

Licencing Sub Committee

Tuesday, 3 December 2024 at 2.00 pm
Phoenix House

Membership

Cllr J Buczkowski
Cllr F J Colthorpe
Cllr J M Downes

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 Licencing Sub-Committee.
- 3 **Determination of a Premises Licence Application for The Seahorse, 10 Newport Street, Tiverton, Devon, EX16 6NH (Pages 5 - 68)**
An application has been received for a new premises licence for The Seahorse, 10 Newport Street, Tiverton, Devon, EX16 6NH

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
22 November 2024

LICENSING SUB COMMITTEE

DATE OF HEARING: 3 DECEMBER 2024

DETERMINATION OF A PREMISES LICENCE APPLICATION FOR THE SEAHORSE, 10 NEWPORT STREET, TIVERTON, DEVON, EX16 6NH

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 The Seahorse, 10 Newport Street, Tiverton, Devon, EX16 6NH

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 The Seahorse, 10 Newport Street, Tiverton, Devon, EX16 6NH.

1.2 The applicant has given the following description of the premises in the application form:

- *‘An old world ale bar with a new look. Ambient music fit for conversation. A place for old friends to meet new and make a community pub for all’.*

1.3 So the Sub-Committee are aware, and because it is mentioned in representations, the premises does not currently hold a premises licence but has previously, and was known as ‘Courtenay's Ale & Cider Bar’ up until 2023.

2.0 THE APPLICATION

2.1 The application for a new premises licence was submitted by Mr Jamie Frost and Miss Natalie Green.

2.2 In summary, the following has been applied for:

Activity	Indoors / Outdoors (or both)	Days	Times
Live music	Indoors	Monday – Sunday	12:00 – 23:00 Extended to 01:00 on Christmas Eve and 02:00 on New Year's Eve.
Recorded music	Indoors	Monday – Sunday	12:00 – 24:00 Extended to 01:00 on Christmas Eve and 02:00 on New Year's Eve.
Late night refreshment	Indoors	Monday - Sunday	23:00 – 24:00 Extended to 01:00 on Christmas Eve and 02:00 on New Year's Eve.
Supply of alcohol	For consumption ON and OFF the premises	Monday - Sunday	12:00 – 24:00 Extended to 01:00 on Christmas Eve and 02:00 on New Year's Eve.
Hours premises open to the public	N/A	Monday – Sunday	12:00 – 24:00 Extended to 01:00 on Christmas Eve and 02:00 on New Year's Eve.
Table 1: Activities / times requested on application			

- 2.3 The applicant has provided additional information about licensable activities in the relevant *'further detail'* box on the application form. The Licensing Officer feels it is important to highlight some of this information for further discussion.

Live music and recorded music

- 2.4 The applicant has stated that this will be *'non audible'* to neighbours. The Licensing Officer is not sure if the applicant has mentioned this as a proposed condition but it could be interpreted as such. If this is the case, the practicality and enforceability of this needs to be considered carefully.

- 2.5 The Council's pool of licensing conditions highlights that:

"Inaudibility" conditions have been popular in the past but have faced sufficient criticism in the courts to be quashed as invalid for lack of precision. Noise conditions are notoriously difficult to pre-empt and should be applied only where professional advice has been obtained from Mid Devon District Council's Public Health Team. Such conditions will be strictly tailored to the premises in question and the concerns to hand in relation to noise attenuation and resultant nuisance.

- 2.6 Such an issue was considered in R (on the application of Developing Retail Limited) v East Hampshire Magistrates' Court [2011] EWCH 618 Admin. It was stated that *'without some degree of specificity as to what is meant by inaudibility, the condition is in my judgment so vague as to be unenforceable. In those circumstances I consider that the noise condition is liable to be quashed'*.

Late night refreshment

- 2.7 The additional detail given by the applicant is as follows:

'Alcohol and snacks will be served until 23:45 on nights we are open to 24:00, with doors closed at 23:00 to give people peace and ample time to leave quietly'.

- 2.8 The applicant needs to clarify this as the Licensing Officer is not sure what is meant by *'doors closed at 23:00'*. There is a subsequent condition which states that there will be no admission or readmission to the premises after 24:00, which reflects the proposed opening times applied for in Section L of the application. There would therefore seem to be a possible contradiction.

- 2.9 Additionally, the supply of alcohol has been applied for up until 24:00, not 23:45, but this particular issue may no longer be relevant as a result of a condition agreed with the Police (see section 5 of this report).

- 2.10 It should be noted that Late night refreshment relates to the supply of hot food or hot drink' between the hours of 23.00 and 05.00. This is highlighted because the applicant has asked for it to be licensed from 12:00 and at this time, the requirement for a licence would not apply.

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

3.0 CIRCUMSTANCES IN WHICH ENTERTAINMENT ACTIVITIES ARE NOT LICENSABLE AND IMPACT ON CURRENT APPLICATION

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

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

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

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

3.3 A licence is also not required to:

- put on unamplified live music at any place between the same hours; or
- put on amplified live music between 08.00 and 23.00, in a workplace that does not have a licence, provided that the audience does not exceed 500.

3.4 This is highlighted because the applicant has applied for live music up until 23:00 and recorded music up until 24:00 (with an extension on Christmas Eve and New Year's Eve). Depending on the specific circumstances of the case, live music may not be licensable (except for after 23:00 on Christmas Eve and New Year's Eve) and recorded music may be licensable Monday - Sunday from 23:00 to 24:00, assuming it was not considered to be incidental or background.

Impact of licence conditions on non-licensable entertainment

3.5 Any conditions added on a determination of an application for a premises licence which relate to live music or recorded music remain in place, but are suspended between the hours of 08.00 and 23.00 where the following conditions are met:

- at the time of the music entertainment, the premises are open for the purposes of being used for the sale or supply of alcohol for consumption on the premises;
- if the music is amplified, it takes place before an audience of no more than 500 people; and

- the music takes place between 08.00 and 23.00 on the same day.
- 3.6 Essentially, if the live or recorded music is not considered licensable, any conditions on a licence which apply will be 'suspended'.

Dealing with issues as a result of non-licensable entertainment

- 3.7 Issues or problems relating to activities which are not considered licensable can still be addressed. For example, if music is causing a nuisance, Environmental Health can still take action under the Environmental Protection Act 1990.
- 3.8 From a licensing perspective, any potential licence can be reviewed and at this stage, conditions could be made to have effect or be placed on the licence. It is important to note that this power follows on from an application to review a premises licence and this is not a relevant consideration for the current application.

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, section M of the application (attached as **Annex 1**) states:

- There shall be no self-service of alcohol on the premises
- There shall be no admission or readmission to the premises after 24:00 hours
- Suitable receptacles will be provided for cigarette litter
- The Challenge 25 scheme in operation at the premises, including the forms of identification that are acceptable
- An incident log shall be kept and maintained at the premises to record all crime and disorder
- The consumption of alcohol shall cease at 24:00
- The maximum number of persons including staff and entertainers allowed at the premises will not exceed 60

- In the absence of adequate daylight, artificial lighting in any area accessible to the public shall be fully operational
- All drinks shall be served in plastic / paper / toughened glass
- The performance of live entertainment will be limited to a max duration of 3 hours inclusive of any breaks
- Clear and legible notices shall be prominently displayed at all exits requesting patrons to respect the needs of the local residents
- No speakers for amplification of music shall be placed on the outside of the premises
- Accompanied children under 12 will only be allowed to remain on the premises between 10:00 and 21:00
- An alcohol sales refusals register shall be kept at the premises and be maintained to include details of all alcohol sales refused.
- Challenge 25 proof of age requirements. Acceptable identification are photo driving licence, passport, pass hologram card.

4.3 With regards to the condition relating to accompanied children under 12 only being allowed to remain on the premises between 10:00 and 21:00, it should be noted that the opening hours applied for are from 12:00 so the applicant should clarify this requirement as part of their response to the Notice of Hearing.

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 Responsible Authorities made representations in this case.

- 5.4 The Police did not make a representation because they agreed a number of conditions with the applicant. These conditions are attached as **Annex 3**.
- 5.5 Some of these conditions may address issues raised in representations submitted by 'other persons' (see section 6 of this report for further information). For example, there is an agreed condition that states '*the last sale of alcohol will be permitted no later than 30 minutes prior to the premises closing*', which essentially establishes a 30 minute 'drink up' period prior to closing.
- 5.6 So the Sub-Committee are aware, at the time of writing this report the Licensing Officer has contacted the Police to try and clarify some of the agreed conditions and an update on this will be provided at the hearing, if necessary.
- 5.7 Although the Police have not submitted a representation, given their involvement and agreement of conditions, they will be notified of the hearing.

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 4 representations concerning the application. These are in opposition to the application (or elements of the application).
- 6.3 All of the representations are attached in full as **Annex 4, 5, 6 and 7**.
- 6.4 In brief, the general issues raised are listed below. This list is not designed to duplicate the issues raised in full, as representations are attached to this report, but instead provide a very brief summary of the general concerns.
- Potential nuisance and disorder (including anti-social behaviour) late at night or early in the morning, exasperated by the potential lack of 'drinking up' time
 - Potential nuisance from music
 - Potential nuisance from people congregating outside (including when smoking / vaping)
 - Potential littering issues
 - The safety of patrons whilst outside the premises and in close proximity to the road

- Potential safety of patrons whilst inside the premises in light of the space / capacity set

6.5 If any party believes that a general issue raised has not been included in the brief summary above they can raise this in response to the Notice of Hearing and at the hearing.

Suggested conditions

6.6 'Other parties' have suggested conditions / amendments to the application that they would like to see and these have been briefly summarised below under what is thought to be the most relevant licensing objective. Full details can be seen in their submissions which are attached to this report.

6.7 Crime and disorder

- A reduction in times permitted to sell alcohol / stay open on certain days
- Installation of CCTV
- Requirement for door staff at certain times
- Dispersal of groups congregating outside the premises
- Implementation of a 30 minute 'drink up' period (i.e. no alcohol sales to be permitted for the last 30 minutes of being open)
- No consumption of alcohol outside the premises

6.8 Public safety

- Capacity to be limited to 40 people (including staff and entertainers)
- Dispersal of groups congregating outside the premises

6.9 Public nuisance

- No live music
- No live and recorded music after 23:00
- The performance of live music restricted to once per month
- No extended hours for Christmas Eve
- The limitation of noise from entertainment by considering the placement of equipment used for amplification
- The installation of soundproofing

- A two door entrance / exit system
- The door to be fitted with a self-closing mechanism
- External doors and windows to be kept shut during regulated entertainment (except for access and egress) and staff to check this
- A telephone number to be displayed, where it can be seen from outside, for local residents to be able to contact the premises and report issues
- The Licence holder / DPS to be available at all times during regulated entertainment and be responsible for liaising with Responsible Authorities
- Noise from smokers to be kept to a minimum

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

6.11 So the Sub-Committee are aware, the Licensing Authority received an anonymous representation which did not provide any details of the person(s) submitting it (i.e. there was no names, addresses or contact details). This submission has not been accepted.

7.0 LICENSING OFFICER COMMENTS ON SUGGESTED CONDITIONS / AMENDMENTS TO THE APPLICATION

Capacity of the premises

7.1 It should be noted that all of the representations appear to raise the issue of capacity for the premises and this follows on from the applicant stating that the maximum occupancy is 60. Some have suggested that this should be reduced to 40.

7.2 With regards to capacity limits in general, the Licensing Officer would highlight that the safe capacity may have been set by the applicant as a result of compliance with other legislation, for example, when completing a fire risk assessment under the Regulatory Reform (Fire Safety) Order 2005. The Section 182 Guidance covers this and states that:

“Safe capacities” should only be imposed where appropriate for the promotion of public safety or the prevention of disorder on the relevant premises. For example, if a capacity has been imposed through other legislation, it would be inappropriate to reproduce it in a premises licence. Indeed, it would also be wrong to lay down conditions which conflict with other legal requirements. However, if no safe capacity has been imposed through other legislation, a responsible authority may consider it appropriate for a new capacity to be attached to the premises which would apply at any material time when the licensable activities are taking place and make representations to that effect. For example, in certain circumstances, capacity limits may be appropriate in

preventing disorder, as overcrowded venues can increase the risks of crowds becoming frustrated and hostile. (Paragraph 2.18)

7.3 In light of the above, the applicant should confirm, as part of their response to the Notice of Hearing to the Licensing Authority, how the maximum capacity of 60 people was set and whether this was done in accordance with a specific piece of legislation.

7.4 As noted above, there were no representations from Responsible Authorities but so the Sub-Committee are aware, Devon and Somerset Fire and Rescue Service did, as is usually the case, highlight the following general requirement:

'The responsible person for the premises must carry out a fire risk assessment, record significant findings and take appropriate action. The Fire and Rescue Authority considers that the significant findings should include an evaluation of the means of escape and the number of people that can safely be accommodated on the premises; this capacity should include all people on the premises including staff and performers.

Further information can be found in the "Safety Advice" section of our website: <http://www.dsfire.gov.uk/>.

Potential extension of opening hours

7.5 One suggestion within a representation appears to extend the opening hours of the premises by 30 minutes on Friday and Saturday until 00:30 (the applicant has applied to close at 00:00 on these days). This has likely been suggested to permit a 30 minute drink up time but the Licensing Officer does not believe it would be appropriate to make such an amendment. This is because people may have decided against submitting a representation in the first place based on the midnight closing time - they may therefore be disadvantaged with any subsequent extension beyond what was initially applied for.

Non-licensable activities and conditions relating to them

7.6 As set out in Section 3 of this report, it should be remembered that even if activities such as live and recorded music are removed from the licence or restricted, they may still be permitted as a non-licensable activity at certain times. In such situations, conditions may be suspended and would not have effect.

Proposed Designated Premises Supervisor (DPS) not being one of the applicants

7.7 The question has been asked if alcohol can be sold when the DPS is not on the premises. The short answer to this is yes, it can.

7.8 The specific condition to which the query relates states is a mandatory condition which states:

- 1) *No supply of alcohol may be made under the premises licence -
 - a) *at a time when there is no designated premises supervisor in respect of the premises licence, or*
 - b) *at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.**
- 2) *Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.*

7.9 The Section 182 Guidance states:

The 2003 Act provides that, where a premises licence authorises the supply of alcohol, it must include a condition that no supply of alcohol may be made at a time when no designated premises supervisor has been specified in the licence or at a time when the designated premises supervisor does not hold a personal licence or the personal licence has been suspended. (Paragraph 10.26)

The 2003 Act does not require a designated premises supervisor or any other personal licence holder to be present on the premises at all times when alcohol is sold... (Paragraph 10.28)

7.10 It can therefore be seen that as long as a DPS is named on the licence (and that person holds an active personal licence), there is compliance with that part of the mandatory condition and they need not be on the premises at all times.

7.11 The Section 182 Guidance goes on to state:

...the fact that every supply of alcohol must be made under the authority of a personal licence holder does not mean that only personal licence holders can make sales or that they must be personally present at every transaction. A personal licence holder may authorise members of staff to make sales of alcohol but may be absent at times from the premises when a transaction takes place. However, the responsible personal licence holder may not be able to escape responsibility for the actions of anyone authorised to make sales. (Paragraph 10.30)

7.12 The Licensing Act 2003 does not state that such authorisation need be in writing but the Licensing Team does have template documents which cover this and consider it to be a form of good practice.

No alcohol zone in relation to the premises

7.13 A representation received indicates that there may be an alcohol free zone in this area and suggests that, as a result, alcohol cannot be consumed outside the premises as a result. There is no such Public Space Protection Order in place. Even if there was, it would not mean that alcohol could not be consumed per say, but likely create an offence should someone fail to comply with a request not to consume or surrender alcohol.

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 Policy 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 Other Person attending 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 Licensing Authority will be that each application will be determined on its merits. The Licensing Authority will have regard to any guidance issued by the Home Office, this Policy and any measures it deems necessary to promote the licensing objectives. The Licensing Authority may depart from the guidelines in this Policy if it has justifiable and compelling reasons to do so. The Licensing Authority will give reasons for any such departure from the Policy. (Paragraph 6.3)*
- 8.7 *The Licensing 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 Licensing 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 *Since the introduction of the Act, the Licensing Authority's experience is that the vast majority of complaints about licensed premises are caused by public nuisance, in particular excessive noise from live and recorded music and disturbance caused by customers congregating outside licensed premises. The Licensing Authority will expect applicants to have particular regard to these issues and, if considered appropriate, to include in their Operating Schedules adequate and effective steps to control noise and disturbance from their premises. (Paragraph 6.6)*
- 8.10 *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)*
- 8.11 *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)*
- 8.12 *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)*
- 8.13 *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)*
- 8.14 *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)*
- 8.15 *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)*

- 8.16 *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)*
- 8.17 *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)*
- 8.18 *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)*
- 8.19 *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/>.

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 some relevant sections are highlighted below. The full Guidance can be viewed here:

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

9.2 *Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. The use of wording such as "must", "shall" and "will" is encouraged.*

Licence conditions:

- *must be appropriate for the promotion of the licensing objectives;*
- *must be precise and enforceable;*
- *must be unambiguous and clear in what they intend to achieve;*
- *should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation;*
- *must be tailored to the individual type, location and characteristics of the premises and events concerned;*
- *should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;*
- *should not replicate offences set out in the 2003 Act or other legislation;*
- *should be proportionate, justifiable and be capable of being met;*
- *cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and*
- *should be written in a prescriptive format. (Paragraph 1.16)*

9.3 *Licensing authorities should look to the police as the main source of advice on crime and disorder. (Paragraph 2.1)*

- 9.4 *Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. (Paragraph 2.8)*
- 9.5 *Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health. (Paragraph 2.22)*
- 9.6 *Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable. Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues. (Paragraph 2.23)*
- 9.7 *As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate. (Paragraph 2.24)*
- 9.8 *Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave. (Paragraph 2.25)*
- 9.9 *Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who*

engages in antisocial 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 2.27)

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 8**. 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	Agreed Police conditions
Annex 4	Representation 1
Annex 5	Representation 2

Annex 6	Representation 3
Annex 7	Representation 4
Annex 8	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 Persons (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/>

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

Please read the following instructions first

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

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

We Samie Frost & Natalie Green

(Insert name(s) of applicant)

apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in Part 1 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003

Part 1 – Premises details

Postal address of premises or, if none, ordnance survey map reference or description			
The Seahorse 10 Newport street Tiverton Devon			
Post town	Tiverton	Postcode	EX16 6NH

Telephone number at premises (if any)	
Non-domestic rateable value of premises	£ 5,300

Part 2 - Applicant details

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

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

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

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

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

(A) individual applicants (fill in as applicable)

<input checked="" type="radio"/> Mr	<input type="radio"/> Mrs	<input type="radio"/> Miss	<input type="radio"/> Ms	Other Title (for example, Rev)	
Surname <i>Frost</i>		First names <i>Samie Paul Cloud</i>			
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	Mrs	<u>Miss</u>	Ms	Other Title (for example, Rev)	
Surname <i>Green</i>			First names <i>Natalie</i> <i>Lois</i>		
Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), the 'share code' provided to the applicant by that service: (please see note 15 for information)					

(B) Other applicants

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

Name
Address

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

Part 3 Operating Schedule

When do you want the premises licence to start?

DD	MM	YYYY
14	10	2024

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)

An old world ale bar with a new look.
 Ambient music fit for conversation, A place for old friends to meet new and make a community Pub for all.

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

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

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

Provision of regulated entertainment (please read guidance note 2)	Please tick all that apply
a) plays (if ticking yes, fill in box A)	
b) films (if ticking yes, fill in box B)	
c) indoor sporting events (if ticking yes, fill in box C)	
d) boxing or wrestling entertainment (if ticking yes, fill in box D)	

e)	live music (if ticking yes, fill in box E)	✓
f)	recorded music (if ticking yes, fill in box F)	✓
g)	performances of dance (if ticking yes, fill in box G)	
h)	anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H)	

<u>Provision of late night refreshment</u> (if ticking yes, fill in box I)	✓
<u>Supply of alcohol</u> (if ticking yes, fill in box J)	✓

In all cases complete boxes K, L and M

A

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

B

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

C

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

D

Boxing or wrestling entertainments Standard days and timings (please read guidance note 7)			<u>Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	
				Outdoors	
Day	Start	Finish		Both	
Mon				<u>Please give further details here</u> (please read guidance note 4)	
Tue					
Wed			<u>State any seasonal variations for boxing or wrestling entertainment</u> (please read guidance note 5)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list</u> (please read guidance note 6)		
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)	
Day	Start	Finis h	Indoors	<input checked="" type="checkbox"/>
			Outdoors	<input type="checkbox"/>
			Both	<input type="checkbox"/>
Mon	12:00	23:00	Please give further details here (please read guidance note 4) <i>No live music planned as of yet but will generally be single artists using a speaker setup relevant to space and Non audible to neighbours</i>	
Tue	12:00	23:00		
Wed	12:00	23:00	State any seasonal variations for the performance of live music (please read guidance note 5) <i>Christmas eve - open till 01:00</i> <i>New years eve - open till 02:00</i>	
Thur	12:00	23:00		
Fri	12:00	23:00	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)	
Sat	12:00	23:00		
Sun	12:00	23:00		

F

Recorded music Standard days and timings (please read guidance note 7)			<u>Will the playing of recorded music take place indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finis h			
Mon	12:00	24:00	<u>Please give further details here</u> (please read guidance note 4) Ambient music delivered through the pub via 2 sonos speakers, Non audible to neighbors Decibel meter on site to secure this		
Tue	12:00	24:00			
Wed	12:00	24:00	<u>State any seasonal variations for the playing of recorded music</u> (please read guidance note 5) Christmas eve - open till 01:00 New years eve - open till 02:00		
Thur	12:00	24:00			
Fri	12:00	24:00	<u>Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list</u> (please read guidance note 6)		
Sat	12:00	24:00			
Sun	12:00	24:00			

G

Performances of dance Standard days and timings (please read guidance note 7)			Will the performance of dance take place indoors or outdoors or both – please tick (please read guidance note 3)	Indoors	
Day	Start	Finish		Outdoors	
Mon				Please give further details here (please read guidance note 4)	
Tue					
Wed			State any seasonal variations for the performance of dance (please read guidance note 5)		
Thur					
Fri			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)		
Sat					
Sun					

H

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

Late night refreshment Standard days and timings (please read guidance note 7)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 3)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
Day	Start	Finish		Both	<input type="checkbox"/>
Mon	12:00	24:00	Please give further details here (please read guidance note 4) Alcohol and snacks will be served until 23:45 on nights we are open to 24:00. With doors closed at 23:00 to give people peace and ample time to leave quietly.		
Tue	12:00	24:00			
Wed	12:00	24:00	State any seasonal variations for the provision of late night refreshment (please read guidance note 5) Christmas eve – open till 01:00 New years eve – open till 02:00		
Thur	12:00	24:00			
Fri	12:00	24:00	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	12:00	24:00			
Sun	12:00	24:00			

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	
				Off the premises	
				Both	<input checked="" type="checkbox"/>
Day	Start	Finish	State any seasonal variations for the supply of alcohol (please read guidance note 5) Alcohol to be sold to the public between 12:00 - 24:00 Alcohol can be bought to take away but only in sealed containers and not to be drunk on the street. 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) Christmas eve - open till 01:00 New years eve - open till 02:00		
Mon	12:00	24:00			
Tue	12:00	24:00			
Wed	12:00	24:00			
Thur	12:00	24:00			
Fri	12:00	24:00			
Sat	12:00	24:00			
Sun	12:00	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	Mrs Sylvia Read
Postcode	[REDACTED]
Personal licence number (if known)	MDV PE1131
Issuing licensing authority (if known)	

K

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

L

<p>Hours premises are open to the public Standard days and timings (please read guidance note 7)</p>			<p>State any seasonal variations (please read guidance note 5) Christmas eve - Open till 01:00 New years eve - Open till 02:00</p>
Day	Start	Finish	<p>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)</p>
Mon	12:00	24:00	
Tue	12:00	24:00	
Wed	12:00	24:00	
Thur	12:00	24:00	
Fri	12:00	24:00	
Sat	12:00	24:00	
Sun	12:00	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)

There shall be no self-service of Alcohol on the premises
There shall be no Admissions or re-admissions to the premises after 24:00 hours.
Suitable receptacles will be provided for cigarette litter.

b) The prevention of crime and disorder

The challenge 25 scheme is operation at the premises, including the forms of Identification that are acceptable
An incident log shall be kept and maintained at the premises to record all crimes and disorder.
The consumption of Alcohol shall cease at 24:00.

c) Public safety

The maximum number of persons including staff and entertainers allowed at the premises will not exceed 60
In the absence of adequate daylight, Artificial lighting in any area accessible to the public shall be fully operational.
All drinks shall be served in Plastic/Paper/toughened glass.

d) The prevention of public nuisance

The performance of live entertainment will be limited to a max duration of 3 hours inclusive of any breaks.
Clear and legible notices shall be prominently displayed at all exits requesting patrons to respect the needs of the local residents.
No speakers for amplification of music shall be placed on the outside of the premises.

e) The protection of children from harm

~~Unaccompanied children under 12 will only be allowed to remain on the premises between 10:00 and 21:00~~
 Accompanied children under 12 will only be allowed to remain on the premises between 10:00 and 21:00
 An alcohol sales refusal register shall be kept at the premises and be maintained to include details of all alcohol sales refused.
 Challenge 25 proof of age requirements. Acceptable identifications are photo driving licence, Passport, Pass hologram card

Checklist:

Please tick to indicate agreement

<input type="checkbox"/>	I have made or enclosed payment of the fee.	
<input type="checkbox"/>	I have enclosed the plan of the premises.	✓
<input type="checkbox"/>	I have sent copies of this application and the plan to responsible authorities and others where applicable.	
<input type="checkbox"/>	I have enclosed the consent form completed by the individual I wish to be designated premises supervisor, if applicable.	✓
<input type="checkbox"/>	I understand that I must now advertise my application.	✓
<input type="checkbox"/>	I understand that if I do not comply with the above requirements my application will be rejected. [Applicable to all individual applicants, including those in a partnership which is not a limited liability partnership, but not companies or limited liability partnerships] I have included documents demonstrating my entitlement to work in the United Kingdom or my share code issued by the Home Office online right to work checking service (please read note 15).	✓

It is an offence, under Section 158 of the Licensing Act 2003, to make a false statement in or in connection with this application. Those who make a false statement may be liable on summary conviction to a fine of any amount.

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

Part 4 – Signatures (please read guidance note 11)

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

Declaration	<ul style="list-style-type: none"> [Applicable to individual applicants only, including those in a partnership which is not a limited liability partnership] I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in
--------------------	---

	<p>the UK (please read guidance note 15).</p> <ul style="list-style-type: none"> 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	16 th Sept 2024
Capacity	Director

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	[Redacted]
Date	16 th Sept 2024
Capacity	Director








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

Notes for Guidance

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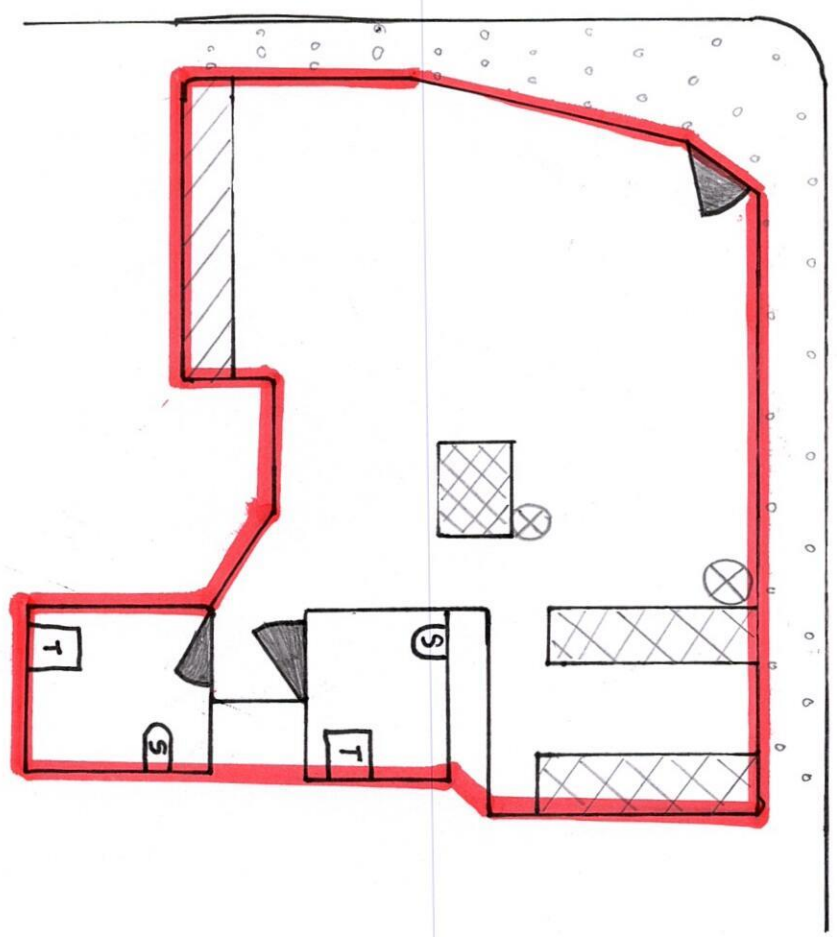
The Seahorse
10 Newport Street
EX1C 6NH

ANNEX 2

-  Fixed bench
-  Bar front and back
-  Pavement
-  Fire extinguishers
-  Toilets
-  Sinks
-  Licensed area

Castle Street

Newport Street



1 : 100 Scale

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General

The last sale of alcohol will be permitted no later than 30 minutes prior to the premises closing.

All off sales of alcohol to only be in sealed containers.

Drinks are not to be removed from the premises when smoking.

The premises licence holder is to adopt a written policy towards illegal drugs within the premises.

When live performances take place the sound levels will be monitored regularly using suitable equipment.

The DPS or representative will attend all meetings such as LVA, Pubwatch etc if available in the area.

All drinks other than hot beverages will be served in toughened glass/ plastic or paper cups.

Incident Log

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

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

Records must be completed within 24 hours of any incident, and will contain the time and date, the nature of the incident, the people involved and the action taken

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

Refusal register

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

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

The refusals register will be made available for inspection and copying on the request of an authorised officer of a responsible authority. All entries must be made within 24 hours of the refusal.

Challenge 25.

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

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

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

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

Staff Training

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

- i. The Challenge 25 scheme in operation at the premises, including the forms of identification that are acceptable.
- ii. The hours and activities permitted by the premises licence issued under the Licensing Act 2003 and conditions attached to the licence.
- iii. How to complete and maintain the refusal register in operation at the premises (in relation to the sale of alcohol).
- iv. Recognising the signs of drunkenness.
- v. The operating procedures for refusing service to any person who is drunk, under-age or appears to be under-age, or appears to be making a proxy purchase.
- vi. Action to be taken in the event of an emergency, including reporting an incident to the emergency services.
- vii. Staff shall be fully trained in the requirement of the Licensing Act 2003 including that in relation to persons under 16 and 18.
- viii. Staff shall receive training in the safeguarding of children.

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

Mid Devon District Council – Licensing Act 2003

REPRESENTATION FORM

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

Your full name	Mr Peter and Mrs Kate Clayton-White
The name of the organisation / body you represent (if appropriate)	Resident of Castle Street
Postal address	
Email address	
Contact telephone number	

Name of the premises you are making a representation about	The Seahorse
Address of the premises you are making a representation about	10 Newport Street, Tiverton, Devon EX16 6NH

Your representation must relate to one of the four Licensing Objectives

Licensing Objective	Yes Or No	Please detail the evidence supporting your representation or the reason for your representation. Please use separate sheets if necessary
To prevent crime and disorder	Yes	<p>The requested closing time of midnight every night could lead to local residents experiencing loud noise and potential disorder from inebriated patrons every night which would adversely affect working people and families with young children, possibly into the early hours of the morning. Also, the applicants have not allowed any drinking up time so patrons could be served alcohol right up to closing time thus increasing the possibility of drunkenness outside the pub leading to disorder on the streets – especially if patrons all leave at the same time. While drinking up time is not mandatory, it might be expected that a responsible licensee cognisant of the needs of the surrounding residential area would realise its benefits and ensure the sale of alcohol finishes at least half an hour before closing time – this would need to be featured in the licence conditions.</p> <p>We also notice that the designated premises supervisor is not either of the applicants – does this mean alcohol cannot be sold if she is not on the premises?</p>
Public safety	Yes	<p>The Seahorse is situated on the corner of Newport Street and Bampton Street. As well as creating a considerable noise problem, the socialising of people going outside on to the narrow pavement or road to smoke or vape does cause a public safety issue in that pedestrians often have to walk into the road in order to pass them. I have had occasion to brake sharply even when turning very slowly left from Newport Street into Castle Street when a smoker from the pub stepped out into the road without looking. The applicant has asked for 60 persons to be accommodated during events. Can the premises safely accommodate this number of people?</p>

<p>To prevent public nuisance</p>	<p>Yes</p>	<p>We are very concerned about the request to play live music at any time. By its very nature, live music is loud! It also has the potential to attract more people to the pub which could have the effect of creating more disorder problems outside the pub late at night. People congregating outside the pub at such events to have a smoke or vape often leave the door open which exacerbates the noise problem to local residents. The premises is too small to accommodate a large number of people which will inevitably create a hot atmosphere, where ventilation can only be achieved by keeping the door open – thus increasing the noise problem. There is no air conditioning in the premises. Smokers also congregate outside peoples' houses which creates further noise and nuisance. The applicants say they will limit numbers to 60. We cannot see this being policed effectively in a busy pub unless someone is employed specifically for this task. The applicant's previous pub, the White Horse in Gold Street, was renowned for very loud live and recorded music with speakers close to the street. We have heard this ourselves, from Lowman Green as far as the middle of Bampton Street while the applicant was employed there. The noise outside the pub itself was deafening. We shudder at the thought of having to put up with that every weekend which the applicants would be able to do if they were given carte blanche to put on unrestricted live music events or events where recorded music was played a similar noise level, at any time – their proposed 3 hour limit per event would be ineffective if they played that music from 9pm till midnight. We strongly oppose granting the applicants to put on live music events at any time.</p>
<p>To protect children from harm</p>	<p>No</p>	

<p>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).</p>	<p>Conditions which would remedy the crime and disorder problem</p> <p>a) Please consider imposing the following closing times which were granted to the previous Licensee and seemed to work very well – a good compromise.</p> <table border="0"> <tr> <td>Mon -Thurs</td> <td>Sell alcohol till 23.00</td> <td>Close at 23.30</td> </tr> <tr> <td>Fr – Sat</td> <td>Sell alcohol till 00.00</td> <td>Close at 00.30</td> </tr> <tr> <td>Sun</td> <td>Sell alcohol till 22.30</td> <td>Close at 23.00</td> </tr> </table> <p>b) The applicants should be asked to install CCTV and employ door staff at busy times, especially during live music sessions and on Friday and Saturday nights.</p> <p>Conditions which would remedy the public safety problem</p> <p>The applicants should be asked to employ door staff at busy times, especially during live music sessions and on Friday and Saturday nights to try to reduce this problem and protect the public from harm.</p>	Mon -Thurs	Sell alcohol till 23.00	Close at 23.30	Fr – Sat	Sell alcohol till 00.00	Close at 00.30	Sun	Sell alcohol till 22.30	Close at 23.00
Mon -Thurs	Sell alcohol till 23.00	Close at 23.30								
Fr – Sat	Sell alcohol till 00.00	Close at 00.30								
Sun	Sell alcohol till 22.30	Close at 23.00								

Conditions which would remedy the public nuisance problem

a) The previous licensee, Mrs Marilyn Clothier, was granted a licence which allowed her to provide late night refreshment and supply alcohol but **not** live music or recorded music. She had to apply for a temporary events notice each time she put on live music or karaoke-type events and any recorded music was played at a background level only. This had the effect of limiting, by licensing law rather than a possible future vague promise, the number of live music events to an appropriate level in a residential area. We feel very strongly that the applicants should have to apply for temporary events notice each time they put on live music.

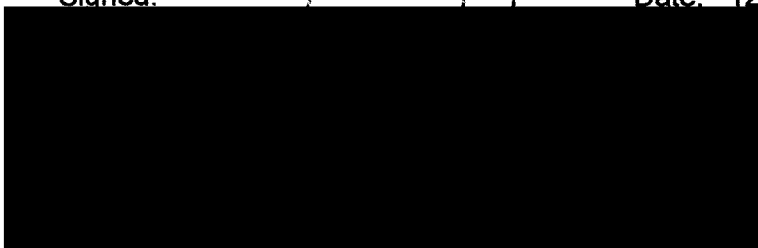
b) The condition offered by the applicant of not placing speakers outside the premises seems rather meaningless. There is no outside area owned by the pub – the outside area is public pavement and public space which he wouldn't be able to use anyway. A more meaningful condition would be to place the speakers inside the premises away from outside walls and neighbour's walls, ensure the doors remain closed at all times – by door staff if necessary - and to limit the volume of noise from live music to an acceptable level for local residents.

c) Live and recorded music should not be played after 23.00 which is the same as the Queen's Head pub, also in Castle Street.

In principle we are not objecting to the Seahorse obtaining a licence. However, the premises is situated on the corner of Newport Street and Castle Street in a residential area and, as we've outlined, there are many aspects of the application which worry us. We would hate to see the Seahorse reincarnated as a mini White Horse!!

Signed:

Date: 12th October 2024



Mid Devon District Council – Licensing Act 2003

REPRESENTATION FORM

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

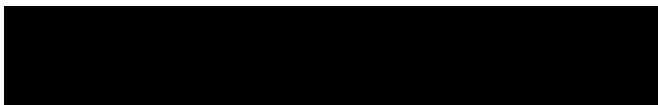
Your full name	Mr Martyn Bragg
The name of the organisation / body you represent (if appropriate)	Resident of Castle Street
Postal address	
Email address	
Contact telephone number	
Name of the premises you are making a representation about	The Seahorse
Address of the premises you are making a representation about	10 Newport Street, Tiverton. EX16 6NH.

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	I understand that the street outside the premises is in a no alcohol zone, therefore alcohol should not be consumed in this area by patrons of the premises. There will be a rise in antisocial behaviour and crime in the area fuelled by alcohol.
Public safety	Yes	No facilities for smokers inside the premises. Smokers will have to use the narrow pavement outside and passing pedestrians may need to walk on the road. Groups of people may congregate on the corner in the road and be in danger of passing vehicles. The small space inside the premises can only fit a small number of people, I am concerned that at busy times there could be too many people inside the premises, and if there is a fire or another reason to vacate the premises quickly people may become trapped or injured as there is only one entrance/exit in the premises.
To prevent public nuisance	Yes	Antisocial behaviour and noise nuisance caused by loud music inside the premises and people just outside the premises. Inadequate toilet facilities inside the premises, (only one male and one female toilet) and may cause patrons to urinate in the street when these facilities are in use. I have had problems with patrons from the premises in the past urinating on my front door. I have had to shout at people to try and stop them urinating on my front door. On many occasions and have often been greeted with a puddle of urine on the floor inside my front door the morning after the premises have opened. I have removed glasses, bottles, cigarette ends, empty vapes, general rubbish and cleaned up vomit the following morning from outside my house after the premises have been open the night before. Live music may attract more people than can be accommodated by the small space inside the premises, so they may stand in the street making a noise nuisance.

<p>To protect children from harm</p>	<p>The premises is part of a terrace of houses/flats in a residential area. These grade two listed houses/flats adjoining the premises built in the 1830's have internal party walls that are divided poorly with hollow stud partition walls, other than where there are chimney stacks of brick/stone. These properties are only allowed to have exterior single glazed doors and windows. The joists supporting wooden floors and ceilings in these properties are interlinked/adjoined over party wall boundaries, so sound travels very easily though the terrace of houses/flats. Most pubs in Tiverton have two doors following each other in the entrance/exit to its premises, to try and reduce noise caused by these premises, but these premises only has one door for its entrance/exit that is often left open on hot summer days and when it gets too hot inside the premises, causing noise to escape into the street. Loud music very late at night will disturb children and adults living nearby. Children and adults will have disrupted sleep or problems sleeping if noise levels are too high. Lack of sleep will harm their health.</p>
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<p>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).</p>	<p>Restricted opening hours, closing no later than 23:00 hours. No live music or recorded music after 23:00 hours. Adequate soundproofing fitted in walls and ceilings to environmental health standards. Door staff at peak times to try and reduce antisocial behaviour inside and just outside the premises. Door staff to disperse large groups of people from congregating on the narrow pavement and road outside the premises for public safety due to passing vehicles, and to also try and reduce some noise nuisance. Put in place a two door entrance/exit system like in most other pubs in Tiverton, and the doors to have working self-closing mechanisms.</p>
--	--



MARTYN BRAGG

Signed:

Date:06/11/2024

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:

1. If you do make a representation you will be able to attend a meeting of the Licensing Authority's Committee and any subsequent appeal proceeding. If you do not attend, the Committee will consider any representations that you have made in your absence.
2. This form must be returned within the statutory period of 28 days following submission of a valid application to the Licensing Authority.

3. You may make a representation wherever you live in relation to the premises but your representation must be relevant.
4. Representations can only relate to the four licensing objectives.
5. Your representation will be passed to the applicant, to allow them the opportunity of addressing your concerns. Your representations will be published in the report available to the Licensing Committee, which will be publicly available.
6. Please return this form when completed to:

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

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

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

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

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

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

LICENSING REPRESENTATION

I write as a resident of Castle Street, Tiverton to express concern as to the application for a premises licence at "The Seahorse," 10, Newport Street, Tiverton and wish to make the following relevant representation.

History

I am fully aware that a premises licence authorising the sale of alcohol has been in place before at this property under the name of Courtenay's Ale and Cider Bar. Reference to the Council's Licensing Register indicates that the licence was first granted in 2011 and was then surrendered in December 2023. The activities authorised by the licence were the supply of alcohol and the provision of late-night refreshment.

In essence, the licence permitted the supply of alcohol between mid-day and 11.00 pm, Monday to Thursday, from mid-day to midnight on Fridays and Saturdays and from mid-day to 10.30 pm on Sundays. The premises were permitted to be open for 30 minutes after the supply of alcohol was to cease.

Regulated entertainment was not authorised by the licence, which led to 38 applications for Temporary Events being made between 29.6.13 and 28.3.20, 28 of which authorised regulated entertainment to take place.

Attached to the licence in Annex 2 were a number of conditions consistent with the Operating Schedule, including 9 separate conditions relating to the provision of CCTV at the premises.

The Present Application

The fact that these premises have been licensed in the recent past does not detract from the reality that these premises are exceptionally small, with no prospect of expansion and without any food preparation areas. With a "shop" frontage opening directly on to the junction of Newport Street and Castle Street, with a substantial number of residential properties in the immediate vicinity, these premises do not really lend themselves to the sale of alcohol or other licensable activities. In essence, the premises would be better used as a small retail outlet, as has previously been the case. I understand the applicants wish to create a "community pub for all," but given the enormous limitations of both the building and the location, I think there can be very few of the hallmarks of a "pub."

Specifically, I note from the application that it is proposed that the supply of alcohol will cease at midnight (from Monday to Sunday), whilst at the same time the opening hours will cease at midnight. This should surely not be permitted. As with the previous licence at this location, the supply of alcohol should cease 30 minutes before the premises are due to close, to allow for "drinking-up" time. Thus the supply of alcohol should cease at 11.30 pm.

I also note that the application seeks to authorise the performance of live music and the playing of recorded music, from mid-day to 11.00 pm (Monday to Sunday) and mid-day to midnight (Monday to Sunday) respectively. This is of great concern, and would in effect permit the licence-holders to organise live and recorded music events on any and every day of the week. Neither the premises themselves or their location are suitable as a music venue.

Additionally, I see that the application makes no mention of CCTV, which is a significant omission, given that there were a number of conditions relating to its provision in the previous licence.

The Licensing Objectives

I believe that three of the four licensing objectives set out within the Licensing Act 2003 are engaged by this application:

* The prevention of crime and disorder

From such a location, with the prospect of intoxicated persons at times spilling on to a busy main road, the potential for crime and disorder is very real, and the opportunities for those running the premises to supervise ingress and egress is severely limited in view of the lack of space both inside and outside. The absence of any reference in the application to the provision of CCTV is, therefore, of great concern

* Public safety

These premises front on to a busy main road. Public safety, therefore, both to pedestrians and to motorists, would be compromised, particularly late at night, by those under the influence of alcohol who might be either attempting to enter or leave the premises.

Public safety would also be compromised by permitting up to 60 persons (as proposed by the application) to congregate and consume alcohol in such cramped surroundings, particularly when there is only one entrance. The potential for serious injury if there were a fire or other emergency whilst the premises were operating is very obvious.

* The prevention of public nuisance

The functioning of a "pub," with the inevitable high levels of noise created by those using the facilities, by those persons leaving the premises and by amplified or recorded music, particularly later in the evenings, will undoubtedly inconvenience many residents in Newport Street and Castle Street, some of whom live within yards of the premises, and even residents who live a little further away (for example, in St Peter Street).

A particular concern is that amplified music will be permitted within the premises. Without considerable noise attenuation measures, which would presumably be impractical, this would necessarily give rise to public nuisance, especially if, during the warmer months, the entrance door and any windows were left open.

When the premises were previously licensed, the sound of live music (when permitted by Temporary Event applications) could be clearly heard inside homes in Castle Street, and indeed in St Peter Street, over and above the sound of television and other home entertainment. It was only the very occasional nature of the live music which prevented any substantial complaint being made.

Conclusion

By way of conclusion, I do not suggest that the Licensing Authority should decline to grant a premises licence at The Seahorse. If the proposed licence-holders respect the sensitivities of the nearby residents, then the premises can function successfully and without creating friction.

However, I would submit that the following conditions be added to the standard conditions on the licence and those highlighted by the Operating Schedule in order to allay the fears of those who live nearby.

The prevention of crime and disorder

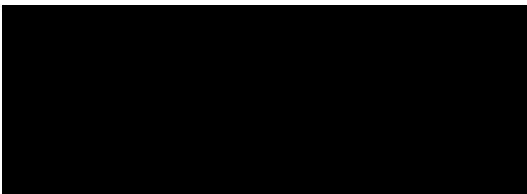
- *No alcohol shall be consumed more than 30 minutes after the permitted terminal hour for the supply of alcohol
- *The consumption of alcohol on the premises shall cease at midnight
- *There shall be no consumption of beverages purchased from the premises outside the premises
- *Conditions 1 to 9, as set out in Annex 2 of the Premises Licence relating to Courtenay's Ale and Cider Bar, relating to the provision of CCTV, shall apply

Public safety

- *The maximum number of persons (including staff and entertainers) allowed at the premises shall not exceed 40

The prevention of public nuisance

- *The performance of live entertainment shall be limited to no more than one evening per month
- *A telephone number shall be made available and displayed in a prominent location where it can conveniently be read from the exterior of the premises for local residents to contact in the case of noise nuisance or anti-social behaviour by persons or activities associated with the premises. The telephone number will be a direct number to the management who are in control during opening hours. A record will be kept by management of all calls received, including the time, date and information of the callers, including action taken following the call. Records will be made available for inspection and copying by an authorised officer of a responsible authority throughout the trading hours of the premises
- *The Premises Licence holder or Designated Premises Supervisor shall be available at all times during regulated entertainment and be responsible for co-operating and liaising with any responsible authority
- *All external doors and windows shall be kept shut at all times when the premises are open and during regulated entertainment. Doors may be opened for normal entrance and egress of people but must be shut immediately after
- *Staff shall check prior to the commencement of regulated entertainment and periodically during regulated entertainment that all doors and windows are shut



It is important to the residents to keep the noise levels in Castle Street to a minimum as it is a quiet neighbourhood and we would like the applicants to respect this.

My suggestions would include keeping outdoor smoking limited to Newport Street by placing of ashtrays on Newport Street, not Castle Street.

Limiting live music to before 11pm and type of music is important ie not heavy rock.

A late licence on Xmas eve would severely disrupt the families that live on the street. We think that 1am is far too late and disruptive to our holiday break.

Weekday licence to be limited to last orders at 11 pm. and a maximum of half-hour drinking up time.

No alcohol to be consumed on the street.

With limitations on the hours, smoking area and not disrupting holiday time we would be happy with this compromise.

I mentioned my disability which was the result of a car crash whereby I was in a coma after neuro surgery and it took six months for me to learn to walk again. My brain continues to recover but it is essential that I am able to rest and sleep well.

Kind Regards

Sent from my iPad

Stephen Hargreaves

Castle Street

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.