

**LICENSING SUB-COMMITTEE**  
**DATE OF HEARING: 16 SEPTEMBER 2019**

**DETERMINATION OF A TEMPORARY EVENT NOTICE FOR 'YER TIZ RALLY',  
NEWTON ST CYRES RECREATION GROUND, NEWTON ST CYRES, EX5 5AT  
(20 – 22 SEPTEMBER 2019)**

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

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

**Reason for report:** An objection to a Temporary Event Notice (TEN) has been received from Environmental Health which means the Licensing Authority must hold a hearing.

**RECOMMENDATION:** That the Sub Committee consider the objection that has been made and decide whether or not the event should be allowed to go ahead.

**Financial Implications:** In this case, there does not appear to be time for any party to appeal the decision of the Council to the Magistrate Court. If there was, the Council could be liable for costs.

**Legal Implications:** The matter must be dealt with in accordance with the relevant legislation (i.e. the Licensing Act 2003). Further information is given in Section 4.0, 5.0 and 8.0 of this report.

**Risk Assessment:** In this case, there does not appear to be time for any party to appeal the decision of the Council to the Magistrate Court. If there was, the Council could be liable for costs.

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

**Relationship to Corporate Plan:** Not applicable

**Impact of climate change:** Not applicable.

## **1.0 BACKGROUND**

1.1 Temporary Event Notices (TENs) are intended to be a light touch approach to enable the carrying on of licensable activities on a temporary basis. As such

they are not considered as 'applications' to be authorised by the Licensing Authority. They are 'notices' provided to a Licensing Authority which set out what licensable activities are due to take place.

1.2 TENs can last a maximum of 168 hours and cover up to 499 people attending the premises at any one time. There are two categories of TEN and these are a 'standard' TEN and a 'late' TEN. A standard TEN must be submitted at least 10 clear working days' before the first day of the event and a late TEN must be submitted between 5 and 9 clear working days before the first day of the event.

1.3 The Licensing Authority cannot oppose a notice. However, there are two 'responsible authorities' who are able to make objections – the Police and Environmental Health and the legislation describes them as "a relevant person". S.104(2) of the Licensing Act 2003 sets out that "Where a relevant person who is given a temporary event notice is satisfied that allowing the premises to be used in accordance with the notice would undermine a licensing objective, the relevant person must give a notice stating the reasons for being so satisfied (an "objection notice") to –

- The relevant licensing authority
- The premises user; and
- To every other relevant person"

1.4 The licensing objectives are as follows:

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

1.5 The main difference between a standard TEN and a late TEN is that if an objection notice is received by the Licensing Authority for a standard TEN then a hearing must be held to consider the matter. If an objection notice is received against a late TEN then the event cannot go ahead and there is no hearing.

## **2.0 HISTORY OF THIS EVENT AND INFORMATION ABOUT THE TEMPORARY EVENT NOTICE (TEN)**

2.1 The event is called the 'Yer Tiz Rally'. At the time of writing this report, no additional information has been provided about the event to be held in 2019, except for the TEN submitted by Mr Richard Long.

2.2 A TEN was submitted by Mr Richard Long for this event in 2018 and at that time, the event was said to be a non-for-profit event that had been held on an annual basis since 2011 (although not previously held in Mid Devon).



- 2.3 According to records, Environmental Health initially objected to the TEN in 2018. Following discussions between Mr Richard Long and Environmental Health, the event went ahead without the need for a hearing. This was because additional information was submitted to Environmental Health and the times proposed for live music outside were reduced, from 01:00 on Friday and Saturday, to 23:00 on Friday and 00:00 (midnight) on Saturday. In addition to this, Mr Richard Long agreed to monitor and document the noise from music during the event (and reduce noise levels if required).

NOTE: Paperwork regarding the 2018 TEN will be available to view at the hearing should it be considered relevant. It must be noted, however, that it has not been submitted by Mr Richard Long as relevant to the TEN for 2019.

- 2.4 Following the event in 2018, Environmental Health received a complaint about noise and subsequently sent a letter to Mr Richard Long. A copy of this letter is attached as Annex 1. Environmental Health have confirmed that as of 5 September 2019, they have received no further contact or correspondence from Mr Richard Long, as requested in the letter.

- 2.5 The TEN for this year's event was received and / or accepted on 3 September 2019. It is seeking to cover the sale by retail of alcohol, the provision of regulated entertainment (live and recorded music) and the provision of late night refreshment. The times given are as follows:

- Friday 20 September 2019 12:00 – 01:00
- Saturday 21 September 2019 12:00 – 01:00

- 2.6 A copy of the TEN is attached as Annex 2.

- 2.7 The sub-committee should be aware that a premises licence covers this site (licence number MDV PR0353) and conditions on this licence can therefore be imposed on the TEN. However, the licensing officer has viewed the conditions and does not believe that any are relevant to the objections raised.

- 2.8 It would potentially have been possible to have held the event under the existing premises licence (assuming the premises licence holder permitted it). However, the following condition appears on the licence and has not been complied with:

*Where the number of people exceeds 250 when attending an outside licensable event, the DPS shall provide details of the event to the Police at least 21 prior to the event taking place.*

- 2.9 A copy of the relevant premises licence will be available at the hearing should the sub-committee wish to view it.

### **3.0 OBJECTION NOTICE(S)**

- 3.1 The Police and Environmental Health must give any objections they have to the Premises User and the Licensing Authority before the end of the third working day, following the day on which they have received the TEN. As this TEN was received and / or accepted on 3 September 2019, objection notices had to be submitted no later than 6 September 2019.
- 3.2 The objection from Environmental health was issued within the prescribed period and it is attached as Annex 3. The objection relates to two licensing objectives; public safety and the prevention of public nuisance.
- 3.3 The sub-committee should be aware that talks between Mr Richard Long and Environmental Health are likely to take place before the hearing and as such, they should expect an update from both parties on outstanding matters. The hearing should then be focused on these matters.

### **4.0 LICENSING POLICY & GOVERNMENT GUIDANCE**

- 4.1 Members are obliged to have regard to the Council's Licensing Policy. The most recent version of this come in to effect on 7 January 2019 and will be available to view at the hearing.
- 4.2 Members are also obliged to have regard to the Guidance produced under S.182 of the Licensing Act 2003. The most recent version of this was published in April 2018. A copy will be available at the hearing but the following sections should be noted as relevant:

#### Public safety

- 4.3 *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. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning... (paragraph 2.7)*
- 4.4 *A number of matters should be considered in relation to public safety. These may include:*
- *Fire safety;*
  - *Ensuring appropriate access for emergency services such as ambulances;*
  - *Good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts;*
  - *Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;*



- Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation);
- Ensuring appropriate and frequent waste disposal, particularly of glass bottles;
- Ensuring appropriate limits on the maximum capacity of the premises; and
- Considering the use of CCTV in and around the premises

#### Public nuisance

- 4.5 *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 2.16)*

#### Temporary Event Notices (TENs)

- 4.6 *The system of permitted temporary activities is intended as a light touch process, and as such, the carrying on of licensable activities does not have to be authorised by the licensing authority on an application. Instead, a person wishing to hold an event at which such activities are proposed to be carried on (the “premises user”) gives notice to the licensing authority of the event (a “temporary event notice” or “TEN”). (Paragraph 7.2)*
- 4.7 *If the licensing authority receives an objection notice from the police or EHA (Environmental Health) that is not withdrawn, it must (in the case of a standard TEN only) hold a hearing to consider the objection unless all parties agree that this is unnecessary. The licensing committee may decide to allow the licensable activities to go ahead as stated in the notice. If the notice is in connection with licensable activities at licensed premises, the licensing authority may also impose one or more of the existing licence conditions on the TEN (insofar as such conditions are not inconsistent with the event) if it considers that this is appropriate for the promotion of the licensing objectives. If the authority decides to impose conditions, it must give notice to the premises user which includes a statement of conditions (a “notice (statement of conditions)”) and provide a copy to each relevant party. Alternatively, it can decide that the event would undermine the licensing objectives and should not take place. In this case, the licensing authority must give a counter notice. (paragraph 7.28)*
- 4.8 *If the police or EHA believe that allowing the premises to be used in accordance with the TEN will undermine the licensing objectives, they must give the premises user and the licensing authority an objection notice. The*

*objection notice must be given within the period of three working days following the day on which they received the TEN. (Paragraph 7.33)*

- 4.9 *Where a standard TEN was given, the licensing authority must consider the objection at a hearing before a counter notice can be issued. At the hearing, the police, EHA and the premises user may make representations to the licensing authority. Following the hearing, the licensing authority may decide to impose conditions which already apply to an existing premises licence or club premises certificate at the venue, or issue a counter notice to prevent the event going ahead. As noted above, there is no scope for hearings in respect of late TENs and if objections are raised by the police or EHA in relation to a late TEN, the notice will be invalid and the event will not go ahead. (paragraph 7.34)*
- 4.10 *...the police or EHA (as “relevant persons”) may contact the premises user to discuss their objections and try to come to an agreement which will allow the proposed licensable activities to proceed. The TEN can be modified (for example, by changing the details of the parts of the premises that are to be used for the event, the description of the nature of the intended activities or their duration). The other relevant person has to agree for the modification to be made. There is no scope under the 2003 Act for the modification of a late TEN. (paragraph 7.37)*
- 4.11 *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. (Paragraph 9.37)*

## **5.0 LEGAL FRAMEWORK**

- 5.1 Where a Licensing Authority receives an objection notice it is required, by S.105(2) of the Licensing Act 2003, to:
- hold a hearing to consider the objection notice, unless the premises user, the relevant person who gave the objection notice and the Licensing Authority agree that a hearing is unnecessary; and
  - having regard to the objection notice, give the premises user a counter notice if it considers it appropriate for the promotion of a licensing objective to do so.
- 5.2 When a hearing is required it must be held within seven working days, starting from the end of the period within which objections may be made. That is why this hearing appears to have been set up with short notice. Similarly, the notice of hearing has to be sent out no later than two working days before the day of the hearing.



- 5.3 Where an objection notice is given, there is provision under Section 106 of the Licensing Act 2003 for the relevant persons(s) (in this case Environmental Health) to agree with the premises user to modify the TEN (as mentioned in Paragraph 4.10 of this report). However, this agreement must be made before the hearing, or before the hearing is dispensed with under Section 105(2). As a result, there is no option to modify the TEN at the hearing itself.

## **6.0 OPTIONS**

- 6.1 The Sub Committee can decide to:

- Allow the licensable activities to go ahead as stated in the notice;
- Impose one or more existing licence conditions on the TEN; Or
- Stop the event from taking place by issuing a Counter Notice.

- 6.2 As mentioned in paragraph 2.7, there does not appear to be any relevant conditions on the premises licence to attach to this particular TEN. Within their representation, Environmental Health has also acknowledged this (see Annex 3).

## **7.0 DETERMINATION**

- 7.1 Members are obliged to decide whether or not to issue a counter notice following consideration of the evidence presented to them. They may only issue a counter notice if they consider it appropriate for the promotion of the licensing objectives.

- 7.2 Where Members decide to serve a counter notice, the Licensing Authority must give the premises user;

- the counter notice; and
- a notice stating the reasons for the decision

A copy must also be given to the Police and Environmental Health.

- 7.3 Where Members decide not to serve a counter notice, the Licensing Authority must give the premises user, Environmental Health and the Police notice of this decision. The notice must include detailed reasons for the decision that is made.

- 7.4 This Council has adopted a procedure for hearings and this is attached as Annex 4.

## 8.0 APPEAL

8.1 Under Paragraph 16 of Schedule 5 to the Licensing Act 2003 an appeal may be made against the Licensing Sub Committee's decision by:

- the premises user if a counter notice is issued; or
- Environmental Health if a counter notice is not issued

8.2 Any appeal must be made to the Magistrates' Court within 21 days of having received formal notification of the decision by the Licensing Authority. However, Paragraph 16 (6) of Schedule 5 to the Licensing Act 2003 states that '*no appeal may be brought later than five working days before the day on which the event period specified in the temporary event notice begins*'. This applies in this case because the event is due to start on 20 September 2019 and the hearing is to be held on 16 September 2019, allowing just 3 working days. As a result, it will not be possible for any party to appeal the decision of the Licensing Sub-Committee.

**Contact for more Information:** Tom Keating (Specialist Lead, Licensing) / 01884244618 / [tkeating@middevon.gov.uk](mailto:tkeating@middevon.gov.uk) OR Simon Newcombe (Group Manager for Public Health and Regulatory Services / 01884234615 / [snewcombe@middevon.gov.uk](mailto:snewcombe@middevon.gov.uk)

### Circulation of the Report:

Legal Services  
Community Team (Environmental Health), Public Health and Regulatory Services  
Members of Licensing Sub-Committee B  
Premises User

### List of Background Papers:

Licensing Act 2003 - <https://www.legislation.gov.uk/ukpga/2003/17/contents>

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

Mid Devon District Council Licensing Act Policy - <https://www.middevon.gov.uk/business/licensing/new-statement-of-licensing-policy-licensing-act-2003/>





Mr. R Long  
XXXX  
XXXX  
XXXX

**Public Health**  
Phoenix House  
Phoenix Lane  
Tiverton  
Devon  
EX16 6PP  
[www.middevon.gov.uk](http://www.middevon.gov.uk)

Your Ref:  
Our Ref: 18/01695/NCOPUB

Contact: Mr I Winter  
Telephone 01884 255255  
Email: [iwinter@middevon.gov.uk](mailto:iwinter@middevon.gov.uk)  
DX: 49011 (Tiverton)

Date: 3<sup>rd</sup> \October 2018

Dear Mr Long

**ENVIRONMENTAL PROTECTION ACT 1990 & LICENSING ACT 2003, ALLEGED NOISE  
NUISANCE – TEN at Newton St Cyres Recreation Ground**

The purpose of this letter is to advise you that we have received a complaint with regard to loud music from the temporary event which took place over the weekend of the 21<sup>st</sup> September.

It is alleged that the music noise levels were well in excess of the permitted level for the event. If you are intending to hold the event again you will need to contact me in order to discuss how you intend to strengthen your noise management plan, reduce the music noise level, monitor and manage the reduced music noise levels.

It is likely that I will object to any further TEN's on the site, until you have undertaken this work and I am satisfied that the works will reduce the noise levels to an acceptable level as detailed in your noise management plan.

If you would like to discuss this matter further, please do not hesitate to contact me.

Yours sincerely,

Specialist Lead (Environmental Protection)

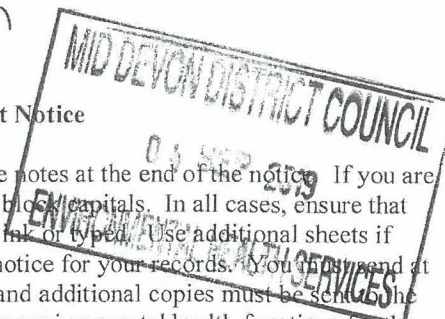
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**Requests for alternative formats will be considered on an individual basis.  
Please telephone 01884 255255 or email [customerfirst@middevon.gov.uk](mailto:customerfirst@middevon.gov.uk)**

Fri 20<sup>th</sup> September 19 - Sat 21<sup>st</sup> September 19 ANNEX 2  
Recreation ground, Newton  
St Cures

Temporary Event Notice

Before completing this notice, please read the guidance notes at the end of the notice. If you are completing this notice by hand, please write legibly in block capitals. In all cases, ensure that your answers are inside the boxes and written in black ink or typed. Use additional sheets if necessary. You should keep a copy of the completed notice for your records. You must send at least one copy of this notice to the licensing authority and additional copies must be sent to the chief officer of police and the local authority exercising environmental health functions for the area in which the premises are situated. The licensing authority will give you written acknowledgement of the receipt of the notice.



TE 4794

I, the proposed premises user, hereby give notice under section 100 of the Licensing Act 2003 of my proposal to carry on a temporary activity at the premises described below.

1. The personal details of premises user (Please read note 1)	
1. Your name	
Title	Mr <input checked="" type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other (please state)
Surname	LONG
Forenames	RICHARD
2. Previous names (Please enter details of any previous names or maiden names, if applicable. Please continue on a separate sheet if necessary)	
Title	Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other (please state)
Surname	N/A
Forenames	
3. Your date of birth	
4. Your place of birth	
5. National Insurance Number	
6. Your current address (We will use this address to correspond with you unless you complete the separate correspondence box below)	
Post town	Postcode
7. Other contact details	
Telephone numbers	
Daytime	
Evening (optional)	
Mobile (optional)	
Fax number (optional)	
E-Mail address (if available)	
8. Alternative address for correspondence (If you complete the details below, we will use this address to correspond with you)	
N/A	
Post town	Postcode





9. Alternative contact details (if applicable)	
Telephone numbers: Daytime	N/A.
Evening (optional)	
Mobile (optional)	
Fax number (optional)	
E-Mail address (if available)	

2. The premises	
Please give the address of the premises where you intend to carry on the licensable activities or, if it has no address, give a detailed description (including the Ordnance Survey references) (Please read note 2)	
RECREATION GROUND, NEWTON ST. CYRES. EX5 5AT	
Does a premises licence or club premises certificate have effect in relation to the premises (or any part of the premises)? If so, please enter the licence or certificate number below.	
Premises licence number	MDV PRO353
Club premises certificate number	020731
If you intend to use only part of the premises at this address or intend to restrict the area to which this notice applies, please give a description and details below. (Please read note 3)	
N/A.	
Please describe the nature of the premises below. (Please read note 4)	
RECREATION CLUB GROUNDS, FIELDS, CLUBHOUSE, TOILETS, SHOWERS, CAR PARK.	
Please describe the nature of the event below. (Please read note 5)	
CAMPING, MUSIC, BIKE SHOW, RIDE-OUT RAISING FUNDS FOR REGISTERED CHARITIES : BLOODBIKES (DEVON FREEWHEELERS EVS) & MOTORCYCLE OUTREACH.	

3. The licensable activities		
Please state the licensable activities that you intend to carry on at the premises (please tick all licensable activities you intend to carry on). (Please read note 6)		
The sale by retail of alcohol <i>NO INVOLVEMENT WITH ALCOHOL SALES; MANAGED BY RECREATIONAL CLUB FROM THEIR CLUBHOUSE</i>		<input checked="" type="checkbox"/>
The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club		<input checked="" type="checkbox"/>
The provision of regulated entertainment (Please read note 7)		<input checked="" type="checkbox"/>
<i>LIVE MUSIC, RECORDED MUSIC</i>		<input checked="" type="checkbox"/>
The provision of late night refreshment		<input checked="" type="checkbox"/>
Are you giving a late temporary event notice? (Please read note 8)		<input checked="" type="checkbox"/>
Please state the dates on which you intend to use these premises for licensable activities. (Please read note 9)		
<i>20th, 21st &amp; 22nd SEPTEMBER 2019.</i>		
Please state the times during the event period that you propose to carry on licensable activities (please give times in 24 hour clock). (Please read note 10)		
<i>FRI 20th - 12:00 - 23:59</i> <i>SAT 21st - 00:00 - 01:00 &amp; 12:00 - 23:59</i> <i>SUN 22nd - 00:00 - 01:00</i>		
Please state the maximum number of people at any one time that you intend to allow to be present at the premises during the times when you intend to carry on licensable activities, including any staff, organisers or performers. (Please read note 11)		<i>499</i>
If the licensable activities will include the sale or supply of alcohol, please state whether these will be for consumption on or off the premises, or both (please tick as appropriate). (Please read note 12)	On the premises only	<input checked="" type="checkbox"/>
	Off the premises only	<input checked="" type="checkbox"/>
	Both	<input checked="" type="checkbox"/>

<p>Please state if the licensable activities will include the provision of relevant entertainment. If so, please state the times during the event period that you propose to provide relevant entertainment (including, but not limited to lap dancing and pole dancing). (Please see note 13)</p> <p><i>NO</i></p>
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4. Personal licence holders (Please read note 14)						
Do you currently hold a valid personal licence? (Please tick)		<table border="1"> <tr> <td>Yes</td> <td>No</td> </tr> <tr> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> </table>	Yes	No	<input type="checkbox"/>	<input type="checkbox"/>
Yes	No					
<input type="checkbox"/>	<input type="checkbox"/>					
If "Yes" please provide the details of your personal licence below.						
Issuing licensing authority						
Licence number	N/A					
Date of issue						
Any further relevant details						

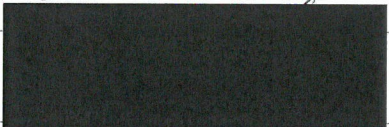
5. Previous temporary event notices you have given (Please read note 15 and tick the boxes that apply to you)		
Have you previously given a temporary event notice in respect of any premises for events falling in the same calendar year as the event for which you are now giving this temporary event notice?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If answering yes, please state the number of temporary event notices (including the number of late temporary event notices, if any) you have given for events in that same calendar year		
Have you already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

6. Associates and business colleagues (Please read note 16 and tick the boxes that apply to you)		
Has any associate of yours given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If answering yes, please state the total number of temporary event notices (including the number of late temporary event notices, if any) your associate(s) have given for events in the same calendar year.		
Has any associate of yours already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Has any person with whom you are in business carrying on licensable activities given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If answering yes, please state the total number of temporary event notices (including the number of late temporary event notices, if any) your business colleague(s) have given for events in the same calendar year.		
Has any person with whom you are in business carrying on licensable activities already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

7. Checklist (Please read note 17)	
I have: (Please tick the appropriate boxes, where applicable)	
Sent at least one copy of this notice to the licensing authority for the area in which the premises are situated	<input checked="" type="checkbox"/>
Sent a copy of this notice to the chief officer of police for the area in which the premises are situated	<input checked="" type="checkbox"/>
Sent a copy of this notice to the local authority exercising environmental health functions for the area in which the premises are situated	<input checked="" type="checkbox"/>
If the premises are situated in one or more licensing authority areas, sent at least one copy of this notice to each additional licensing authority	<input checked="" type="checkbox"/> N/A
If the premises are situated in one or more police areas, sent a copy of this notice to each additional chief officer of police	<input checked="" type="checkbox"/> N/A
If the premises are situated in one or more local authority areas, sent a copy of this notice to each additional local authority exercising environmental health functions	<input checked="" type="checkbox"/> N/A
Made payment of the fee for the application	<input checked="" type="checkbox"/>
Signed the declaration in Section 9 below	<input checked="" type="checkbox"/>

f21 ~~CHARGE~~

8. Condition (Please read note 18)
It is a condition of this temporary event notice that where the relevant licensable activities described in Section 3 above include the sale or supply of alcohol that all such supplies are made by or under the authority of the premises user.

9. Declarations (Please read note 19)	
The information contained in this form is correct to the best of my knowledge and belief.	
I understand that it is an offence:	
(i) to knowingly or recklessly make a false statement in or in connection with this temporary event notice and that a person is liable on summary conviction for such an offence to a fine of any amount; and	
(ii) to permit an unauthorised licensable activity to be carried on at any place and that a person is liable on summary conviction for any such offence to a fine of any amount, or to imprisonment for a term not exceeding six months, or to both.	
Signature	
Date	25th August 2019.
Name of Person signing	RICHARD LONG.

For completion by the licensing authority

10. Acknowledgement (Please read note 20)	
I acknowledge receipt of this temporary event notice.	
Signature	On behalf of the licensing authority
Date	
Name of Officer signing	



## OBJECTION NOTICE FORM FROM A RESPONSIBLE AUTHORITY

**Responsible Authority** (please delete as applicable): Police / Environmental Health

<b>Your Name</b>	Ian Winter
<b>Job Title</b>	Specialist Lead (Environmental Protection)
<b>Postal and email address</b>	Public Health Services Mid Devon District Council iwinter@middevon.gov.uk
<b>Contact telephone number</b>	01884 255255

<b>Name of applicant for TEN</b>	Mr. Richard Long
<b>Address of premises for proposed TEN</b>	Newton St. Cyres Recreation Ground, Newton St. Cyres, EX5 5AT
<b>Date this objection was given to:</b>	
<b>Licensing Authority</b>	5 <sup>th</sup> September 2019
<b>Premises user (applicant)</b>	5 <sup>th</sup> September 2019 (post as no email available)
<b>Any other relevant persons</b>	5 <sup>th</sup> September 2019

<i><b>Which of the four licensing Objectives does your objection relate to?</b></i>	<i><b>Yes Or No</b></i>	<i><b>Please detail the reason for your objection. Please use separate sheets if necessary</b></i>
<b>To prevent crime and disorder</b>		
<b>Public safety</b>	Yes	No information has been provided with this TEN in relation to addressing any public safety concerns for a three day event with camping.
<b>To prevent public nuisance</b>	Yes	Due to a number of residential properties in close proximity to the premises and taking past noise complaints into consideration, public health considers that an event for up to 499 people with live music and camping going on until 1.00am Saturday and 1.00am Sunday morning will result in public nuisance by the emitting of intrusive noise from regulated entertainment.
<b>To protect children from harm</b>		

<b>Does a premises licence or club premises certificate have effect in relation to the premises (or any part of the premises)?</b>	Yes	
<b>If yes, are there conditions on the licence, consistent with the activities applied for on the TEN, that you feel are appropriate to promote the licensing objectives?</b>		No

<b>Please state the relevant conditions below:</b>
--

Signed            Ian Winter

Date: 5<sup>th</sup> September

**This form must be returned within the Statutory Period. For more details please check with the Licensing Section on 01884 255255.**

## Appendix B      Hearing Procedures

### 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 stray 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 the 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/ukxi/2005/44/pdfs/ukxi\\_20050044\\_en.pdf](http://www.legislation.gov.uk/ukxi/2005/44/pdfs/ukxi_20050044_en.pdf)

#### **Hearing Procedures**

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

#### **Hearing Guidance**

- General guidance to attendees

## **HEARING PROCEDURE: TEMPORARY EVENT NOTICES (TENs)**

### **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:
  - Premises User (the person who has submitted the TEN) and any person representing or assisting them
  - Responsible Authorities that have made a relevant representation
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:
  - Premises User



- Responsible Authorities
- Sub-Committee

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

**Case for the premises user (the person who has submitted the TEN)**

11. The premises user (or their representative) to present case in support of the TEN.
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
- Sub-Committee

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

**Case for responsible authorities (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:

- Premises user
- Sub-Committee

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

**Summary**

17. 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:

- Premises User
- Responsible Authorities

**The decision**

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

## **General guidance to attendees**

### **RIGHTS OF A PARTY**

As a party to the hearing, you are entitled to:

- Attend the hearing
- Be assisted or represented at the hearing by another person, whether or not that person is legally qualified
- Give further information in support of your application or representation in circumstances where the Licensing Authority has given you notice that clarification on a point is required
- Question any other party if given permission to do so by the Licensing Authority
- Address the Licensing Authority

### **FAILURE TO ATTEND THE HEARING**

- If you or your representative are unable to attend the hearing, the hearing may proceed in your absence (in which case the Licensing Authority will consider the application, representation or notice made by you)
- Alternatively, the Licensing Authority may, where it is in the public interest, adjourn the hearing to another date and notify all parties

### **HEARING PROCEDURE**

- The procedure to be followed at the hearing is contained in the document 'Protocol and Procedure for Licensing Sub-Committee Hearings'.

### **ADDITIONAL INFORMATION**

#### **Documents**

- You may produce documents or other information in support of your application, representation or notice (as applicable) either before the hearing, or with the consent of all the other parties, at the hearing
- In considering the representations or notice made by you, the Licensing Authority may take into account any documents produced in accordance with this provision.



### Submissions

- You must confine your submission at the hearing to the representations you have made within the statutory prescribed period. You may not raise new representations at the hearing.

### Time

- There is no set time limit for verbal submissions at the hearing. The Chairman or Councils legal advisor may move the discussion on if you begin to repeat yourself or introduce points that are not relevant.
- Where a number of parties attending a hearing wish to make the same or similar points, the Chairman may invite parties to appoint a spokesperson (if they have not done so already). You will then be entitled to add anything you consider the spokesperson has omitted.

### Disruptive behaviour

- Any person attending the hearing who is deemed by the Licensing Authority to be behaving in a disruptive manner will be required to leave the hearing.

### **DETERMINATION AND NOTIFICATION OF DECISION**

- The Licensing Authority will try to make its decision on the same day as the hearing whenever possible
- The Licensing Authority will notify each party in writing of its determination and the rights of appeal

### **ADDITIONAL INFORMATION**

Should you require any further information about the hearing process please contact the Licensing Authority on 01884 255255