions are satisfied. These include that the Member is able to hear and be heard by the other Members in attendance. Also, being able to hear and be heard by any members of the public entitled to attend the meeting (in line with the public participation scheme). A visual solution is preferred, but audio is sufficient.

This also relates to members of the public attending the meeting also being heard. The regulations are clear that a meeting is not limited to those present in the same place, but includes electronic, digital or virtual locations (internet locations, web addresses or conference call telephone numbers).

### **2. Zoom**

Zoom is the system the Council will be using for the time-being to host remote / virtual meetings. It has functionality for audio, video, and screen sharing and you do not need to be a member of the Council or have a Zoom account to join a Zoom meeting.

### **3. Access to documents**

Member Services will publish the agenda and reports for committee meetings on the Council's website in line with usual practice. Paper copies of agendas will only be made available to those who have previously requested this and also the Chair of a virtual meeting.

If any other Member wishes to have a paper copy, they must notify the Member Services before the agenda is published, so they can arrange to post directly – it may take longer to organise printing, so as much notice as possible is appreciated. Printed copies will not be available for inspection at the Council's offices and this requirement was removed by the Regulations.

### **4. Setting up the Meeting**

This will be done by Member Services. They will send a meeting request via Outlook which will appear in Members' Outlook calendar. Members will receive a URL link to click on to join the meeting.

### **5. Public Access**

Members of the public will be able to use a weblink and standard internet browser. This will be displayed on the front of the agenda.

## 6. Joining the Meeting

Councillors must join the meeting early (i.e. at least five minutes before the scheduled start time) in order to avoid disrupting or delaying the meeting. Councillors should remember that they may be visible and heard by others, including the public, during this time.

## 7. Starting the Meeting

At the start of the meeting, the Member Services Officer will check all required attendees are present (viewing the participant list) and that there is a quorum. If there is no quorum, the meeting will be adjourned. This applies if, during the meeting, it becomes inquorate for whatever reason.

The Chair will remind all Members, Officers and the Public that **all microphones will be automatically muted**, unless and until they are speaking. This prevents background noise, coughing etc. which is intrusive and disruptive during the meeting. The Hosting Officer will enforce this and will be able to turn off participant mics when they are not in use. Members would then need to turn their microphones back on when they wish to speak.

## 8. Public Participation

Participation by members of the public will continue in line with the Council's current arrangements as far as is practicable. However, to ensure that the meeting runs smoothly and that no member of the public is missed, all those who wish to speak must register **by 4pm on the day before the meeting**. They should email their full name to [Committee@middevon.gov.uk](mailto:Committee@middevon.gov.uk). If they wish to circulate their question in advance, that would be helpful.

At public question time, the Chair will invite the public by name to speak at the appropriate time. At that point, all public microphones will be enabled. This means that, to avoid private conversations being overheard, no member of the public should speak until it is their turn and they should then refrain from speaking until the end of public question time, when all microphones will be muted again. In the normal way, the public should state their full name, the agenda item they wish to speak to **before** they proceed with their question.

Unless they have registered, a member of the public will not be called to speak.

If a member of the public wishes to ask a question but cannot attend the meeting for whatever reason, there is nothing to prevent them from emailing members of the Committee with their question, views or concern in advance. However, if they do so, it would be helpful if a copy could be sent to [Committee@middevon.gov.uk](mailto:Committee@middevon.gov.uk) as well.

## 9. Declaration of Interests

Councillors should declare their interests in the usual way. A councillor with a disclosable pecuniary interest is required to leave the room. For remote meetings, this means that they will be moved to a break-out room for the duration



of this item and will only be invited back into the meeting when discussion on the relevant item has finished.

## **10. The Meeting and Debate**

The Council will not be using the Chat function.

The Chair will call each member of the Committee to speak - the Chair can choose to do this either by calling (i) each member in turn and continuing in this way until no member has anything more to add, or (ii) only those members who indicate a wish to speak using the 'raise hand' function within Zoom. This choice will be left entirely to the Chair's discretion depending on how they wish to manage the meeting and how comfortable they are using the one or the other approach.

Members are discouraged from physically raising their hand in the video to indicate a wish to speak – it can be distracting and easily missed/misinterpreted. No decision or outcome will be invalidated by a failure of the Chair to call a member to speak – the remote management of meetings is intensive and it is reasonable to expect that some requests will be inadvertently missed from time to time.

When referring to reports or making specific comments, Councillors should refer to the report and page number, so that all Members of the Committee have a clear understanding of what is being discussed at all times.

## **11. Voting**

On a recommendation or motion being put to the vote, the Chair will go round the virtual room and ask each member entitled to vote to say whether they are for or against or whether they abstain. The Member Services Officer will announce the numerical result of the vote.

## **12. Meeting Etiquette Reminder**

- Mute your microphone – you will still be able to hear what is being said.
- Only speak when invited to do so by the Chair.
- Speak clearly and please state your name each time you speak
- If you're referring to a specific page, mention the page number.

## **13. Part 2 Reports and Debate**

There are times when council meetings are not open to the public, when confidential, or "exempt" issues – as defined in Schedule 12A of the Local Government Act 1972 – are under consideration. It is important to ensure that there are no members of the public at remote locations able to hear or see the proceedings during such meetings.

Any Councillor in remote attendance must ensure that there is no other person present – a failure to do so could be in breach of the Council's Code of Conduct.

If there are members of the public and press listening to the open part of the meeting, then the Member Services Officer will, at the appropriate time, remove them to a break-out room for the duration of that item. They can then be invited back in when the business returns to Part 1.

Please turn off smart speakers such as Amazon Echo (Alexa), Google Home or smart music devices. These could inadvertently record phone or video conversations, which would not be appropriate during the consideration of confidential items.

#### **14. Interpretation of standing orders**

Where the Chair is required to interpret the Council's Constitution and procedural rules in light of the requirements of remote participation, they may take advice from the Member Services Officer or Monitoring Officer prior to making a ruling. However, the Chair's decision shall be final.

#### **15. Disorderly Conduct by Members**

If a Member behaves in the manner as outlined in the Constitution (persistently ignoring or disobeying the ruling of the Chair or behaving irregularly, improperly or offensively or deliberately obstructs the business of the meeting), any other Member may move 'That the member named be not further heard' which, if seconded, must be put to the vote without discussion.

If the same behaviour persists and a Motion is approved 'that the member named do leave the meeting', then they will be removed as a participant by the Member Services Officer.

#### **16. Disturbance from Members of the Public**

If any member of the public interrupts a meeting the Chair will warn them accordingly. If that person continues to interrupt or disrupt proceedings the Chair will ask the Member Services Officer to remove them as a participant from the meeting.

#### **17. After the meeting**

Please ensure you leave the meeting promptly by clicking on the red phone button to hang up.

#### **18. Technical issues – meeting management**

If the Chair, the Hosting Officer or the Member Services Officer identifies a problem with the systems from the Council's side, the Chair should either declare a recess while the fault is addressed or, if the fault is minor (e.g. unable to bring up a presentation), it may be appropriate to move onto the next item of business in order to progress through the agenda. If it is not possible to address the fault and the meeting becomes inquorate through this fault, the meeting will be adjourned until such time as it can be reconvened.

If the meeting was due to determine an urgent matter or one which is time-limited and it has not been possible to continue because of technical difficulties, the Chief Executive, Leader and relevant Cabinet Member, in consultation with the Monitoring Officer, shall explore such other means of taking the decision as may be permitted by the Council's constitution.

For members of the public and press who experience problems during the course of a meeting e.g. through internet connectivity or otherwise, the meeting will not be suspended or adjourned.

## **19. Technical issues – Individual Responsibility (Members and Officers)**

Many members and officers live in places where broadband speeds are poor, but technical issues can arise at any time for a number of reasons. The following guidelines, if followed, should help reduce disruption. Separate guidance will be issued on how to manage connectivity – this paragraph focusses on the procedural steps. Joining early will help identify problems – see paragraph 6.

- Join public Zoom meetings by telephone if there is a problem with the internet. Before all meetings, note down or take a photograph of the front page of the agenda which has the necessary telephone numbers. Annex 1 to this protocol contains a brief step-by-step guide to what to expect
- Consider an alternative location from which to join the meeting, but staying safe and keeping confidential information secure. For officers, this may mean considering whether to come into the office, subject to this being safe and practicable (childcare etc.)
- If hosting a meeting via Zoom (briefings etc.), consider creating an additional host when setting up the meeting. The additional host can step in if the main host has problems – remember that without a host, the meeting cannot close and any information on the screens will remain on view
- Have to hand the telephone number of another member or officer expected in the meeting – and contact them if necessary to explain the problem in connecting
- Officers should have an 'understudy' or deputy briefed and on standby to attend and present as needed (and their telephone numbers to hand)
- For informal meetings and as a last resort, members and officers may be able to call another member or officer in the meeting who can put the 'phone on loudspeaker for all to hear – not ideal, but it ensures some degree of participation and continuity
- Member Services will hold a list of contact details for all senior officers

## Phone only access to zoom meetings

(Before you start **make sure you know the Meeting ID and the Meeting Password**) – Both of these are available on the agenda for the meeting

**Call the toll free number** either on the meeting agenda or on the Outlook appointment (this will start with 0800 --- ----)

(Ensure your phone is on 'speaker' if you can)

A message will sound saying *"Welcome to Zoom, enter your meeting ID followed by the hash button"*

- **Enter Meeting ID followed by #**

Wait for next message which will say *"If you are a participant, please press hash to continue"*

- **Press #**

Wait for next message which will say *"Enter Meeting Password followed by hash"*

- **Enter 6 digit Meeting Password followed by #**

Wait for the following two messages:

*"You are currently being held in a waiting room, the Host will release you from 'hold' in a minute"*

**Wait.....**

*"You have now entered the meeting"*

### Important notes for participating in meetings

Press **\*6** to toggle between **'mute'** and **'unmute'** (you should always ensure you are muted until you are called upon to speak)

If you wish to speak you can **'raise your hand'** by pressing **\*9**. Wait for the Chairman to call you to speak. The Host will lower your hand after you have spoken. Make sure you mute yourself afterwards.

## LICENSING SUB COMMITTEE

DATE OF HEARING: 20 JANUARY 2021

### DETERMINATION OF A PREMISES LICENCE APPLICATION FOR FRANKIES BAR, 40 HIGH STREET, CULLOMPTON, DEVON, EX15 1AE

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

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

**Reason for Report:** An application has been received for a new premises licence for Frankies Bar, 40 High Street, Cullompton, Devon, EX15 1AE.

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 Frankies Bar, 40 High Street, Cullompton, Devon, EX15 1AE. The following description of the premises is provided in the application:

*‘This is the old Conservative Club, and is to reopen as a bar / pub, selling alcohol for consumption on and off the premises, along with late night refreshment, and regulated entertainment’.*

## **2.0 THE APPLICATION**

- 2.1 The applicant for this new premises licence is Mr Mark Taylor. It should be noted that the application was completed and submitted on his behalf by Mr Stewart Gibson (of SG Licensing Ltd). In summary, the following has been applied for:

<b>Activity</b>	<b>Indoors / Outdoors (or both)</b>	<b>Days</b>	<b>Times</b>
Recorded music	Indoors	Monday – Sunday	23:00 – 01:30
Anything of a similar description to live music, recorded music and dance  (Karaoke specifically noted)	Indoors	Monday - Sunday	23:00 – 01:30
Late night refreshment	Indoors	Monday – Sunday	23:00 – 01:30
Supply of alcohol	For consumption both ON and OFF the premises	Monday - Sunday	10:00 – 01:30
Hours premises open to the public	N/A	Monday - Sunday	10:00 – 02:00

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

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

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

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

3.2 So parties are aware, with regards to live and recorded music, a licence is not required for these activities if:

- it takes place between 8AM and 11PM; and
- it takes place at an alcohol on-licensed premises; and
- the audience is no more than 500 people

3.3 In this particular case, this is why the application requests some entertainment activities from 23:00 (and not before).

3.4 Additionally, any conditions on a licence which apply to live and recorded music in these circumstances will be 'suspended' because the activities themselves are not considered licensable.

3.5 It should be noted that issues or problems relating to activities which are not considered licensable can still be dealt with via other means. For example, if music is causing a nuisance, Environmental Health can still take action under the Environmental Protection Act 1990 and from a licensing perspective, the licence itself can be reviewed because premises have an overarching duty to promote the four licensing objectives.

### **4.0 LICENSING OBJECTIVES**

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

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

4.2 The applicant has provided information and proposals on this, and in summary, the steps identified in the application are as follows:

- Regular training of staff with regards to their responsibilities when selling alcohol
  - The operation of CCTV at the premises
  - An up to date DPS authorisation sheet, identifying which staff have been given the authority to sell alcohol
  - An incident book to be kept
  - An accident book to be kept
  - A notice at the entrance / exit reminding customers to leave quietly
  - The adoption and operation of a Challenge 25 Policy
  - A refusals register to be kept
- 4.3 Full details of these proposals can be seen within section M of the application (attached as **Annex 1**).

## **5.0 RESPONSIBLE AUTHORITIES**

- 5.1 Responsible Authorities under the Licensing Act are notified of all new premises licence applications. The onus is on each Responsible Authority to determine when they have appropriate grounds to make a representation.
- 5.2 The Responsible Authorities are:
- Police
  - Fire service
  - Environmental Health (nuisance and health and safety)
  - Planning Authority
  - Licensing Authority
  - Health and Safety Executive
  - Weights and Measures
  - the body responsible for Child Protection
  - the local Director of Public Health
  - Home Office
- 5.3 Both the Police and Environmental health have discussed the application with Mr Mark Taylor and as a consequence, have agreed some conditions (and slightly re-worded some others that were initially offered in the application). For clarity, the Licensing Officer has been through these and believes that the final agreed position is attached as **Annex 3**.
- 5.4 Conditions 1 – 10 of **Annex 3** were those either suggested by the applicant or agreed with the Police.



- 5.5 Conditions 11 and 12 of **Annex 3** were those agreed by the applicant with Environmental Health.
- 5.6 It should be noted that the hearing should focus on the issues that have led to specific representations and remain 'unresolved'. In this case, the Police and Environmental Health have agreed conditions during the relevant 28 day period and for that reason, the Sub-Committee should be mindful of this when making its decision.
- 5.7 So the Sub-Committee are aware, the Fire Service did provide an update on the application and have not made a representation. They confirmed that they have spoken to the applicant and would deal directly with them on any necessary fire precaution measures.

## **6.0 OTHER PERSONS**

- 6.1 The Licensing Act allows 'Other Persons' to make representations provided they are relevant and not considered frivolous or vexatious. To be relevant, a representation must relate to the likely effect of the grant of a licence on the promotion of one or more of the licensing objectives. S182 Guidance states that '*... representations should relate to the impact of licensable activities carried on from premises on the objectives*' (Paragraph 9.4).
- 6.2 In this case, the Licensing Authority received FIVE representations concerning the application. These are in opposition to the application (or 'negative').
- 6.3 The Sub-Committee should note that although FIVE representations were received, not all elements of these representations are considered relevant (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 considered relevant within their submissions.
- 6.4 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 7 in this report.
- 6.5 It is the Licensing Officers view that some of the representations are lacking information. However, Paragraph 9.9 of S182 Guidance states:
- 'It is recommended that, in borderline cases, the benefit of the doubt about any aspect of a representation should be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it'.*
- 6.6 As a result, relevant parties will be expected to amplify and clarify their representation at the hearing. Further information on this is also provided in Section 7 of this report.

<b>Table 1.</b> Brief summary of representations and relevance to licensing		
<b>Name of party</b>	<b>Issue(s) raised considered relevant</b>	<b>Issue(s) raised not considered relevant</b>
Miss Charlotte Coonick  <b>(Annex 4)</b>	<ul style="list-style-type: none"> <li>• The sale of alcohol could lead to drunk and disorderly / anti-social behaviour</li> <li>• People smoking in the street</li> <li>• Music from the premises could lead to a nuisance in a residential area</li> <li>• Possible safeguarding issues</li> </ul>	<ul style="list-style-type: none"> <li>• The safety of people that are not actually using the premises</li> <li>• People creating issues / committing criminal damage when beyond the direct control of the applicant</li> <li>• Planning permission</li> </ul>
Mr Terry Lane  <b>(Annex 5)</b>	<ul style="list-style-type: none"> <li>• The late licence could lead to drunk people, smokers and drinkers on the street in a residential area</li> </ul>	N/A
Cullompton Town Council  <b>(Annex 6)</b>	<ul style="list-style-type: none"> <li>• Hours beyond 00:01 on Mon – Thu; 01:00 on Fri and Sat; and 23:00 on Sunday could cause disturbance</li> </ul>	N/A
Mr Simon Lewis  <b>(Annex 7)</b>	<ul style="list-style-type: none"> <li>• Late licence and music from the premises could lead to a nuisance in a residential area</li> <li>• Additional drinkers in the area may cause issues</li> <li>• Possible safety of customers when leaving the premises</li> </ul>	<ul style="list-style-type: none"> <li>• The safety of people that are not actually using the premises</li> <li>• The mere fact that the applicant already has a premises in the town which means an additional premises is 'not warranted'</li> </ul>
Mr Derrick Slack  <b>(Annex 8)</b>	<ul style="list-style-type: none"> <li>• Possible disorder with late licence and customers standing on high street (smoking and drinking)</li> <li>• Possible noise late at night</li> </ul>	

- 6.7 It should be noted that the representation from Mr Terry Lane (**Annex 5**) includes some other named individuals. The Licensing Officer has discussed this with Mr Lane and this will only be treated as ONE representation (similar to a petition). All other named individuals had the opportunity to submit a representation in their own right, but have not done so.
- 6.8 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.

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

- 7.1 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 in their entirety.
- 7.2 It must be noted that what follows is the view of the Licensing Officer based on the information available at the time of completing this report. If any Interested Party has comments or observations to make about what follows, or believes anything has been left out, they are asked to contact the Licensing Team on receipt of this report and provide any information in support of their view. This can be done by emailing [licensing@middevon.gov.uk](mailto:licensing@middevon.gov.uk). The Sub-Committee can then consider the issue(s) that have been raised at the hearing.
- 7.3 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.
- 7.4 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.
- 7.5 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**

- 7.6 **Issue 1:** The sale of alcohol up until the time(s) requested and the possibility of disorderly / anti-social behaviour
- 7.7 **Officer comment:** This is relevant and the Sub-Committee needs to consider the concerns raised in light of the licensing objectives, and balance them

against the conditions offered up by the applicant (and where relevant, agreed with Responsible Authorities).

- 7.8 S182 Guidance points out that '*Licensing authorities should look to the police as the main source of advice on crime and disorder*' (Paragraph 2.1). It is therefore important that all parties note that the Police have agreed conditions with the applicant (something which those that have made representations would not have been aware of before the circulation of this report). These conditions include the keeping of an incident log and the requirement to take steps to ensure that patrons drinking / smoking outside do so in an orderly manner.

- 7.9 **Issue 2:** Possible impact of people smoking outside the premises

- 7.10 **Officer comment:** S182 guidance (Paragraph 8.44) highlights that premises in close proximity to residential properties should consider the impact of matters such as smoking (in terms of a public nuisance) and in this case, and as previously highlighted, the applicant has agreed a condition with the Police which reads:

*Steps shall be taken ensure that any patrons drinking and/or smoking outside the premises do so in an orderly manner and are supervised by staff to ensure that there is no public nuisance or obstruction of the public highway.*

- 7.11 The following condition has also been agreed with Environmental Health:

*Suitable receptacles will be provided for cigarette litter within the designated smoking area.*

- 7.12 It would be helpful if, prior to the hearing, the applicant could consider how this will be implemented in practice and include in their submission any relevant information, including the location of where patrons are expected to smoke outside.

- 7.13 **Issue 3:** Music from the premises leading to a nuisance, particularly late at night

- 7.14 **Officer comment:** The potential for noise is relevant (in terms of public nuisance) but the Licensing Officer does wish to point out / clarify the following:

- The following condition has been agreed between the applicant and Environmental health:

*All external doors and windows shall be kept shut at all times when the premises are open/during regulated entertainment. Doors may be opened for normal entrance and egress of people but must be shut immediately after.*

- As highlighted in section 3 of this report, a range of licensable activities (including live and recorded music) are, generally speaking, not licensable

between 08:00 and 23:00. As a consequence, representations about these particular activities at this time would not be relevant.

- The application is for recorded music and anything of a similar description to live music, recorded music and the performance of dance. Within the application form, the applicant is asked for a description of the entertainment they wish to provide and 'karaoke' has been stated. In providing further details, the application states that it is to allow '*amateur singing after 23:00 hours, on the premises*'.
- 7.15 On this particular point, and in accordance with S182 Guidance (page 132, note 57) it should be noted that karaoke is '*generally classed as a performance of live music*'. In this case, live music has not been applied for and the Licensing Officer has given this matter consideration prior to the hearing.
- 7.16 Whether or not karaoke is classed as live music, recorded music or something 'similar' is not covered in the Licensing Act itself. As far as the Licensing Officer is aware, it is only S182 guidance that indicates that it is '*generally*' classed as live music.
- 7.17 As the application form specifically states that karaoke is intended, it is felt that the application should be treated as having applied for karaoke and in this sense, and without prejudice to the Sub-Committee's decision, the licence could be conditioned accordingly.
- 7.18 In making this decision, the Licensing Officer has considered the representations received and in doing so, it is noted that some of them have specifically mentioned objecting to 'live' music (implying they believed the application included live music). As a result, it is not felt that these parties have been disadvantaged.
- 7.19 However, it must be noted that this is only the view of the Licensing Officer, and the Sub-Committee, along with their legal representative, may come to a different conclusion. Similarly, if any Interested Party wishes to address this particular matter at the hearing, they will be allowed to do so.
- 7.20 **Issue 4:** Possible safeguarding / protection of children from harm issues
- 7.21 **Officer comment:** This is possibly relevant (in relation to the protection of children from harm) but the Licensing Officer is not entirely sure what the specific concerns are regarding this application. The hearing will allow those who have made such representations to expand on and clarify them.
- 7.22 The Licensing Officer must point out that matters should concern what is in the control of the licence holder and in the vicinity of the premises. Additionally, and specifically with regards to the protection of children from harm, Section 182 Guidance states:

*Licensing authorities and responsible authorities should expect applicants, when preparing an operating schedule or club operating schedule, to set out*

*the steps to be taken to protect children from harm when on the premises.*  
(Paragraph 2.26).

- 7.23 As a consequence, the Licensing Officer believes that the safeguarding concerns raised, insofar as they are understood, do not apply to children being on the actual premises.
- 7.24 Additionally, Section K of the application asks the applicant to state what adult entertainment or services they may undertake at the premises which may give rise to concern in respect of children. This has been completed as 'N/A'.
- 7.25 **Issue 5:** Possible safety of customers when exiting the premises
- 7.26 **Officer comment:** This is relevant and S182 Guidance (Paragraph 2.10) states that *'Licence holders should make provision to ensure that premises users safely leave their premises'*.
- 7.27 However, a distinction must be made between the safety of people as they leave the premises and then the safety of those people once they have left the immediate vicinity of the premises. Once they have left the immediate vicinity, a licence holder (or applicant) cannot be expected to manage the behaviour of customers.

#### **Overview of issues NOT considered relevant**

- 7.28 **Issue 6:** The safety of people that are not actually using the premises
- 7.29 With regards to 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.
- 7.30 **Issue 7:** People creating issues / committing crimes (i.e. criminal damage) when beyond the direct control of the applicant
- 7.31 **Officer comment:** S182 Guidance (Paragraph 14.13) states that a Licensing Authorities Policy should make clear that *'licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned'*.
- 7.32 Accordingly, if a customer of the premises leaves and goes on to commit a crime, they are accountable in their own right for this and should be dealt with accordingly, under the relevant legislation.
- 7.33 **Issue 8:** Planning permission

- 7.34 **Officer comment:** Mid Devon District Council are the relevant Planning Authority and are therefore a Responsible Authority under the Licensing Act. It should be noted that the Planning department have not objected to this application. In addition, planning and licensing are separate regimes and therefore, in this particular case, it is not relevant for the Sub-Committee to consider planning issues.
- 7.35 **Issue 9:** The mere fact that the applicant already has a premises in the town which means an additional premises is not warranted
- 7.36 **Officer comment:** S182 Guidance (Paragraph 14.19) states that the need for licensing premises *‘concerns the commercial demand for another pub or restaurant or hotel and is a matter for the planning authority and for the market. This is not a matter for a licensing authority in discharging its licensing functions...’*
- 7.37 As a result, the mere fact that the applicant may already have a licensed premises does not in any way preclude him from applying for (or holding) another licence.
- 7.38 In summary, the Licensing Officer believes the following to be potentially relevant / not relevant for the Sub-Committee to consider:

Relevant	
Issue 1	The sale of alcohol up until the time(s) requested and the possibility of disorderly / anti-social behaviour
Issue 2	Possible impact of people smoking outside the premises
Issue 3	Music from the premises leading to a nuisance, particularly late at night
Issue 4	Possible safeguarding / protection of children from harm issues
Issue 5	Possible safety of customers when exiting the premises

Not relevant	
Issue 6	The safety of people that are not actually using the premises
Issue 7	People creating issues / committing crimes (i.e. criminal damage) when beyond the direct control of the applicant
Issue 8	Planning permission
Issue 9	The mere fact that the applicant already has a premises in the town which means an additional premises is 'not warranted'

## 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 *In considering relevant representations, the Licensing Authority will consider the adequacy of measures proposed to deal with the potential for nuisance and/or public disorder having regard to all the circumstances of the case. (Paragraph 6.19)*
- 8.18 *The Licensing Authority recognises that fixed and artificially early closing times in certain areas can lead to peaks of disorder and disturbance on the streets when large numbers of people tend to leave licensed premises at the same time. Flexible licensing hours in relation to the sale of alcohol may therefore be considered as a potential means of reducing friction at late night food outlets, taxi ranks and other 'flashpoints' in areas where there have already been incidents of disorder and disturbance. (Paragraph 6.20)*
- 8.19 *Conditions are crucial in setting the parameters within which premises can lawfully operate. Any contravention of a condition on a premises licence or club premises certificate is a criminal offence so it is essential that conditions are worded clearly, precisely and unambiguously. In addition, conditions must:*
- be appropriate, reasonable and proportionate*
  - be enforceable*
  - not duplicate other statutory requirements*
  - be relevant to the particular type, location and character of the premises concerned*
  - not be standardised*
  - should be justifiable and capable of being met*
  - not replicate offences set out in the Act or in other legislation*

- *be written in a prescriptive format. (Paragraph 6.22)*
- 8.20 *The Authority will pay particular attention to the effect (or potential effect) of licensable activities on those living, working or otherwise engaged in the area concerned and, where relevant representations are received, may attach conditions if it considers it appropriate for the promotion of the licensing objectives. (Paragraph 6.27)*
- 8.21 *Conditions attached by the Authority to Premises Licences and Club premises certificates will relate to matters falling within the control of individual licensees. It is recognised that the licensing function cannot be a mechanism for the control of disorderly behaviour by individuals once they are beyond the direct control of the licence holder. However, the Licensing Authority and Responsible Authorities may take action where it can be established that there is a clear linkage between disorderly behaviour and a specific premises. (Paragraph 6.28)*
- 8.22 *The Authority will not impose inappropriate or over-burdensome conditions on licences. The Authority may, however, if its discretion is engaged, impose conditions where existing legislation does not provide adequate controls and additional measures are considered to be appropriate for the promotion of the licensing objectives. (Paragraph 6.29)*
- 8.23 *When determining the appropriate set of conditions the Licensing Authority will focus primarily on the individual style of the premises and the licensable activities proposed. Consideration should also be given to the following:*
- *The size, nature and style of operation*
  - *Whether the premises is part of a multiple operator's chain and therefore more likely to have an operating schedule that is tried and tested*
  - *The cumulative effect of conditions in terms of cost and practical implementation*
  - *The likely cost of the condition(s) for the operator*
  - *Whether a simpler or better way of dealing with a perceived problem could be found*
  - *Whether there is an actual risk of undermining an objective, as opposed to a conceivable risk. In the latter case, there is no need for the condition*
  - *Whether the condition will be enforceable, if it is not specific or could be considered subjective it may not be enforceable. (Paragraph 6.30)*
- 8.24 *Members must have regard to the Licensing Authorities Policy when making their decision and it can be viewed in full here:*

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

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

## **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 *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)*
- 9.4 *Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night. (Paragraph 2.21)*

## 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
  - 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 9**. 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 10**. 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 will be difficult and the Licensing Authority is requesting that if any party has documentary information they wish to provide or rely on, this be sent to the licensing team ([licensing@middevon.gov.uk](mailto:licensing@middevon.gov.uk)) with their response to the Notice of Hearing (which must be submitted 5 working days before the hearing).

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

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

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

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

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

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**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 Mark John Taylor

*(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			
Frankies Bar 40 High Street			
Cullompton Devon EX15 1AE			
<b>Post town</b>	Cullompton	<b>Postcode</b>	EX15 1AE

Telephone number at premises (if any)	
Non-domestic rateable value of premises	£4000

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

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

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

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

I am making the application pursuant to a

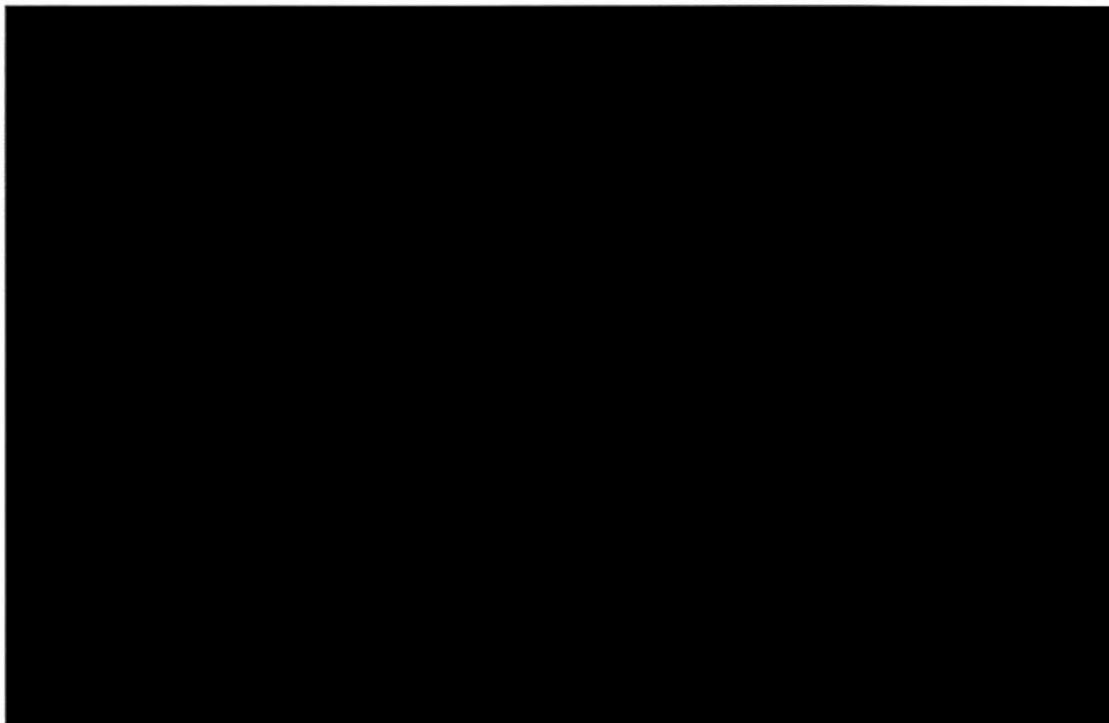
statutory function or ☐

a function discharged by virtue of Her Majesty's prerogative ☐

**(A) INDIVIDUAL APPLICANTS** (fill in as applicable)

Mr <input checked="" type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
Surname Taylor			First names Mark John		

**SECOND INDIVIDUAL APPLICANT (if applicable)**



**(B) OTHER APPLICANTS**

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

Name
Address
Registered number (where applicable)



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

### Part 3 Operating Schedule

When do you want the premises licence to start?

DD	MM	YYYY
1	9	1 2 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

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

This is the old Conservative Club, and is to reopen as a bar/pub, selling alcohol for consumption on and off the premises, along with late night refreshment, and regulated entertainment.

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

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

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

Provision of regulated entertainment (please read guidance note 2)

Please tick all that apply

- |  |                                     |
|--|-------------------------------------|
| a) plays (if ticking yes, fill in box A)                             | <input type="checkbox"/>            |
| b) films (if ticking yes, fill in box B)                             | <input type="checkbox"/>            |
| c) indoor sporting events (if ticking yes, fill in box C)            | <input type="checkbox"/>            |
| d) boxing or wrestling entertainment (if ticking yes, fill in box D) | <input type="checkbox"/>            |
| e) live music (if ticking yes, fill in box E)                        | <input type="checkbox"/>            |
| f) recorded music (if ticking yes, fill in box F)                    | <input checked="" type="checkbox"/> |

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



# B

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

C

<b>Indoor sporting events</b> Standard days and timings (please read guidance note 7)			<b><u>Please give further details</u></b> (please read guidance note 4)
Day	Start	Finish	
Mon			
Tue			<b><u>State any seasonal variations for indoor sporting events</u></b> (please read guidance note 5)
Wed			
			<b><u>Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list</u></b> (please read guidance note 6)
Thur			
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"/>
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 boxing or wrestling entertainment</u></b> (please read guidance note 5)			
Thur						
Fri			<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)			
Sat						
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"/>
Day	Start	Finish			Both	<input type="checkbox"/>
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>Will the playing of recorded music take place indoors or outdoors or both – please tick</b> (please read guidance note 3)	Indoors	<input checked="" 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	23:00	01:30			
Tue	23:00	01:30			
Wed	23:00	01:30			
Thur	23:00	01:30	<b><u>State any seasonal variations for the playing of recorded music</u></b> (please read guidance note 5)		
Fri	23:00	01:30			
Sat	23:00	01:30			
Sun	23:00	01:30			
			<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)		



# 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"/>
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 the performance of dance</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 dance at different times to those listed in the column on the left, please list</u></b> (please read guidance note 6)			
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 Karaoke		
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	x
Mon	23:00	01:30		Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Tue	23:00	01:30	<b><u>Please give further details here</u></b> (please read guidance note 4) To allow amateur signing after 23:00 hours, on the premises.		
Wed	23:00	01:30			
Thur	23:00	01:30	<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	23:00	01:30			
Sat	23:00	01:30	<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	23:00	01:30			

# 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 checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon			<b>Please give further details here</b> (please read guidance note 4) To permit the sale of hot food and drink beyond 23:00 hours if required.		
	23:00	01:30			
Tue					
	23:00	01:30			
Wed			<b>State any seasonal variations for the provision of late night refreshment</b> (please read guidance note 5)		
	23:00	01:30			
Thur					
	23:00	01:30			
Fri			<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)		
	23:00	01:30			
Sat					
	23:00	01:30			
Sun					
	23:00	01:30			



**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)		
Mon	10:00	01:30			
Tue	10:00	01:30			
Wed	10:00	01:30			
Thur	10:00	01:30	<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)		
Fri	10:00	01:30			
Sat	10:00	01:30			
Sun	10:00	01:30			

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

Name Mark Taylor
<div style="background-color: black; height: 150px;"></div>
Personal licence number (if known) MDVPE1148
Issuing licensing authority (if known) Mid Devon District Council

□□□□

K

**Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children** (please read guidance note 9).

n/a

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) n/a
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	10:00	02:00	
Tue	10:00	02:00	
Wed	10:00	02:00	
Thur	10:00	02:00	
Fri	10:00	02:00	
Sat	10:00	02:00	
Sun	10:00	02:00	

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

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

The premises will operate to a high standard, and will continue to do so should this licence be granted in terms of the sale of alcohol. All staff will be fully trained in their responsibilities with regard to the sale of alcohol, and will be retrained every six months, with recorded training records kept for inspection. The premises will close 30 minutes after the licensing activities have ceased, to allow customers to finish their drinks and leave in a quiet and orderly manner.

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

CCTV will be used at the premises, it shall be to an appropriate standard as agreed with the Licensing Authority in consultation with the Police.

The CCTV equipment shall be maintained in good working order and continually record when licensable activity takes place and for a period of two hours afterwards.

The premises licence holder shall ensure images from the CCTV are retained for a period of 31 days. This image retention period may be reviewed as appropriate by the Licensing Authority. The correct time and date will be generated onto both the recording and the real time image screen.

If the CCTV equipment (including any mobile units in use at the premises) breaks down the Premises Licence Holder shall ensure the designated premises supervisor, or in his/her absence other responsible person, verbally informs the Licensing Authority and the Police as soon as is reasonably practicable. This information shall be contemporaneously recorded in the incident report register and shall include the time, date and means this was done and to whom the information was reported. Equipment failures shall be repaired or replaced as soon as is reasonably practicable and without undue delay. The Licensing Authority and the Police shall be informed when faults are rectified.

The premises Licence holder shall ensure that there are trained members of staff available during licensable hours to be able to reproduce and download CCTV images into a removable format at the request of an authorised officer of the Licensing Authority or a constable.

There shall be clear signage indicating that CCTV equipment is in use and recording at the premises during all trading hours.

The DPS will keep an up to date DPS Authorisation sheet which will show the list of staff members who have been given the authority to sell alcohol on the premises.

An incident record will be kept in a bound book, as will all refusals for the sale of alcohol. These books will be made available to the police and officer from the council on request.



**c) Public safety**

Staff will be trained to be alert to any potential danger to customers and react accordingly. If they are unable to quickly defuse the situation without risk to customer or staff, then they are instructed to call the police. All relevant fire procedures are in place for a premises of this size. An on -site accident book will be in operation to record any accident/ injury incurred on the premises. This document will be retained for inspection by the business for a period of three years.

**d) The prevention of public nuisance**

Customers will be reminded by way of a notice at the entrance/ exit door to please leave the premises quietly.

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

Only photographic ID is accepted (passport, driving licence, proof of age card with PASS hologram, or military ID). Anyone who appears to be under the age of 25 is challenged to provide ID. If the customer is unable to provide identification then no sale is made. No ID no sale. Challenge 25 POS will be on display in the store. Any staff member who may be under the age of 18 must call a senior staff member to take over the sale and complete the transaction. If it is known that a customer intends to purchase alcohol to provide to minors then that sale will be refused. All refused sales will be recorded in a refusals book, which will be made available for inspection by Police or Licensing Officers of the council on request.

**Checklist:**

**Please tick to indicate agreement**

- I have made or enclosed payment of the fee. ☒
- I have enclosed the plan of the premises. ☒
- I have sent copies of this application and the plan to responsible authorities and others where applicable. ☒
- I have enclosed the consent form completed by the individual I wish to be designated premises supervisor, if applicable. ☒
- I understand that I must now advertise my application. ☒

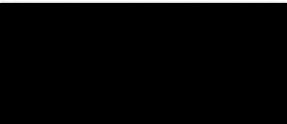
- I understand that if I do not comply with the above requirements my application will be rejected. ☒
- [Applicable to all individual applicants, including those in a partnership which is not a limited liability partnership, but not companies or limited liability partnerships] I have included documents demonstrating my entitlement to work in the United Kingdom (please read note 15). ☒

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

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

**Part 4 – Signatures** (please read guidance note 11)

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

<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, if appropriate (please see note 15)</li> </ul>
Signature	 S-W-GIBSON
Date	19/11/2020
Capacity	Licence Agent



- I understand that if I do not comply with the above requirements my application will be rejected. ☒
- [Applicable to all individual applicants, including those in a partnership which is not a limited liability partnership, but not companies or limited liability partnerships] I have included documents demonstrating my entitlement to work in the United Kingdom (please read note 15). ☒

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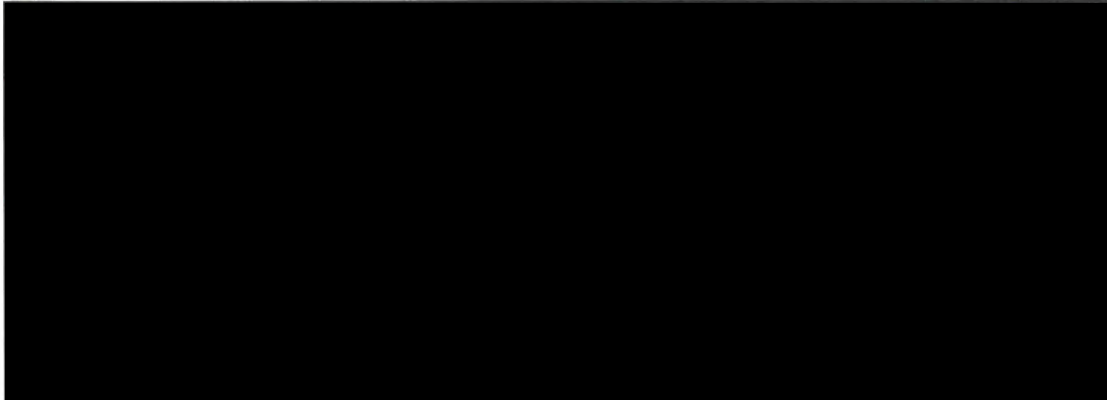
**Part 4 – Signatures** (please read guidance note 11)

**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, if appropriate (please see note 15)</li> </ul>
Signature	
Date	19/11/2020
Capacity	Licence Agent

**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.**

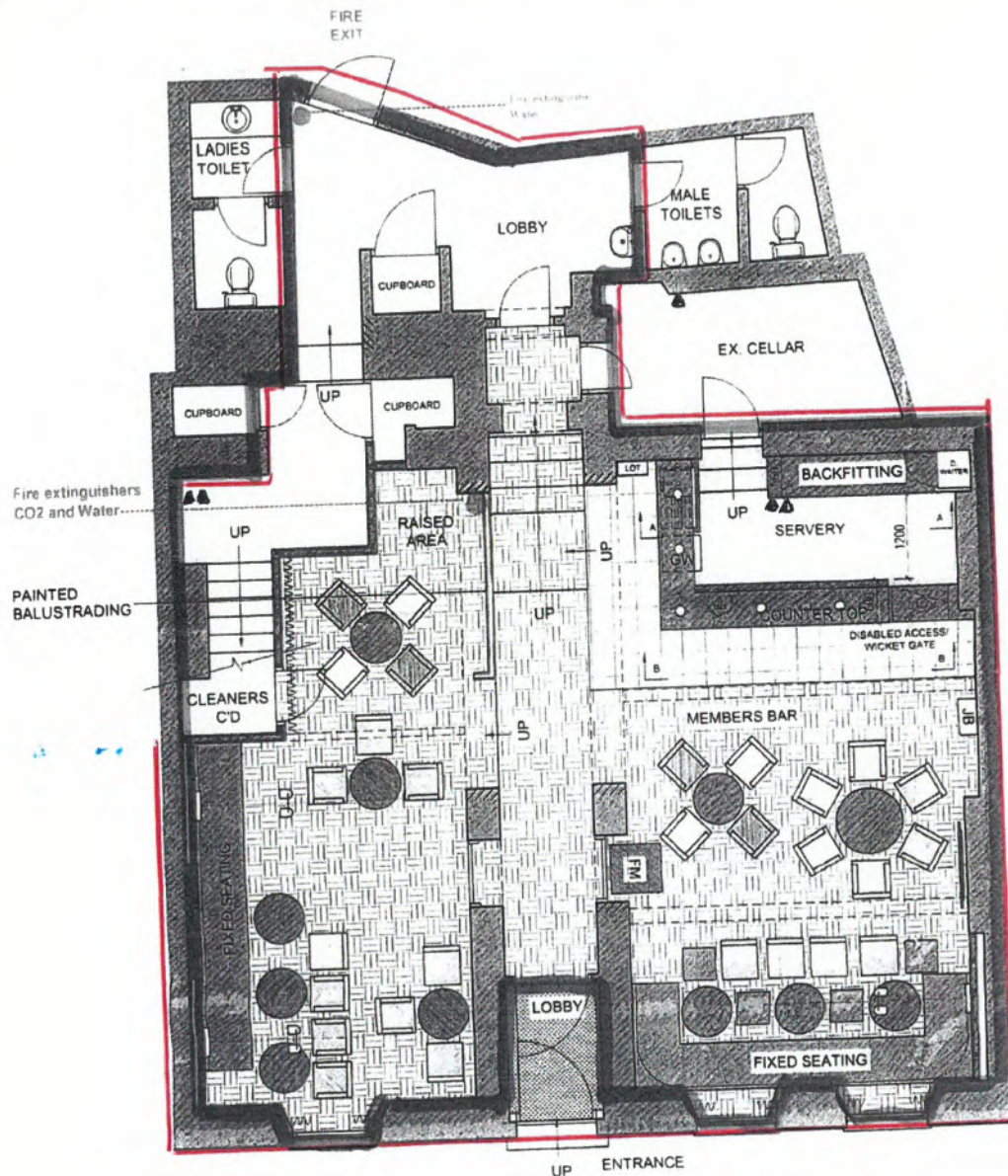
Signature	
Date	
Capacity	



#### **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.





FRANKIES BAR.  
40 HIGH STREET  
CULLOMPTON  
DEVON  
EX15 1AE

□ LICENSABLE AREA  
▲ FIRE EXTINGUISHERS.



**Condition 1**

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

- i. The *Challenge 25* scheme in operation at the premises, including the forms of identification that are acceptable.
- ii. The hours and activities permitted by *the premises license* issued under the Licensing Act 2003 and conditions attached to the *license*.
- iii. How to complete and maintain the refusal register in operation at the premises (in relation to the sale of alcohol).
- iv. Recognizing the signs of drunkenness.
- v. The operating procedures for refusing service to any person who is drunk, under-age or appears to be under-age, or appears to be making a proxy purchase.
- vi. Action to be taken in the event of an emergency, including reporting an incident to the emergency services.
- vii. To be alert to any potential danger to customers and react accordingly. If they are unable to quickly defuse the situation without risk to customer or staff, then they are instructed to call the police.

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

Training records will be retained for at least 12 months.

**Condition 2**

CCTV shall be of an appropriate standard as agreed with the Licensing Authority in consultation with the Police.

The CCTV equipment shall be maintained in good working order and continually record when licensable activity takes place and for a period of two hours afterwards.

The premises licence holder shall ensure images from the CCTV are retained for a period of 31 days.

The correct time and date will be generated onto both the recording and the real time image screen.

If the CCTV equipment (Including any mobile units in use at the premises) breaks down the Premises Licence Holder shall ensure the Designated Premises Supervisor, or in his/her absence other responsible person, verbally informs the Licensing Authority and the Police as soon as is reasonably practicable.

This information shall be contemporaneously recorded in the incident report register and shall include the time, date and means this was done and to whom the information was reported.

Equipment failures shall be repaired or replaced as soon as is reasonably practicable and without undue delay. The Licensing Authority and the Police shall be informed when faults are rectified.

The premises Licence holder shall ensure that there are trained members of staff available during licensable hours to be able to reproduce and download CCTV images into a removable format at the request of an Authorised Officer of the Licensing Authority or a Police Officer.

There shall be clear signage indicating that CCTV equipment is in use and recording at the premises during all trading hours.

### **Condition 3**

The DPS will keep an up to date DPS Authorisation sheet which will show the list of staff members who have been given the authority to sell alcohol on the premises.

### **Condition 4**

An incident log shall be kept and maintained at the premises which will include a log of the following, including pertinent details:

- i. Any incidents of disorder or of a violent or anti-social nature
- ii. All crimes reported to the venue, or by the venue to the police
- iii. All ejections of patrons
- iv. Any complaints received
- v. Seizures of drugs or offensive weapons
- vi. Any visits by a responsible authority (under the Licensing Act 2003) or emergency service.

Records must be completed within 24 hours of any incident, and will contain the time and date, the nature of the incident, the people involved, the action taken and details of the person responsible for the management of the premises at the time of the incident.

The logs shall be kept for at least 12 months following the date of entry and be made available for inspection and copying upon request of an authorised officer of a responsible authority.

### **Condition 5**

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

### **Condition 6**

Steps shall be taken ensure that any patrons drinking and/or smoking outside the premises do so in an orderly manner and are supervised by staff to ensure that there is no public nuisance or obstruction of the public highway.

### **Condition 7**

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 license
- A passport

- An identification card carrying the PASS hologram

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

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

#### **Condition 8**

The premises shall display prominent signage which states that a Challenge 25 scheme is in operation.

#### **Condition 9**

Staff under the age of 18 years old shall not sell alcohol. Any staff under the age of 18 years old must call a senior staff member (18 years old or over) to take over the sale and complete the transaction.

#### **Condition 10**

All refused sales of alcohol will be recorded in a refusals book, which will be made available for inspection by Police or Licensing Officers of the council on request.

#### **Condition 11**

All external doors and windows shall be kept shut at all times when the premises are open/during regulated entertainment. Doors may be opened for normal entrance and egress of people but must be shut immediately after.

#### **Condition 12**

Suitable receptacles will be provided for cigarette litter within the designated smoking area.

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#### **Additional information**

The following points were also noted in the application form, but the Licensing Officer does not believe it would be necessary to apply them, or similar worded requirements, as conditions:

- *All relevant fire procedures are in place for a premise of this size.*
- *An on-site accident book will be in operation to record any accident/ injury incurred on the premises. This document will be retained for inspection by the business for a period of three years.*

Without prejudice to the decision of the Sub-Committee, the requirements for fire safety compliance and an accident book (as mentioned above) are adequately covered by separate legislation.

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03 DEC 2020

POST ROOM

**MID DEVON LICENSING AUTHORITY****Licensing Act 2003: Representation form**

**NOTE: This form includes a section to confirm successful mediation between Responsible Authorities and the applicant. This includes the agreement of conditions.**

**1. Your details**

Responsible Authority:	MID DEVON COUNCIL
Your Name:	CHARLOTTE O'DONOVAN SEC (HONS) MA BA
Job Title:	SURNAME
Postal address:	[REDACTED] HIGH STREET, CULLOMPTON DEVON EX15 1AE
Email address:	[REDACTED]
Contact telephone number:	[REDACTED]

**2. Premises details**

Name of the premises you are making a representation about:	GRANTS BAR "FRANKIES BAR"
Name of the applicant:	MARK TAYLOR
Address of the premises you are making a representation about:	FRANKIES BAR 40 HIGH STREET, CULLOMPTON DEVON EX15 1AE

**3. Representation information**

Which of the four licensing objectives does your representation relate to?	Yes Or No	Please detail the reason(s) for your representation, including any relevant evidence. This <b>MUST</b> include a clear statement as to why the representation is considered appropriate and necessary. Please use separate sheets if necessary.
To prevent crime and disorder	YES	SELLING OF ALCOHOL FOR CONSUMPTION ON & OFF THE PREMISES, FROM 10-2AM. THERE WILL BE DRUNK & DISORDERLY BEHAVIOUR IN THE STREET → ON PAPER →
Public safety	YES	POSSIBLE FIGHTING IN THE HIGH ST
To prevent public nuisance	YES	10-2PM MUSIC LIVE AND HEARDED. ITS A RESIDENTIAL AREA, THIS WOULD BE A NUISANCE - TRESPAS THE PERSON IN VIOLATION OF PRIVACY -
To protect children from harm	YES	Safe guarding ISSUES. I HAVE A CHILD WITH A GLOBAL DELAY. HAVING A BAR OPEN ALL DAY AND NIGHT WITH MUSIC, SECURITY AND PEOPLE SMOKING.

WON DISTRICT COUNCIL  
3 DEC 2020

ENVIRONMENTAL HEALTH SERVICE



#### 4. Additional information and mediation

Do you have any suggested conditions or alterations to the application that would remedy your representation? If so, please list them clearly. Please use separate sheets if necessary.	Close at 11pm. Music to reflect the residence. Live music to be once a week and finish at 11pm. And a limit on customers. Hence five issues and this is a conservation area.	
If the applicant agrees to the amendments you have set out in the box above, would you be willing to withdraw your representation?	<input checked="" type="radio"/> Yes	<input type="radio"/> No
If you agree to withdraw your representation, do you also agree that there is no need for a hearing?	<input type="radio"/> Yes	<input checked="" type="radio"/> No
If you are unwilling to withdraw your representation, please detail the reasons for this. This information will be provided to the licensing sub-committee in advance of a hearing.	To grant a license of Alcohol and music until 2am is inconsiderate on a high street, Cullompton. This is a conservation area and a high residential area/high street. There are many factors why the residents are against this. We do not want security men on the street and people smoking, the noise and possible fights.	
Any additional information?	As I have stated I have a disabled child, most of us who live here work too. It would be inconceivable for 40 High St to be granted a 2am close and live music every night.	

Signed:



Date: 02 DEC 2020

Please return this form along with any additional sheets to: Mid Devon Licensing Authority, Phoenix House, Phoenix Lane, Tiverton, Devon, EX16 6PP, or email to [licensing@middevon.gov.uk](mailto:licensing@middevon.gov.uk). This form must be returned within the Statutory Period. For more details please check with the Licensing Section on 01884 255255.

#### 5. Confirmation of agreement

If an amendment to the application has been agreed between the applicant and the Responsible Authority making the representation, the applicant must sign below to confirm the amendments to the application set out above and their agreement.

Name of applicant:

Signed:

Date:



## REPRESENTATION INFORMATION:

To prevent crimes and disorder:

As I have said on the form my concerns for the consumption of alcohol being sold on and off the premises at 40 High Street would encourage binge drinking and possibly fighting or rowdy behaviour when leaving, maybe people being sick in the street and constant smokers blocking the street. Also criminal damage.

To prevent public nuisance:

**I do not agree to a 10am-2am (16 hours opening)** for music recorded or live music to be played constantly. This is a residential and a conservation area, many of us have small children and there are many old people who live next door, behind 40 High Street, in front and next door but one both ways. This would be a nuisance, trespass the person. It also has to reflect the tone of the area and high street. Why would I agree to a Bar being open until 2am 7 days a week. 40 High Street is also a grade II listed building inside and out, there must be a regulation on what actually happens inside as its a Bar ie work being carried out without planning permission. The front of the property is barely attached after a lady drove into the building in Feb 2020. There should be no smoking on the street, it should be in the rear courtyard.

To protect children from harm:

There are also safe guarding issues. I have a child who has a global delay and there are many families with small children who walk up and down the high street. Yes we have The Kings Head across the road, he has never had any trouble and is respectful to his neighbours. People who smoke, smoke at the rear of his building. When he does have live music it is only once a month and finishes at 11pm.

I do not have any issues with reasonable opening and closing times 10 am until 11pm. I do not want **bouncers hanging** around on the High Street with people loitering around after the pub has closed.

When it was open as a Conservative Club it was members only, limited numbers but still customers were smoking and drinking on the front, high street and sitting on peoples cars which were parked. They were often set off the car alarms. The town council had to address this many times.

I would agree to an early opening, **but not a 2am close.**

Yours Sincerely



Miss C.E.Coonick BSc (HONs) MA BA

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Amy Hearn

ANNEX 5

**From:**  
**Sent:**  
**To:**  
**Subject:**

**Importance:**

High

**Follow Up Flag:**  
**Flag Status:**

Follow up  
Completed

Date 30.11.2020

To whom it may concern,

I am email on behalf of myself and the residents of the Elm Houses , We as residency reject the request of the 2am licence at Grants Bar 40 High Street Cullompton. We are all over 67 80 years old. To have a bar open until 2am would be unreasonable. This is a high residential area. The Kings head are only open until 11pm and never had any trouble. A 2am licence means bouncers and drunk people, smokers on the street and drinkers. We are very unhappy with the chaps request and we all reject his request for a2 am close. Please consider our views and respect our right to safety and the tone of the high street.

Best wishes

Mr T Lane, Mr D Curslack, Mickey, Phil, Mr C Butt

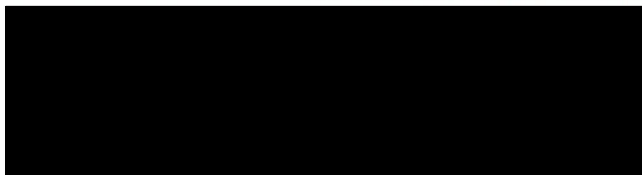
Sent from my Huawei tablet

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**Thomas Keating**

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**From:**  
**Sent:**  
**To:**  
**Subject:**




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**From:** Steve Reardon <assistant.clerk@cullomptontowncouncil.gov.uk>

**Sent:** 11 December 2020 13:28

**Subject:** Licensing Application, Frankie's Bar, Cullompton

Vicky

The council's Planning and Licensing Committee met last evening and the following is the resolution concerning Frankie's Bar:

**97. Licensing Matters**

To consider and make comment on the licensing application made by Mark John Taylor at Frankie's Bar, 40 High Street, Cullompton (Supporting Paper C).

**Resolved** that the council OBJECTS to the licensing application made by Mark John Taylor at Frankie's Bar, 40 High Street, Cullompton as it is considered that 00:01 closing Monday to Thursday, 01:00 closing on Friday and Saturday and 23:00 closing Sunday, in line with other local licensed establishments, is late enough and would allow local residents to be free of disturbance after these hours.

Yours

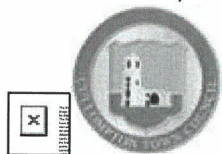
Steve Reardon

Assistant Clerk, Cullompton Town Council

Tel: 01884 38249

[www.cullomptontowncouncil.gov.uk](http://www.cullomptontowncouncil.gov.uk)

The Town Hall, 1 High Street, Cullompton, Devon EX15 1AB



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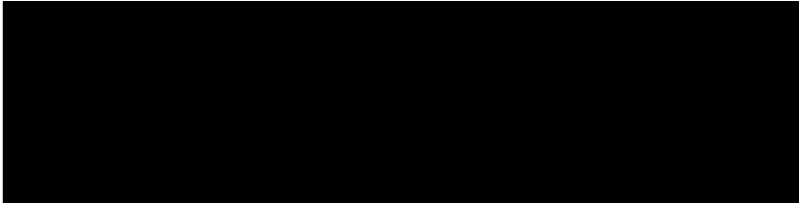
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Thomas Keating

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From:  
Sent:  
To:  
Subject:  
Attachments:



Good afternoon

Please find enclosed a Representation Form regarding the License application for the Cullompton Conservative Club at no. 40 High Street, Cullompton EX15 1AE

I strongly disagree that they should be allowed a late night and live music license due to the fact it adjoins residential properties and that there are already two public houses in very close proximity that problems already exists with due to public nuisance caused by drunken behaviour and excessive noise

Also why weren't people of the adjoining properties actually informed of this application as I only found out by accident so this has not been handled correctly for people views to be expressed in full

Due to the very limited footfall caused by the Covid pandemic putting up an application sign in the window of the now closed Conservative Club is simply not enough to inform local residence of basically setting up a night-club which is on a public footpath directly fronting onto the main road.

I believe that the applicant already own a public house in the town so an additional premise is not warranted and would be detrimental to the area

I want to be invited to the review committee meeting so my views can be expressed directly to those involved

Best Regards

Mr Lewis  
High Street  
Cullompton  
EX151AE



# Mid Devon District Council – Licensing Act 2003

## REPRESENTATION FORM

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

Your full name	Simon Lewis
The name of the organisation / body you represent (if appropriate)	None
Postal address	High Street, Cullompton
Email address	
Contact telephone number	

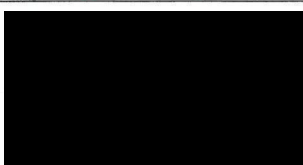
Name of the premises you are making a representation about	Cullompton Conservative Club
Address of the premises you are making a representation about	40 High Street, Cullompton, Devon, EX15 1AE

Your representation must relate to one of the four Licensing Objectives

Licensing Objective	Yes Or No	Please detail the evidence supporting your representation or the reason for your representation. Please use separate sheets if necessary
To prevent crime and disorder	YES	The Cullompton conservative club is within a residential area with housing within the same row of terraced buildings along the high street so thus bringing additional people who have been drinking late into the night. There are already two public houses within a few yards of each other which already cause excessive noise and trouble
Public safety	YES	The club is directly next to a main road which will have drunken patrons exiting almost directly onto the road and the public footpath.
To prevent public nuisance	YES	How can a late-night license until 2am be allowed when the property adjoins residential houses who will be disturbed until 2am
To protect children from harm	YES	As mentioned, this is on high street and therefore a public footpath with residential housing and therefore the risk to harm of pedestrians and the public is high with a young child living in the same row of houses

If you are making a representation against a new application or full variation, please suggest any conditions that could be added to the licence to remedy your representation (or other suggestions you would like the Licensing Sub Committee to take into account).	I strongly suggested that a late-night license and a music license be rejected due to the risk to the general public and the adjoining residential houses being disturbed until the early hours of the morning
--	--

Signed:



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Date: 15/12/2020

## NOTES

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

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

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

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

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

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

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

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## MID DEVON LICENSING AUTHORITY

### Licensing Act 2003: Representation form

**NOTE: This form includes a section to confirm successful mediation between Responsible Authorities and the applicant. This includes the agreement of conditions.**

#### 1. Your details

Responsible Authority:	DEVON
Your Name:	MR DERRICK SLACK
Job Title:	OWNER
Postal address:	[REDACTED] HIGH ST, CULLOMPTON DEVON EX15 1AF
Email address:	[REDACTED]
Contact telephone number:	[REDACTED]

#### 2. Premises details

Name of the premises you are making a representation about:	FRANKIE'S BAR 40 HIGH ST, CULLOMPTON EX15 1AE
Name of the applicant:	MR MARK TAYLOR
Address of the premises you are making a representation about:	40 HIGH ST CULLOMPTON EX15 1AE

#### 3. Representation information

Which of the four licensing objectives does your representation relate to?	Yes Or No	Please detail the reason(s) for your representation, including any relevant evidence. This <b>MUST</b> include a clear statement as to why the representation is considered appropriate and necessary. Please use separate sheets if necessary.
To prevent crime and disorder	YES	OPEN TILL 2 AM MON TO SUN COSTUMERS STANDING ON HIGH ST SMOKING DRINKING
Public safety	YES	ITS ONLY A SMALL SPACE OUTSIDE FRONT AND THE ONLY PLACE TO SMOKE
To prevent public nuisance	YES	NOISE TILL 2-30 TO 3 AM IS NOT ACCEPTABLE
To protect children from harm	YES	IT WILL NOT BE SAFE FOR CHILDREN TO WALK PAST THE PUB



#### 4. Additional information and mediation

Do you have any suggested conditions or alterations to the application that would remedy your representation? If so, please list them clearly. Please use separate sheets if necessary.	THIS WAS A CLUB AND LIMITED NUMBERS AND ALL KNOWN AS STAKE IN YOU WILL NEED DOOR STAKE (STANDING ON PART)	
If the applicant agrees to the amendments you have set out in the box above, would you be willing to withdraw your representation?	<input checked="" type="radio"/> Yes	<input type="radio"/> No
If you agree to withdraw your representation, do you also agree that there is no need for a hearing?	<input type="radio"/> Yes	<input checked="" type="radio"/> No
If you are unwilling to withdraw your representation, please detail the reasons for this. This information will be provided to the licensing sub-committee in advance of a hearing.	THIS IS NOT WHATS NEEDED AS A CLUB IT WAS NICE WITH NO TROUBLE THIS LANDLORD HAS A LOT OF TROUBLE AT HIS OUTR BUS AND IT WILL FOLLOW HIM	
Any additional information?		

Signed

[Redacted Signature]

Date:

2/12/2020

Please return this form along with any additional sheets to: Mid Devon Licensing Authority, Phoenix House, Phoenix Lane, Tiverton, Devon, EX16 6PP, or email to [licensing@middevon.gov.uk](mailto:licensing@middevon.gov.uk). This form must be returned within the Statutory Period. For more details please check with the Licensing Section on 01884 255255.

#### 5. Confirmation of agreement

If an amendment to the application has been agreed between the applicant and the Responsible Authority making the representation, the applicant must sign below to confirm the amendments to the application set out above and their agreement.

Name of applicant:

Signed:

Date:

## 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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