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MID DEVON DISTRICT COUNCIL

LICENSING SUB-COMMITTEE A

A MEETING of the **LICENSING SUB-COMMITTEE A** will be held in the Phoenix Chambers, Phoenix House on Thursday, 4 August 2022 at 2.00 pm

STEPHEN WALFORD

Chief Executive
20th July 2022

Councillors: D J Knowles, Miss J Norton and Mrs E J Slade

A G E N D A

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

- 1 **Apologies**
To receive any apologies for absence.
- 2 **Election of Chairman**
To elect a Chairman for the Sub Committee.
- 3 **DETERMINATION OF A PREMISES LICENCE APPLICATION FOR THE ELEPHANT ON THE GREEN, 14 ST LAWRENCE GREEN, CREDITON EX17 3LL** (*Pages 3 - 60*)
An application has been received for a premises licence to be granted under the Licensing Act 2003 for the Elephant on the Green, 14 St Lawrence Green, Crediton EX17 3LL

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

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

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

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LICENSING SUB COMMITTEE
DATE OF HEARING: 04 AUGUST 2022

DETERMINATION OF A PREMISES LICENCE APPLICATION FOR THE ELEPHANT ON THE GREEN, 14 ST LAWRENCE GREEN, CREDITON EX17 3LL

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 premises licence to be granted under the Licensing Act 2003 for the Elephant on the Green, 14 St Lawrence Green, Crediton EX17 3LL

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 to grant a premises licence for the Elephant on the Green, 14 St Lawrence Green, Crediton EX17 3LL. The following description of the premises is summarised from the application:

‘The premises is a former retail convenience store, which has been renovated during 21/22 to provide around 90m² open-plan ground floor space with pedestrian access to entrances along an enclosed path off the street. The premises includes a small commercial kitchen, two toilets for customer and staff use, and a small enclosed courtyard for customer use at the rear. It is not intended to have a bar, but to be able to serve alcohol principally to accompany meals and at social functions.’

2.0 THE APPLICATION

- 2.1 The application has been received from Mr Paul Vincent.
- 2.2 In summary, the following has been applied for:

Activity	Indoors / Outdoors (or both)	Days	Times
Films	Indoors	Monday – Sunday	08:00 – 23:00
Recorded music	Indoors	Monday – Sunday	08:00 – 23:00
Supply of alcohol	For consumption ON the premises	Monday - Sunday	12:00 – 22:00
Hours premises open to the public	N/A	Monday - Sunday	08:00 – 23:00

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

3.0 LICENSING OBJECTIVES

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

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

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

Condition 1

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

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

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

Training records will be retained for at least 12 months.

Condition 2

There will be in place a written age verification policy in relation to the sale or supply of alcohol, which will specify a Challenge 25 proof of age requirement. This means that staff working at the premises must ask individuals who appear to be under 25 years of age, attempting to purchase alcohol, to produce identification. The only acceptable identification documents will be:

- *A photo driving licence*

- A passport
- An identification card carrying the PASS hologram

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

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

The premises shall display prominent signage indicating (at any point of sale/at the entrance to the premises) that a Challenge 25 scheme is in operation.

An alcohol sales refusal register shall be kept at the premises and be maintained to include details of all alcohol sales refused. The register will include:

- i. The date and time of refusal*
- ii. The reason for refusal*
- iii. Details of the person refusing the sale*
- iv. Description of the customer*
- v. Any other relevant observations*

The refusals register will be made available for inspection and copying on the request of an authorised officer of a responsible authority.

All entries must be made within 24 hours of the refusal.

- 3.3 In addition the Police Alcohol Licensing Officer (Exeter & Mid Devon) have proposed and agreed with the applicant additional conditions of licence which can be seen in **Annex 2**.

4.0 RESPONSIBLE AUTHORITIES

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

- 4.2 The Responsible Authorities are:

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

- Home Office

4.3 No representation have been received from the Responsible Authorities, save for the Police Alcohol Licensing Officer discussion with the applicant as detailed in paragraph 3.3 above.

5.0 OTHER PERSONS

5.1 The Licensing Act allows 'Other Persons' to make representations provided they are relevant and not considered frivolous or vexatious. To be relevant, a representation must relate to the likely effect of the grant of a licence on the promotion of one or more of the licensing objectives. S182 Guidance states that '*... representations should relate to the impact of licensable activities carried on from premises on the objectives*' (Paragraph 9.4).

5.2 In this case, the Licensing Authority received representations from TWO parties concerning the application. They are from the following parties:

- Mr Simon Bond (attached as **Annex 4**)
- Ms Marie Ann Hogg (attached as **Annex 5**)

5.3 It should be noted that the two representations essentially cover the same issue. It is the opinion of the Licensing Officer writing this report that some of the comments within these representations cannot be considered as relevant under the Licensing Act. For clarity, and based on the individual merits of this case, a brief overview of these issues is provided in the next section of this report.

5.4 A map showing the location of the premises in relation to local residential properties (including those that have made representations) is attached as **Annex 3**.

6.0 LICENSING OFFICER ASSESSMENT AND COMMENTS ON THE TWO REPRESENTATIONS RECEIVED

6.1 As stated in Paragraph 3.1 of this report, representations must relate to the four licensing objectives and the licensable activities being proposed. The Licensing Officer has considered these aspects as outlined below.

The prevention of crime and disorder

6.2 One representation raised concern with "*no parking facilities (and) fear our driveway could be used and blocked*".

6.3 The provision of parking in this area is not something that the applicant can control and the Licensing Officer does not believe that this should be considered as relevant. Any person may park in the surrounding area and ultimately, they may do so regardless of whether or not the premises have a licence.

- 6.4 With regards to poor parking, this is an issue where each individual road user is accountable for their actions. For example, if people park on double yellow lines or cause an obstruction, legislation exists to address these issues and it is not considered relevant for the Sub-Committee to consider. If residents have concerns about illegal parking they should report these to Devon County Council (see here: <https://new.devon.gov.uk/roadsandtransport/parking/>).

Public nuisance

- 6.5 In relation to the comment *“if people want to drink alcohol why not visit the public house further down the road...”* 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’*. As a result, the mere presence of other licensed premises down the road is not relevant.
- 6.6 In relation to the prevention of public nuisance licensing objective the two representations raised concern regarding the impact of noise on the residential area from the provision of entertainment and people using the premises. Areas for concern raised include the nature of the entertainment, and trading hours with regard to ‘sensitive evening periods’ and use of the outside courtyard.
- 6.7 Firstly it must be noted that ‘licensing law’ is not the primary mechanism for the general control of nuisance 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. Nonetheless, it is a key aspect of such control and licensing law will always be part of the holistic approach to the management of the evening and night-time economy in town and city centres” (S182 Guidance, Paragraph 14.13). Individuals remain responsible and accountable in their own right for their actions.
- 6.8 The following S182 guidance should also be noted:
- 6.9 *The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.* (Paragraph 2.15)
- 6.10 *Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved*

by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time... (Paragraph 2.17)

- 6.11 *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)*
- 6.12 *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)*

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 along with a Licensing Officer comment.
- 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. 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 (or potentially relevant), 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 10 of this report.

Overview of issues considered relevant

- 7.6 **Issue 1:** The potential for noise nuisance arising from the provision of entertainment and people using the premises.
- 7.7 **Officer comment:** The potential for noise nuisance from music is considered to be relevant and the potential for noise nuisance from people outside is considered to be relevant. The Licensing Officer has provided a general overview of the issues concerning this as stated in paragraphs 6.5 – 6.12. However, section 10 of this report must also be noted as live and recorded music is not always licensable.
- 7.8 This means the Sub-Committee are considering the representations of TWO parties detailed in paragraph 5.2. The plan within **Annex 3** also shows the location of these representation's in relation to the premises.

8.0 CIRCUMSTANCES IN WHICH ENTERTAINMENT ACTIVITIES ARE NOT LICENSABLE

- 8.1 So all parties are aware, 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>

- 8.2 Relevant to this application is the provision recorded music and in summary, 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
- 8.3 In practice, this means that conditions should not be placed on an application which relate to live and recorded music in these specific circumstances. Additionally, any conditions on a licence which do apply to live and recorded music will be 'suspended' when the activities themselves are not considered licensable.
- 8.4 In the case of this particular application, and without prejudice to the decision of the Sub-Committee, conditions relating to music would therefore apply to

any bigger events (with more than 500 people) but would not apply for smaller events (assuming the other requirements mentioned in Paragraph 8.2 of this report are complied with).

- 8.5 It must 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.

9.0 LICENSING POLICY

- 9.1 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.

- 9.2 *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)*

- 9.3 *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)*

- 9.4 *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)*

- 9.5 *Any party to a hearing may expand on their representation but may not introduce new or different representations. (Paragraph 5.14)*

- 9.6 *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)*

- 9.7 *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)

- 9.8 *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)*
- 9.9 *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)*
- 9.10 *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)*
- 9.11 *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)*
- 9.12 *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)*
- 9.13 *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)*
- 9.14 *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)

- 9.15 *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)*
- 9.16 *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)*
- 9.17 *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)*
- 9.18 *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)*
- 9.19 *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)*
- 9.20 *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)

9.21 *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)*

9.22 *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)*

9.23 *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)*

9.24 Prevention of public nuisance

9.25 *Public nuisance is not narrowly defined in the 2003 Licensing Act and retains its broad common law meaning. It may include issues around nuisance, noise, disturbance, light pollution, noxious smells, vermin and pest infestations and accumulations of rubbish and litter. (Paragraph 8.16)*

9.26 *The Licensing Authority recommends that applicants and licensees apply a higher standard of control to minimise the potential for any public nuisance that may arise from their operation of the premises where:*

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

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

9.28 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/>

9.29 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>).

10.0 GOVERNMENT GUIDANCE

10.1 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>

10.2 *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)*

10.3 *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)

- 10.4 *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)*

11.0 DETERMINATION AND OPTIONS OF THE SUB-COMMITTEE

- 11.1 *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)*
- 11.2 *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)*
- 11.3 *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)*

- 11.4 *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)*
- 11.5 *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

- 11.6 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
- 11.7 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.
- 11.8 Members have five working days from the conclusion of the hearing to make a decision.

12.0 APPEAL

- 12.1 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.

13.0 ANNEXES TO THIS REPORT

Annex 1	Copy of the Premises Licence application and plan
Annex 2	Proposed Additional Conditions of Licence
Annex 3	Map showing location of premises

Annex 4	Representation (1)
Annex 5	Representation (2)
Annex 6	Procedure for hearings

Contact for more Information: Jeremy Pritchard (Commercial Team Leader) email: jpritchard@middevon.gov.uk Tel: 01884 244614 or Simon Newcombe (Corporate Manager for Public Health, Regulation and Housing) email: snewcombe@middevon.gov.uk.

Circulation of the Report:

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

List of Background Papers:

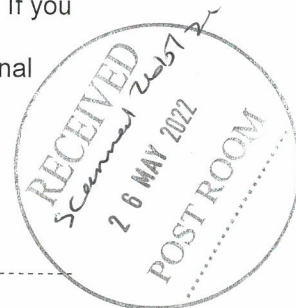
- Licensing Act 2003 - <https://www.legislation.gov.uk/ukpga/2003/17/contents>
- Section 182 Guidance - <https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>
- Mid Devon District Council Licensing Act Policy - <https://www.middevon.gov.uk/business/licensing/new-statement-of-licensing-policy-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

Application for a premises licence to be granted under the Licensing Act 2003

Please read the following instructions first

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

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



I/We Paul Vincent

(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			
14 St Lawrence Green			
Post town	Crediton	Postcode	EX17 3LL

Telephone number at premises (if any)	
Non-domestic rateable value of premises	£ 4,350

Part 2 - Applicant details

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

a)	an individual or individuals *		please complete section (A)
b)	a person other than an individual *		
	i	as a limited company/limited liability partnership	please complete section (B)
	ii	as a partnership (other than limited liability)	please complete section (B)
	iii	as an unincorporated association or	please complete section (B)
	iv	other (for example a statutory corporation)	please complete section (B)

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

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

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or
- I am making the application pursuant to a
- statutory function or
- a function discharged by virtue of Her Majesty's prerogative

(A) individual applicants (fill in as applicable)

Mr <input checked="" type="checkbox"/>	Mrs	Miss	Ms	Other Title (for example, Rev)	
Surname Vincent			First names Paul Michael		
Date of birth 02/02/1962		I am 18 years old or over		Please tick yes <input checked="" type="checkbox"/>	
Nationality British					
Current residential address if different from premises address		The Flat 14 St Lawrence Green			
Post town	Crediton			Postcode	EX17 3LL
Daytime contact telephone number			01363 775048		
E-mail address (optional)		pveclipse@btinternet.com			
Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), the 'share code' provided to the applicant by that service (please see note 15 for information)					

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Second individual applicant (if applicable)

Mr	Mrs	Miss	Ms	Other Title (for example, Rev)	
Surname			First names		
Date of birth or over		I am 18 years old		Please tick yes	
Nationality					
Current residential address if different from premises address					
Post town				Postcode	
Daytime contact telephone number					
E-mail address (optional)					
Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), the 'share code' provided to the applicant by that service: (please see note 15 for information)					

(B) Other applicants

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

Name
Address
Registered number (where applicable)

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

Part 3 Operating Schedule

When do you want the premises licence to start? ASAP

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

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

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

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

The premises is a former retail convenience store, which has been renovated during 21/22 to provide around 90m2 open-plan ground floor space on a single level, with pedestrian access to entrances along an enclosed path off the street. The premises includes a small commercial kitchen, two toilets for customer/staff use, and a small enclosed courtyard for customer use at the rear. It is not intended to have a bar, but to be able to serve alcohol principally to accompany meals and at occasional social functions.

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

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

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

Provision of regulated entertainment (please read guidance note 2)		Please tick all that apply
a)	plays (if ticking yes, fill in box A)	
b)	films (if ticking yes, fill in box B)	✓
c)	indoor sporting events (if ticking yes, fill in box C)	
d)	boxing or wrestling entertainment (if ticking yes, fill in box D)	
e)	live music (if ticking yes, fill in box E)	
f)	recorded music (if ticking yes, fill in box F)	
g)	performances of dance (if ticking yes, fill in box G)	

h)	anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H)	
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<u>Provision of late night refreshment</u> (if ticking yes, fill in box I)	
<u>Supply of alcohol</u> (if ticking yes, fill in box J)	✓

In all cases complete boxes K, L and M

A

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

B

Films Standard days and timings (please read guidance note 7)			Will the exhibition of films take place indoors or outdoors or both – please tick (please read guidance note 3)		Indoors <input checked="checked" type="checkbox"/>
					Outdoors <input type="checkbox"/>
Day	Start	Finish	Both <input type="checkbox"/>		
Mon	10:00	23:00	Please give further details here (please read guidance note 4)		
Tue	10:00	23:00			
Wed	10:00	23:00	State any seasonal variations for the exhibition of films (please read guidance note 5)		
Thur	10:00	23:00			
Fri	10:00	23:00	Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list (please read guidance note 6)		
Sat	10:00	23:00			
Sun	10:00	23:00			

C

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

D

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

E

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

F

Recorded music Standard days and timings (please read guidance note 7)			Will the playing of recorded music take place indoors or outdoors or both – please tick (please read guidance note 3)		Indoors	<input checked="" type="checkbox"/>
					Outdoors	<input type="checkbox"/>
					Both	<input type="checkbox"/>
Day	Start	Finish				
Mon	0800	2300	Please give further details here (please read guidance note 4)			
Tue	0800	2300				
Wed	0800	2300	State any seasonal variations for the playing of recorded music (please read guidance note 5)			
Thur	0800	2300				
Fri	0800	2300	Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list (please read guidance note 6)			
Sat	0800	2300				
Sun	0800	2300				

G

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

H

Anything of a similar description to that falling within (e), (f) or (g) Standard days and timings (please read guidance note 7)			Please give a description of the type of entertainment you will be providing		
Day	Start	Finish	<u>Will this entertainment take place indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	
Mon				Outdoors	
				Both	
Tue			<u>Please give further details here</u> (please read guidance note 4)		
Wed					
Thur			<u>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</u> (please read guidance note 5)		
Fri					
Sat			<u>Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list</u> (please read guidance note 6)		
Sun					

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

J

Supply of alcohol Standard days and timings (please read guidance note 7)			Will the supply of alcohol be for consumption – please tick (please read guidance note 8)	On the premises	<input checked="" type="checkbox"/>
				Off the premises	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	State any seasonal variations for the supply of alcohol (please read guidance note 5)		
Mon	12:00	22:00			
Tue	12:00	22:00			
Wed	12:00	22:00			
Thur	12:00	22:00			
Fri	12:00	22:00			
Sat	12:00	22:00			
Sun	12:00	22:00	Non standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list (please read guidance note 6)		

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

Name	Paul Vincent
Date of birth	02 02 1962
Address	The Flat, 14 St Lawrence Green, Crediton
Postcode	EX17 3LL
Personal licence number (if known) MDV PE1355	
Issuing licensing authority (if known) MDDC	

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).

L

Hours premises are open to the public Standard days and timings (please read guidance note 7)			State any seasonal variations (please read guidance note 5)
Day	Start	Finish	
Mon	08:00	23:00	
Tue	08:00	23:00	
Wed	08:00	23:00	
Thur	08:00	23:00	
Fri	08:00	23:00	
Sat	08:00	23:00	
Sun	08:00	23:00	Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list (please read guidance note 6)

Sat	08:00	23:00	
Sun	08:00	23:00	

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)

I will take advice from responsible authorities

b) The prevention of crime and disorder

I will take advice from responsible authorities

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

- i. The Challenge 25 scheme in operation at the premises, including the forms of identification that are acceptable.
- ii. The hours and activities permitted by the premises licence issued under the Licensing Act 2003 and conditions attached to the licence/certificate
- iii. How to complete and maintain the refusal register in operation at the premises (in relation to the sale of alcohol).
- iv. Recognising 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.

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

Training records will be retained for at least 12 months.

c) Public safety

I will take advice from responsible authorities

e) The protection of children from harm

There will be in place a written age verification policy in relation to the sale or supply of alcohol, which will specify a Challenge 25 proof of age requirement. This means that staff working at the premises must ask individuals who appear to be under 25 years of age, attempting to purchase alcohol, to produce identification. The only acceptable identification documents will be:

- A photo driving licence
- A passport
- An identification card carrying the PASS hologram

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

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

The premises shall display prominent signage indicating (at any point of sale/ at the entrance to the premises that a Challenge 25 scheme is in operation.

An alcohol sales refusal register shall be kept at the premises and be maintained to include details of all alcohol sales refused. The register will include:

- i. the date and time of refusal
- ii. the reason for refusal
- iii. details of the person refusing the sale
- iv. description of the customer
- v. any other relevant observations.

The refusals register will be made available for inspection and copying on the request of an authorised officer of a responsible authority.

All entries must be made within 24 hours of the refusal.

Checklist:

Please tick to indicate agreement

<input checked="" type="checkbox"/>	I have made or enclosed payment of the fee.	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	I have enclosed the plan of the premises.	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	I have sent copies of this application and the plan to responsible authorities and others where applicable.	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	I have enclosed the consent form completed by the individual I wish to be designated premises supervisor, if applicable.	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	I understand that I must now advertise my application.	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	I understand that if I do not comply with the above requirements my application will be rejected.	<input checked="" type="checkbox"/>


	[Applicable to all individual applicants, including those in a partnership which is not a limited liability partnership, but not companies or limited liability partnerships] I have included documents demonstrating my entitlement to work in the United Kingdom or my share code issued by the Home Office online right to work checking service (please read note 15).	✓
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It is an offence, under Section 158 of the Licensing Act 2003, to make a false statement in or in connection with this application. Those who make a false statement may be liable on summary conviction to a fine of any amount.

It is an offence under Section 24b of the Immigration Act 1971 for a person to work when they know, or have reasonable cause to believe, that they are disqualified from doing so by reason of their immigration status. Those who employ an adult without leave or who is subject to conditions as to employment will be liable to a civil penalty under section 15 of the Immigration, Asylum and Nationality Act 2006 and pursuant to Section 21 of the same act, will be committing an offence where they do so in the knowledge, or with reasonable cause to believe, that the employee is disqualified.

Part 4 – Signatures (please read guidance note 11)

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

Declaration	<ul style="list-style-type: none"> [Applicable to individual applicants only, including those in a partnership which is not a limited liability partnership] I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK (please read guidance note 15). The DPS named in this application form is entitled to work in the UK (and is not subject to conditions preventing him or her from doing work relating to a licensable activity) and I have seen a copy of his or her proof of entitlement to work, or have conducted an online right to work check using the Home Office online right to work checking service which confirmed their right to work (please see note 15)
Signature	
Date	25 th May 2022
Capacity	Proprietor, Elephant in the Green

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

Signature	
-----------	--

Date	
Capacity	

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

Notes for Guidance

1. Describe the premises, for example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies, you must include a description of where the place will be and its proximity to the premises.
2. In terms of specific regulated entertainments please note that:
 - Plays: no licence is required for performances between 08:00 and 23:00 on any day, provided that the audience does not exceed 500.
 - Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
 - Indoor sporting events: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
 - Boxing or Wrestling Entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000. Combined fighting sports – defined as a contest, exhibition or display which combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.
 - Live music: no licence permission is required for:

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

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

A licence may not be issued to an individual or an individual in a partnership which is not a limited liability partnership who is resident in the UK who:

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

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

Applicants must demonstrate that they have the right to work in the UK and are not subject to a condition preventing them from doing work relating to the carrying on of a licensable activity.

They do this in one of two ways:

- 1) by providing with this application, copies or scanned copies of the documents which an applicant has provided, to demonstrate their entitlement to work in the UK (which do not need to be certified) as per information published on gov.uk and in guidance.
- 2) by providing their 'share code' to enable the licensing authority to carry out a check using the Home Office online right to work checking service (see below).

Home Office online right to work checking service.

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

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

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

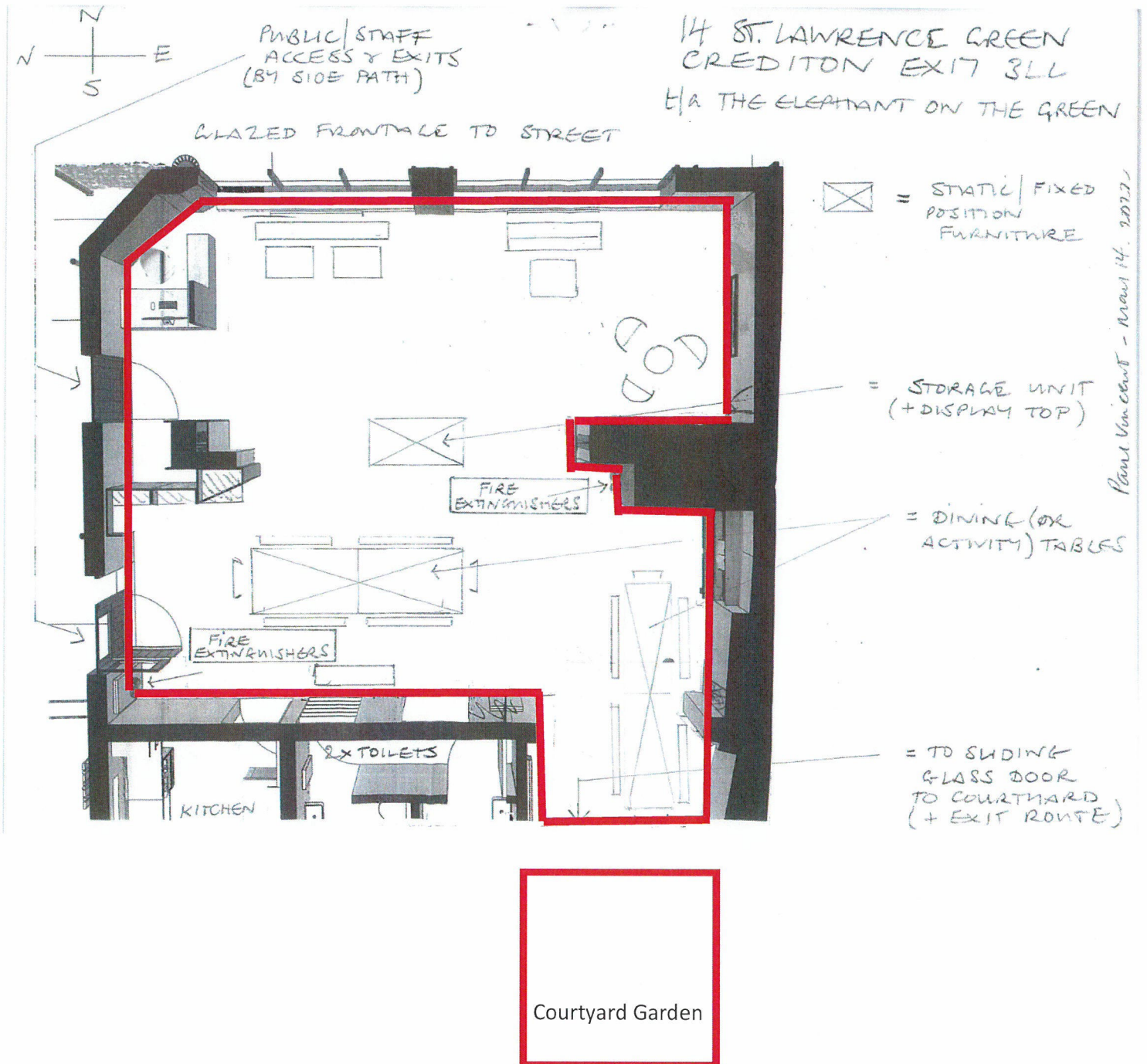
An online check will not be possible in all circumstances because not all applicants will have an immigration status that can be shared digitally. The Home Office online right to work checking service sets out what information and/or documentation applicants will need in order to access the service.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

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

Plan of premises: Elephant on the Green



- Marks areas for all licensable activities to take place



Proposed Annex 2 Additional Conditions of Licence – Elephant on the Green, 14 St Lawrence Green, Crediton, EX17 3LL

GENERAL

Open to the public Monday to Sunday 08:00-23:00

Monday to Sunday 12:00 -22:00hrs (supply of alcohol, **on sales only**)

No customers will be permitted to take open bottles or glasses from the premises.

There will be a zero tolerance regarding the supply/use of drugs on the premises.

Alcohol will served as an ancillary to a meal, exception being pre booked events such as;

- i. The screening of a film
- ii. Pre booked music recital
- iii. Pre booked social function
- iv. Or other pre booked ticketed events.

All alcohol to be consumed seated with table service.

Entry to all evening screenings, events, pre booked events and functions is by ticket/invitation only (free or otherwise)

The definition of an event in this case is;

A thing that happens or takes place, especially one of importance.

A planned public or social occasion

The courtyard at the rear of the premises shall be licenced for the sale and consumption of alcohol until 21:00hrs after which the area will be cleared, and the door closed save for access and egress in an emergency.

No amplified music to be played on the premises or in the courtyard area.

PREVENTION OF CRIME AND DISORDER

The condition detailed below ensures all staff are aware and working to the same standard.

STAFF TRAINING

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

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

Proposed Annex 2 Additional Conditions of Licence – Elephant on the Green, 14 St Lawrence Green, Crediton, EX17 3LL

- iii. How to complete and maintain the refusal register in operation at the premises (in relation to the sale of alcohol).
- iv. Recognising 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.

Training shall be recorded in documentary form and shall be regularly refreshed at no greater than 6 month intervals. Training records shall be made available for inspection and copying at reasonable times upon request of an authorised officer of a responsible authority.

Training records will be retained for at least 12 months.

PROTECTION OF CHILDREN FROM HARM

CHALLENGE 25

Signage will be clearly displayed regarding Challenge 25.

There will be in place a written age verification policy in relation to the sale or supply of alcohol, which will specify a Challenge 25 proof of age requirement. This means that staff working at the premises must ask individuals who appear to be under 25 years of age, attempting to purchase alcohol, to produce identification. The only acceptable identification documents will be:

- A photo driving licence
- A passport
- An identification card carrying the PASS hologram

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

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

This condition can be included as part of an incident book or as a standalone.

REFUSALS REGISTER

An alcohol sales refusal register shall be kept at the premises and be maintained to include details of all alcohol sales refused. The register will include:

- i. the date and time of refusal
- ii. the reason for refusal
- iii. details of the person refusing the sale
- iv. description of the customer
- v. any other relevant observations.

The refusals register will be made available for inspection and copying on request of an authorised officer of a responsible authority.

Proposed Annex 2 Additional Conditions of Licence – Elephant on the Green, 14 St Lawrence Green, Crediton, EX17 3LL

All entries must be made within 24 hours of the refusal.

This condition can be included as part of a refusal register or as a standalone.

INCIDENT LOG

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 faults in the CCTV system
- vii. Any visits by a responsible authority (under the Licensing Act 2003) or emergency service.

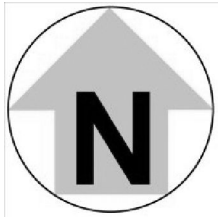
Records must be completed within 24 hours of any incident, and will contain the time and date, the nature of the incident, the people involved, the action taken and details of the person responsible for the management of the premises at the time of the incident.

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.

SIA DOORSTAFF

SIA licensed door staff shall be employed at the premises at the discretion of the designated premises supervisor/Holder of the Premises license subject to a risk assessment being carried out for each event. The risk assessment will be recorded in a Risk Assessment folder which will be available upon request. These will be employed at the ration of a min of 1 for the first **** persons (dependant of DSFR decision regarding capacity)** Immediate action will be taken should there be seen to be evidence to suggest SIA trained Door staff are required.

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Licensing Team

Scale 1:750 @ A4

Date 20 July 2022

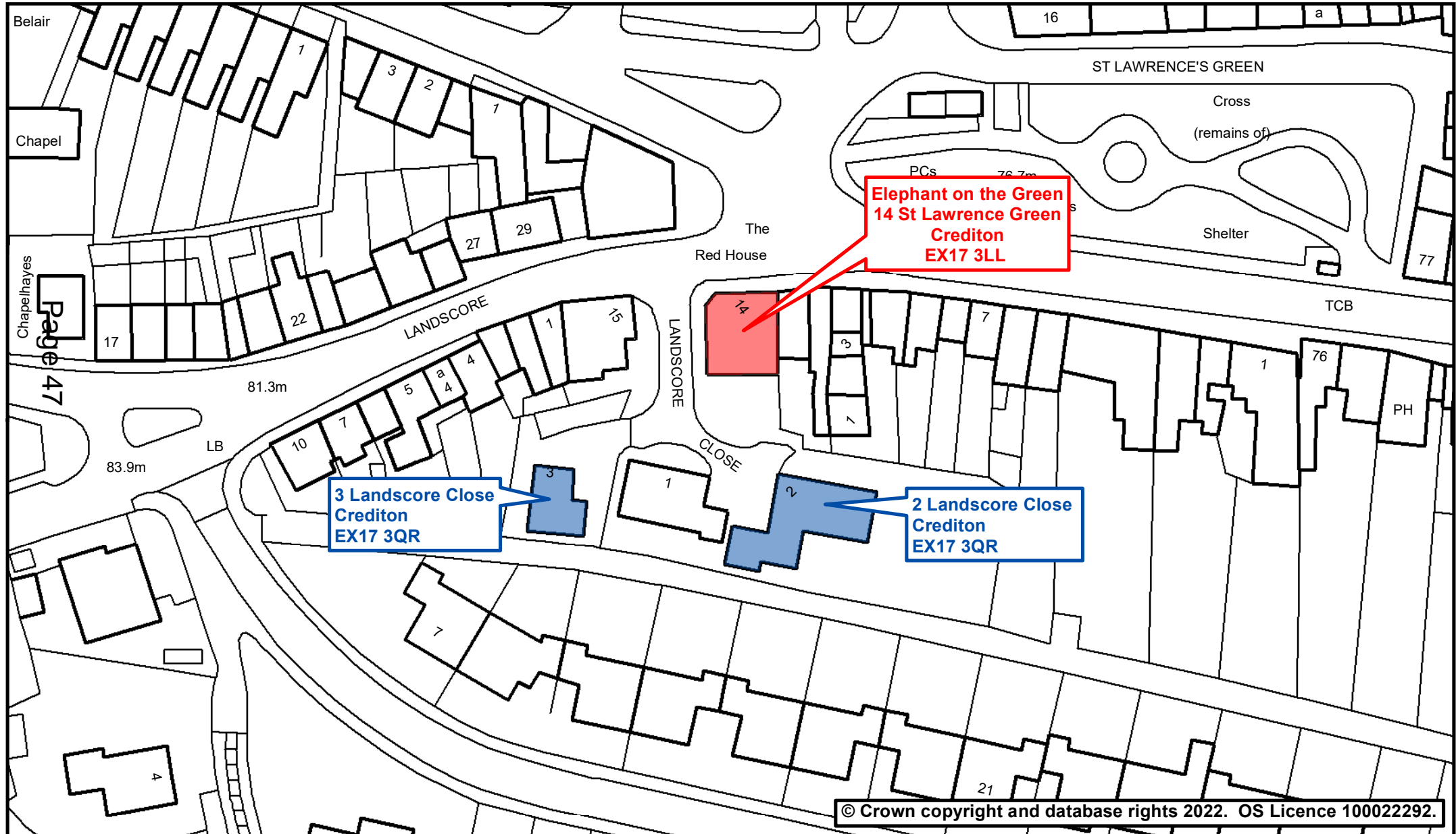
Drg. No. Elephant on the Green, 14 St Lawrence Green, Crediton EX17 3LL

Produced by GMS

Phoenix House
Phoenix Lane, Tiverton EX16 6PP

Tel: 01884 255255

Website: www.middevon.gov.uk



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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	Mr Simon Bond	
The name of the organisation / body you represent (if appropriate)		
Postal address	2 Landscore Close. Crediton. Devon. Ex17 3Qr	
Email address		
Contact telephone number		

Name of the premises you are making a representation about	Elephant on the Green
Address of the premises you are making a representation about	14 St.Lawrence Green Crediton Ex17 3LL

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		
Public safety		
To prevent public nuisance	Yes	I have concerns that this residential area will be greatly impacted by the noise from people using this establishment. The Outside Garden area backs onto living and sleeping areas which will affect a number of different residents. If Entertainment is going to happen then it should be kept indoors with the doors and windows closed to avoid noise pollution affecting the neighbours. As with most consumption of alcohol the volume of people tends to become louder so again the noise from people in the outside area will be unpleasant for the neighbours. If people want to drink alcohol why not visit the public house further down the road which by the way the beer garden can also be heard being used which is some way down the road. Thus proving my concern for this new venture. I also believe there should be a stipulation that all outside activity be curtailed at 9pm to allow the residents their peace.
To protect children from harm		

If you are making a representation against a new application or full	No Entertainment past 9pm No alcohol served after 9pm
---	--

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).	No activity in garden, outside area after 9pm
---	---

Signed: Simon Bond. Helene Bond

Date: 27/6/22

Please see notes on reverse

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.

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.

Alternatively, you can email it to licensing@middevon.gov.uk.

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LICENSING ACT 2003

Applicant: PAUL VINCENT of Elephant on the Green

14 St Lawrence Green, CREDITON. EX17 3LL

Planning Application - Alcohol (selling) on the premises + Controlled Entertainment

3 LANDSCORE CLOSE

CREDITON. EX17 3QR

DEVON.

June 16 2022

With regard to the above application, I have no objection to the selling of alcohol on the premises, BUT as it is in conjunction with entertainment, that would generate extra noise.

Entertainment has many avenues. Loud music, usually with live bands. With neighbours so close by, this would be intolerable, especially in the evening, or even the early hours of the morning. Such a late night venue could happen at a later date in the future??

Please note - should entertainment be granted, there are no parking facilities. Landscore close is a small private driveway, being the approach to 3 bungalows, one of which is mine.

I fear our driveway could be used and blocked.

Therefore, I have to object to the above planning application.

without prejudice,



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MID DEVON DISTRICT COUNCIL – LICENSING COMMITTEE

Protocol and Procedure for Licensing Sub-Committee Hearings

1.0 Introduction

- 1.1 The role of the Sub-Committee is to determine Applications / Notices in an impartial manner in accordance with the relevant provisions of the Licensing Act 2003, national guidance and the Council's Policies.

2.0 Composition of Sub-Committee

- 2.1 The Sub-Committee shall usually consist of three Councillors drawn on a "panel" basis from the membership of the Licensing Committee.

- 2.2 In forming the Membership of the Licensing Sub-Committee for a hearing, and where Councillors availability permits, Members Services shall try to ensure that:

- There are at least two experienced Members in attendance
- Rotation of Membership

'Experienced' is defined as having previously taken part in two separate hearings.

- 2.3 Members may sit on a Hearing which relates to their own Ward as long as there is no conflict of interest 'and any relevant declarations are made at the beginning of the meeting.

- 2.4 The Chairman for a Hearing shall be selected from the Members that form the Sub-Committee.

- 2.5 When unforeseen circumstances require, or an urgent matter has arisen, the Sub-Committee may be made up of two Councillors as opposed to three.

3.0 Hearings to be held in public

- 3.1 Licensing Hearings shall take place in public. However, the Sub-Committee may exclude the public (including a party to the hearing) from all or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking place in public.

- 3.2 The Sub-Committee may require any person attending the hearing who is in their opinion behaving in a disruptive manner to leave the hearing and may:

- a) refuse to permit that person to return, or

- b) permit him/her to return only on such conditions as the Sub-Committee may specify,

but such a person may, before the end of the hearing, submit to the Sub-Committee in writing any information which they would have been entitled to give orally had they not been required to leave.

4.0 Time of Hearings

- 4.1 Hearings of the Licensing Sub-Committee shall usually be held at the Council Offices during the day.

5.0 Notice of Hearing

- 5.1 The Licensing Authority shall give parties to the Hearing a notice stating the date, time and place where the Hearing is to be held. This is the 'Notice of Hearing' and must be given in accordance with the provisions of the regulations.
- 5.2 The Notice of Hearing shall be accompanied by information regarding the following:
 - a) the rights of a party provided for in regulations 15 and 16 of the Licensing Act 2003 (Hearings) Regulations 2005
 - b) the consequences if a party does not attend or is not represented at the Hearing
 - c) the procedure to be followed at the hearing; and
 - d) any particular points on which the Licensing Authority considers that it will want clarification from a party at the hearing.
- 5.3 Each party shall respond to the Notice of Hearing within the time prescribed by regulations which shall be stated on the Notice itself. The response must state:
 - a) whether he/she intends to attend or be represented at the hearing;
 - b) whether he/she considers a hearing to be unnecessary

6.0 Right of Attendance, Assistance and Representation

- 6.1 Subject to paragraphs 3.1 and 3.2, a party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified. A party may be assisted or represented by their Ward Councillor. Any Councillor undertaking such a role would not take part in the determination of the matter before the Sub-Committee.

7.0 Hearings held on more than one day

- 7.1 When a hearing is to be held on more than one day, the hearing must be arranged to take place on consecutive working days.

8.0 Right to dispense with a hearing

- 8.1 If all parties agree that a hearing is unnecessary, then with the agreement of the Licensing Authority, the hearing may be dispensed with.

9.0 Right to postpone or adjourn a hearing

- 9.1 The Sub-Committee may postpone or adjourn a hearing where it considers this to be necessary for its consideration of any representations or notice made by a party.

10.0 Report

- 10.1 A report prepared by the Licensing Authority will be put before the Sub-Committee.
- 10.2 A copy of the report will be made available to all parties in advance of the hearing.

11.0 Detailed Procedural notes

- 11.1 Detailed procedural notes for the most regularly heard hearings are available and will be circulated in advance of the relevant hearing. These procedural notes cover the following applications / notices:
- New Premises Licence / Variation of existing Premises Licence (or Club Premises Certificate)
 - Temporary Event Notices
 - Review of a Premises Licence or Club Premises Certificate

12.0 Procedure at hearing - General

- 12.1 At the beginning of the hearing, the Chairman and members of the Sub-Committee will introduce themselves, invite parties to identify / introduce themselves and then explain the procedure that the Sub-Committee intends to follow.
- 12.2 If applicable, the Sub-Committee will then consider any request made by a party for any other person to appear at the hearing. Permission shall not be unreasonably withheld.
- 12.3 Where the written evidence or information provided by the applicant or any other party has raised legal issues or submissions, the Chairman may request that any legal

representatives present at the hearing and the legal representative of the authority address the Sub-Committee on the legal points raised.

- 12.4 The hearing shall take the form of a discussion led by the Sub-Committee on any matter that is relevant to the application, notice or review.
- 12.5 The Chairman should indicate that members of the Sub-Committee have read the circulated papers; therefore there is no need for parties to repeat points that have already been made in representations.
- 12.6 In circumstances where there are a number of parties who wish to make the same or similar representations the nomination of a single spokesperson will usually be encouraged, and would normally be expected. This does not prevent those who have made representations from speaking during the hearing.
- 12.7 Applicants and other parties will not usually be given a time limit to present their application / representations but the Sub-Committee may stop them should they begin to repeat themselves or straying from what is considered to be relevant matters.
- 12.8 In considering any representations or notice made by a party the Sub-Committee may take into account documentary or other information produced by a party either before the hearing or, with the consent of all other parties, at the hearing. A party introducing documentary evidence at a hearing should bring sufficient copies for all other parties and the Sub-Committee.
- 12.9 Members of the Sub-Committee may ask any question of any party or other person appearing at the hearing.
- 12.10 The Sub-Committee will disregard any information given by a party that is not relevant to the application, notice or representations made.
- 12.11 Parties may question any other party if permission is given by the Sub-Committee. Cross examination will not be allowed unless the Sub-Committee considers that it is required for it to consider the representations, application or notice as the case may require.
- 12.12 Hearsay evidence is admissible but consideration will always be given to the weight, if any, to be attached to such evidence, depending on the circumstances in which it arises.

13.0 Roles of Officers

Representative of Legal Services

- 13.1 The role of the representative of Legal Services will be to deal with any questions of law, matters of practice and procedure and where appropriate assist the Sub-Committee in formulating the reasons for its decision. They may ask questions of parties and witnesses in order to clarify the evidence and any issues in the case.

Representative of Member Services

- 13.2 The role of the representative of Member Services will be to make a record of the proceedings both by way of notes of the evidence / information given and a minute of the decision reached, inclusive of the reasons for the decision.

Licensing Officer

- 13.3 The role of the Licensing Officer will be to introduce the application / notice, outline the relevant facts and any issues involved through the presentation of their report.

14.0 Determination of Applications / Notices

- 14.1 Unless the matter being considered by the Sub-Committee falls within one of the categories listed in point 14.2, the Sub-Committee has five working days to make their determination beginning with the day, or the last day, on which the hearing was held.
- 14.2 In relation to the following matters, the Sub-Committee must make its decision at the conclusion of the hearing:
- a) A counter notice following an objection to a temporary event notice
 - b) Review of a premises premises licence following closure order

15.0 Record of proceedings

- 15.1 A record of the hearing shall be made by authority and kept for six years from the date of the determination or, where an appeal is brought against the determination of the authority, the record must be kept for six years from the date of disposal of the appeal. The authority may also record the proceeding through audio tape.

16.0 Appeals

- 16.1 Either those who have made an application or those who have made a representation on an application may have the right to appeal the authorities decision to the Magistrates Court.

- 16.2 An appeal must be commenced within twenty one days beginning with the day on which the appellant was notified by the licensing authority of their decision.

17.0 Irregularities

- 17.1 Proceedings will not be rendered void only as a result of failure to comply with any provision of the Hearing Regulations.
- 17.2 Where the authority considers that any person may have been prejudiced as the result of an irregularity relating to the Hearing Regulations, it will take such steps, as it thinks fit to cure the irregularity, before reaching its determination.
- 17.3 Clerical mistakes in any document recording a determination of the authority, or errors arising in such a document as the result of an accidental slip or omission, may be corrected by the authority.

The following information and procedures are associated with this document

Legislation

- The Licensing Act 2003 (Hearings) Regulations 2005:
 - http://www.legislation.gov.uk/uksi/2005/44/pdfs/uksi_20050044_en.pdf

Hearing Procedures

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

Hearing Guidance

- General guidance to attendees