

Date: 18 July 2011
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To: Members of the Licensing & Enforcement Sub-Committee
(Councillors: Jim Knight, David Atkins, Roger Boote)

Licensing Officer
Assistant Solicitor

Dear Sir/Madam

Licensing & Enforcement Sub-Committee, Tuesday 26 July 2011 at 9.30am

The Licensing & Enforcement Sub Committee meeting will take place in the Council Chamber, Knowle, Sidmouth, to consider the matters detailed on this agenda.

Members of the public are welcome to attend this meeting. A hearing loop system will be in operation in the Council Chamber. Due to the requirements of the Licensing Act 2003 only parties to the hearing are permitted to address the sub-committee (through their representative as appropriate).

Councillors and members of the public are reminded to switch off mobile phones during the meeting. If this is not practical due to particular circumstances, please advise the Chairman in advance of the meeting.

A G E N D A

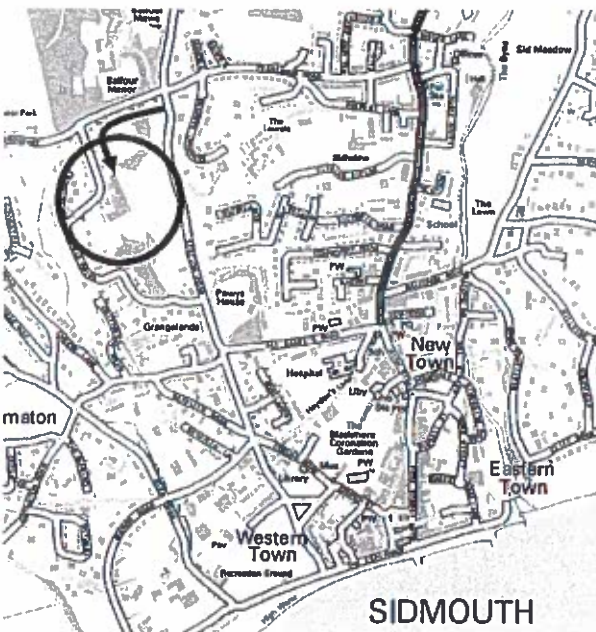
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| 1. To confirm the minutes of the meetings of the Licensing and Enforcement Sub Committee held on 5 July 2011. | 3 - 8 |
| 2. To receive any apologies for absence from Members of the Sub Committee. | |
| 3. To receive any declarations of interests relating to items on the agenda. | |
| 4. To consider any items which in the opinion of the Chairman should be dealt with as matters of urgency because of special circumstances. | |
| <p>(Note: Such circumstances need to be specified in the minutes; any Member wishing to raise a matter under this item is requested to notify the Chief Executive in advance of the meeting).</p> | |
| 5. To consider an application for a premises licence to be granted under the Licensing Act 2003 - To permit the provision of regulated entertainment, late night refreshment and the sale of alcohol for consumption on the premises at Heath Close, 3 Lansdowne Road, Budleigh Salterton. | Licensing Officer
9 - 55 |

6. Schedule of applications for Sub Committee approval where an agreed position has been reached and all Parties have agreed a hearing is unnecessary.

Members Remember!

- ❑ You must declare any personal or prejudicial interests in an item whenever it becomes apparent that you have an interest in the business being considered.
- ❑ Make sure you say the reason for your interest as this has to be included in the minutes.
- ❑ If your interest is prejudicial you must leave the room unless you have obtained a dispensation from the Council's Standards Committee or where Para 12(2) of the Code can be applied. Para 12(2) allows a Member with a prejudicial interest to stay for the purpose of making representations, answering questions or giving evidence relating to the business but only at meetings where the public are also allowed to make representations. If you do remain, you must not exercise decision-making functions or seek to improperly influence the decision; you must leave the meeting room once you have made your representation.
- ❑ You also need to declare when you are subject to the party whip before the matter is discussed.

Getting to the Meeting – for the benefit of visitors



The entrance to the Council Offices is located on Station Road, Sidmouth. **Parking** is limited during normal working hours but normally easily available for evening meetings.

The following **bus service** stops outside the Council Offices on Station Road: **From Exmouth, Budleigh, Otterton and Newton Poppleford – 157**

The following buses all terminate at the Triangle in Sidmouth. From the Triangle, walk up Station Road until you reach the Council Offices (approximately ½ mile).
From Exeter – 52A, 52B
From Honiton – 52B
From Seaton – 52A
From Ottery St Mary – 379, 387

Please check your local timetable for times

The Committee Suite has a separate entrance to the main building, located at the end of the visitor and Councillor car park. The rooms are at ground level and easily accessible; there is also a toilet for disabled users.

For a copy of this agenda in large print, please contact the Democratic Services Team on 01395 517546

EAST DEVON DISTRICT COUNCIL

Minutes of a Meeting of the Licensing & Enforcement Sub Committee held at Knowle, Sidmouth on Tuesday 5 July 2011

- Present:** Councillors:
Steve Hall (Chairman)
Jim Knight
Pat Graham
- Officers:** Neil McDonald - Licensing Officer
Chris Lane - Democratic Services Officer
Giles Salter – Assistant Solicitor
- Also present:** Councillors:
Maddy Chapman
Steve Gazzard
John Jeffery

The meeting started at 9.30 am and finished at 10.40 am.

*6 Minutes

The minutes of the meetings of the Licensing & Enforcement Sub Committee held on 14 June 2011, were confirmed and signed as a true record.

*7 Declarations of interest

Councillor/ Officer	Agenda Item	Type of interest	Nature of interest
Councillor Jim Knight	*8 – Application to grant a time limited Premises Licence under the Licensing Act 2003 at Branscombe Airfield, Higherlands Farm, Branscombe	Personal	Devon County Council member for Branscombe.

*8 Application to grant a time limited Premises Licence under the Licensing Act 2003 at Branscombe Airfield, Higherlands Farm, Branscombe

The Sub Committee gave consideration to the application for the grant of a time limited Premises Licence under the Licensing Act 2003 to permit the provision of regulated entertainment, late night refreshment and the sale by retail of alcohol for consumption on the premises at Branscombe Airfield, Higherlands Farm, Branscombe.

Application to grant a time limited Premises License under the Licensing Act 2003 at Branscombe Airfield, Higherlands Farm, Branscombe (Cont)

The Chairman identified members of the Sub Committee, Officers, applicants and interested parties present. The applicant was represented Mr Bill Price accompanied by Ian Wheedon.

The Sub Committee carefully considered the application for a time limited Premises Licence from 15 July to 17 July for the sale of alcohol and other licensable activities and the proposed hours of operation with a view to deciding whether the application promoted the licensing objectives, as required by the Licensing Act 2003. They also took into account Government Guidance and the Council's own licensing policy, and the Human Rights Act 1998 in making their decision.

The Sub Committee carefully considered the relevant representations that all parties had made and the written representations and other documentation put before the Sub Committee. They considered the particular locality of the premises on the edge of a village and its physical relationship with residential properties in the vicinity. It was considered relevant that representations received from the Police in relation to the Licensing Act objectives that had been the subject of representations made at the hearing, that is to say: public safety, public nuisance, crime and disorder had been mediated prior to the meeting. From this, the Sub Committee concluded that the Police did not consider that there was currently any significant problem associated with the current operation of the premises, or that there was likely to be if the amended agreed conditions as set out in Appendix E to the report were imposed on the Premise Licence.

The applicant's case was on paper that it was the intention to use the hangar as a bar area with a small stage where live music maybe played. On the Friday there would be a marquee on the hard standing immediately outside the hangar. The main concert area on the Saturday would be in the 1.2 acre field to the east of the hangar. There were two amendments to the event plan that were noted by the Sub Committee.

At the hearing, the applicant's representative, Mr Bill Price, the event organiser, added that events had been held at the Airfield for at least 20 years. There was an annual air day and classic car event which had attracted up to 10,000 people on to the site. The site was adequate provided there was good management in place.

There had been consultation with the Police who had raised a number of initial concerns but these had been managed in the Event Management Plan, issues concerning the number of SIA staff, drug and alcohol misuse. The Police also advised that the music and the sale of alcohol should not terminate at the same time so as to manage the gradual shut down of the event at the end of each day.

The stage had been set up to direct music and noise away from neighbouring properties on the west side of the Airfield. The District Council's Environmental Health Section had advised that music should terminate at 11.00pm. Devon County Council Highways and Devon and Cornwall (Police) Traffic Management had also been consulted on a Traffic Management Plan which was set out in the Event Management Plan. Health and Safety issues were being managed professionally by Safeguard. The applicant, Mr Hayman wished to bring money

*8

Application to grant a time limited Premises License under the Licensing Act 2003 at Branscombe Airfield, Higherlands Farm, Branscombe (Cont)

into the local economy and to run a limited number of events (2/3) during the year at the site. The event had drawn upon established expertise at running the Air day each year.

The interested party's case, Mr G Rivers, was that with regard to the Prevention of crime and disorder, there would be excessive people late at night. Secondly, with regard to Public safety, the number of guests was far too large for the site and also problems over access to the site. Lastly, with regard to Prevention of public nuisance, there were problems with access to the site, lack of street parking, guests leaving the site and proximity of neighbouring properties.

The interested party had given notice on Monday 4 July that he would not be attending the hearing with his witnesses. The Sub Committee considered the issues raised by the interested party, Mr Rivers, but rejected the letter submitted with further representations made by which was out of time.

The Sub Committee carefully considered the operating schedule put forward by the applicants and the likely impact of the application. In relation to the evidence heard regarding the history of the premises, they considered that the event would be well managed and controlled with good policies in place and adequate supervision from event management team. The Sub Committee was satisfied that the applicant and his management team had engaged with all the responsible authorities to ensure that all aspects of the event were covered by suitable policies.

The Sub Committee considered that SIA door staff had an important role in preventing crime and disorder, identifying offenders and in managing public behaviour on and in leaving the premises. The organisers reassured the Sub Committee on its policy to prevent children accessing the bar area and with SIA staff to be in position to enforce this. The Sub Committee questioned the applicant on setting up food stalls and the provision of tables and chairs. These would be provided during the Ruby 7's event but would not be set up whilst the concert was taking place.

The Sub Committee requested reassurance on the maximum limit of the numbers on the site. This would be 2,900 members of the public and 100 staff. Printed tickets were being sold in advance and once all were sold then no one could gain access that did not have a ticket. SIA staff would enforce this policy.

The Sub Committee asked about rubbish collection, they were concerned about any impact on the AONB. Bins and skips would be provided and there would be volunteers collecting rubbish at the end of the event. The organisers were sure that litter could be contained on the site. The Environmental Health Officers would be attending the sound check prior to the concert to check levels. Mr Price accepted the genuine mistake on the Licensing Notice. He was not trying to mislead the Sub Committee and hoped that if the event was repeated in the future that the Notices would be accurate.

*8

Application to grant a time limited Premises License under the Licensing Act 2003 at Branscombe Airfield, Higherlands Farm, Branscombe (Cont)

All parties were reminded of the closure and review powers which the Government brought into force on 24 November 2005. Premises which did not operate in an acceptable way in terms of the licensing objectives may in extreme cases be closed down by police action or have their scope of operation reduced by the licensing authority.

RESOLVED that the time limited Premises License be granted as follows:

1):

- (a) The extent of the areas within which the various licensable activities will be permitted is as indicated by the legends on the applicant's amended plan.
- (b) Permitted hours for the various licensable activities will be as set out in the Appendix A.
- (c) The conditions will now be as shown in Appendix e and F.
- (d) The mandatory conditions of section[s] 19 and 21 of the Licensing Act will be imposed.
- (f) All other conditions for licensable activities have been agreed between the parties for the regulation and conditioning of the Premises License on the application.

2) that whilst the Sub Committee acknowledged the concerns expressed by the statutory authority at the hearing, the Sub Committee believe the concerns expressed in representations had been addressed by the hours of operation for the licensable activities and the conditions that have been imposed which have been tailored to the size, characteristics and activities on the premises which the Sub Committee believe are necessary and proportionate.

3) that the Designated Premises Supervisor would be Ian Wheedon of 54 Peaslands Road, Sidmouth, EX10 9BE.

*9

Application to grant a Premises License under the Licensing Act 2003 at Lidl, Heathpark Way, Honiton

Members noted that following mediation the applicants and the Devon & Cornwall Constabulary have agreed that they consider a hearing to be unnecessary for Lidl, Heathpark Way, Honiton if the agreed position listed below was approved.

The Licensing Officer explained the background of the application and the negotiations carried out.

*9

Application to grant a Premises License under the Licensing Act 2003 at Lidl, Heathpark Way, Honiton

Sgt Richard Crosby, Devon & Cornwall Constabulary, attended the meeting and advised members of the Sub Committee of the negotiations that the police had carried out with regard to the District Council's CCTV policy.

RESOLVED

that the application be granted as below, subject to the agreed positions set out in the schedule and any relevant statutory conditions and the applicants having complied with relevant statutory requirements.

Type of Application	Name of premises and address	Agreed position reached by the parties
Application for the grant of a premises licence	Lidl, Heathpark Way, Honiton	<p>CCTV must be installed, operated and maintained at the premises to a standard that provided images of evidential quality. The CCTV system will be installed so as to provide camera cover at the entrance/exit of the premises, along the checkouts and in the area of the store where alcohol is displayed. All cameras located on entrances must be able to produce images of evidential standard as defined by the Home Office Guidance. Entrance Cameras must be capable of providing good quality head and shoulder images of persons entering/leaving the premises. They should be high resolution colour cameras complete with auto iris vari-focal lens. Cameras in the main areas of the premises must be able to cope with the extreme lighting conditions that may be present. The cameras, recording equipment and all ancillaries should be maintained according to the manufacturer's instructions to ensure that the standard of the image is not compromised.</p> <p>CCTV images will be retained for a minimum of 14 days and will be produced as soon as is reasonably practicable and in any event within 48 hours of a request by the Police or Licensing Officer of East Devon District Council. Recording media must be set to a minimum of 25 frames per second. The CCTV recordings must be stored on a digital multiplex recorder with either an on board CD/DVD re-writer and/or a USB port for evidence recovery. The system must be capable of producing</p>

		<p>single images and forward, reverse, pause and slow motion at full screen resolution. All equipment must have constant time/date generation.</p> <p>The CCTV system must be operational at all times whilst the premises are trading. If the system is faulty or not working then the Police and East Devon Licensing Service must be informed immediately by email.</p> <p>Warning notices of at least an A5 size must be displayed in public areas of the premises and at all entrances advising that CCTV is in operation. The signs located at entrances should be located on the exterior of the building at, and adjacent to, all public access doors. All signs must comply with the requirements of the Data Protection Act 2002.</p> <p>The CCTV recording system must be housed in a secure room/cabinet where access is restricted and the operation is strictly limited to authorised persons.</p>
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Chairman

Date.....

Agenda Item 5

Licensing & Enforcement Sub Committee

26 July 2011

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

Summary

The report summarises an application for a premises licence to be granted.

Recommendation

That members consider the application for a premises licence to be granted under the Licensing Act 2003 - To permit the provision of the sale of alcohol for consumption on the premises at Heathclose, 3 Lansdowne Road, Budleigh Salterton, Devon, EX9 6AH.

a) Reasons for Recommendation

To comply with statutory processes.

b) Alternative Options

To either grant, refuse or modify the application.

c) Risk Considerations

None

d) Policy and Budgetary Considerations

The Council's Licensing Policy is referred to in the body of the report. There is a possibility of the Council having to pay the applicant's court costs if a successful appeal is brought against the decisions made today.

e) Date for Review of Decision

The council's decision may be appealed to the Magistrates Court. The Licensing Act 2003 also contains review provisions.

1 Description of Application

1.1 An application has been received from Mr Graham John Ellis and Mrs Eileen Patricia Ellis, Heathclose, 3 Lansdowne Road, Budleigh Salterton, Devon EX9 6AH for the grant of a premises licence at Heathclose, 3 Lansdowne Road, Budleigh Salterton, Devon EX9 6AH .

1.2 The licence application allows for the provision of the sale of alcohol for consumption on the premises only. The proposed timings and licensable activities applied for are produced in table form at **Appendix A**.

- 1.3 The premise is a large detached two storey house situated in a residential road on the outskirts of Budleigh Salterton town and is currently being run as a bed and breakfast business. The licensed area for public trade is shown as the ground floor lounge and dining room but there will be no bar facilities.
- 1.4 A plan of the premises will be available at the meeting to show the layout of the site and the areas of licensable activity.
- 1.5 A full copy of the application is reproduced at **Appendix B**

2 Statutory Bodies' Response

- 2.1 Devon & Cornwall Constabulary
Representations received but an agreed position reached - see **Appendix E**.
- 2.2 Devon Fire & Rescue Service
No representations have been received.
- 2.3 Area Child Protection Committee and Local Safeguarding Children Board
No representations have been received
- 2.4 Devon Trading Standards
No representations have been received
- 2.5 East Devon District Council, Environmental Health Service
No Representations have been received
- 2.6 East Devon District Council, Planning & Countryside Service
No representations have been received

3 Representations and Responses to Notices of Hearing

- 3.1 Representations have been received from the Devon and Cornwall Constabulary and fifteen local residents. The police have reached an agreed position with the applicants by way of extra conditions to be added to the licence details of which are attached at **Appendix E**.
- 3.2 Details of the representations from the local residents are attached at **Appendix C**.
- 3.3 Details of the responses to the statutory Notice of Hearing are attached at **Appendix D**.

4 Proposed Operating Schedule and Mediation

- 4.1 The applicants did not offer any conditions on their original application but following mediation with the police the applicants reached an 'agreed position' by agreeing extra conditions details of which appear at **Appendix E**.
- 4.2 On 30 June 2011 a mediation meeting chaired by the licensing section and attended by the applicants and eight of the local objectors was held at Heathclose, 3 Lansdowne Road, Budleigh Salterton, Devon EX9 6AH at which time extra amendments to the application were agreed by the applicants details of which appear at **Appendix F**.
- 4.3 Details of the conditions agreed by the police and amendments to the application agreed at the mediation meeting were sent to all fifteen local residents who had made



representations against the application. As a result fourteen of the objectors including all those objectors who live in Lansdowne Road withdrew their representations having reached an agreed position. However one elderly resident Mrs Boyles who lives along the main Exmouth Road and who did not attend the mediation meeting indicated by letter that she would not withdraw her representation despite the extensive amendments and conditions offered by the applicant.

- 4.4 Mrs Boyles has returned her response to the Notice of Hearing and has indicated that she will not be attending the hearing and has not nominated anyone to speak on her behalf.

5 Relevant Licensing Policy Considerations

Licensing Objectives

- 5.1 Section 2.1 of the Policy states: 'The Licensing Authority has a duty under the Act to carry out its licensing functions with a view to promoting the four licensing objectives.' These objectives are the only matters to be taken into account in determining the application and any conditions attached must be necessary to achieve the licensing objectives.
- 5.2 Section 2.2 of the Policy states: A licence will only be granted where the licensing authority is satisfied that these objectives have been met.
- 5.3 Section 2.3 of the Policy lists the kind of measures the licensing authority will be expecting to see taken into account to promote the objectives.

Conditions

- 5.4 Section 4 of the policy sets out what the Sub Committee should consider before imposing conditions on a licence.
- 5.5 The **Guidance** issued under Section 182 Licensing Act 2003 also states:

The licensing authority may not impose any conditions unless its discretion has been engaged following receipt of relevant representations and it has been satisfied at a hearing of the necessity to impose conditions. It may then only impose conditions that are necessary to promote one or more of the four licensing objectives. Such conditions must also be expressed in unequivocal and unambiguous terms to avoid legal dispute.

It is perfectly possible that in certain cases, because the test is one of necessity, where there are other legislative provisions which are relevant and must be observed by the applicant, no additional conditions at all are needed to promote the licensing objectives.

The Act requires that licensing conditions should be tailored to the size, style, characteristics and activities taking place at the premises concerned.

Licensing authorities should therefore ensure that any conditions they impose are only those which are necessary for the promotion of the licensing objectives, which means that they must not go further than what is needed for that purpose.

Licensing authorities should only impose conditions which are necessary and proportionate for the promotion for the



licensing objectives. If other existing law already places certain statutory responsibilities on an employer or operator of premises, it cannot be necessary to impose the same or similar duties.

Licensing Hours

5.6 Section 6.1 of the Policy states: The Licensing Authority will deal with the issue of licensing hours on the individual merits of each application. However, when issuing a licence with licensing hours beyond midnight higher standards of control will generally need to be included in operating schedules to promote the licensing objectives especially for premises which are situated near residential areas. There is no presumption within the legislation for longer opening hours and the licensing objectives are paramount in any consideration of an application.

5.7 Section 6.3 of the Policy states: The terminal hours will normally be approved where the applicant can show that the proposal would not adversely affect the licensing objectives unless, after hearing relevant representation the licensing authority believe it necessary, proportionate and reasonable to restrict the hours required.

Nuisance

5.8 Section 17.1 of the Policy states: To promote the licensing objectives, applicants for licences for licensable activities will be required to demonstrate the measures they have in place for the prevention of public nuisance. The impact of the licensable activities on people living in the vicinity should not be disproportionate or unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter. The prevention of public nuisance can include low-level nuisance affecting a few people living locally as well as a major disturbance affecting the whole community. It may also include the prevention of the reduction of the living and working amenity and environment of interested parties.

Capacity

5.9 Section 18.1 of the Policy states: Where it is considered necessary to control the maximum numbers of persons attending premises for the purpose of preventing crime and disorder or for public safety the licensing authority will expect this to be addressed in the operating schedule. The licensing authority, if relevant representations are made and only then if such conditions are deemed necessary proportionate and reasonable, may impose a condition stipulating a maximum number of persons permitted to attend premises where it considers it necessary to prevent crime and disorder or for public safety purposes.

6. Observations

6.1 The application being considered is for the grant of a Premises Licence to permit :

- the supply of alcohol for consumption on the premises

6.2 In her representation Mrs Boyles expresses concern that there will be frequent late night noisy revelry and celebrating groups seeking entertainment by roaming around the area causing a disturbance and a severe nuisance.

6.3 Following mediation the applicants have severely restricted the licence they originally applied for. They have agreed to limit the supply of alcohol to only four hours a day between the hours of 6pm to 10pm to be served on the premises by way of waiter/waitress service only. The alcohol can only be



served to residents and their bona fide guests and to pre-booked persons who are residents in other guest house accommodation within Budleigh Salterton up to a maximum of eight persons. The applicants have also agreed to change their application to what amounts to a 'time limited' licence by agreeing to surrender the licence on 31 March 2015.

- 6.4 The committee may consider that the amendments to the licence application and the extra conditions offered by the applicants more than address the concerns of Mrs Boyles.
- 6.5 The Sub Committee will now need to consider whether to grant this application as it stands or in the light of the representations to refuse the application or grant it in a different form.
- 6.6 A location plan is attached at **Appendix G**.

Legal Implications

1. As relevant representations have been made in respect of the application, this hearing must be held. (Relevant representations are about the likely effect of the grant of the application on the promotion of the licensing objectives, by interested parties or responsible authorities). The sub-committee must disregard any information or evidence not relevant to the licensing objectives.
2. The sub-committee must consider this application in accordance with Section 4 of the Licensing Act 2003, which requires that licensing functions must be carried out with a view to promoting the four licensing objectives. The licensing authority must also have regard to its own licensing policy and the Secretary of State's guidance, but may depart from both if it has good reason to do so. Those reasons should be stated.
3. Section 18 of the Act requires the licensing authority to grant a premises licence unless it considers additional steps are needed for the promotion of the licensing objectives having regard to any relevant representations.

The steps are:

- (a) to grant the licence subject to:
 - (i) the conditions in the operating schedule modified to such extent as members consider necessary for the promotion of the licensing objectives, and
 - (ii) any condition which must under sections 19, 20 or 21 be included in the licence;
- (b) to exclude from the scope of the licence any of the licensable activities to which the application relates
- (c) to refuse to specify a person in the licence as the premises supervisor
- (d) to reject the application.

The conditions of the licence are modified if any are altered or omitted or any new condition is added. Different conditions may be applied to different parts of the premises, and to different licensable activities. The sub-committee must give its reasons for its decision to take any of these steps. Similarly, if any part of an application is rejected, the sub-committee must give its reasons.



4. The Act requires mandatory conditions to be imposed where supplying alcohol or exhibiting films are approved as licensed activities. It also requires a mandatory condition to be imposed where door supervisors or other individuals carrying out security activities are conditions on the licence.
- (a) **Section 19 - Mandatory conditions relating to the supply of alcohol**
No alcohol may be supplied unless there is a designated premises supervisor who also holds a personal licence.
Every supply of alcohol under a premises licence must be made or authorised by a personal licensee
 - (b) **Section 20 - Mandatory condition relating to exhibition of films-not relevant in this case**
Children may only be admitted to films in accordance with the classification recommendations of the British Board of Film Classification, or as recommended by the licensing authority.
 - (c) **Section 21 - Door Supervision**
Where door supervisors are specified by condition, those individuals must be licensed by the SIA.
5. The sub-committee will need to consider the hours of operation proposed in relation to the licensable activities in the light of the promotion of the licensing objectives, the effectiveness of the operating schedule proposed by the applicant, the representations received, the location of the premises in relation to residential and other commercial properties including other licensed premises, the history of the management of the premises and how it is proposed to be run in the future, the evidence produced of any problems in the past, and the likely impact of any extension of hours and activities. These issues, and any other relevant ones, may be explored at the hearing.
6. **Human Rights Act 1998**
- 6.1 The sub-committee must also have regard to the provisions of the Human Rights Act 1998 when determining this application. The 1998 Act made the European Convention of Human Rights directly enforceable in British courts. The relevant provisions are Article 6 (right to a fair trial), Article 8 (right to respect for private and family life), Article 11 (freedom of association) and Article 1 of the First Protocol (right to peaceful enjoyment of one's possessions). These provisions are explained below. Essentially, they require the sub-committee to identify correctly the competing interests, give each appropriate weight in the circumstances of the case, and balance them against each other in order to arrive at a fair and reasonable decision.
 - 6.2 Under Article 6, "everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law". The procedures established by this Council for hearings under the Licensing Act 2003 are compliant with Article 6.
 - 6.3 Under Article 8, "everyone has the right to respect for his private and family life, his home and his correspondence". This right may not be interfered with except in accordance with the law and as may be "necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the



rights and freedoms of others". In Licensing Act cases this means that the sub-committee must have regard to the effect of its decisions on local residents, and balance their interests against those of the public at large (e.g. the customers of the premises under consideration) and the people operating the business from the premises.

6.4 Under Article 11, "everyone has the right to freedom of peaceful assembly and to freedom of association with others" except where it is lawful to restrict that freedom in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others". In Licensing Act cases this means, for example, that the sub-committee is entitled to impose conditions to ensure that patrons of licensed premises do not unreasonably disturb others living or working nearby. Again, the sub-committee should balance the competing interests.

6.5 Article 1 of the First Protocol (that is, the first amendment to the Convention) says that every natural or legal person (meaning a human being or a company) is entitled to peaceful enjoyment of his possessions, except where the law provides for restrictions on that right in the public interest. This means, for example, that it is compliant with the Convention to impose restrictions, such as those provided in the Licensing Act 2003, upon business premises where it is in the public interest to do so. On the other hand the same applies to the owners and occupiers of neighbouring premises.

7. Appeals

If the sub-committee imposes conditions on the licence with which the applicant disagrees, or modifies the licensable activities permitted or refuses to specify a person as a designated premises supervisor, he or she may appeal within 21 days of notification of the decision to the Magistrates' Court. The applicant may also appeal if an application for a premises licence is rejected. Those making relevant representations may appeal if they believe that the licence should not have been granted, or that, when granting the licence, the licensing authority ought to have imposed different or additional conditions or excluded a licensable activity or refused to specify a person as designated premises supervisor. The magistrates' court may dismiss the appeal, or substitute its own decision, or send back the case to the licensing authority with directions as to how the case is to be dealt with. The magistrates' court may make any costs order it thinks fit.

8. Review Provisions

If extended hours/licensable activities are granted, the Licensing Act contains review provisions which enable those living or running businesses in the vicinity of the premises, bodies representing them or any of the responsible authorities to apply to this licensing authority for a review of the licence. A hearing follows which enables the sub-committee to use the normal powers at a hearing (set out above) but also to suspend the licence for a period of up to three months or to revoke it.

9. Police Closure

A senior police officer may close any premises for 24 hours (this can be extended) where s/he reasonably believes there is or is likely imminently to be disorder on, or in or in the vicinity of the premises and their closure is necessary in the interests of public safety. Closure can also be affected if public nuisance is being caused by noise coming from the



premises and closure of the premises is necessary to prevent that nuisance

Financial Implications

No apparent financial implications

Appendices

- Appendix A – Requested times and activities in table form
- Appendix B – Copy of licensing application
- Appendix C – Details of representations received
- Appendix D – Details of responses to the Notice of Hearing
- Appendix E – Conditions agreed by the police
- Appendix F – Conditions agreed at mediation meeting on 30 June 2011.
- Appendix G –Location Plan

Background Papers

- Licensing Application dated 23 May 2011
- The District Council's Statement of Licensing Policy
- Amended S. 182 Guidance of the Licensing Act 2003

Neil McDonald ext 2079
Licensing Officer

Licensing & Enforcement Sub Committee
26 July 2011



APPENDIX A

Heathclose

	m) Sale of alcohol for consumption on the premises	Hours premises are open to the public
Monday	11:00am - 11:00pm	24 Hours
Tuesday	11:00am - 11:00pm	24 Hours
Wednesday	11:00am - 11:00pm	24 Hours
Thursday	11:00am - 11:00pm	24 Hours
Friday	11:00am - 11:00pm	24 Hours
Saturday	11:00am - 11:00pm	24 Hours
Sunday	11:00am - 11:00pm	24 Hours

Licensing Office
 Central Services Directorate
 East Devon District Council
 Council Offices
 Knowle
 Sidmouth
 Devon EX10 8HL



Ref: EDP422

East Devon District Council

Licensing Authority

Licensing Act 2003

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

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

The application procedure has in some places very tight time scales and it would be advantageous if we could communicate with you electronically so that if necessary we could serve notices of any sub committee hearings by electronic means. This would mean that you would receive early notification thus giving you more time to prepare. If you are happy to receive communications in this way please tick the box next to this question and enter your email details below. You should only volunteer this form of communication if you regularly check your emails daily.		<input checked="" type="checkbox"/>
I am prepared to receive notices relating to the Licensing Act 2003 electronically and my email address is:	info@Realthclose.com	
Unfortunately currently we are unable to receive service of applications electronically however in the future this may be possible. We intend to develop the ability for applicants to make applications on line however this will not be possible for some months.		
Please note that this page is not part of the application and you need not complete it.		

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



Ref: EDP422

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

I/we Mr G.J. & E.P. ELLIS
(Insert name(s) of applicant)

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

Part 1 - Premises Details

Postal address of premises or, if none, ordnance survey map reference or description <u>Heathclase.</u> <u>3. Lamndowne Rd.</u> <u>Budleigh Salterton</u> <u>East Devon. EX9 6AH</u>			
Post town	<u>EAST DEVON</u>	Post code	<u>EX9 6AH</u>
Telephone number at premises (if any)	<u>01395-444337</u>		
Non-domestic rateable value of premises	£ <u>2325</u>		

Part 2 - Applicant Details

Please state whether you are applying for a premises licence as

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

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

* If you are applying as a person described in (a) or (b) please confirm:

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

(A) INDIVIDUAL APPLICANTS (fill in as applicable)

<input checked="" type="checkbox"/> Mr	<input type="checkbox"/> Mrs	<input type="checkbox"/> Miss	<input type="checkbox"/> Ms	Other Title (for example, Rev)
Surname ELLIS		First names GRAHAM JOHN		
I am 18 years old or over		<input checked="" type="checkbox"/> Please tick yes		
Current postal address if different from premises address	Heathclose. 3 Lansdowne Rd Budleigh Salterton. East Devon.			
Post Town	Budleigh Salterton.	Postcode	EX9 6AH	
Daytime contact telephone number		01395 444337		
E-mail address (optional)	info@heathclose.com			

SECOND INDIVIDUAL APPLICANT (if applicable)

Mr <input type="checkbox"/>	Mrs <input checked="" type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)
Surname ELLIS			First names EILEEN PATRICIA	
I am 18 years old or over				<input checked="" type="checkbox"/> Please tick yes
Current postal address if different from premises address				
Post Town		Postcode		
Daytime contact telephone number		01395 444337		
E-mail address (optional)	info@healthclose.com			

(B) OTHER APPLICANTS

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

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

Part 3 Operating Schedule

When do you want the premises licence to start?

Day Month Year
~~20 06 11~~ *EPG*

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

Day Month Year

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

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

What licensable activities do you intend to carry on from the premises? *pre dinner drinks & wine with meals only.*

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

Provision of regulated entertainment

Please tick yes

- a) plays (if ticking yes, fill in box A)
- b) films (if ticking yes, fill in box B)
- c) indoor sporting events (if ticking yes, fill in box C)
- d) boxing or wrestling entertainment (if ticking yes, fill in box D)
- e) live music (if ticking yes, fill in box E)
- f) recorded music (if ticking yes, fill in box F)
- g) performances of dance (if ticking yes, fill in box G)
- h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H)

N/A

Provision of entertainment facilities:

- i) making music (if ticking yes, fill in box I)
- j) dancing (if ticking yes, fill in box J)
- k) entertainment of a similar description to that falling within (i) or (j) (if ticking yes, fill in box K)

N/A

Provision of late night refreshment (if ticking yes, fill in box L)

Supply of alcohol (if ticking yes, fill in box M)

In all cases complete boxes N, O and P

A

Plays Standard days and timings (please read guidance note 6)			Will the performance of a play take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	<input type="checkbox"/>	
Day	Start	Finish		Outdoors	<input type="checkbox"/>	
Mon			Please give further details here (please read guidance note 3)	Both	<input type="checkbox"/>	
Tue						
Wed				State any seasonal variations for performing plays (please read guidance note 4)		
Thur						
Fri						
Sat				Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list (please read guidance note 5)		
Sun						

N/A

B

Films Standard days and timings (please read guidance note 6)			Will the exhibition of films take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon			Please give further details here (please read guidance note 3)		
Tue					
Wed			State any seasonal variations for the exhibition of films (please read guidance note 4) <div style="text-align: center; font-size: 2em;">N/A</div>		
Thur					
Fri			Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list (please read guidance note 5)		
Sat					
Sun					

C

Indoor sporting events Standard days and timings (please read guidance note 6)			<u>Please give further details</u> (please read guidance note 3)
Day	Start	Finish	
Mon			
Tue			<u>State any seasonal variations for indoor sporting events</u> (please read guidance note 4)
Wed			
Thur			<u>Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list</u> (please read guidance note 5)
Fri			
Sat			N/A
Sun			

D

Boxing or wrestling entertainments Standard days and timings (please read guidance note 6)			Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 3)		
Mon					
Tue			State any seasonal variations for boxing or wrestling entertainment (please read guidance note 4)		
Wed					
Thur			Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list (please read guidance note 5)		
Fri					
Sat					
Sun					

N/A

E

Live music Standard days and timings (please read guidance note 6)			Will the performance of live music take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 3)		
Mon			 State any seasonal variations for the performance of live music (please read guidance note 4) <i>N/A</i>		
Tue					
Wed					
Thur					
Fri					
Sat					
Sun					
			Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list (please read guidance note 5)		

F

Recorded music Standard days and timings (please read guidance note 6)			Will the playing of recorded music take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
			Both	<input type="checkbox"/>	
Day	Start	Finish	Please give further details here (please read guidance note 3)		
Mon					
Tue					
Wed			State any seasonal variations for the playing of recorded music (please read guidance note 4)		
Thur			N/A		
Fri			Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list (please read guidance note 5)		
Sat					
Sun					

G

Performances of dance Standard days and timings (please read guidance note 6)			Will the performance of dance take place indoors or outdoors or both – please tick (please read guidance note 2)	
Day	Start	Finish	Indoors	<input type="checkbox"/>
			Outdoors	<input type="checkbox"/>
			Both	<input type="checkbox"/>
Mon			Please give further details here (please read guidance note 3)	
Tue				
Wed			State any seasonal variations for the performance of dance (please read guidance note 4)	
Thur				
Fri			Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list (please read guidance note 5)	
Sat				
Sun				

N/A

H

<p>Anything of a similar description to that falling within (e), (f) or (g) Standard days and timings (please read guidance note 6)</p>			<p><u>Please give a description of the type of entertainment you will be providing</u></p>		
Day	Start	Finish	<p><u>Will this entertainment take place indoors or outdoors or both – please tick</u> (please read guidance note 2)</p>	Indoors	<input type="checkbox"/>
Mon				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Tue			<p><u>Please give further details here</u> (please read guidance note 3)</p> <p style="text-align: center;">N/A</p>		
Wed					
Thur			<p><u>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</u> (please read guidance note 4)</p>		
Fri					
Sat			<p><u>Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list</u> (please read guidance note 5)</p>		
Sun					

Provision of facilities for making music Standard days and timings (please read guidance note 6)			<u>Please give a description of the facilities for making music you will be providing</u>	
			<u>Will the facilities for making music be indoors or outdoors or both - please tick</u> (please read guidance note 2)	
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 3)	
Mon			N/A	
Tue				
Wed				
Thur				
Fri				
Sat				
Sun				
			<u>State any seasonal variations for the provision of facilities for making music</u> (please read guidance note 4)	
			<u>Non standard timings. Where you intend to use the premises for provision of facilities for making music at different times to those listed in the column on the left, please list</u> (please read guidance note 5)	

J

Provision of facilities for dancing Standard days and timings (please read guidance note 6)			Will the facilities for dancing be indoors or outdoors or both – please tick (see guidance note 2)	Indoors <input type="checkbox"/>
				Outdoors <input type="checkbox"/>
				Both <input type="checkbox"/>
			Please give a description of the facilities for dancing you will be providing	
Day	Start	Finish		
Mon			Please give further details here (please read guidance note 3)	
Tue				
Wed			State any seasonal variations for providing dancing facilities (please read guidance note 4)	
Thur				
Fri			Non standard timings. Where you intend to use the premises for the provision of facilities for dancing entertainment at different times to those listed in the column on the left, please list (please read guidance note 5)	
Sat				
Sun				

N/A

K

Provision of facilities for entertainment of a similar description to that falling within i or j Standard days and timings (please read guidance note 6)			<u>Please give a description of the type of entertainment facility you will be providing</u>		
Day	Start	Finish	<u>Will the entertainment facility be indoors or outdoors or both – please tick</u> (please read guidance note 2)	Indoors	<input type="checkbox"/>
Mon				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Tue			<u>Please give further details here</u> (please read guidance note 3) <div style="text-align: center; font-size: 2em;">N/A</div>		
Wed					
Thur			<u>State any seasonal variations for the provision of facilities for entertainment of a similar description to that falling within i or j</u> (please read guidance note 4)		
Fri					
Sat			<u>Non standard timings. Where you intend to use the premises for the provision of facilities for entertainment of a similar description to that falling within i or j at different times to those listed in the column on the left, please list</u> (please read guidance note 5)		
Sun					

L

Late night refreshment Standard days and timings (please read guidance note 6)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon			Please give further details here (please read guidance note 3)		
Tue					
Wed			State any seasonal variations for the provision of late night refreshment (please read guidance note 4)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list (please read guidance note 5)		
Sat					
Sun					

N/A

M

Supply of alcohol Standard days and timings (please read guidance note 6)			Will the supply of alcohol be for consumption (Please tick box) (please read guidance note 7)	On the premises	<input checked="" type="checkbox"/>
				Off the premises	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	State any seasonal variations for the supply of alcohol! (please read guidance note 4)		
Mon	11 AM	11 PM			
Tue	11 AM	11 PM			
Wed	11 AM	11 PM			
Thur	11 AM	11 PM			
Fri	11 AM	11 PM			
Sat	11 AM	11 PM			
Sun	11 AM	11 PM	Non standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list (please read guidance note 5)		

State the name and details of the individual whom you wish to specify on the licence as premises supervisor

Name	EILEEN PATRICIA ELLIS		
Address	Heathcote. 3 Lamadawna Rd, Buckleigh Salterton East Devon		
Postcode	EX9 6AH		
Personal Licence number (if known)	TQ90175.		
Issuing licensing authority (if known)	South Hams District Council.		

N

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 8)

N/A

O

Hours premises are open to the public Standard days and timings (please read guidance note 6)			State any seasonal variations (please read guidance note 4)
Day	Start	Finish	<p>residence 24 Hours.</p> <p>N/A</p>
Mon	11 AM	11:30 PM	
Tue	11 AM	11:30 PM	
Wed	11 AM	11:30 PM	
Thur	11 AM	11:30 PM	
Fri	11 AM	11:30 PM	
Sat	11 AM	11:30 PM	
Sun	11 AM	11:30 PM	
			<p>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list (please read guidance note 5)</p>

P Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b,c,d,e) (please read guidance note 9)

None required

b) The prevention of crime and disorder

none required

c) Public safety

none required

d) The prevention of public nuisance

none required.

e) The protection of children from harm

none required.

- Please tick yes
- I have made or enclosed payment of the fee
 - I have enclosed the plan of the premises
 - I have sent copies of this application and the plan to responsible authorities and others where applicable
 - I have enclosed the consent form completed by the individual I wish to be premises supervisor, if applicable
 - I understand that I must now advertise my application
 - I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 4 – Signatures (please read guidance note 10)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 11). If signing on behalf of the applicant please state in what capacity.

Signature	E. P. Golden
Date	23/5/11
Capacity	Proprietor

For joint applications signature of 2nd applicant or 2nd applicant's solicitor or other authorised agent. (please read guidance note 12). If signing on behalf of the applicant please state in what capacity.

Signature	[Signature]
Date	23/5/11
Capacity	Proprietor

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 13)

N/A.			
Post town		Post code	
Telephone number (if any)			
If you would prefer us to correspond with you by e-mail your e-mail address (optional)			

Notes for Guidance

1. Describe the premises. For example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies you must include a description of where the place will be and its proximity to the premises.
2. Where taking place in a building or other structure please tick as appropriate. Indoors may include a tent.
3. For example the type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.
4. For example (but not exclusively), where the activity will occur on additional days during the summer months.
5. For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.
6. Please give timings in 24 hour clock (e.g. 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.
7. If you wish people to be able to consume alcohol on the premises please tick on, if you wish people to be able to purchase alcohol to consume away from the premises please tick off. If you wish people to be able to do both please tick both.
8. Please give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups, the presence of gaming machines.
9. Please list here steps you will take to promote all four licensing objectives together.
10. The application form must be signed.
11. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
12. Where there is more than one applicant, both applicants or their respective agents must sign the application form.
13. This is the address which we shall use to correspond with you about this application.

Form of Consent of individual to
being specified as premises
supervisor



Ref: EDP300

I
EILEEN PATRICIA ELLIS
[full name of prospective premises supervisor]

of HEATH CLOSE
3 LANSDOWNE ROAD.
BUDLEIGH SALTERTON.
EAST DEVON.
EX9 6AH

[home address of prospective premises supervisor]

hereby confirm that I give my consent to be specified as the designated premises
supervisor in relation to the application for

Premises Licence
[type of application]

by

Mr Graham John Ellis, Eileen Patricia Ellis
[name of applicant]

relating to a premises licence NONE
[number of existing licence, if any]

for Heathclose.
3. Lansdowne Rd.
Budleigh Salterton.
East Devon EX9 6AH

[name and address of premises to which the application relates]

and any premises licence to be granted or varied in respect of this application made by

Graham Eileen Ellis
[name of applicant]

concerning the supply of alcohol at

Heathcote.
3. Lansdowne Rd.
Budleigh Salterton
East Devon
EX9 6AH.

.....
[name and address of premises to which application relates]

I also confirm that I am applying for, intend to apply for or currently hold a personal licence, details of which I set out below.

Personal licence number

TQ9 0175.
[insert personal licence number, if any]

Personal licence issuing authority

South Hams Council.
[insert name and address and telephone number of personal licence issuing authority, if any]

South Hams Council
Follaton House
Follaton Rd
Tolmes TQ9.

Signed

E.P. Ellis

Name (please print)

EILEEN PATRICIA ELLIS

Date

18/5/11.

exp. =
31/03/15

Application No: 029111	Application Date: 24 May 2011
Licence Type: Premises Licence WITH Alcohol	Licence No: N/A
Application Type: New Application	

Premises: Heathclose
3 Lansdowne Road, BUDLEIGH SALTERTON, Devon, EX9 6AH.

Applicant: Graham John Ellis
Heathclose, 3 Lansdowne Road, Budleigh Salterton, Devon, EX9 6AH.

Person making Representation: Devon & Cornwall Constabulary
Police Station, 1 North Street, Exmouth, Devon, EX8 1JZ.

Representation Accepted: Representation has been withdrawn

Reason: Mediated

Details: Reference the above application please note the police object to this application as there are no conditions put forward by the applicant to fulfil the licensing objectives. I anticipate we will reach an agreed position. I am considering the following conditions

- 1 There will be a Challenge 21 age verification policy
2. Alcohol will only be sold to those persons who are Residents at the premises
Bona Fide guests of residents at the premises
Pre-booked persons who are residents in other guest house accommodation within Budleigh Salterton
3. All alcohol with the exception of wine and mixers will be decanted
4. All alcohol will be served by way of waiter/waitress service
5. Alcohol will not be stored within the licensable area as marked in red on the plan supplied to the Licensing Authority

Evidence:

Suggestion:

Application No: 029111

Premises: Heathclose

3 Lansdowne Road, BUDLEIGH SALTERTON, Devon, EX9 6AH.

Person making Representation: Ken & Tina Garrod

9 Lansdowne Road, BUDLEIGH SALTERTON, Devon, EX9 6AH.

Representation Accepted: Representation has been accepted

Reason: N/A

Details:

Prevention of crime and disorder

Period of operation, 11.00 to 23.30 is too extended and may lead to disorder from drunken behaviour, putting pressure on police and medical resources.

Public safety

Lansdowne Road is a narrow quiet residential no-through road, with poor access on to the main Exmouth Road. Recent applications for new development in the road have been turned down on safety grounds because of this. Increased traffic from delivery vehicles and customers would heighten this danger. There is no provision for turning round in the road, so large vehicles have to reverse to exit and cars resort to turning in house driveways - this is dangerous for pedestrians and other vehicles. Parking is limited at Heath Close with customer vehicles already often parking in the road: additional customers would increase this with concomitant danger.

Lansdowne Road is frequented by many walkers, accessing the Coastal Path. There is no footpath on the road because it is already narrow. Additional traffic increases the danger to pedestrians and may deter people from accessing this area of Outstanding Natural Beauty.

Prevention of public nuisance

Lansdowne Road is solely residential. It lies within an area of Outstanding Natural Beauty of great character. It is entirely inappropriate to allow the development of a hotel/restaurant in this location.

The application is for alcohol consumption to be permitted anywhere on the premises, including the garden, and is not restricted to residents. Noise from customers in the garden and additional non-resident customers, for potentially 12 hours a day, 7 days a week, will be a public nuisance.

Noise from delivery vehicles will cause annoyance to neighbouring houses.

Traffic also poses a nuisance (see above) making pedestrian use difficult, especially as larger delivery vehicles will have to reverse in the road.

Protection of children from harm

There is no provision to restrict children's exposure to drinkers on the premises.

Pedestrians, often families with children, will be endangered by the increase in traffic which will ensue.

Evidence:

Suggestion:

The license should run from 18.00 to 21.00 with no extension ever permitted.

It should permit only residents of Heath Close to be customers, with a defined limited number, related to the number of bedrooms available: this is reasonable and adequate for a bona fide Bed and Breakfast business.

Consumption should only be permitted indoors, in defined areas, and never in the garden.

Deliveries should be restricted to a window of 2 hours 5 day a week and exclude early morning (noise, safety).

There should be a site inspection before a decision on the application is made.

Application No: 029111

Premises: Heathclose

3 Lansdowne Road, BUDLEIGH SALTERTON, Devon, EX9 6AH.

Person making Representation: Gill Anderson

Cringle Lodge, 11 Lansdowne Road, BUDLEIGH SALTERTON, Devon, EX9 6AH.

Representation Accepted: Representation has been accepted

Reason: N/A

Details:

Public safety

EDDC Highways are sufficiently concerned over issues of traffic entering and exiting Lansdowne Road to object to all housing development With

1. the existing number of bedrooms

2. the proposed dining for 14

3. a 12 hour application

4. non residents to be included (albeit with unenforceable conditions)

this would produce a considerable increase in traffic.

Parking for the new customers would spill into the road as the existing arrangements are inadequate as already cars from this address park in the road. The road is narrow and a gully and flint wall increase this. There is a real possibility that parked cars would impede access by emergency vehicles to properties higher up the road. Please note this is a narrow no through road continuing to decrease in width as it goes higher with no appropriate place to turn.

Prevention of public nuisance

The change from a domestic dwelling with about 2-3 bedrooms for bed and breakfast to a fully fledged catering establishment with a 12 hour license creates a business with the associated noise and activity and issues regarding traffic identified above to represent a serious public nuisance.

Protection of children from harm

There are children in an adjacent property and likely to be in other houses in the road at future dates as they are by design suitable for families.

Evidence:

Suggestion:

The license should be reduced to a maximum of 5 hours in the evening finishing before 2300.

It should be strictly applied to residents only and the number of bedrooms used therefore clearly identified. Protection included to prevent it becoming a hotel.

It should be clear that it cannot establish a restaurant function for non residents. Nor extend this to music and dancing.

It should specify that alcohol cannot be drunk in the garden. It should specify that the agreed licensing parameters within the house cannot be increased.

It should specify that no additional applications be made that change the nature of a domestic business, i.e. addition occasional licences should not be allowed to extend the parameters of the license..

This is an area of outstanding natural beauty and a commercial operation in a secluded residential road is damaging to that designation.

Due to the sensitive implications of this application to the AONB a site visit is essential.

Application No: 029111

Premises: Heathclose

3 Lansdowne Road, BUDLEIGH SALTERTON, Devon, EX9 6AH.

Person making Representation: David & Brenda Plumer
2A Lansdowne Road, BUDLEIGH SALTERTON, Devon, EX9 6AH.

Representation Accepted: Representation has been accepted

Reason: N/A

Details:

We note that an application has been made by the above for a licence to sell alcohol at their Bed and Breakfast establishment between the hours of 11.00 a.m. and 11.00 p.m..

As we are nearby residents this application may affect us and our thoughts on this are as follows:

(1) Heath Close is an establishment for bed and breakfast guests and we are puzzled by the fact that alcohol would be required as early as 11.00 a.m..

If the intention is to serve lunch and dinner, we can understand alcohol being available for purchase - but this is currently a bed and breakfast establishment and not an hotel.

(2) If the owners intend to change the status of their business, surely this would involve an application for change of use and if this is the case (and we are only thinking ahead on this one) our concerns are as follows:

(a) This is very much a residential area with a narrow road - some of our driveways are used for cars turning.

(b) Following on from (a) - is there sufficient parking for additional cars if the premises are to be used for functions - i.e. weddings, parties etc.?

Parking on the narrow road would obviously cause problems, particularly for emergency vehicles and we would therefore suggest a site meeting to view the situation.

(c) If functions were to be held at Heath Close, we would be concerned at the level of noise in this residential area.

(d) There is no doubt that there has been a steady increase in the amount of traffic on the main Exmouth Road. We are finding it increasingly difficult at times to exit Lansdowne Road. We are concerned at the possible increase in traffic using this road if anything other than a bed and breakfast business is envisaged.

Some time ago the owners of 3 Lansdowne Road, applied and were granted permission to change a garage into office accommodation. This has since been used as accommodation for bed and breakfast guests. Is it the case that a further change of use application has been approved?

We do have major concerns that the application for licensing for the sale of alcohol at Heath Close is the "thin edge of the wedge" and feel that we need to bring the above concerns to your attention when considering their application to which, for the foregoing reasons, we object strongly.

Evidence:

Suggestion:

Application No: 029111

Premises: Heathclose

3 Lansdowne Road, BUDLEIGH SALTERTON, Devon, EX9 6AH.

Person making Representation: Ian & Jenny Wasson

Heath Cottage, 8 Lansdowne Road, BUDLEIGH SALTERTON, Devon, EX9 6AH.

Representation Accepted: Representation has been accepted

Reason: N/A

Details:

Whilst we would never object to residents of the B&B being able to obtain alcohol during their stay, we feel that the application to serve alcohol to the guests of residents and prebooked residents of other B&B's in Budleigh Salterton is unacceptable for a property situated in a quiet residential no through road on the edge of town.

You may not be aware that previously three applications were refused by EDDC to build in the garden of 10 Lansdowne Road due to the substandard access arrangements at the junction of Lansdowne Road with the B3178. The planning references are 07/2749/FUL: 08/1259/FUL and 09/0983/FUL. Devon County Highways on each occasion felt that the additional traffic provided a risk of additional danger to other users of the road - i.e. the general public. It would seem to us that in fact the proposed licence would mean more traffic in the road than that generated had a 4 bedroom property been approved to be built on the road.

There have been occasions when guests looking for Heath Close have missed the house and driven up the road and then reversed in our drive so they can go back down the hill. On at least one occasion guests have turned up at our house (Heath Cottage) mistaking us for the B&B.

We are very surprised that both the police and the Planning Department seem happy with the proposals, especially as the details outlined for the licence will be impossible to monitor and enforce. What does 'guests of residents' mean? Could this be interpreted that a residential couple could hold a birthday party/wedding reception etc at the house and invite a number of guests and their cars with the limited parking available and the access issues? As the property is right on the edge of town other B&B residents will probably drive to the property also, possibly creating a nuisance for residents of the road.

We feel this application will lead to further commercial development of this property - when exactly does a B&B become a small hotel? - and should be refused. This quiet residential road is not appropriate for this style of development.

Evidence:

Suggestion:

Application No: 029111

Premises: Heathclose

3 Lansdowne Road, BUDLEIGH SALTERTON, Devon, EX9 6AH.

Person making Representation: Jeff & Yvonne Higgins

Warreleigh, 2 Lansdowne Road, BUDLEIGH SALTERTON, Devon, EX9 6AH.

Representation Accepted: Representation has been accepted

Reason: N/A

Details:

I am writing to object to a premises licence application being granted to the above property for the following reasons:

- 1) The history of the premises is that enforcement investigation was taken against the property and retrospective planning for Bed and Breakfast for up to three bedrooms (max 6 guests) was applied for.
- 2) The delegated officer's report of September 2008 said that:

' Given the size of the existing house which could accommodate a large family owning several cars, the proposed change of use is not considered to result in any significant increase in intensity of use (including noise/disturbance) to that which could reasonably be expected of a property of this size. In addition, the property can accommodate adequate off street car parking for up to 8 vehicles (according to the application form) and therefore guests vehicles are unlikely to be parked on the highway to the detriment of neighbouring amenities. As such, the proposal is not considered to have any adverse impact on the AONB, the character of the area and is compatible with the existing residential uses'

Given the officers clear concern that off-street parking would be detrimental to neighbouring properties, this increase in commercial activity will inevitably result in more traffic to the premises, both from customers and delivery of goods. What assurance have the applicants given that all customers vehicles will be parked off-road on their premises and is this a condition of any license being granted?

3) Commercially this license application makes no sense at all unless a significant expansion in commercial activity is planned. Lansdowne Road is a quiet residential street with no commercial properties of any type. The original application in 2008 for Heath Close was for three bedrooms to be used for Bed and Breakfast, with a letter from the applicant stating that the converted garage or 'cottage' in the grounds would not be used for any guest accommodation. Since that time the garage has been used for guests. The web-site for Heath Close

<http://www.heathclose.com/home.html>

informs that there are four bedrooms available. In addition evening dinner is now available on a pre-booked basis. There is no mention on the web-site that the evening dinner is for residents only, therefore is this and the supply of alcohol that this would imply to these diners allowable in the terms of this application? The web-site also informs us that Heath Close is now available for family celebrations, wedding receptions etc etc. One assumes that guests at these events would expect to be served alcohol even though they are not staying at the property. Surely this is stretching the residential element of the license beyond the bounds of a paying resident and their bona fide guests option? By implication, 6 paying guests could have endless additional non-residential 'guests', all imbibing alcohol. Is any limit of the number of bona fide guests proposed? Where are all these guests going to park, let alone the late night nuisance value of late night revellers on a quiet narrow residential street?

This is a very unwelcome scale up in commercial activity and would seem to be stretching the granting of B&B permission at the premises to the very limit or beyond it. The granting of an alcohol license could be seen as legitimising activities for which Heath Close has no permissions to do.

4) Lansdowne Road is a narrow residential road with no pavement, and access is by a very sharp turning onto the main Exmouth Road. Pedestrians will have an increase in traffic to contend with, cars going up and down Lansdowne Road will potentially have parked vehicles to contend with. The junction of Lansdowne Road and Exmouth Road is almost adjacent to the very busy Exmouth Road/Knowle junction and further traffic to Lansdowne Road will only make this junction more dangerous.

5) I am concerned that emergency vehicles would find it difficult to get up Lansdowne Road if commercial activities and hence on-road car parking were to substantially increase.

6) Lansdowne Road is a quiet residential road and this application will increase the noise and nuisance from customers and delivery vehicles to Heath Close. Customers leaving Heath Close late at night will be creating noise with car doors slamming, cars starting up, talking etc etc. For pedestrian guests of Heath Close there are no pavements on Lansdowne Road and limited pavement on Exmouth Road, and, given the limited bus services along Exmouth Road, these premises are in the wrong place for this type of activity

7) My property, Warreleigh, 2 Lansdowne Road, is opposite Heath Close, with my driveway directly opposite the drive way for Heath Close. Parking on the road around these drives makes it virtually impossible to gain access onto Lansdowne Road and increases the chances of an accident as visibility to see cars coming up and down Lansdowne Road is greatly reduced by on street parking.

The granting of any alcohol license to Heath Close would represent a very unwelcome move for the above reasons

Evidence:

Suggestion:

Application No: 029111

Premises: Heathclose

3 Lansdowne Road, BUDLEIGH SALTERTON, Devon, EX9 6AH.

Person making Representation: DH Richardson

The Whins, 5 Lansdowne Road, BUDLEIGH SALTERTON, Devon, EX9 6AH.

Representation Accepted: Representation has been accepted

Reason: N/A

Details: We strongly object to the granting of the alcohol licence requested. Our concerns are given below:

General

We can understand that, if evening meals were being provided as an extra to a B&B business, it would not be unusual to wish to make alcoholic drinks available to accompany such meals. However, the request to have a licence stretching Mondays to Sundays 1100 to 2300 hours suggests to us that something more than a simple B&B with evening meal option is in mind. That speculation on our part appears to be supported by the Heath Close website (extract copy enclosed), which informs that pre-booked evening dinners (Fridays and Saturdays) will be offered during the summer 2011; also that special family celebrations, anniversary or small wedding receptions can be catered for.

Traffic

We would object to any development which might serve to increase the volume of traffic within the road (clear relevance here to public safety for persons and particularly children, stepping out from the premises into the roadway or, indeed, simply walking up/down the road).

Lansdowne Road is only some 5.5m wide with no pathway (previous application Transport Statement refers). It is a cul-de-sac with, as we see it, no formal adopted turning space provision at the head of the road. The inlet to our property gateway is frequently used for turning, a use which we seek to minimise by provision of a post and chain barrier.

We would be concerned at the potential for additional on road parking, if there should be an increase in business (public nuisance and public safety relevance).

Adequacy of access for emergency services at all times is vital (public safety relevance).

Junction Lansdowne Road / Exmouth Road (public safety)

In the past, an important factor in granting or refusing planning permission for additional properties has been the view of the Highways Authority over the volume of traffic negotiating this difficult junction. Obviously, the B&B business has already had the potential for increase in traffic to a degree but we suggest that, if the extended hour licence were to be approved, the potential for yet further traffic would arise.

The Environment

If people were to be leaving 3 Lansdowne Road after the latest proposed licence hour (2300 hours), there would be clear potential for increased voice and traffic noise -totally unacceptable to us and out of character with a quiet residential area (public nuisance relevance). In addition, any spilling out from the premises into the garden area at any time of the day in respect of functions would disturb the quiet atmosphere of this residential area.

Evidence:

Suggestion: In all the circumstances, we feel strongly that a site meeting with an appropriate official is desirable so that the special (in our view) characteristics of Lansdowne Road can be fully understood and taken into account

Person making Representation: Joy Boyles

Tahuna, 29 Exmouth Road, BUDLEIGH SALTERTON, Devon, EX9 6AQ.

Representation Accepted: Representation has been accepted

Reason: N/A

Details: My husband and I are totally opposed to the grant of a licence for the property at 3 Lansdowne Road, (our South West boundary is only a few yards from their North East)

This is a quiet residential area with a high proportion of elderly retired occupants (we are 77 and 82 respectively) and generally in bed well before 2300 hours. The prospect of possible frequent noisy revelry is most alarming. Please reject the licence application.

Evidence:

Suggestion:

Application No: 029111

Premises: Heathclose

3 Lansdowne Road, BUDLEIGH SALTERTON, Devon, EX9 6AH.

Person making Representation: Des & Mary Bennett

3 Vennings Copse, Moorlands Road, BUDLEIGH SALTERTON, Devon, EX9 6AX.

Representation Accepted: Representation has been accepted

Reason: N/A

Details:

We understand there has been an application for a premises licence for the above property.

As residents of a property at the western end of Vennings Copse, we are very close to the back garden of Heath Close.

We feel that the granting of a licence for the sale of alcohol to enable Heath Close to hold wedding receptions and other celebrations could affect the residential nature of this area. It is a significant step up the commercial ladder from running a Bed and Breakfast to holding increasingly large public events. Inevitably these run late into the evening, possibly outside, and the resultant noise would be a significant Public Nuisance.

As a result we would like to lodge our objections to the application.

Evidence:

Suggestion:

Application No: 029111

Premises: Heathclose

3 Lansdowne Road, BUDLEIGH SALTERTON, Devon, EX9 6AH.

Person making Representation: S A Pavey

2 Vennings Copse, Moorlands Road, BUDLEIGH SALTERTON, Devon, EX9 6AX.

Representation Accepted: Representation has been accepted

Reason: N/A

Details:

The above mentioned application has only recently come to my attention and, although my property is not directly adjacent to 3 Lansdowne Road, it is very close and for that reason I oppose this application on three main aspects. These are as follows:

1. Public Nuisance

This is a quiet residential area at present. Having spoken with your office I appreciate that the owners of Heath Close have now confirmed they will NOT be having wedding receptions and other functions as they originally planned. However, if evening meals are going to be encouraged, especially only during the summer months as stated on their web site, this could lead to voices outside late into the evening which will carry and can clearly be heard. Furthermore, if additional dining guests other than residents as you advised, are to be encouraged there is also the concern of car doors closing and engines starting late into the evening. Again, there is strong potential these would be heard in the local area thus causing disturbance to all neighbouring people - the majority of whom are elderly.

2. Public Safety (and also Public Nuisance)

Access and Egress on to Exmouth Road from Lansdowne Road is already a hazard. To obtain any visibility you have to stick a proportion of your bonnet out of Lansdowne Road into Exmouth Road and this has caused - and will continue to cause - cars to swerve out on Exmouth Road despite how careful people exit Lansdowne Road. Additionally this road is very close to the 'triangular junction' leading to Knowle. This area gets very busy and I feel this should be taken into consideration if there is to be more traffic going to Heath Close for dinner. A further point is that there are very limited pavements around the immediate area of Lansdowne Road so if anyone should be walking it can be dangerous.

3. Confusion as to why a License is required?

Why does a Bed and Breakfast require an alcohol license? The business is as it states - a Bed and Breakfast, not a Hotel.

Why is it necessary to offer residents alcohol for 24 hours of their stay? They only have 8 residents staying at any one time.

Why is it necessary to offer people other than residents alcohol between 11am and 11.30pm?

How many people is this 'restaurant' going to cater for? Your office stated that they would only offer dinner to residents of other Bed and Breakfast establishments or similar that do not offer evening meals - how please will this be monitored therefore ensuring it does not become a vast restaurant?

The owners state on their web site that they are only offering evening dinner on Friday and Saturday evenings and then only through the summer months of 2011 - we are already towards the end of June 2011. It seems a lot of effort to get an alcohol license for such a limited number of evenings and months. Do you have written confirmation that the larger functions have definitely been cancelled - you stated that the Police had, I believe, been involved in this decision? My fear, if the owners attempt to pursue their holding functions in the future (which I would strongly oppose), is that this would cause further public nuisance through not only additional increased noise into the evenings and greater volume of traffic but also the potential of crime when there are large groups celebrating with alcohol.

Would it not be an option to offer a glass of complimentary wine with an evening meal (as they do with a glass of sherry on arrival) or indeed charge for corkage instead of getting a full license?

As Heath Close is situated on the outskirts of Budleigh Salterton it lends itself more to people driving there rather than walking. This leads to the question as to how much alcohol could actually be legally consumed considering public safety and drink driving laws?

I strongly feel this is an unrequired license application and, if people choose to stay at a Bed and Breakfast that is all they are seeking, not the further services of alcohol and potential dinner. There are, after all, several establishments in the local vicinity that already cover these services.

Please ensure that all relevant enquiries are made and that this application is fully investigated.

Evidence:

Suggestion:

Heath Close – Responses to Notice of Hearing

Applicants

Mr G J & Mrs E P Ellis	
Hearing Unnecessary	n/a
Attending	yes
Supporting documents	None received
Summary of key points	None received

Responsible Authorities

1.	Inspector J Capey, Devon & Cornwall Constabulary, Exmouth Police Station, North Street, Exmouth, EX8 1JZ
Hearing Unnecessary	Mediated

Interested Parties

2.	Mr K & Mrs T Garrod, 9 Lansdowne Road, Budleigh Salterton, EX9 6AH
Hearing Unnecessary	Mediated

3.	Mrs G Anderson, 3 Lansdowne Road, Budleigh Salterton, EX9 6AH
Hearing Unnecessary	Mediated

4.	Mr D & Mrs B Plumer, 2a Lansdowne Road, Budleigh Salterton, EX9 6AH
Hearing Unnecessary	Mediated

5.	Mr I & Mrs J Wasson, 8 Lansdowne Road, Budleigh Salterton, EX9 6AH
Hearing Unnecessary	Mediated

6.	Mr J & Mrs Y Higgins, 2 Lansdowne Road, Budleigh Salterton, EX9 6AH
Hearing Unnecessary	Mediated

7.	Mr & Mrs D H Richardson, 5 Lansdowne Road, Budleigh Salterton, EX9 6AH
Hearing Unnecessary	Mediated

8.	Mrs J D Boyles, Tahuna, 29 Exmouth Road, Budleigh Salterton, EX9 6AQ
Hearing Unnecessary	No
Attending	No
Summary of key points	Yes
Prevention of Crime and Disorder	Garden boundaries in this area are, generally, not secure. The prospect of celebrating groups seeking entertainment by roaming around the area is disturbing.
Prevention of Public Nuisance	This is a quiet residential area with a high proportion of elderly, retired occupants. We are 77 & 82 respectively and generally in bed will before 23.00 hours. Inevitably if licensed until 23.00 there is the prospect of frequent, noisy revelry until much later than that time, constituting a severe nuisance to us.

APPENDIX D

9.	Mr D & Mrs M Bennett, 3 Lansdowne Road, Budleigh Salterton, EX9 6AH
Hearing Unnecessary	Mediated

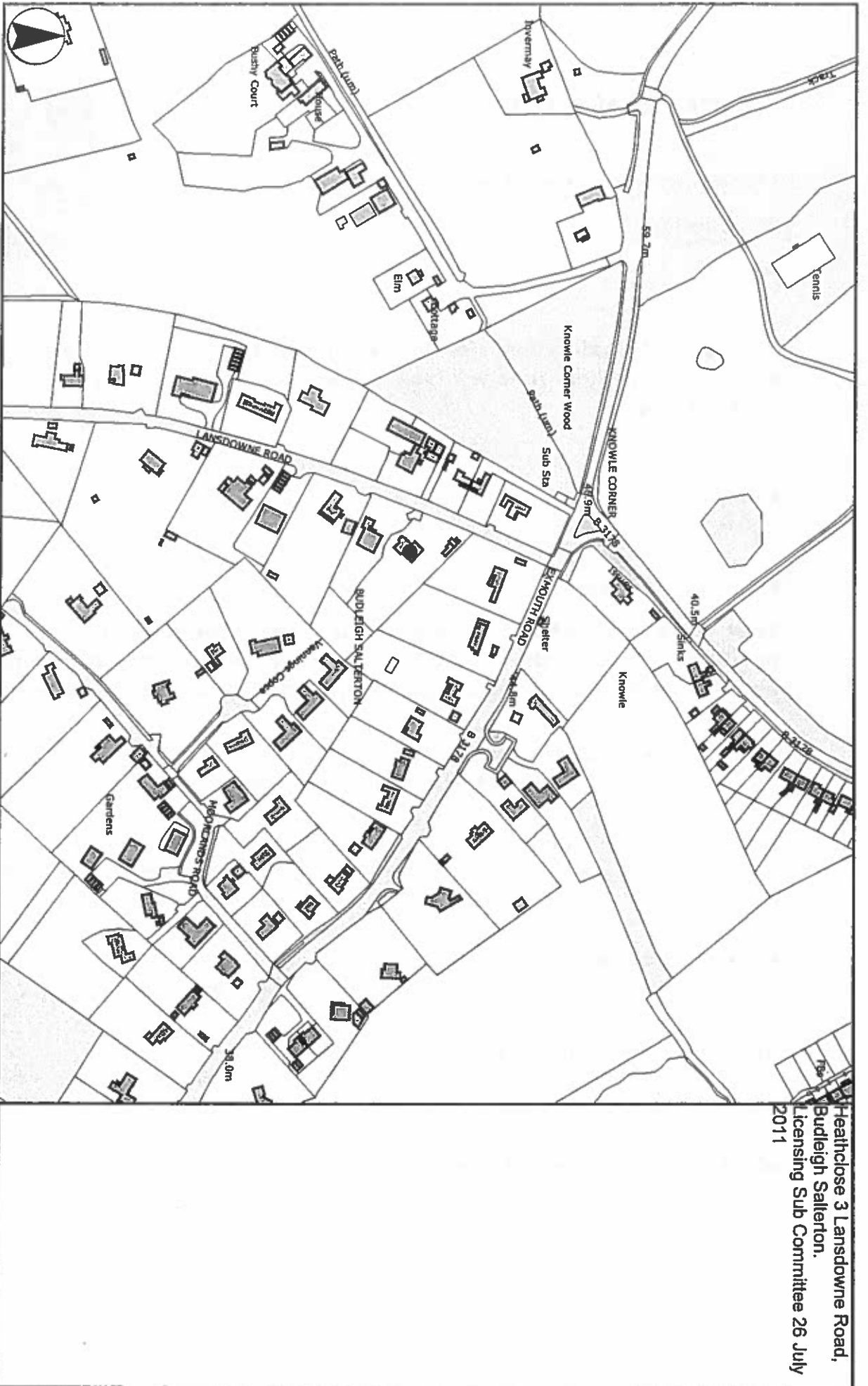
10	Mrs S A Pavey, 2 Vennings Close, Moorlands Road, Budleigh Salterton, EX9 6AX
Hearing Unnecessary	Mediated

CONDITIONS AGREED BETWEEN THE POLICE AND THE APPLICANT

1. There must be a Challenge 21 age verification policy.
2. Alcohol must only be sold to those persons who are:
 - I. Residents at the premises
 - II. Bona Fide guests of residents at the premises
 - III. Pre-booked persons who are residents in other guest house accommodation within Budleigh Salterton.
3. All alcohol with the exception of wine and mixers must be decanted.
4. All alcohol must be served by way of waiter/waitress service.
5. Alcohol must not be stored within the licensable area as marked in red on the plan supplied to the Licensing Authority.

CONDITIONS AGREED FOLLOWING MEDIATION MEETING ON 30 JUNE 2011.

1. The sale of alcohol will be from 18.00 to 22.00 Monday to Sunday.
2. The maximum number of guests permitted in the licensed area to consume alcohol must not exceed eight (8) persons.
3. The applicants agree to change the licence application to amend the expiry date of the premises licence from "indefinite" to 31 March 2015.
4. The licence holder must return the premises licence to the Licensing Authority immediately upon its expiry on 31 March 2015.



Healthclose 3 Lansdowne Road,
 Budleigh Salterton,
 Licensing Sub Committee 26 July
 2011

ANNEXE G

Map Title: SY0482SE Full Reference: SY0488 8230

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Agenda Item 6

Licensing Sub Committee

26 July 2011

NMcD



Schedule of applications for Sub Committee approval where an agreed position has been reached and all parties have agreed a hearing is unnecessary.

Summary

The report details these applications.

Recommendation

That these applications be granted as applied for subject to the agreed positions set out in the schedule below, any relevant statutory conditions and the applicants having complied with relevant statutory requirements.

a) Reasons for Recommendation

To ensure full compliance with statutory processes.

b) Alternative Options

The Licensing Authority must grant these applications as all parties have agreed a position which they consider makes a hearing unnecessary.

c) Risk Considerations

Applications must be dealt with within the statutory time limits.

d) Policy and Budgetary Considerations

Officers have taken into account the Council's Licensing Policy in making the recommendation.

e) Date for Review of Decision

The council's decision may be appealed to the Magistrates Court. The Licensing Act 2003 also contains review provisions.

1. Legislation Background

- 1.1 Under the Licensing Act 2003 it is unclear whether applications where an agreed position has been reached and the parties do not consider a hearing to be necessary, require to be formally determined by a licensing sub committee, as opposed to relying on determination powers delegated to officers. To put the matter beyond doubt, these applications are reported to members for their approval of the agreed position. This process also enables members to be advised of the success of the informal mediation in advance of hearings, which is facilitated by Licensing Officers or sometimes by other Responsible Authorities.

2. **Schedule of Applications**

Type of Application	Name of premises and address	Agreed position reached by the parties
Application for a premises licence to be granted	Lidl Store, Dinan Way, Exmouth, Devon, EX8 4RZ.	<p>Following mediation the applicant and the Police have agreed that they consider a hearing to be unnecessary if the following agreed position is approved.</p> <p>The application be approved as submitted subject to the addition of the following conditions:</p> <ol style="list-style-type: none"> 1. CCTV must be installed, operated and maintained at the premises to a standard that provides images of evidential quality. The CCTV system will be installed so as to provide camera cover at the entrance/ exit of the premises, along the checkouts and in the area of the store where alcohol is displayed. All cameras located on entrances must be able to produce images of evidential standard as defined by the Home Office Guidance. Entrance Cameras must be capable of providing good quality head and shoulder images of persons entering/ leaving the premises. They should be high resolution colour cameras complete with an auto iris vari-focal lens. Cameras in the main areas of the premises must be able to cope with the extreme lighting conditions that may be present. The cameras, recording equipment and all ancillaries should be maintained according to the manufacturers instructions to ensure that the standard of the image is not compromised.

		<ol style="list-style-type: none"> 2. CCTV images will be retained for a minimum of 14 days and will be produced as soon as is reasonably practicable and in any event within 48 hours of a request by the Police or a Licensing Officer of East Devon District Council. Recording media must be set to a minimum of 25 frames per second. The CCTV recordings must be stored on a digital multiplex recorder with either an on board CD/DVD re-writer and/ or a USB port for evidence recovery. The system must be capable of producing single images and forward, reverse, pause and slow motion at full screen resolution. All equipment must have constant time/ date generation. 3. The CCTV system must be operational at all times whilst the premises are trading. If the system is faulty or not working then the Police and East Devon Licensing Service must be informed immediately by email. 4. Warning notices of at least an A5 size must be displayed in public areas of the premises and at all entrances advising that CCTV is in operation. The signs located at entrances should be located on the exterior of the building at, and adjacent to, all public access doors. All signs must comply with the requirements of the Data Protection Act 2002. 5. The CCTV recording system must be housed in a secure room/ cabinet where access is restricted and the operation is strictly limited to authorised persons.
	<p>Recommend approval of application subject to the amended operating schedule and the relevant mandatory conditions of the Licensing Act 2003</p>	
<p>Application for a premises licence to be granted.</p>	<p>Domino's Pizza 19 Imperial Road, Exmouth, Devon, EX8 1BY.</p>	<p>Following mediation the applicant and the Devon & Cornwall Constabulary, the Councils Environmental Health service, two District Councillors and a local resident have agreed that they consider a hearing to be unnecessary if the following agreed position is approved.</p>

		<p>The application be approved as submitted subject to the addition of the following conditions:</p> <ol style="list-style-type: none"> 1. CCTV must be installed, operated and maintained to the satisfaction of the Licensing Authority and the Chief Officer of Police in accordance with the requirements set out in the EDDC Licensing Policy. 2. CCTV images must be retained for a minimum of 14 days and to be produced on the request of the Police or a Licensing Officer of East Devon District Council. Recording media must be set to 25 frames per second. 3. The CCTV system must be operational at all times whilst the premises are trading. If the system is faulty or not working then the Police and East Devon Licensing Service must be informed immediately. Details of the malfunction must be recorded in the premises incident book. 4. A4 sized warning notices must be displayed in public areas of the premises and at all entrances advising that CCTV is in operation. The signs located at entrances should be located on the exterior of the building at, and adjacent to, all public access doors. All signs must comply with the requirements of the Data Protection Act 2002. 5. The holder of the premises licence must ensure that all delivery drivers are instructed to enter and leave their vehicles quietly and considerately, not to leave engines running, to park considerately and at all times to keep in mind neighbours. 6. The holder of the premises licence must ensure that doors and windows will be kept closed at night to prevent the transmission of noise. 7. The holder of the premises licence must
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		<p>ensure that the customers who visit the premises to purchase takeaways will be asked to leave quietly and with due consideration for the neighbours.</p> <p>8. All counter service must end at 3am with last orders 10 minutes before but we will continue to deliver pizzas until 5am. (This condition amended in relation to deliveries after 3am by condition 10).</p> <p>9. The store must be closed between the hours of 5am and 8am.</p> <p>10. The store must close completely at 3am with no deliveries taking place after that time.</p>
Recommendation	Recommend approval of application subject to the amended operating schedule and the relevant mandatory conditions of the Licensing Act 2003	

Legal Implications

Included within the report

Financial Implications

No apparent financial implications

Background Papers

- The relevant licensing applications
- Representations received from Responsible Authorities
- Guidance issued under Section 182 of the Licensing Act 2003
- The District Council's Statement of Licensing Policy

Neil McDonald Ext.2079

Licensing Sub Committee

Licensing Officer

26 July 2011