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11 April 2019

LICENSING ACT 2003 SUB-COMMITTEE 2

Dear Councillor

You are invited to a meeting of the above Committee which will take place on **Tuesday, 23rd April, 2019** in the Music Room, Old Forde House, Brunel Road, Newton Abbot, TQ12 4XX at **10.00 am**

Yours sincerely

PHIL SHEARS
Managing Director

Distribution:

- (1) The Members of the Licensing Act 2003 Sub-Committee 2

Councillor Charlie Dennis (Chairman)
Councillor Rosalind Prowse
Councillor John Nutley

Teignbridge District Council

Teignbridge District Council

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A G E N D A

Part I

1. Apologies for Absence
2. Minutes (Pages 1 - 4)
To confirm the minutes of the last meeting
3. Agreement of the agenda between Parts I and II
4. Matters of urgency/matters of report especially brought forward with the permission of the Chairman
5. Declarations of Interest
6. Application for a New Premises Licence - Virgo Festival, Great Fulford, Dunsford (Pages 5 - 22)

LICENSING ACT 2003 SUB-COMMITTEE 2**6 DECEMBER 2018**

Present Councillors Rollason (Chairman), Morgan and Winsor

In attendance Mr Hayles, Applicant

Officers in Attendance:

Marie Downey, Solicitor

Andrea Furness, Licensing Manager

Trish Corns, Democratic Services Officer

1. ELECTION OF CHAIRMAN

It was proposed by Councillor Winsor, seconded by Councillor Morgan and
Resolved

That Councillor Rollason be elected Chairman for the meeting.

2. MINUTES

The Minutes of the meeting held on 21 August 2018 were confirmed as a correct record and signed by the Chairman.

3. DECLARATIONS OF INTEREST

There were no declarations of Interest.

4. APPLICATION FOR A NEW LICENCE FOR THE PREMISES KNOWN AS THE RUST AND THE WOLF, ASHBURTON**4.1 Introductions**

The Chairman introduced the Members of the Sub Committee, Legal Adviser, Licensing Officer, Democratic Services Officer and explained their respective roles.

The Chairman advised that the Sub Committee would take into account the merits of the application against the four licensing objectives: the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm, in addition to the Home Office Guidance and the Council's Licensing Policy.

4.2 Procedure to be followed

The Legal Adviser referred to the procedure to be followed for the Hearing and those present wishing to make verbal submissions. There had been no requests from any other party to speak at the hearing. The procedure was as previously circulated to all interested parties with the Notice of Hearing. All parties had been sent an agenda.

4.3 The Council's Licensing Officer's Report

The Licensing Manager referred to the report previously circulated with the Notice of Hearing and the agenda, which contained full details of the application. The Licensing Manager referred to the current conditions, circulated with the agenda. The premises would be known as The Rust and The Wolf. Two objection representations from residents had been received on the grounds of public nuisance. One objection had been resolved with a mediated amendment by the Police. The two objectors were not in attendance at the meeting. In response to questions the Licensing Manager advised that the police had not requested CCTV and that this was only usually requested if the closing hour was after midnight and there were crime and disorder issues in the locality. Late night refreshment had not been requested because the premises would not be open passed 2300hrs.

4.4 Address by Interested Parties

4.4.1 Mr Hayles Applicant

In attendance at the meeting was Mathew Hayles, the Applicant and Designated Premises Supervisor. He advised that he had spoken to one of the objectors. Following their discussion the objector seemed content with his application, but their representation was not formally withdrawn. He also referred to a document of approximately 100 signatures from existing customers in support of the new licence application to enable wine to be served with dinner. The Sub Committee agreed that this be circulated at the Hearing as additional information.

In response to questions, the Applicant advised that deliveries would be within working hours only; he has had previous temporary event notices and he has not been aware of any objections; the food service would cease at 2100hrs in the external courtyard area so as not to cause a noise nuisance to neighbours; and that the former use of the premises had been kitchen cabinet makers.

The Legal Adviser confirmed that she was not aware of any noise nuisance issues in relation to the premises having been reported to the Council's Environmental Health Department.

5. Decision

"We have very carefully considered all the written and oral evidence and submissions from all the parties.

The Council's Licensing Policy states that terminal hours will normally be approved when the applicant can show that the proposal would not adversely affect the licensing objectives, unless after hearing relevant representations, the Council believes it necessary, proportionate and reasonable to restrict the hours requested. On the evidence that we have heard, we are satisfied that the Applicant is experienced and responsible, and we do not consider it is necessary, proportionate and reasonable to restrict the hours requested. We are satisfied on the balance of probability that the premises will not cause an unreasonable nuisance to local residents.

In the circumstances we grant the application as detailed in the report."

Rights of Appeal

This decision does not take effect until the period for making an appeal has expired, or if an appeal is made, until that appeal has been determined. An appeal may be made by the applicant for the review, the premises licence holder or any person who made relevant representations in relation to the application.

If you wish to appeal you must give notice of appeal to the Clerk to the Justices at the South Devon Magistrates' Court, 1st Floor, Riviera House, Nicholson Road, Torquay TQ2 7TT, within the period of 21 days beginning with the day on which you were notified of the decision.

Should there be problems associated with the premises, the Council's Environmental and Safety Department has powers under the Environmental Protection Act 1990 to take action against statutory noise nuisances.

CLLR DAVID ROLLASON
Chairman

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TEIGNBRIDGE DISTRICT COUNCIL

LICENSING ACT 2003 SUB-COMMITTEE

CHAIRMAN: Cllr Edward Hockin

DATE: 23 April 2019

REPORT OF: Licensing Manager

SUBJECT: **Application for a New Premises Licence – Virgo Festival, Great Fulford, Dunsford, Exeter, EX6 7AJ**

PART I

RECOMMENDATION

That the Licensing Act 2003 Sub-Committee consider this application.

PART I

1. THE APPLICATION

Applicant: Virgo Festival Limited

Premises: Great Fulford, Dunsford, Exeter, EX6 7AJ

The application is for a Premises Licence to be granted under the Licensing Act 2003 is to allow the live music, recorded music, performance of dance, late night refreshment and supply of alcohol.

The operating schedule shows:-

Hours Premises Open to the Public:

Thursday 23 May 2019	12 Noon to 3am
Friday 24 May 2019	11am to 5am
Saturday 25 May 2019	11am to 5am
Sunday 26 May 2019	11am to 4am
Monday 27 May 2019	8am to 12 Noon.

Relevant licensable activities:

- Supply of alcohol.
- Provision of regulated entertainment: live and recorded music and performance of dance.
- Provision of late night refreshment.

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Hours of licensable activities:

Performance of Live Music (Indoors)	-	Thursday	12 Noon to 3am
		Friday	11am to 5am
		Saturday	11am to 5am
		Sunday	11am to 4am
Playing of Recorded Music (Indoors and Outdoors)	-	Thursday	12 Noon to 3am
		Friday	11am to 5am
		Saturday	11am to 5am
		Sunday	11am to 4am
Performance of Dance (Outdoors)	-	Thursday	12 Noon to 3am
		Friday	11am to 5am
		Saturday	11am to 5am
		Sunday	11am to 4am
Late Night Refreshment (Outdoors)	-	Thursday	11pm to 3am
		Friday	11pm to 5am
		Saturday	11pm to 5am
		Sunday	11pm to 4am
Supply of Alcohol (On the premises)	-	Thursday	12 Noon to 2.30am
		Friday	10am to 4.30am
		Saturday	10am to 4.30am
		Sunday	10am to 3.30am

Designated premises supervisor: **Benjamin Leigh**

Supply of alcohol is for consumption on the premises.

Steps to promote licensing objectives:

- General
 - Work in partnership with Teignbridge District Council (TDC), Licensing & Environmental Health Departments, the police, Ambulance and Devon and Somerset Fire and Rescue Service;
 - Comply with recognised safety standards, to provide a safe, enjoyable event; ensuring the health, safety and well-being of the public as well as all event personnel, volunteers, contractors and participants;
 - Provide a high standard of planning, organisation and management;
 - Listen and respond to the needs of the community and residents of the local area.
- The prevention of crime and disorder

There will be a combination of 13 SIA licensed security personnel and stewards on duty at the event. Security will be supplied by Event Safety Alliance, and stewards are all volunteers who will be trained and briefed on their responsibilities ahead of their shifts. SIA security will be deployed at the event to manage all entrances and exit points, the car park, at set locations throughout the event and in restricted areas such as backstage. The security team will be present from the time the access to the site opens until the event closes, to ensure stringent entry procedures are maintained, crowd management processes are enacted and that the safety and integrity of the public, as well as that of working

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personnel and equipment are protected. Security will also be in charge of managing and briefing our steward team.

- Public safety

- Procedures will be in place to ensure public safety is met at all times. Constant clear communication between all relevant Personnel through the use of radios will be in place, and all relevant personnel will be briefed and trained in using the equipment.
- Our security team will be on duty at all times during the premises period to monitor public safety.
- There will be a Medical Centre with supplies and equipment, an operational and clinical lead plus a team of registered nurses. They will also have an emergency ambulance and an operational ambulance crew. Accidents will be recorded and reported to relevant authorities.
- Fire protection for the event is in line with the recommended guidelines. The fire brigade will be kept updated with the event plan and in previous years the fire department has inspected the site with the event organisers, and the necessary safety measures have been reflected in our event plan and risk assessments.
- Potential hazards will be identified and included in our risk assessments, and appropriate action will be taken to ensure do not remain a risk to the public. In previous years we have had many departments of Teignbridge District Council inspect the site and highlight any potential risks. These have been identified in our risk assessments and control measures described to overcome these risks. Risk assessments are completed with the guidance and assistance of the council.

- The prevention of public nuisance

- Noise management strategies will be implemented by the engineers to ensure that the event causes minimal noise disturbance to the residents local to the event site. Structures will be put in place to reduce sound pollution, ensuring that any noise at the event is monitored and managed accordingly at all times, with the least amount of complaints.
- Event organisers visit the local residents regularly to keep them informed of the event before and after the show, inviting them to the event and collecting feedback and dealing with complaints before, during and after the event.
- The waste management and recycling service will be provided by Essential
- Recycling. Recycling separation systems will be set up across the site and in the production area, with recycling pens and a waste sorting and storage area.
- Essential Recycling will offer pre-festival communication with traders with the aim of limiting waste production and increasing recycling, and they will manage their own team and our volunteer team of litter pickers.
- Lighting will be supplied by a qualified contractor, ensuring that light pollution is kept to a minimum.

- The protection of children from harm

This is an over 18s event. No children will be present.

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Conditions Agreed – Environmental Health (if any)

Noise management conditions, to be followed when events occur at Fulford House.

Fulford House conditions.

1. The hours of the event and periods sound emanates from the site needs to be confirmed as acceptable by the land owner.
2. During and following the event the sound level monitoring results to be available to be assessed by Teignbridge Environmental Health.
3. If complaints are received and justified by Teignbridge Council Officer the amplified sound will be stopped, site sound levels reassessed and will not to be restarted until the noise impact is reduced and agreed with Teignbridge Council Officer.
4. A noise consultant shall monitor noise levels at the sound mixer position and designated monitoring points, at the facade of noise sensitive properties or sites where complaints have been received throughout the event. Off-site monitoring at noise sensitive locations as agreed with TDC. 15 minute measurements will be taken and off site sound level assessments taken hourly while sound systems are in use.

Additional information – discussed with applicant.

- ***(facade measurements come out 2-3 dB higher than measurements taken at free-field locations representative of the facade due to facade reflections)***
5. An event noise management contact phone number (or another agreed suitable method if there is no phone signal) will be provided to the public and out of hours safety services.
 6. Licensee shall insure that the promoter, sound system supplier and all individual sound engineers are informed of the sound control limits and to follow any instructions from the noise consultant or Teignbridge Council Officer regarding noise level.
 7. The controlled level at the mixer position shall be adequate to ensure that the noise level at any noise sensitive premises shall not exceed 65dBa Laeq over a 15minute period 10:00am – 00:00hrs and 00:00 – 04:00hrs the sound from the event will not exceed 10dBa LAeq 5min above the background sound level La90 at the identified receivers adjacent to the perimeter of the estate / event site (roadway surrounding the site). Particular attention will be made to prevent noise impact at Greenlane Farm, Dunsford, Exeter, EX6 7AN 400m from the venue, noise barriers and sound stage will need to be set with this in mind.

Background sound level provided by TDC, 25db L90 15min level was previously taken between 00:00 and 03:00am. Sound / music / noise from the event after 00:00 will not exceed 35db Laeq and bass tones will be attenuated.

Additional information – discussed and agreed with applicant.

- ***As we have discussed on the phone the sound level conditions stand, but as part of the sound propagation tests and site monitoring program, the background sound level shall be checked and confirmed with TDC Environmental Health department prior to any increase of on site event sound level over the current stated levels in the TDC condition 7.***
8. A sound propagation test shall be undertaken prior to the event in order to set controlled limits at the sound mixer position of each of the sound systems.
 9. Sound from the event 4:00am – 10:00am will be inaudible / not distinguishable.
Note: Distinguishable: This relates to the ability to recognise a noise disturbance that is not in character with the area. This may not be the predominant acoustic feature above

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background noise levels, but would be an identifiable feature of the environment. If the song / track / beat can be relatively easily identified, and the location of that noise source is known due to the volume, then it is likely that it will be clearly distinguishable and in breach of this condition.

10. Details to be provided showing what barriers / acoustic treatment will be used at each of the stages / sound sources. Specific plans and designs are to be provided for any sound sources operating after 23.00 and tested, signed off by the acoustic engineer and TDC officer as part of the propagation test. Information to be received by Teignbridge Environmental Health before 1st May 2018. (Focus the sound on the crowd, prevent noise bleed between the systems and prevent / reduce impact at noise sensitive premises).
11. No unauthorised sound systems - All sound sources to be highlighted to the site acoustic control team and under their management.

Identification of the nearest noise sensitive premises

Property location	Direction from festival site	Distance from Site (closest source)
Park Gate Cottage, Dunsford, Exeter, EX67DN	South	650m
Brook Cottage, Dunsford, Exeter, EX67BG	East	1000m
Moor Farm, Dunsford, Exeter, EX67DP	South East	1200m
Roundhill Farm, Dunsford, Exeter, EX67AN	North West	1400m
Greenlane Farm, Dunsford, Exeter, EX67AN	North	400m
Middletown Farm, Tedburn St Mary, Exeter, EX66DT	North East	1500m

Additional information – discussed and agreed with applicant.

- ***Property locations maybe added to this list following complaints during the event and addresses highlighted due to other activities at Fulford House.***
- ***our appointed noise consultant and Noise Management Officer is working on calculated noise propagation predictions in the form of visual projections plotted on a map. These will be made for our benefit in order to ensure we can carry out the Noise Management Plan successfully. But we will also make them available for TDC to look at should they need more proof of the attention that is being paid to noise at the event.***

Additional information was provided by and discussed with

Noise consultant -

Sound engineer -

Event manager –

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RELEVANT REPRESENTATIONS

Responsible authorities:

Police – no representation received.

Environmental Health Officer – no objection as conditions agreed.

Fire Officer – no objection.

Planning Officer – no objection

Child Protection Agency - no representation received.

Weights & Measures – no representation received.

Interested parties:

A representation was received on the grounds of Public Nuisance.

Note: Relevant extracts from D.C.M.S. Guidance and the Council's own Licensing Policy are attached at the end of the report to assist members consider these representations.

Andrea Furness
Licensing Manager

Wards affected	<i>Teign Valley</i>
Contact for any more information	<i>Andrea Furness - 5545</i>
Background Papers (For Part I reports only)	<i>Licensing Act 2003 Section 182 Guidance for Police and Licensing Authorities and Statement of Licensing Policy</i>
Key Decision	<i>No</i>
In Forward Plan	<i>No</i>
Community Impact Assessment attached:	<i>No</i>
Appendices	<i>Appendix A – National Guidance Appendix B – Licensing Policy</i>

National Guidance

National guidance regarding premises is as follows:-

- '14.9 All statements of policy should begin by stating the four licensing objectives, which the licensing policy should promote. In determining its policy, a licensing authority must have regard to this Guidance and give appropriate weight to the views of consultees.*
- 14.10 While statements of policy may set out a general approach to making licensing decisions, they must not ignore or be inconsistent with provisions in the 2003 Act. For example, a statement of policy must not undermine the right of any person to apply under the terms of the 2003 Act for a variety of permissions and to have any such application considered on its individual merits.*
- 14.11 Similarly, no statement of policy should override the right of any person to make representations on an application or to seek a review of a licence or certificate where provision has been made for them to do so in the 2003 Act.*
- 14.12 Statements of policies should make clear that:*
- licensing is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the 2003 Act; and*
 - conditions attached to various authorisations will be focused on matters which are within the control of individual licensees and others with relevant authorisations, i.e. the premises and its vicinity.*
- 14.13 A statement of policy should also make clear that licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy in town and city centres.*
- 14.29 As noted above, there should be an evidential basis for the decision to publish a CIA. Local Community Safety Partnerships and responsible authorities, such as the police and the environmental health authority, may hold relevant information which would inform licensing authorities when establishing the evidence base for publishing a CIA. Evidence of cumulative impact on the promotion of the licensing objectives needs to relate to the relevant problems identified in the specific area to be covered by the CIA. Information which licensing authorities may be able to draw on includes:*
- Local crime and disorder statistics, including statistics on specific types of crime and crime hotspots;*
 - Statistics on local anti-social behaviour offences;*
 - Health-related statistics such as alcohol-related emergency attendances and hospital admissions;*
 - Environmental health complaints, particularly in relation to litter and noise;*
 - Complaints recorded by the local authority, which may include complaints raised by local residents or residents' associations;*
 - Residents' questionnaires;*
 - Evidence from local and parish councillors; and*

- Evidence obtained through local consultation.

14.30 The licensing authority may consider this evidence, alongside its own evidence of the impact of licensable activities within its area, and consider in particular the times at which licensable activities are carried on. Information which may inform consideration of these issues includes:

- Trends in licence applications, particularly trends in applications by types of premises and terminal hours;
- Changes in terminal hours of premises;
- Premises capacities at different times of night and the expected concentrations of drinkers who will be expected to be leaving premises at different times.

14.33 After considering the available evidence and consulting those individuals and organisations listed in section 5(3) of the 2003 Act and any others, a licensing authority may be satisfied that it is appropriate to publish a CIA. The CIA should also be considered alongside local planning policy and other factors which may assist in mitigating the cumulative impact of licensed premises, as set out in paragraph 14.46.

14.40 In publishing a CIA a licensing authority is setting down a strong statement of intent about its approach to considering applications for the grant or variation of premises licences or club premises certificates in the area described. Having published a CIA a licensing authority must have regard to the assessment when determining or revising its statement of licensing policy. It is therefore expected that, in respect of each relevant application in the area concerned, the licensing authority will be considering whether it is appropriate to make a representation to its committee as a responsible authority in its own right. The CIA does not, however, change the fundamental way that licensing decisions are made. It is therefore open to the licensing authority to grant an application where it considers it is appropriate and where the applicant can demonstrate in the operating schedule that they would not be adding to the cumulative impact. Applications in areas covered by a CIA should therefore give consideration to potential cumulative impact issues when setting out the steps that will be taken to promote the licensing objectives. Where relevant representations are received and a licensing authority decides to grant an application it will need to provide the applicant, the chief officer of police and all parties who made relevant representations with reasons for granting the application and this should include any reasons for departing from their own policy.

14.41 The CIA must also stress that it does not relieve responsible authorities (or any other persons) of the need to make relevant representations where they consider it appropriate to do so for the promotion of the licensing objectives. Anyone making a representation may base it on the evidence published in the CIA, or the fact that a CIA has been published. It remains incumbent on all responsible authorities and other persons to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing. As with all licensing applications under the 2003 Act, if there are no representations, the licensing authority must grant the application in terms that are consistent with the operating schedule submitted.

14.44 A CIA should never be absolute. Statements of licensing policy should always allow for the circumstances of each application to be considered properly and for applications that are unlikely to add to the cumulative impact on the licensing objectives to be granted. After receiving relevant representations in relation to a new application for or a variation of a licence or certificate, the licensing authority must consider whether it would be justified in departing from its CIA in the light of the individual circumstances of the case. The impact can be expected to be different for premises with different styles and characteristics. For example, while a large nightclub or high capacity public house might add to problems of cumulative impact, a small restaurant or a theatre may not. If the licensing authority decides that an application should be refused, it will still need to show that the grant of the application would undermine the promotion of one or more of the

licensing objectives and that appropriate conditions would be ineffective in preventing the problems involved.

- 14.46 *CIAs must not impose quotas based on either the number of premises or the capacity of those premises. This is because quotas that indirectly have the effect of predetermining the outcome of any application would have no regard to the individual characteristics of the premises concerned.'*

APPENDIX

National guidance regarding licensing hours is as follows:-

- '13.44 With regard to licensing hours, the Government acknowledges that different licensing approaches may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement and licensing authorities are best placed to make such decisions based on their local knowledge and in consultation with other responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.'*
- 13.45 Statements of licensing policy should set out the licensing authority's approach regarding licensed opening hours and the strategy it considers appropriate for the promotion of the licensing objectives in its area. The statement of licensing policy should emphasise the consideration which will be given to the individual merits of an application. The Government recognises that licensed premises make an important contribution to our local communities, and has given councils a range of tools to effectively manage the different pressures that licensed premises can bring. In determining appropriate strategies around licensed opening hours, licensing authorities cannot seek to restrict the activities of licensed premises where it is not appropriate for the promotion of the licensing objectives to do so.'*

National guidance regarding non-duplication of other regimes is as follows:-

- '13.14 Statements of licensing policy should reflect the general principles regarding licence conditions set out in Chapter 1 of this guidance.'*
- 13.57 The statement of licensing policy should indicate that planning permission, building control approval and licensing regimes will be properly separated to avoid duplication and inefficiency. The planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice versa.'*
- 13.58 There are circumstances when as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law. Proper integration should be assured by licensing committees, where appropriate, providing regular reports to the planning committee.'*

National guidance regarding standardised conditions:-

- '10.10 The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided. For example, conditions should not be used to implement a general policy in a given area such as the use of CCTV, polycarbonate drinking vessels or identity scanners where they would not be appropriate to the specific premises. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. These could be a deterrent to holding events that are valuable to the community or for the funding of good and important causes. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives'*

Licensing Policy Considerations

It is considered that the following have a bearing upon the application:

- 3.1 The Council, as the Authority, has a duty under Section 4 of the Act to carry out its licensing functions with a view to promoting the four licensing objectives. Each objective is of equal importance and there are no other licensing objectives. The licensing objectives are:
- the prevention of crime and disorder
 - public safety
 - the prevention of public nuisance and
 - the protection of children from harm
- 3.2 These objectives are the only matters to be taken into account in determining applications and any conditions attached must be necessary to achieve the licensing objectives. If there are no relevant representations then an application must be granted and will be subject only to the mandatory conditions and the applicant's operating schedule.
- 4.1.2 The licensing function is only one means of delivering the licensing objectives and should not be seen as a panacea for solving all alcohol and entertainment-related problems within the community. The Authority recognises that as well as the licensing function there are a number of other mechanisms for addressing alcohol-related crime and disorder such as:
- planning controls
 - Community Alcohol Partnerships
 - installation and/or expansion of CCTV systems in problem areas
 - powers to designate parts of the District as places where alcohol may not be consumed
 - publicly (Designated Public Places Orders)
 - S.27 and s.30 Dispersal Orders (Anti-Social Behaviour Act 2003)
 - police powers to close some premises for up to 24 hours in extreme cases of disorder
 - or excessive noise (Licensing Act, ss.160 & 161)
 - the power of Responsible Authorities and other persons to apply for a review of the licence (see 9.2)

The Authority will therefore continue to work in partnership with other licensing authorities, the Responsible Authorities, other agencies such as South Devon and Dartmoor Community Safety Partnership and with local businesses and residents in a co-ordinated approach to tackling alcohol-related crime and anti-social behaviour.

- 4.1.3 In discharging its licensing function, the Authority will comply with relevant legislation Section 17 Crime and Disorder Act 1998, The European Convention on Human Rights,

which is applied by the Human Rights Act 1998 and The Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000.

The licensing authority will also have regard to other legislation, strategies, policies and guidance in its decision making.

- 4.1.4 The central purpose of the licensing function is to promote the licensing objectives through the effective regulation of licensed premises, qualifying clubs and temporary events. The Authority is keen to foster a safe and vibrant leisure economy and will work with applicants and licence holders to encourage and sustain well managed premises which make a positive contribution to the community. The Authority will expect applicants and licence holders to demonstrate that they have given thought to and have in place adequate measures to ensure that the operation of their premises will not have an adverse effect on the quality of life of persons living and/or working in the vicinity of the premises.

Home Office guidance 13.57 and 13.58 (S182 March 2015) makes it clear that licensing committees are not bound by decisions made by planning committees and vice-versa. The Guidance also states that, where, as a condition of a planning permission, a terminal hour has been set for use of the premises for commercial purposes and this is different to the licensing hours, the applicant must observe the earlier closing times.

- 4.3.3 The Authority recognises that it is a fundamental principle of the Act that the licensing function should not duplicate other statutory regulation. In particular, the Authority recognises that licensing applications should not be seen as a repeat of the planning application process and that there is no legal basis to refuse a licence application because it does not have planning permission. Applicants are recommended, however, to ensure that appropriate planning permissions are obtained before an application for a premises licence or club premises certificate is made. (See Section 7 – Licence Conditions – for further advice).

Home Office guidance 13.57 and 13.58 (S182 March 2015) makes it clear that licensing committees are not bound by decisions made by planning committees and vice-versa. The Guidance also states that, where, as a condition of a planning permission, a terminal hour has been set for use of the premises for commercial purposes and this is different to the licensing hours, the applicant must observe the earlier closing times.

- 5.3.1 When determining a licence application, the overriding principle adopted by this Authority will be that each application will be determined on its merits. The Authority will have regard to any guidance issued by the Home Office, this Statement of Licensing Policy and any measures it deems necessary to promote the licensing objectives. The Authority may depart from the guidelines in this Policy if it has justifiable and compelling reasons to do so. The Authority will give reasons for any such departure from policy.
- 5.3.2 The Authority will expect applicants to demonstrate in their applications active steps for the promotion of the licensing objectives. When determining an application, a key consideration for the Authority will be the adequacy of measures proposed in the Operating Schedule to promote the licensing objectives having regard to the type of premises, the licensable activities to be provided, the nature of the location and the needs of the local community.
- 5.3.3 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, anti-social behaviour, littering, fouling, noise and the capacity of

the infrastructure and police resources to cope with the movement of large numbers of people, particularly late at night and in the early morning.

- 5.3.4 Since the introduction of the Act, the 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 Authority will expect applicants to have particular regard to these issues and to include in their Operating Schedules adequate and effective steps to control noise and disturbance from their premises. Existing licence holders will also be expected to demonstrate – through the effective management of their premises – that they are taking appropriate and reasonable steps within their control to minimise disorder, anti-social behaviour and public nuisance.

Public nuisance is not defined in the Licensing Act 2003 and retains its broad common law meaning. It should be noted that public nuisance can include low-level nuisance affecting a few people living locally as well as major disturbance affecting the whole community. It may also include the reduction of the living and working amenity and environment of persons and businesses in the vicinity of licensed premises. (Home Office Guidance 2.15 (S182 March 2015))

- 5.3.5 When deciding whether to grant a licence, the Authority may take account of any non-compliance with other statutory requirements brought to its attention, if these undermine the licensing objectives. This is because any non-compliance with other statutory requirements may demonstrate that the premises are unsuitable for the activities proposed, or that the management of the premises is not sufficiently competent to protect the public from harm or nuisance.
- 5.3.6 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 may 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.
- 5.3.7 It should be noted that, when determining an application, the Authority is making a judgement 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.
- 5.3.3 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, anti-social behaviour, littering, fouling, noise and the capacity of the infrastructure and police resources to cope with the movement of large numbers of people, particularly late at night and in the early morning.
- 3.5.1 Public nuisance can include low level nuisance affecting a few people living locally, as well as a major disturbance affecting the wider community. Nuisance is generally attributable to noise (from loud music or from rowdy customers), vibration, light pollution, noxious smells and litter. Applicants will be required to demonstrate that they have adequate measures in place in their applications to prevent nuisance and disturbance.
- 3.5.2 Noise from people entering and leaving licensed premises, particularly late at night or in the early hours of the morning, can be a significant problem. Customers under the

influence of alcohol are often less inhibited about their behaviour and may be unaware of the noise they are creating. As background noise levels are lower at night, any noise is more intrusive for residents trying to sleep.

- 3.5.3 The Authority will require applicants to take appropriate and proportionate measures for the prevention of public nuisance. Such measures may include those listed in the Authority's guidance for applicants can be viewed at www.teignbridge.gov.uk/licensingact2003.

- 6.1 In general, the Authority will deal with the issue of licensing hours on the individual merits of each application. However, when issuing a licence with hours beyond midnight higher standards of control and supervision will be expected in order to promote the licensing objectives - especially for premises situated in or near residential areas.
- 6.2 The Act does not provide for standard closing times. Licensed premises will generally be permitted to sell alcohol during the hours they intend to open provided they can demonstrate to the satisfaction of the Authority that the premises will be operated in a manner consistent with the licensing objectives, Home Office guidance (S182) and this Policy. However, there is no presumption that applications for extended hours will take precedence over the human rights of local residents and businesses.
- 6.3 The licensed hours will normally be approved where the applicant can show that the proposal would not adversely affect the licensing objectives. The Authority may, however, set an earlier terminal hour where it considers this is appropriate to the nature of the activities and the amenity of the area or is necessary to achieve one or more of the licensing objectives.

Home Office Guidance 10.14 (S182 March 2015) states that the licensing objectives should be the Authority's paramount consideration at all times when determining applications. If the Licensing Committee or a sub-committee believes that granting longer hours would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested.

- 6.4 The Authority recognises that fixed and artificially early closing times in certain areas can lead to peaks of disorder and disturbance on the streets when large numbers of people tend to leave licensed premises at the same time. Flexible licensing hours in relation to the sale of alcohol may therefore be considered as a potential means of reducing friction at late night food outlets, taxi ranks and other 'flashpoints' in areas where there have already been incidents of disorder and disturbance.
- 6.5 In considering licence applications, the Authority will consider the adequacy of measures proposed to deal with the potential for crime, disorder and/or nuisance having regard to all the circumstances of the case. The Authority strongly encourages the adoption of best practice. This includes the expectation, as an item of best practice that CCTV will be provided in those premises that wish to trade in the sale of alcohol beyond midnight for the purpose of preventing crime and disorder and public safety. Applicants should carry out a risk assessment with regard to CCTV and are expected to include CCTV in their operating schedule. Where they elect not to do so, they are strongly advised to provide information explaining that omission. For example, that the risk assessment has shown CCTV to be unnecessary.
- 7.1 Conditions attached to a premises licence or club premises certificate are a key element of the regulatory framework established by the Act. There are three types of condition:

- mandatory conditions set out in the Act,
- conditions consistent with the operating schedule, and
- conditions imposed by the Authority.

The Licensing Authority may only impose conditions on a premises licence or club premises certificate where it has received a relevant representation about an application. The application will then be determined at a hearing by a Licensing Sub-Committee. If no relevant representation is received, the application must be granted on the terms applied for subject only to the mandatory conditions and conditions consistent with the Operating Schedule.

- 7.2 Conditions are crucial in setting the parameters within which premises can lawfully operate. Any contravention of a condition on a premises licence or club premises certificate is a criminal offence so it is essential that conditions are worded clearly, precisely and unambiguously. In addition, conditions must:
- be appropriate, reasonable and proportionate
 - be enforceable
 - not duplicate other statutory requirements
 - be relevant to the particular type, location and character of the premises concerned
 - not be standardised
 - not replicate offences set out in the Act or in other legislation
 - be written in a prescriptive format
- 7.3 The Authority encourages applicants to seek technical advice from the appropriate Responsible Authorities when preparing their Operating Schedules as this will enable any problems to be resolved at an early stage and will reduce the likelihood of representations.
- 7.4 Experience has shown that many of the conditions volunteered by applicants are poorly worded, unclear or ambiguous and therefore unenforceable. As an aid to applicants, the Authority has prepared a menu of suggested measures to promote the licensing objectives which applicants are encouraged to consider when preparing their operating schedules. These measures are not prescriptive but will help to ensure that licence conditions are expressed clearly and consistently and enable enforcement to be carried out equitably. The measures can be viewed at www.teignbridge.gov.uk/licensingact2003. The Authority, in consultation with the applicant, may amend the wording of proposed conditions where this is unclear, ambiguous or unenforceable.
- Home Office guidance 10.5 (S182 March 2015) states that it is not acceptable for licensing authorities to simply replicate the wording from an applicant's operating schedule. A condition should be interpreted in accordance with the applicant's intention.*
- 7.5 The Authority will pay particular attention to the effect – potential or actual - 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.
- 7.6 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 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.

- 7.7 The Authority will not impose inappropriate or over-burdensome conditions on licences. The Authority may, however, 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.
- 7.8 Although it is not a legal requirement, the Authority recommends as good practice - in respect of premises licensed to sell or supply alcohol for consumption on the premises – that a Personal Licence holder is on the premises at all times to make or authorise such sales or supplies. The Authority is keen to encourage the presence of properly trained staff on licensed premises. Applicants may wish to consider including this as a condition of licence, where appropriate, as a measure to promote the licensing objectives. Where this is not possible (because the premises is too small or because staffing levels do not permit) or when the Premises Supervisor/Personal Licence holder will be absent for a significant length of time, a responsible person should be authorised to oversee the sale of alcohol in the place of the Premises Supervisor/Personal Licence holder. The Authority will expect the authorisation to be made in writing, kept securely on the premises and made available for inspection by an authorised person if requested. Copies of the authorisation should be sent to the Authority and the police.
- NB. 'Authorisation' does not mean direct supervision. The government recommends that Personal Licence holders give specific written authorisations to individuals they are authorising to sell or supply alcohol and that such individuals are clearly identified (Home Office Guidance 10.30 - 10.37 (S182 March 2015))*
- 8.1 The cumulative impact of licensed premises on the promotion of the licensing objectives is a matter which the Authority can take into account. This should not, however, be equated with 'need' which relates to the commercial demand for a particular type of premises. The issue of 'need' is a matter for planning consideration or for the market to decide and does not form part of this licensing policy statement.
- 8.2 If the Authority receives relevant representations suggesting that the cumulative impact of new licences is leading to an area becoming saturated with premises of a particular type and thereby creating problems of disorder and nuisance over and above the impact from the individual premises themselves, the Authority may consider the issue of cumulative impact when determining an application. The onus is on any person, or organisation, making such representations to prove the assertion that the grant of the licence would cause the cumulative impact claimed.
- 8.3 The Authority does not propose to operate a quota system of any kind, which would have the effect of pre-determining any application; nor does it seek to impose general limitations on trading hours in particular areas. The Authority recognises that pubs, clubs, restaurants, hotels, theatres, concert halls and cinemas have contrasting characteristics and styles of operation. Proper regard will be given to those differences and the impact they are likely to have on the promotion of the licensing objectives
- 11.1 The Authority recognises that drug use is not something that is relevant to all licensed premises. However, where relevant representations are received, the Authority may need to impose special conditions for certain types of venues in order to reduce the sale and consumption of drugs and to create a safer environment for customers using the premises. The conditions to be imposed in such cases will be taken from the Government Department pool of conditions which take into account the report "Safer Clubbing" published by the Home Office. The sale or use of new psychoactive substances (NPS) (so called Legal Highs) the Authority will consider any issue with NPS in line with current legislation and government policy. Where the Authority deems such

conditions to be appropriate for the promotion of the licensing objectives, it will seek advice from the local Drugs Action Team and the Police.

- 12.1 Whenever any persons are employed at licensed premises to carry out any security activity, all such persons must be licensed by the Security Industry Authority. The Authority recognises that certain premises, because of the nature of their operation, their capacity, their licensed hours and the licensable activities provided, may require stricter supervision for the purpose of reducing crime and disorder and public nuisance. In such cases, where relevant representations are received, the Authority may impose a condition that licensed door supervisors must be employed at the premises either at all times or at such times as certain licensable activities are being carried out.
- 12.2 The Authority recognises that Door Supervisors have an important function in terms of supervising customers not only inside premises but also outside. Door Supervisors will therefore be expected to take a pro-active role in managing the behaviour of customers outside premises in order to minimise any disturbance and nuisance to nearby residents. Licence holders should ensure in particular that, at closing times, they have sufficient Door Supervisors to effectively control 'surges' of customers leaving premises.
- 12.3 Whenever security operatives are employed at licensed premises to carry out any security function such operatives must be licensed by the Security Industry Authority (SIA). Competent and professional door supervisors are key to public safety at licensed premises and the provision of door supervisors is an action point for the leisure industry to consider in the Home Office Alcohol Strategy.

It is a mandatory condition of a Premises Licence that where the licence requires personnel to carry out security activity (e.g. screening of customers, dealing with conflict management, crowd control) such personnel are licensed by the Security Industry Authority. (Licensing Act 2003, s.21).

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