

Public Document Pack

Mid Devon District Council

Licensing Sub Committee

Thursday, 25 July 2024 at 2.30 pm
Phoenix House

Membership

J Buczkowski
F J Colthorpe
L G J Kennedy

A G E N D A

Members are reminded of the need to make declarations of interest prior to any discussion which may take place

- 1 **Apologies**
To receive any apologies for absence.

- 2 **Election of Chair**
To elect a Chair for the Licensing Sub-Committee.

- 3 **Determination of a Premises Licence Application for ASDA Express PFS, Exeter Road, CREDITON. EX17 3BX (Pages 3 - 74)**
An application has been received for a new premises licence for Asda Express PFS, Exeter Road, CREDITON, EX17 3BX

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

Stephen Walford
Chief Executive
9th July 2024

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Members of the public are welcome to attend the meeting and listen to discussion. Lift access to the Council Chamber on the first floor of the building is available from the main ground floor entrance. Toilet facilities, with wheelchair access, are also available.

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LICENSING SUB COMMITTEE

DATE OF HEARING: 25 JULY 2024

DETERMINATION OF A PREMISES LICENCE APPLICATION FOR ASDA EXPRESS PFS, EXETER ROAD, CREDITON, EX17 3BX

Cabinet Member(s): David Wulff, Cabinet Member for Community & Leisure

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

Reason for Report: An application has been received for a new premises licence for Asda Express PFS, Exeter Road, Crediton, EX17 3BX

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

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

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

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

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

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

Relationship to Corporate Plan: Not applicable

Impact on climate change: Not applicable

Additional information relevant to this application: The process of applying for these licences is prescribed by regulations made under the Licensing Act 2003 (the Act). The applicant must copy their applications to the "Responsible Authorities" consisting of the Police, Fire Service, Weights and Measures (Trading Standards), 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 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 An application has been submitted for a new premises licence for Asda Express PFS, Exeter Road, Crediton, EX17 3BX.
- 1.2 The applicant has given the following description of the premises in the application form:
- ‘Convenience store / petrol filling station’

2.0 THE APPLICATION

- 2.1 The application for a new premises licence was submitted by Euro Garages Limited.
- 2.2 In summary, the following has been applied for:

Activity	Indoors / Outdoors (or both)	Days	Times
Late night refreshment	Indoors and outdoors	Monday - Sunday	23:00 – 05:00
Supply of alcohol	For consumption OFF the premises	Monday - Sunday	00:00 – 24:00
Hours premises open to the public	N/A	Monday – Sunday	00:00 – 24:00

Table 1: Activities / times requested on application

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

3.0 PRIMARY USE OF THE PREMISES

- 3.1 The Section 182 Guidance states that:

Section 176 of the 2003 Act prohibits the sale or supply of alcohol at motorway service areas (MSAs) and from premises which are used primarily as a garage, or are part of premises used primarily as a garage. Premises are used primarily as a garage if they are used for one or more of the following:

- *the retailing of petrol;*

- *the retailing of derv (diesel);*
- *the sale of motor vehicles; and*
- *the maintenance of motor vehicles.* (Paragraph 5.23)

3.2 As stated in paragraph 1.2 of this report, this premises is described as a 'convenience store / petrol filling station'. The Section 182 Guidance goes on to state that:

It is for the licensing authority to decide, based on the licensing objectives, whether it is appropriate for that premises to be granted a licence, taking into account the documents and information listed in section 17(3) and (4) which must accompany the application. (Paragraph 5.23)

If a licence is granted in respect of a premises and the primary use of that premises subsequently changes (for example, the primary use becomes that of a garage rather than a shop) it would no longer be legal to sell alcohol on that premises. If a relevant representation is made, the licensing authority must decide whether or not the premises are used primarily as a garage. The licensing authority may ask the licence holder to provide further information to help establish what the primary use of the premises is. (Paragraph 5.23)

3.3 In accordance with *R (on the application of) Murco Petroleum Limited v Bristol City Council [2010] EWHC 1992 (Admin)*, the matter of primary use can be a consideration when a representation has raised the issue of the sale of alcohol being made from a garage.

3.4 This issue has been raised and as a result, the Licensing Authority emailed Gosschalks LLP on the 3 July 2024 to request additional information to clarify the intensity of use of the premises. A response was received on 5 July 2024 which stated:

'Following discussion with our client they have given us the below information regarding your queries.

The existing intensity of customer use (without alcohol sales) shows that 51% of customers using the premises do so for convenience purposes.

This is anticipated to increase to 54% within the next two years.

Accordingly, the primary use of these premises is not as a garage'.

3.5 Professor Roy Light produced an overview of the primary use issue in 2011 and this is attached as **Annex 3**. It is felt that it gives a helpful overview of the legislation and its historical context, along with the impact of some relevant case law.

4.0 LICENSING OBJECTIVES

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

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

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

- The provision of training for relevant staff working at the premises, including those that sell alcohol
- Spirits will be displayed behind the counter*
- No miniature bottles of spirits (20cl and below) shall be sold from the premises*
- The installation and use of a CCTV system
- A general statement regarding compliance with health and safety legislation
- A till prompt system for the sale of alcohol, and
- When prompted, staff will adopt a Challenge 25 proof of age scheme (and only specific forms of photo identification will be accepted)
- Notices will be displayed on the premises advising customers of the Challenge 25 policy.

** This does not apply to pre-packaged gift sets which may contain a spirit miniature*

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

5.0 RESPONSIBLE AUTHORITIES

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

5.2 The Responsible Authorities are:

- Police
- Fire Service
- Environmental Health (nuisance and health and safety)
- Planning Authority
- Licensing Authority
- Health and Safety Executive

- Weights and Measures (Trading Standards)
- the body responsible for Child Protection
- the local Director of Public Health
- Home Office

5.3 No representations were received from any Responsible Authority concerning this application. As a result, they are not party to the hearing.

5.4 It should be noted that some representations have mentioned that the Police have been involved with issues in the area and have also suggested that we contact the Police for more information about issues that appear to relate to different garages entirely. On this point, it is the Licensing Officer's view that the Police are fully aware of the application as a Responsible Authority. It is for them to decide if it is appropriate and necessary to make a representation in light of the individual merits of the application, based on the licensing objectives. In this instance, they have not submitted a representation.

6.0 OTHER PERSONS

6.1 The 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. The Section 182 Guidance states that '*... representations should relate to the impact of licensable activities carried on from premises on the objectives*' (Paragraph 9.4).

6.2 In this case, the Licensing Authority received 5 representations concerning the application. These are in opposition to the application (or 'negative').

6.3 The Sub-Committee should note that although 5 representations were received, not all elements of these representations are considered relevant by the Licensing Officer. **Table 2** (below) provides details of who has submitted these representations, along with a very brief note of what is, and what is not, considered relevant within their submissions.

6.4 All of these representations are attached to this report in full (as identified in **Table 2**). It should be noted that further information (and justification) about what is and what is not considered relevant is provided in section 7 of this report.

6.5 Additionally, and for clarity, the Licensing Team contacted Mr Robert Davies to get more information about the representation(s) he had initially submitted. The additional information provided is included within **Annex 4**.

6.6 It is the Licensing Officer's view that some elements of the representations are lacking in information. However, paragraph 9.9 of the Section 182 Guidance states:

'It is recommended that, in borderline cases, the benefit of the doubt about any aspect of a representation should be given to the person making that

representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it’.

6.7 As a result, relevant parties will be expected to amplify and clarify their representations at the hearing. If someone feels that the brief summary below misses a specific point made within a representation or disagrees with the relevance of an issue, this can be stated in their response to the Notice of Hearing.

Name of party	Issue(s) raised considered relevant	Issue(s) raised not considered relevant
<p>Robert Davies (Annex 4)</p>	<ul style="list-style-type: none"> • Crime and disorder with more people attending as a result of 24 hour licence and potential impact on staff. • Public safety with people in ‘no fit condition’ to walk on forecourt • Risk of public nuisance, including from those ‘under the influence’ walking down from the town centre and then using the premises • Risk of drink driving 	<ul style="list-style-type: none"> • The fact that other premises in the area already sell alcohol (i.e. the perceived ‘need’ for such a premises)
<p>Ian Lanyon (Annex 5)</p>	<ul style="list-style-type: none"> • Potential public nuisance • Increased risk of crime and disorder; rowdy and drunken behaviour • Increased risk of drink driving • Increased risk to staff having to sell alcohol <p>Suggestion: Restrict the times for the sale of alcohol to those similar to other premises in Crediton.</p>	<ul style="list-style-type: none"> • Need or justification for a 24 hour licence

<p>Peter and Sylvia Whitby (Annex 6)</p>	<ul style="list-style-type: none"> • Increased risk of public nuisance and ASB with a licence between 23:00 – 07:00. • Increased risk to staff who are potentially working alone <p>Suggestion: Restrict the times for the sale of alcohol in line with 'supermarket hours'</p>	<ul style="list-style-type: none"> • The fact that other premises in the area also sell alcohol and/or food • Under the protection of children from harm they appear to suggest that those under 18 are out throughout the night but no link is made to how the premises is responsible for this or how the premises may put such people at risk of harm.
<p>Doreen Hughes-Davies (Annex 7)</p>	<ul style="list-style-type: none"> • Increased risk of crime and disorder due to late hours and being the only premises selling alcohol after midnight • Increased risk to public safety due to the premises attracting drunken people • Increased risk to public nuisance as a result of attracting drunken people (including ASB). <p>Suggestion: Restrict the times for the sale of alcohol to 'normal hours'</p>	
<p>Thomas Hughes-Davies (Annex 8)</p>	<ul style="list-style-type: none"> • Increased risk of crime and disorder due to times of licence and attracting drunken people. • Increased risk to public safety due to the premises attracting drunken people • Public nuisance by attracting drunk people during the 	

	hours of 00:00 – 07:00. Suggestion: The licence permits the sale of alcohol up until 23:00	
Table 2. Brief summary of representations and relevance to licensing objectives		

- 6.8 A number of people have suggested that the times for the sale of alcohol should be restricted to ‘normal’ hours or hours similar to other premises. If they have made such a suggestion, or if they now feel like making such a suggestion, they are asked to clarify in their response to the Notice of Hearing the specific times they are suggesting.
- 6.9 For information purposes, **Table 3** (below) shows some of the times permitted by the licences of other local premises. This list is not exhaustive.

Premises	Opening hours	Alcohol hours
Tesco, Wellspark, Crediton, EX17 3PH	08:00 to 22:00 Mon to Sat 10:00 to 16:00 Sunday	06:00 to midnight daily
Tesco Express, High Street, Crediton, EX17 3BJ	Unspecified	06:00 to 23:00 daily
WM Morrisons, Mill Street, Crediton, EX17 1EY	06:00 to midnight daily	06:00 to midnight daily
Spar, 135 High Street, Crediton, EX17 3DU	05:00 to midnight daily	05:00 to midnight daily
Table 3. Licence times for other premises in Crediton		

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

7.0 LICENSING OFFICER ASSESSMENT AND COMMENTS ON THE REPRESENTATIONS RECEIVED

- 7.1 In order to assist the Licensing Sub-Committee, the general topics that have been raised in the representations received are summarised below and information provided as to why they are considered as either being relevant or not relevant. This section of the report does not seek to reproduce the representations in full.
- 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 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 in the information that follows, this does not mean that the issue itself is not deserving of attention. It just means that it is not an issue that the Licensing Sub-Committee should consider with regards to their decision on this application.
- 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. Is there an actual risk of undermining a licensing objective, or is there just a conceivable risk?
- 7.5 In some paragraphs, the Section 182 Guidance is referenced and further information about this document can be found in section 9 of this report.

Overview of issues considered relevant

- 7.6 **Issue 1:** The sale of alcohol could increase the risk of crime and disorder in the area. Examples include people under the influence of alcohol migrating down from the high street to purchase alcohol late at night / early in the morning, resulting in criminal / disorderly behaviour; potential for staff to be abused; and drink driving.
- 7.7 **Officer comment:** These kinds of issues could be relevant and the Sub-Committee need to consider the concerns raised in light of the licensing objectives, and balance them against the conditions offered up / response of the applicant.
- 7.8 The Sub-Committee will also need to consider to what extent the potential issues are likely to be created by the premises (in light of the licensable activities they have applied for) and by extension, what the applicant can actually do to address them. The Section 182 Guidance states:

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 2.25)

- 7.9 For example, if people engage in anti-social behaviour on their way to the premises or after they have left the premises (and are beyond the immediate surrounding area), it is the Licensing Officer's view that this is not within the control of the applicant. Conversely, if patrons gather outside the premises having purchased alcohol and / or late night refreshment and engage in anti-social behaviour whilst stood at that location, this is potentially then linked to the premises and is something the applicant could exert some control over.
- 7.10 The issue of garages (i.e. petrol stations) selling alcohol and the potential risk of drink driving has been discussed for some time. The Licensing Officer feels that the article produced by Professor Roy Light (**Annex 3**) is informative in this regard. It is noted that over the years things have changed significantly and many petrol stations are also convenience stores selling a range of products (i.e. they offer a one stop shop). It also notes that customers will drive (and park) at various other sites to purchase alcohol such as pubs and supermarkets. The Licensing Officer feels that these are all relevant considerations.
- 7.11 **Issue 2:** The sale of alcohol could increase the risk to public safety in the area. Examples given include people under the influence of alcohol walking on the forecourt and other users of the premises being at risk.
- 7.12 **Officer comment:** This is potentially relevant but those that made such representations are asked to expand on this point and explain what their specific concerns are in relation to the proposed licensable activities at the premises. For example, how and why are other users of the premises at risk?
- 7.13 It is important to note that public safety concerns the safety of people using the relevant premises.
- 7.14 **Issue 3:** The sale of alcohol could increase the risk of public nuisance. Examples include people migrating from the high street to purchase more alcohol in what is a quiet area; along with an increased risk of noise, anti-social behaviour and littering as a result of the licence between 23:00 – 07:00.
- 7.15 **Officer comment:** This is relevant and the Sub-Committee needs to consider the concerns raised in light of the licensing objectives, and balance them against the conditions offered up / response of the applicant.
- 7.16 Once again, it should be noted that conditions attached to licences should focus on matters that are within the control of individual licence holders. The Section 182 Guidance confirms that:
- '...licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned'*.
(Paragraph 14.13)

Overview of issues not considered relevant

- 7.17 **Issue 4:** Need or justification for a 24 hour licence and the fact that other premises already sell alcohol and / or food
- 7.18 **Officer comment:** The applicant is not required to provide a justification (or show the potential need) for the premises. The application form and process is prescribed in legislation and nothing requires the applicant to justify the proposal.
- 7.19 The Section 182 Guidance states that...*“Need” 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 or for its statement of licensing policy’.*
- 7.20 So all parties are aware, the Council has not implemented a cumulative impact assessment (CIA). Such an assessment can be done to evidence that the number, type or density of licensed premises are having an adverse impact on the licensing objectives (for example, when such areas become a focal point for large groups of people leading to severe or chronic problems of public nuisance and anti-social behaviour or other alcohol related problems).
- 7.21 When a CIA is adopted it essentially means that an applicant will have to demonstrate that the premises would not be adding to the cumulative impact. If relevant representations are then received the application will be considered in light of the adopted CIA.
- 7.22 **Issue 5:** Individuals / groups of under 18 year olds being out throughout the night and potentially being a risk to those working in the shop. This was mentioned under the ‘protection of children from harm’ licensing objective.
- 7.23 **Officer comment:** If this comment is understood correctly, it relates to the potential actions committed by those under 18 against those working at the premises. This does not appear to relate to the protection of children from harm.
- 7.24 The Section 182 Guidance states:
- Licensing authorities and responsible authorities should expect applicants, when preparing an operating schedule or club operating schedule, to set out the steps to be taken to protect children from harm when on the premises. (Paragraph 2.26).*
- 7.25 As a consequence, the Licensing Officer believes that the concerns raised, insofar as they are understood, do not apply to children on the actual premises being exposed to harm themselves. The person that made this particular representation also commented that they are sure the premises would follow existing legislation regarding the sale [of alcohol] to minors.

8.0 LICENSING POLICY

- 8.1 The 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. The current Policy came into effect on 7 January 2019. It must be considered in its entirety, but in order to help proceedings, the following information is highlighted in advance of the hearing.
- 8.2 *In carrying out its licensing function the Licensing Authority must promote the following four licensing objectives:*
- *The prevention of crime and disorder*
 - *Public Safety*
 - *The prevention of public nuisance*
 - *The protection of children from harm (Paragraph 2.2)*
- 8.3 *It is recognised that the licensing function is only one means of securing the delivery of the above objectives and should not therefore be seen as a “cure all” for solving all problems within the community... (Paragraph 3.2)*
- 8.4 *Where no relevant representations are received, the application will be granted on the terms applied for. Where relevant representations are received, the application will be considered by a Licensing Sub Committee at a hearing... (Paragraph 5.13)*
- 8.5 *Any party to a hearing may expand on their representation but may not introduce new or different representations. (Paragraph 5.14)*
- 8.6 *When determining a licence application, the overriding principle adopted by this authority will be that each application will be determined on its merits. The authority will have regard to any guidance issued by the Home Office, this Statement of Licensing Policy and any measures it deems necessary to promote the licensing objectives. The authority may depart from the guidelines in this Policy if it has justifiable and compelling reasons to do so. The authority will give reasons for any such departure from policy. (Paragraph 6.3)*
- 8.7 *The authority will expect applicants to demonstrate in their applications active steps for the promotion of the licensing objectives. When determining an application, a key consideration for the authority will be the adequacy of measures proposed in the Operating Schedule to promote the licensing objectives having regard to the type of premises, the licensable activities to be provided, the nature of the location and the needs of the local community. (Paragraph 6.4)*
- 8.8 *The authority will also have regard to wider considerations affecting the residential population, businesses and the amenity of an area. These include alcohol-related violence and disorder, antisocial behaviour, littering and noise, particularly late at night and in the early morning. (Paragraph 6.5)*

- 8.9 *When determining an application, the authority will consider all relevant evidence, both oral and written, provided by parties to a hearing. Evidence which is irrelevant will be disregarded. The authority encourages applicants and persons making representations to attend hearings so that they can give evidence. Where an individual fails to attend the hearing, the authority will consider their application or representation but may attach less weight to it. (Paragraph 6.7)*
- 8.10 *It should be noted that, when determining an application, the authority is making a judgment about risk. A key purpose of the licensing function is not to respond to crime and disorder, nuisance or public harm once it has happened but to make an informed assessment of the risk of such things occurring if a licence is granted and to take such steps as it considers appropriate to prevent or minimise such risks. (Paragraph 6.8)*
- 8.11 *Licence conditions will be tailored to the individual application and only those considered appropriate to meet the licensing objectives will be imposed. Licence conditions will not be imposed where other regulatory regimes provide sufficient protection, for example Health and safety at work, fire safety legislation etc. (Paragraph 6.9)*
- 8.12 *The Licensing Authority will also take into account when making its decision that licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour, especially once individuals have left licensed premises and are therefore beyond the direct control of licensees. However, when making a decision, the authority will focus on the direct impact of the activities taking place on the licensed premises on members of the public living, working or engaged in normal activity in the area concerned. (Paragraph 6.10)*
- 8.13 *The 'need' or demand for a licensed premises of any kind or the commercial damage that competition from a new licensed premises would do to other licensed premises in an area will not be matters that the authority will consider when discharging its decision making function. (Paragraph 6.11)*
- 8.14 *The Licensing Authority will deal with the issue of licensing hours on the individual merits of each application. When the authority's discretion is engaged consideration will be given to the individual merits of an application but the presumption will be to grant the hours requested unless there are objections to those hours raised by Responsible Authorities or Other Persons on the basis of the licensing objectives. (Paragraph 6.15)*
- 8.15 *In general, applications for licensed premises located in residential areas wishing to open beyond 23.00, and those operating a beer garden or outside area beyond 21:00, will be expected to have a higher standard of control included within their operating schedule to address any potential public nuisance issue. (Paragraph 6.16)*

- 8.16 *Where representations are received, stricter conditions relating to noise control may be appropriate and necessary in sensitive locations such as residential areas. (Paragraph 6.17)*
- 8.17 *In considering relevant representations, the Licensing Authority will consider the adequacy of measures proposed to deal with the potential for nuisance and/or public disorder having regard to all the circumstances of the case. (Paragraph 6.19)*
- 8.18 *Conditions are crucial in setting the parameters within which premises can lawfully operate. Any contravention of a condition on a premises licence or club premises certificate is a criminal offence so it is essential that conditions are worded clearly, precisely and unambiguously. In addition, conditions must:*
- *be appropriate, reasonable and proportionate*
 - *be enforceable*
 - *not duplicate other statutory requirements*
 - *be relevant to the particular type, location and character of the premises concerned*
 - *not be standardised*
 - *should be justifiable and capable of being met*
 - *not replicate offences set out in the Act or in other legislation*
 - *be written in a prescriptive format. (Paragraph 6.22)*
- 8.19 *The Authority will pay particular attention to the effect (or potential effect) of licensable activities on those living, working or otherwise engaged in the area concerned and, where relevant representations are received, may attach conditions if it considers it appropriate for the promotion of the licensing objectives. (Paragraph 6.27)*
- 8.20 *Conditions attached by the Authority to Premises Licences and Club premises certificates will relate to matters falling within the control of individual licensees. It is recognised that the licensing function cannot be a mechanism for the control of disorderly behaviour by individuals once they are beyond the direct control of the licence holder. However, the Licensing Authority and Responsible Authorities may take action where it can be established that there is a clear linkage between disorderly behaviour and a specific premises. (Paragraph 6.28)*
- 8.21 *The Authority will not impose inappropriate or over-burdensome conditions on licences. The Authority may, however, if its discretion is engaged, impose conditions where existing legislation does not provide adequate controls and*

additional measures are considered to be appropriate for the promotion of the licensing objectives. (Paragraph 6.29)

8.22 *When determining the appropriate set of conditions the Licensing Authority will focus primarily on the individual style of the premises and the licensable activities proposed. Consideration should also be given to the following:*

- *The size, nature and style of operation*
- *Whether the premises is part of a multiple operator's chain and therefore more likely to have an operating schedule that is tried and tested*
- *The cumulative effect of conditions in terms of cost and practical implementation*
- *The likely cost of the condition(s) for the operator*
- *Whether a simpler or better way of dealing with a perceived problem could be found*
- *Whether there is an actual risk of undermining an objective, as opposed to a conceivable risk. In the latter case, there is no need for the condition*
- *Whether the condition will be enforceable, if it is not specific or could be considered subjective it may not be enforceable. (Paragraph 6.30)*

8.23 Members must have regard to the Licensing Authority's Policy when making their decision and it can be viewed in full here:

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

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

9.0 GOVERNMENT GUIDANCE

9.1 Members are also obliged to have regard to the Guidance produced under Section 182 of the Act. The most recent version of this was published in January 2024 and various sections have been highlighted throughout this report. The Guidance can be viewed here:

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

10.0 DETERMINATION AND OPTIONS OF THE SUB-COMMITTEE

- 10.1 The Section 182 Guidance states that: *'As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation and should be allowed sufficient time to do so, within reasonable and practicable limits. (Paragraph 9.37)*
- 10.2 *In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:*
- *the steps that are appropriate to promote the licensing objectives;*
 - *the representations (including supporting information) presented by all the parties;*
 - *this Guidance;*
 - *its own statement of licensing policy. (Paragraph 9.38)*
- 10.3 *Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be. (Paragraph 9.42)*
- 10.4 *The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve. (Paragraph 9.43)*
- 10.5 *Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that any condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters... (Paragraph 9.44)*

Options of the Sub-Committee

10.6 The Committee must take such steps as it considers appropriate for the promotion of the licensing objectives. This may include:

- Granting the licence as applied for
- Granting the licence subject to appropriate modifications necessary for the promotion of the licensing objectives
- Excluding from the scope of the licence any of the licensable activities to which the application relates
- Refusing to specify a Designated Premises Supervisor
- Rejecting the application

10.7 Reasons must be given for the decision and they must set out the matters taken into consideration and why such a decision was arrived at.

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

11.0 APPEAL

11.1 If any party (i.e. applicant or 'other person') is dissatisfied with the decision made then they have the right of appeal to the Magistrates' Court within 21 days of formal notification of the decision.

12.0 THE PROCESS FOR THIS HEARING

12.1 The Council have an adopted procedure for hearings and this attached to this report as **Annex 9**. In so far as is possible and practicable, the Licensing Authority will work in accordance with this procedure.

13.0 ANNEXES TO THIS REPORT

Annex 1	Copy of application form
Annex 2	Plan of premises
Annex 3	'Primary use test for garage licensing' by Professor Roy Light
Annex 4	Representation 1
Annex 5	Representation 2
Annex 6	Representation 3
Annex 7	Representation 4
Annex 8	Representation 5
Annex 9	Procedure for hearings

Contact for more Information: Tom Keating (Specialist Lead, Licensing) / tkeating@middevon.gov.uk OR Harriet Said (Team Lead, Commercial) / hsaid@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.

(1) Delete as applicable.
(2) Insert name(s) of applicant.

(1) ~~[I]~~ **[We]** (2)

EURO GARAGES LIMITED

apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in Part 1 below (the premises) and (1) [I am][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			
ASDA EXPRESS PFS CREDITON EXETER ROAD CREDITON			
Post town	DEVON	Postcode	EX17 3BX
Telephone number at premises (if any)			
Non-domestic rateable value of premises		£ 34,750.00	

Part 2 - Applicant details

Please state whether you are applying for a premises licence as

Please tick as appropriate

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

h) the chief officer of police of a police force in England and Wales please complete section (B)

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

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

(A) INDIVIDUAL APPLICANTS (fill in as applicable)

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

SECOND INDIVIDUAL APPLICANT (if applicable)

Mr	<input type="checkbox"/>	Mrs	<input type="checkbox"/>	Miss	<input type="checkbox"/>	Ms	<input type="checkbox"/>	Other Title (for example, Rev)	
Surname					First names				
Date of birth					I am 18 years old or over <input type="checkbox"/> Please tick yes				
Nationality									
Current 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	EURO GARAGES LIMITED
Address	ASDA HOUSE SOUTHBANK GREAT WILSON STREET LEEDS LS11 5AD
Registered number (where applicable)	04246195
Description of applicant (for example, partnership, company, unincorporated association etc.)	COMPANY
Telephone number (if any)	
E-mail address (optional)	████████████████████

Part 3 - Operating Schedule

When do you want the premises licence to start?

DD		MM		YYYY			
2	9	0	6	2	0	2	4

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

DD		MM		YYYY			

Please give a general description of the premises (please read guidance note 1)
CONVENIENCE STORE / PETROL FILLING STATION

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

--

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

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

Provision of regulated entertainment (please read guidance note 2)	Please tick all that apply
a) plays (if ticking yes, fill in box A)	<input type="checkbox"/>
b) films (if ticking yes, fill in box B)	<input type="checkbox"/>
c) indoor sporting events (if ticking yes, fill in box C)	<input type="checkbox"/>
d) boxing or wrestling entertainment (if ticking yes, fill in box D)	<input type="checkbox"/>
e) live music (if ticking yes, fill in box E)	<input type="checkbox"/>
f) recorded music (if ticking yes, fill in box F)	<input type="checkbox"/>
g) performances of dance (if ticking yes, fill in box G)	<input type="checkbox"/>
h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H)	<input type="checkbox"/>

Provision of late night refreshment (if ticking yes, fill in box I)	<input checked="" type="checkbox"/>
Supply of alcohol (if ticking yes, fill in box J)	<input checked="" type="checkbox"/>

In all cases complete boxes K, L and M

A

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

C

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

D

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

E

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

G

Performances of dance Standard days and timings (please read guidance note 7)			Will the performance of dance take place indoors or outdoors or both - please tick (please read guidance note 3)		Indoors	<input type="checkbox"/>
					Outdoors	<input type="checkbox"/>
					Both	<input type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 4)			
Mon						
Tue						
Wed			State any seasonal variations for the performance of dance (please read guidance note 5)			
Thur						
Fri						
Sat			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 (please read guidance note 6)			
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					
					Will this entertainment take place indoors or outdoors or both - please tick (please read guidance note 3)		Indoors	<input type="checkbox"/>
							Outdoors	<input type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 4)					
Mon								
Tue								
Wed			State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g) (please read guidance note 5)					
Thur								
Fri								
Sat			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 (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	<input type="checkbox"/>			
				Outdoors	<input type="checkbox"/>			
				Both	<input checked="" type="checkbox"/>			
Day	Start	Finish	Please give further details here (please read guidance note 4)					
Mon	23.00	05.00						
Tue	23.00	05.00						
Wed	23.00	05.00				State any seasonal variations for the provision of late night refreshment (please read guidance note 5)		
Thur	23.00	05.00						
Fri	23.00	05.00						
			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 (please read guidance note 6)					
Sat	23.00	05.00						
Sun	23.00	05.00						

J

Supply of alcohol Standard days and timings (please read guidance note 7)			Will the supply of alcohol be for consumption - please tick (please read guidance note 8)	On the premises	<input type="checkbox"/>
				Off the premises	<input checked="" type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	State any seasonal variations for the supply of alcohol (please read guidance note 5)		
Mon	00.00	24.00			
Tue	00.00	24.00			
Wed	00.00	24.00	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)		
Thur	00.00	24.00			
Fri	00.00	24.00			
Sat	00.00	24.00			
Sun	00.00	24.00			

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

Name NEIL ROBERT ECCLES	
Date of birth [REDACTED]	
Address [REDACTED]	
Postcode	[REDACTED]
Personal licence number (if known) PLHBC0143	
Issuing licensing authority (if known) HALTON	

K

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

NONE

L

Hours premises are open to the public Standard days and timings (please read guidance note 7)			State any seasonal variations (please read guidance note 5)
Day	Start	Finish	
Mon	00.00	24.00	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)
Tue	00.00	24.00	
Wed	00.00	24.00	
Thur	00.00	24.00	
Fri	00.00	24.00	
Sat	00.00	24.00	
Sun	00.00	24.00	

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)

Staff shall be trained in the premises licence holder's procedures which include liquor licensing and all checkout operators shall have additional training in the sale of alcohol.
All spirits will be displayed behind the counter.
No miniature bottles of spirits of 20cl or below shall be sold from the premises.
Please note this does not apply to pre packaged gift packs which may contain a spirit miniature.

b) The prevention of crime and disorder

A CCTV system will be installed and maintained at the premises. Cameras will cover internal areas and the external area immediately in front of the store. The system will be capable of continuously recording and copies of such recordings shall be kept for a period of not less than 31 days and handed to the Police or authorised person upon production of a compliant 'Access Request'.
All spirits will be displayed behind the counter.

c) Public safety

The premise licence holder seeks to comply with the requirements of the health and safety legislation.

d) The prevention of public nuisance

na

e) The protection of children from harm

The store will have a till prompt system for alcohol products.
 When prompted, staff will adopt a Challenge 25 proof of age scheme.
 Only recognised forms of photographic identification such as Passport, Photo Driving Licence, 'Proof of Age' card, Military ID or any other form of identification agreed with the police will be accepted as proof of age. If the appropriate proof of age is not produced there will be no sale.
 Notices are to be prominently displayed advising customers of the Challenge 25 policy

Checklist: **Please tick to indicate agreement**

● I have made or enclosed payment of the fee.	<input checked="" type="checkbox"/>
● I have enclosed the plan of the premises.	<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"/>
● I have enclosed the consent form completed by the individual I wish to be designated premises supervisor, if applicable.	<input checked="" type="checkbox"/>
● I understand that I must now advertise my application.	<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).	<input type="checkbox"/>

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	[REDACTED]
Date	31st may 2024
Capacity	SOLICITORS FOR AND ON BEHALF OF THE APPLICANTS

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) Gosschalks LLP Queens Gardens Hull			
Post town		Postcode	HU1 3DZ
Telephone number (if any)	[REDACTED]		
If you would prefer us to correspond with you by e-mail, your e-mail address (optional) [REDACTED]			

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 proprietor or (iii) the health care provider for the hospital.
 - Recorded Music: no licence permission is required for:
 - any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - any playing of recorded music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.
 - Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500. However, a performance which amounts to adult entertainment remains licensable.
 - Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
 - any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
 - any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
 - any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
 - any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.
3. Where taking place in a building or other structure please tick as appropriate (indoors may include a tent).
4. For example the type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.
5. For example (but not exclusively), where the activity will occur on additional days during the summer months.

6. For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.
7. Please give timings in 24 hour clock (e.g. 16.00) and only give details for the days of the week when you intend the premises to be used for the activity.
8. If you wish people to be able to consume alcohol on the premises, please tick 'on the premises'. If you wish people to be able to purchase alcohol to consume away from the premises, please tick 'off the premises'. If you wish people to be able to do both, please tick 'both'.
9. Please give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups or the presence of gaming machines.
10. Please list here steps you will take to promote all four licensing objectives together.
11. The application form must be signed.
12. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
13. Where there is more than one applicant, each of the applicants or their respective agent must sign the application form.
14. This is the address which we shall use to correspond with you about this application.
15. Entitlement to work/immigration status for individual applicants and applications from partnerships which are not limited liability partnerships:

A licence may not be 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.

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[84] Licensing Review, January 2011, pp.16-19**Primary use test for garage licensing**

Roy Light is a barrister practising from St John's Chambers, Bristol. He acted for Murco Petroleum before the licensing committee and in the Administrative Court.

The decision in *R (on the application of) Murco Petroleum Limited v Bristol City Council* [2010] EWHC 1992 (Admin), reported in the October 2010 issue of *Licensing Review* ([83] 19-25), has introduced some uncertainty into the operation of s.176 Licensing Act 2003 in respect of the sale of alcohol from premises at which 'garage use' takes place. Before considering s.176 and the *Murco* decision it is instructive briefly to consider the background to the section.

Background

Section 176 has its origins in s.10(1) of the Licensing Act 1988 which inserted two new subsections into s.9(4) of the Licensing Act 1964 (which until 2005 regulated alcohol licensing in England & Wales):

S.9(4A) Premises shall be disqualified for receiving a justices' licence if they are primarily used as a garage or form part of premises which are primarily so used.

S.9(4B) In subsection (4A) of this section, the reference to use as a garage is a reference to use for any one or more of the following purposes, namely, the retailing of petrol or derv or the sale or maintenance of motor vehicles.

Section 10 was headed 'Disqualification – garages'. Its intention was clear – that premises 'primarily used as a garage' would be disqualified for receiving a justices' licence for the sale of alcohol, but the meaning of 'primary use' was not defined. Further, by s.10(2), the 180 or so existing garage licences were protected even if the premises were primarily used as a garage.

The genesis of the new provisions was explored in the July 2000 issue of *Licensing Review* ([42] 21); by which time it was estimated that there were then some 600 forecourt stores which held justices' licences. (For as *Paterson's Licensing Acts* put it: 'service stations continue to be used increasingly for the purpose of shopping as well as, or instead of, places for the purchase of fuel' (*PLA* 2000, p.xiii)).

The 22 years since the passing of the section have seen a dramatic change in retailing generally and in garage forecourts in particular. The traditional garage with workshops, a used car lot and a small kiosk has been replaced by forecourt convenience stores which sell a wide variety of products and little resemble the garages of old (which could not compete with supermarket fuel sales and national tyre and car repair centres). The number of petrol stations has reduced dramatically and those that survive operate as convenience/neighbourhood stores selling a range of products which customers expect will include alcohol. The success of a convenience store depends on the availability of alcohol, not only in terms of alcohol sales but also for all other sales, as customers require a 'one-stop shop'.

The 1980s saw increased concern over all forms of alcohol-related harm, including drink-driving, and the Government came under strong pressure to restrict forecourt licensing. Lobbying from a number of groups persuaded the Government to review 'the implications for drink-driving' of garage off-licences. However, the review found no evidence of any adverse effects and the Government accordingly declined to amend the Licensing Bill to disqualify garages from holding justices licences.

But the Bill was amended in the Lords, despite the Government's view that 'there are about 180 garages with licences. There is no evidence that would stand up to detailed analysis that the possession by those suppliers of a licence has led to any drunken driving' *Hansard (Commons)* 1988, 478). The measure was seen as a symbolic nod to the fight against drink-driving rather than as a necessary practical measure. As Douglas Hogg put it for the Government 'Whatever the evidence might prove, we are probably dealing with perceptions' (*Hansard (Commons)* 27 April 1988, 478).

It is interesting to note that customers continue to drive to supermarkets and other stores to buy alcohol and that almost all public houses have car parks. Additionally, while the

number of licensed forecourt shops has increased dramatically over the years (it is estimated that in 2011 there are now some 2500 to 3000 such stores – the latest DCMS statistics do not separate out forecourts from ‘other convenience stores’), drink-drive figures have generally shown a corresponding decrease. Moves to introduce random breath testing and to lower the permitted alcohol limit are recognised as having significant potential for drink-drive gains, but their introduction is still long awaited.

S.176 Licensing Act 2003

Section 176 of the 2003 Act effectively re-enacts the provisions contained in s.9(4) of the 1964 Act: premises primarily used as a garage are not authorised to sell alcohol and garage use is defined as the same four activities. The practice, procedure and case law utilised for s.9(4) has therefore been followed for s.176 by licensing committees and magistrates’ courts on appeal in many hundreds of cases over the past five years throughout England and Wales.

The licensing of forecourts seemed settled. However, difficulties were beginning to surface and the *Murco* decision has brought these sharply into focus. Four matters fall for consideration: is there a power to adjourn; is primary use to be considered at the application stage; what is the test for primary use; and what is included under ‘maintenance of motor vehicles?’

Power to adjourn

The issue in the *Murco* case was a simple one. *Murco* made an application for a premises licence for one of its forecourt shops. The application was made in the same way, providing the same figures, as had been done in many previous applications, including applications to the Bristol licensing committee. The sub-committee requested further information from the applicant which was not available. The sub-committee then asked for other information. The applicant stated that it had supplied sufficient information and it was now for the sub-committee to decide the application as s.18(4) of the Act is clear that an authority at a hearing ‘must’ grant or refuse the application. The Guidance cannot override the statutory provisions and regulations. As the Guidance itself puts it: ‘Nothing in this Guidance should be taken as indicating that any requirement of licensing law or any other law may be overridden. The Guidance does not in any way replace the statutory

provisions of the 2003 Act or add to its scope and licensing authorities should note the interpretation of the Act is a matter for the courts' (para.1.8).

The proper course, it was argued, for an authority faced with what it perceives as an uncooperative, unreasonable or dishonest applicant is to refuse the application. There is then an appeal to the magistrates' court. If the authority's decision is upheld it is protected in costs and if it is not upheld then fairness can prevail.

The sub-committee disagreed and adjourned the hearing to a specified date. When further information was not forthcoming the sub-committee purported to adjourn the hearing to an unspecified date. This denied the applicant an appeal to the magistrates' court and it was left with judicial review as its only legal recourse. The Administrative Court agreed that the sub-committee had no power to adjourn to an unspecified date (paragraph 32). However Cranston J dismissed the appeal on the basis that there was power to adjourn the hearing utilising regulation 12 of the Licensing Act 2003 (Hearing Regulations) 2005 in accordance with the Secretary of State's Guidance which states that 'where there is insufficient evidence to establish primary use, it is for the licensing authority to decide whether to grant the licence and deal with any issues through enforcement action or to defer granting the licence until the primary use issue can be resolved to its satisfaction' (para.5.23).

The effect of the decision is that an application may be put on hold indefinitely, by repeated adjournments, if a sub-committee is not content with the information contained in an application. One leading commentator has described the decision as 'a denial of justice ... The applicant is entitled to a decision one way or the other, not to be put 'on hold' without the opportunity of recourse, except expensive and at times frustrating judicial review' (83 *Licensing Review* 2).

When does the question of primary use arise?

The wording of s.176 differs in a small but significant way to that of s.9(4). Whereas s.9(4)(A) provided that 'premises shall be *disqualified for receiving* a justices' licence if they are primarily used as a garage, s.176(1) provides that 'no premises licence ... *has effect* to authorise the sale by retail ... from excluded premises' (emphases added).

So does s.176 operate as a mechanism to disqualify excluded premises for receiving a premises licence (and as such is a matter to be addressed at the premises licence application stage as was the case under the 1964 Act) or is its effect to remove authority for the sale of alcohol under a premises licence where the premises are used primarily as a garage thus becoming excluded premises (and as such does not need to be addressed at the application stage but is an enforcement issue)? It can be argued that the wording of s.176(1) presupposes the existence of a premises licence, but provides that such a licence will not authorise the sale or supply of alcohol if the premises are used primarily as a garage. This interpretation also allows for the fact that the primary use of premises may change over time.

Paterson's Licensing Acts 2011 supports this contention (fn1 to s.176 LA 2003) 'Whereas it was incumbent on the Licensing Justices to undertake a detailed consideration of whether, on the evidence, garage premises were entitled to be granted – or 'receive' - a Justices Licence at the time of the application, it can be argued that under the new regime such an approach is less important since any such licence granted will be null and void if the premises are – or become – technically "excluded"'.

Thus it began to be argued, and it was initially before the licensing committee in the *Murco* case, that primary use is now an enforcement rather than eligibility issue. Licensing committees around the country adopted different views on the matter; with an increasing number being content to proceed without the need for evidence to be produced on the question of primary use.

The application process

Where a licensing authority receives an application for a premises licence it must initially determine whether the application has been properly made in accordance with s.17 of the Act and the Licensing Act 2003 (Premises licence and club premises certificates) Regulations 2005. An incomplete application or one that has not satisfied the notice requirements is invalid and will be returned to the Applicant.

There is no requirement in the legislation or regulations that an applicant for a premises licence must prove the primary use of the premises. An application valid in all other respects

cannot it seems be refused simply if no evidence as to primary use is presented. Where no representations have been made the licensing authority must grant the licence in the terms sought (s.18(2)). It cannot defer the application under Hearings Regulation 12 or ask for further information under regulation 17 as the hearing regulations apply only if there is a hearing. Where representations have been made the licensing authority must hold a hearing to consider the representations (s.18(3)). The Act is clear on these matters and there is no discretion on the part of the authority to do otherwise. The power under s.111 Local Government Act 1972 would probably not authorise such an enquiry in the absence of representations as the power is 'subject to the provisions of ... any other enactment passed before or after this Act' – it could therefore not override the clear wording of s.18(2).

In any event, it is the case that, as Richards J (as he then was) put it in *R(on the application of the British Beer and Pub Association) v. Canterbury City Council* [2005] EWHC 1318 (Admin) (at para 85), 'The scheme of the legislation is to leave it to applicants to determine what to include in their applications, subject to the requirements of Section 17 and the Regulations as to the prescribed form and the inclusion of a statement on specified matters in the operating schedule'.

In *Murco*, Cranston J expressed the view that the original policy behind the legislation was to remove the temptation to drink and drive, although this would now be expressed as engaging the crime and disorder licensing objective (para.14), and that an interested party, by making a representation raising the issue of alcohol sales from a garage, put the 'issue of the juxtaposition of petrol sales and alcohol firmly before the licensing committee' in relation to the crime and disorder licensing objective (para.27). The Court's reasoning then is that primary use becomes an issue for a licensing authority where the question of alcohol sales from a garage is raised by a representation. This supports the position that if there are no representations to an application, or no representations relating to 'the juxtaposition of petrol sales and alcohol', primary use does not fall to be considered at the application stage.

What is the test for primary use?

All applications for a justices' licence under the 1964 Act went to a hearing before the licensing justices. Premises which carried on all or any of the four categories of 'garage use'

would generally be required to address the issue of primary use. While many matters were raised as having a possible bearing on primary use – for example, the physical size of the shop compared to the forecourt (but balanced by the size of a car compared to a person!) – the test for primary use quickly came to be based on two matters: initially turnover and then footfall. A review of the approach to primary use and other relevant matters appeared in the January 2004 issue of *Licensing Review* ([56] 11). Two Divisional Court cases are instructive.

The first, *Green v Justices for the Inner London Area* (1994) 19 LR 13, is authority for the proposition that *if* figures for financial turnover are used they must be ‘properly analysed’ and considered net of duty and vat (para.5A-C). Also, a higher shop footfall figure was considered to be ‘a large gain or advantage in the argument put forward by the applicants in that regard’ (para.4B). Figures for turnover are complicated and technical. For, as *Green* had decided, the duty and vat elements must be stripped out of all sales to produce a meaningful comparison between garage and other sales. Also, vat rates differ for product groups (some such as newspapers being vat exempt), vat rates are subject to change and excise duty applies to fuel and tobacco products.

It is questionable too whether the amount a customer spends at the premises increases their ‘use’ of it. If £4 is spent on a magazine are the premises used more than if £1 is spent on a newspaper? Is £20 worth of fuel more ‘use’ than £10? In these examples it seems that the customer has used the premises once to purchase reading material or fuel.

In the second case, *R v Liverpool Crown Court, ex parte Kevin John Goodwin* (1998) 38 LR 21, Laws J gave a more definitive view holding that: ‘*The question must be, what is the intensity of use by customers at the premises? So that evidence such as that of customer lists, to take an example, might be highly material*’ (emphasis added) (para.4E).

Post *Goodwin* footfall rather than turnover was generally adopted, both before the justices and in the Crown Court on appeal, as the test for primary use. For as *Paterson’s* put it: ‘This seems to us, with respect, to be both an appropriate and practicable approach to the interpretation of a measure which, presumably, was intended by parliament to bear upon the purposes for which the public actually use particular premises, rather than require the justices to engage in any academic calculation of

turnover and taxes, although such figures might provide useful corroborative evidence' (*Paterson's Licensing Acts 2000*, p.xiv).

In the Parliamentary debates on s.176 the phrase 'intensity of use by customers' was used by the Minister, Baroness Blackstone (*Hansard*, HL Deb, vol.643, col.457 (20 January 2003)) and again, 'If the intensity of use in supermarkets becomes mainly that of selling petrol to motorists who drive in with their cars to pick up petrol and move on, the same limit and prohibition will apply to them' (*Hansard*, HL Deb, vol.643, col.757 (4 March 2003)). This is reflected in the *Guidance*: 'The approach to establishing primary use so far approved by the courts has been based on an examination of the intensity of use by customers of the premises.' (para 5.28).

However, the judgment in *Murco* has resulted in some authorities seeking to request figures for turnover. At paragraph 18, Cranston J states that 'in my view it is a matter for each licensing authority to decide whether it will decide primary use on the basis of numbers or evidence of turnover ... there is nothing in Laws J's judgment to suggest that intensity of use – the phrase used - cannot be calculated by reference to the turnover figure'. While this might literally be the case it is not consistent with Laws J's judgment as a whole – as the question of turnover is dealt with elsewhere in the judgment and the reference to intensity of use is followed by the words 'so that evidence of customer lists , to take an example, might be highly material' (paragraph 4E).

As Cranston J states, quite correctly 'there is no need for me to draw the parameters to the information the sub-committee could ask about' but as he rightly continues 'relevance and materiality are obviously central considerations' (paragraph 31). Laws J's judgment makes it clear that in deciding on primary use 'the question must be what is the intensity of use by customers at the premises'.

'Maintenance of motor vehicles'

The Act specifies garage use to be the retailing or petrol or derv and the sale or maintenance of motor vehicles. The last of these has sometimes given rise to debate (see further 56 *Licensing Review* 11). The licensing authority in *Murco* accepted that car wash, airline and water facilities are not included in 'maintenance of motor vehicles' and this is

noted at paragraph 31 of the judgment. The decision thus supports the contention that such facilities are not included in 'maintenance' for the purposes of primary use.

Conclusion

The ratio of *Murco* is that a sub-committee at a hearing can request further information from an applicant under regulation 17 of the Hearings Regulations (this was not disputed) and that if an answer is not forthcoming the sub-committee can adjourn the hearing until it is satisfied with the response that it receives, but that adjournment must be to a specified date. This will certainly have application in cases involving the primary use of garage premises, as in the case itself, although it is less clear whether the ratio will be narrowly confined to such cases. At its widest, it could extend to adjournments for information on any matter at any sub-committee hearing, under the 2003 Act. The Claimant in *Murco* chose not to appeal the decision but, if such a broad interpretation is given in subsequent cases, the decision may come under future challenge.

The adjournment was held to be valid as the information was 'considered necessary for (the sub-committee's) consideration of any representation made' (Hearings Regulations paragraph 12(1)). The Court held that a valid representation had been made in relation to primary use and that primary use related to promotion of the licensing objectives (public safety and crime and disorder). It was not argued by the Respondent or found by the Court that the question of primary use always falls to be considered in an application to which s.176 may apply.

It seems clear then, that in the absence of representations, or where representations do not raise the issue (as a hearing needs to focus on the representations raised), primary use does not fall to be considered in the application process; but where a valid representation is received which refers to primary use (either expressly or by implication) the committee may request information relating to the use of the premises.

Other matters raised in the judgment are obiter. First, the test for primary use. As the judgment states, the matter was listed for a permission hearing but was on the morning of the hearing, with the agreement of the parties, treated as rolled-up hearing to consider

both permission and the substantive issue (paragraph 10). The test for primary use was not considered by the parties as necessary for the purposes of deciding the issues before the Court on the Judicial Review application, it was not fully argued and it was not necessary for the court to make any decision in respect of it. Although as a matter of law, trading figures can be used to determine the issue of primary use, in the light of the above, the judgment in *Goodwin* and the difficulties faced by a consideration of turnover, the test of intensity of use by way of customer lists or footfall should continue to be the approach adopted. Secondly, the definition of 'maintenance of motor vehicles' is acknowledged to exclude matters such as air lines and car washes.

On the key question of adjournments for further information, it remains to be seen whether the ratio is confined subsequently by courts to cases involving the primary use of garage premises or whether it extends beyond this to other cases and, if so, to what extent.

The author thanks Prof Colin Manchester for his helpful comments on this article.

Roy Light ©

January 2011



St John's Chambers

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

From: Robert Davies

Sent: 10 June 2024 12:39

To: Licensing <licensing@middevon.gov.uk>

Subject: Euro Garages Limited applied for the sale of Alcohol on a 24 hour Basis

Dear Sir / Madam

I hear by put in a formal complaint of the application by Euro Garages to sell Alcohol from the Garage at ASDA Express on Exeter Road Crediton Devon EX17 3BX.

The sale of Alcohol will enhance crime and disorder in the area

The risk to public safety will be increased dramatically with people in no fit condition wondering upon the garage forecourt

The sale of alcohol will increase the risk of public nuisance

There are over seventeen out let's all ready selling Alcohol in the town, why do we need yet another out let.

After closing time we are already facing the problem of drunks and drug users hitting the high street! if the garage is open 24 hours a day these people will come down to the garage area and continue to be a problem.

The sale of alcohol in a garages enhances the temptation for people to drink and drive.

With Regards

Rob Davies

The Licensing Team then asked Mr Robert Davies to resubmit the representation on the standard representation form. This was subsequently submitted and is copied below:

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	Robert James Owen Davies
The name of the organisation / body you represent (if appropriate)	N/A
Postal address	Taw Vale, Station Road Cridton Devon EX17
Email address	
Contact telephone number	

Name of the premises you are making a representation about	Euro Garage, ASDA Express, Shell Garage
Address of the premises you are making a representation about	ASDA Express, Cridton, Exeter Road Cridton, Devon EX17 3BX

Your representation must relate to one of the four Licensing Objectives

<i>Licensing Objective</i>	<i>Yes</i>	<i>There are over seventeen outlets already selling Alcohol in the town, why do we need yet another outlet, which is open 24 hours a day</i>
To prevent crime and disorder	yes	The sale of Alcohol will enhance crime and disorder within the area
Public safety	yes	The sale of Alcohol will increase the risk of public nuisance and safety of drivers
To prevent public nuisance	yes	The town already faces the problem after closing time with drunks and drug users hitting the high street, once it is known the garage is selling alcohol they will migrate down to the garage area and be a public nuisance in this quiet area.
To protect children from harm		

If you are making a representation against a new application or full	This is a garage and the sale of alcohol is encouraging the risk of people drink driving
---	--

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).	and in principle is a poor idea.
--	----------------------------------

Signed: 

Date: 11/6/2024

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:

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.

This form must be returned within the statutory period of 28 days following submission of a valid application to the Licensing Authority.

You may make a representation wherever you live in relation to the premises but your representation must be relevant.

Representations can only relate to the four licensing objectives.

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.

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

Following the submission of the representation form, the Licensing Team contacted Mr Robert Davies to get more information about the representation(s) he had submitted. In order to simplify the presentation of this information, the main points are copied below.

Black bold text – information from the initial representation form
Blue italic text – additional information from Mr Robert Davies

The sale of Alcohol will enhance crime and disorder within the area

The Garage being the only 24 hour out let in the area already attracts customer through out the night and day, the state of some of these customers is already a sorry state! the staff are continually having to deal with difficult situations which will only be heightened with the sale of alcohol through out the hours of operating.

The sale of Alcohol will increase the risk of public nuisance and safety of drivers

as stated above the sale of alcohol will attract further customers at night looking to purchase additional alcohol when they are not in a fit state to be consuming yet more alcohol. this quite often leads to abuse of the staff and shop lifting from the premises

The town already faces the problem after closing time with drunks and drug users hitting the high street, once it is known the garage is selling alcohol they will migrate down to the garage area and be a public nuisance in this quiet area.

The number of occasion's the police force are having to come to the area to deal with these unpleasant situations, to this point I am sure they will be able to supply you with figures.

again the police should be able to supply you further information

I currently work at the garage working the nights and witness much of these problems occurring through the night.

I am willing to further discuss my concerns with the applicant. you may pass on my contact details.

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	IAN RAINS LANYON
The name of the organisation / body you represent (if appropriate)	MYSELF AND MY HOUSEHOLD
Postal address	█ TAW VALE, STATION ROAD, CREDITON, DEVON, EX17 █
Email address	█
Contact telephone number	█

Name of the premises you are making a representation about	ASDA EXPRESS PFS CREDITON
Address of the premises you are making a representation about	EXETER ROAD, CREDITON, DEVON, EX17 3BX

Your representation must relate to one of the four Licensing Objectives

<i>Licensing Objective</i>	<i>Yes Or No</i>	<i>Please detail the evidence supporting your representation or the reason for your representation. Please use separate sheets if necessary</i>
To prevent crime and disorder	YES	SEE ATTACHED SUPPORTING EVIDENCE
Public safety	YES	SEE ATTACHED SUPPORTING EVIDENCE
To prevent public nuisance	YES	SEE ATTACHED SUPPORTING EVIDENCE
To protect children from harm	YES	SEE ATTACHED SUPPORTING EVIDENCE

If you are making a representation against a new application or full variation, please suggest any conditions that could be added to the licence to remedy your representation (or other suggestions you would like the Licensing Sub Committee to take into account).	I SUGGEST THAT THE COMMITTEE ONLY ALLOWS :- THE SUPPLY OF ALCOHOL FOR CONSUMPTION OFF THE PREMISES DURING HOURS WHICH ARE SIMILAR TO OTHER PREMISES IN CREDITON.
--	--

Signed:



I.R. LANYON

Date: 23RD JUNE 2024

EVIDENCE IN SUPPORT OF REPRESENTATION AGAINST NEW APPLICATION NO 029000 RELATING TO THE SUPPLY OF ALCOHOL FOR CONSUMPTION OFF THE PREMISES AT ASDA EXPRESS PFS CREDITON AT EXETER ROAD, CREDITON, DEVON, EX17 [REDACTED]

Background

My family and myself have lived at the Grade 2 Listed residential property [REDACTED] Taw Vale Terrace, Station Road, Crediton, EX17 [REDACTED] for about forty six years.

[REDACTED] Taw Vale Terrace is located approx. 100 metres to the west of Asda Express PFS Crediton ("the Premises") the subject of the Application and its main reception rooms and bedrooms virtually face the Premises.

There are four other Grade 2 Listed residential properties in Station Road within a similar distance of the Premises. Additionally there are houses on Exeter Road and a recently built residential estate (Tarka View) in close proximity, immediately opposite the Premises.

When the wind is from the east we can clearly hear the instructions relayed by the attendant to customers on the forecourt of the Premises. Similarly any other noise at the Premises, particularly at night, is disturbing.

We regularly experience rowdy and drunken behaviour at night (frequently in the small hours) and believe that this is primarily due to the fact that the Premises are currently open 24 hours per day.

Other Outlets in Crediton which currently supply alcohol.

- Tesco Superstore open 0700 to 2300 hours Mon to Sat, 1000 to 1600 Sundays.
- Red Deer open 0900 to 2300 hours 7 days per week.
- Morrisons open 0700 to 2100 hours Mon to Sat, 1000 to 1600 Sundays.
- Tesco Express open 0600 to 2200 hours 7 days per week.
- About nine other pubs/wine bars in the town itself with variable opening hours.
- Several shops which sell alcohol.

Need or Justification for 24 hour alcohol licence at the Premises.

1. To my knowledge the Applicant has not given any justification or need for requiring to supply alcohol during the night.
2. I would respectfully suggest that the Licensing Committee needs to ask itself who are the likely clientele who wish to buy alcohol (presumably in most cases for immediate consumption) during the night!
3. I assume that the application for "Late night refreshment (Indoors and Outdoors) Monday to Sunday 2300 to 0500 would extend a current licence to the hours of 0000 to 0000 and relates to non alcoholic drinks and food snacks.

Reasons for Objection

- There is no need to supply alcohol in the market town of Crediton during the night. The majority of customers during these hours can be expected to be those that have already consumed too much alcohol and are merely seeking to continue their drinking hours. Any others can reasonably be expected to purchase their alcohol during normal hours.
- The sale of alcohol to customers who are driving will increase the risk of drinking and driving and the danger to other road users
- The sale of alcohol to pedestrian customers, who are likely to have left local pubs at closing time, will result in more drunken and rowdy behaviour and crime and disorder in the area. There is also a risk to the safety of other users of the Premises.
- There is already anecdotal evidence of customers' threatening behaviour and abuse to employees at the Premises at night. This is only likely to worsen if inappropriate customers attempt to purchase alcohol!
- There is also anecdotal evidence that underage children regularly cause problems for staff at the Premises during the night. If alcohol is available this is only likely to increase.
- Provided the late night refreshment is as stated in 3. above I do not object to it, but question why it needs to be "Outdoors" at night? Surely this would permit outside tables and chairs which would be totally unacceptable!

Suggested solution

That the Committee only allows :-

The supply of alcohol for consumption OFF the Premises during hours which are similar to other premises in Crediton.



23RD June 2024

I.R. LANYON

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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	PeterFrank Whitby
The name of the organisation / body you represent (if appropriate)	Taw Vale [REDACTED]
Postal address	[REDACTED] Taw Vale Terrace, Station Road, CREDITON EX17 [REDACTED]
Email address	[REDACTED]
Contact telephone number	[REDACTED]

Name of the premises you are making a representation about	Asda Express/Euro Garages
Address of the premises you are making a representation about	Station Road/Exeter Road, CREDITON

Your representation must relate to one of the four Licensing Objectives

<i>Licensing Objective</i>	<i>Yes Or No</i>	<i>Please detail the evidence supporting your representation or the reason for your representation. Please use separate sheets if necessary</i>
To prevent crime and disorder		Perhaps it would be instructive to contact Devon and Cornwall Police/Police and Crime Commissioner as to experience on Heavitree Road, Exeter (2 garages) and locally at Coplestone (Public Information Request?)
Public safety		It seems incongruous to mix twenty four hour access to fuel and alcohol when so many outlets for the latter exist . . . soon to be three supermarkets and and numerous licensed premises in the town already.
To prevent public nuisance		Anti-social behaviour, even low level, is becoming more of a priority for all agencies – and at an anecdotal level it has become worse here in CREDITON over recent years . . . from noise and litter up to unauthorised access, confrontation and police call out. As a business we have had to install security lighting in Front guest carpark and a security gate to our Rear access. The granting of a license between 11pm and 7am would only seem to increase the risk?
To protect children from harm		We are sure Asda Express/Euro Garages would follow existing legislation on sale to minors but individuals/groups of under 18s are already about throughout the night, even discounting adults who have already over-inbided. There is clearly a risk to the singly-employed night staff who may be able to testify to abuse received even in daylight hours, without alcohol and with colleague support . . . look at the recent data on shoplifting and physical abuse of retail staff. The provision of “ light refreshments” only increases the risk in having the shop door open.

If you are making a representation against a new application or full variation, please suggest any conditions that could be added to the licence to remedy your representation (or other suggestions you would like	We have no objection to Asda/Euro matching existing supermarket hours but do then question the actual need for another alcohol outlet . . . equally, the proposed McDonalds will already have twenty four hour access to food just a few hundred metres away.
--	---

the Licensing Sub Committee to take into account).	
--	--

Signed : [REDACTED]
23/6/24

Date:

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.

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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	Thomas Timon Hughes-Davies
The name of the organisation / body you represent (if appropriate)	
Postal address	<div style="background-color: black; width: 150px; height: 15px; margin-bottom: 5px;"></div> Station Road CREDITON EX17
Email address	<div style="background-color: black; width: 150px; height: 15px;"></div>
Contact telephone number	<div style="background-color: black; width: 100px; height: 15px;"></div>

Name of the premises you are making a representation about	ASDA Express PFS Crediton
Address of the premises you are making a representation about	Exeter Road CREDITON EX17 3BX

Your representation must relate to one of the four Licensing Objectives

<i>Licensing Objective</i>	Yes Or No	<i>Please detail the evidence supporting your representation or the reason for your representation. Please use separate sheets if necessary</i>
To prevent crime and disorder	Yes	The availability of alcohol at all times will attract people who will be intoxicated and disorderly as alcohol will not be available locally. This will cause disorder and crime, including criminal damage and offences against the person.
Public safety	Yes	The presence of people who are drunk and are looking for more alcohol will present a threat to members of the public in the vicinity: there is a well-established link between drunkenness in public and public safety.
To prevent public nuisance	Yes	Attracting drunk people to the ASDA PFS during the hours of midnight to 7.00 a.m. will cause a nuisance in the form of noise, littering, damage to local houses and other forms of nuisance.
To protect children from harm		

If you are making a representation against a new application or full variation, please suggest any conditions that could be added to the licence to remedy your representation (or other suggestions you would like the Licensing Sub Committee to take into account).	The licence should not permit sale of alcohol at a time when it is not readily available elsewhere. I suggest that the licence permits the sale of alcohol until 11.00 p.m.
---	---

Signed:

Date: 28th June 2024.

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:

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MID DEVON DISTRICT COUNCIL – LICENSING COMMITTEE

Protocol and Procedure for Licensing Sub-Committee Hearings

1.0 Introduction

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

2.0 Composition of Sub-Committee

- 2.1 The Sub-Committee shall usually consist of three Councillors drawn on a "panel" basis from the membership of the Licensing Committee.
- 2.2 In forming the Membership of the Licensing Sub-Committee for a hearing, and where Councillors availability permits, Members Services shall try to ensure that:
- There are at least two experienced Members in attendance
 - Rotation of Membership

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

- 2.3 Members may sit on a Hearing which relates to their own Ward as long as there is no conflict of interest 'and any relevant declarations are made at the beginning of the meeting.
- 2.4 The Chairman for a Hearing shall be selected from the Members that form the Sub-Committee.
- 2.5 When unforeseen circumstances require, or an urgent matter has arisen, the Sub-Committee may be made up of two Councillors as opposed to three.

3.0 Hearings to be held in public

- 3.1 Licensing Hearings shall take place in public. However, the Sub-Committee may exclude the public (including a party to the hearing) from all or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking place in public.
- 3.2 The Sub-Committee may require any person attending the hearing who is in their opinion behaving in a disruptive manner to leave the hearing and may:
- a) refuse to permit that person to return, or

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

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

4.0 Time of Hearings

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

5.0 Notice of Hearing

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

6.0 Right of Attendance, Assistance and Representation

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

7.0 Hearings held on more than one day

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

8.0 Right to dispense with a hearing

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

9.0 Right to postpone or adjourn a hearing

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

10.0 Report

10.1 A report prepared by the Licensing Authority will be put before the Sub-Committee.

10.2 A copy of the report will be made available to all parties in advance of the hearing.

11.0 Detailed Procedural notes

11.1 Detailed procedural notes for the most regularly heard hearings are available and will be circulated in advance of the relevant hearing. These procedural notes cover the following applications / notices:

- New Premises Licence / Variation of existing Premises Licence (or Club Premises Certificate)
- Temporary Event Notices
- Review of a Premises Licence or Club Premises Certificate

12.0 Procedure at hearing - General

12.1 At the beginning of the hearing, the Chairman and members of the Sub-Committee will introduce themselves, invite parties to identify / introduce themselves and then explain the procedure that the Sub-Committee intends to follow.

12.2 If applicable, the Sub-Committee will then consider any request made by a party for any other person to appear at the hearing. Permission shall not be unreasonably withheld.

12.3 Where the written evidence or information provided by the applicant or any other party has raised legal issues or submissions, the Chairman may request that any legal

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

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

13.0 Roles of Officers

Representative of Legal Services

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

Representative of Member Services

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

Licensing Officer

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

14.0 Determination of Applications / Notices

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

15.0 Record of proceedings

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

16.0 Appeals

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

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

17.0 Irregularities

17.1 Proceedings will not be rendered void only as a result of failure to comply with any provision of the Hearing Regulations.

17.2 Where the authority considers that any person may have been prejudiced as the result of an irregularity relating to the Hearing Regulations, it will take such steps, as it thinks fit to cure the irregularity, before reaching its determination.

17.3 Clerical mistakes in any document recording a determination of the authority, or errors arising in such a document as the result of an accidental slip or omission, may be corrected by the authority.

The following information and procedures are associated with this document

Legislation

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

Hearing Procedures

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

Hearing Guidance

- General guidance to attendees

HEARING PROCEDURE: NEW / VARIATION OF PREMISES OR CLUB

Introduction and Preliminary remarks

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

Statement by the licensing officer

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

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

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

Case for the applicant

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

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

- Responsible Authorities
- Other Parties
- Sub-Committee

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

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

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

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

- Applicant
- Other Parties
- Sub-Committee

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

Case for the 'other parties'

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

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

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

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

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

Discussion about conditions

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

Summary

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

- Applicant
- Responsible Authorities
- Other Parties

The decision

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

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

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

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

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