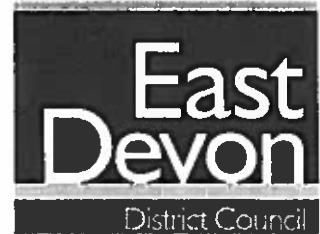


Chris Lane

Date: 1 June 2009  
Contact number: (01395) 571544  
E-mail: [clane@eastdevon.gov.uk](mailto:clane@eastdevon.gov.uk)  
Our Reference: Christopher Lane  
Your Reference: CL



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To: Members of the Licensing & Enforcement Sub-Committee  
(Councillors: Graham Godbeer, Jim Knight and Ken Potter)  
Remaining members of the Licensing and Enforcement Committee  
for information)

Head of Legal, Licensing & Democratic Services – For information  
Senior Licensing Officer  
Assistant Solicitor  
All parties to the hearing

## Meeting of the Licensing & Enforcement Sub-Committee

**Tuesday 9 June 2009 at 11.00 am Council Chamber, Knowle, Sidmouth**

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). Visitor car parking is available at the top of the drive outside the main reception area.

**Visitors please note that the doors to the civic suite (meeting rooms) will be opened ¼ hour before the start time of the meeting. Councillors are reminded to bring their key fobs if they wish to access the area prior to that time.**

## A G E N D A

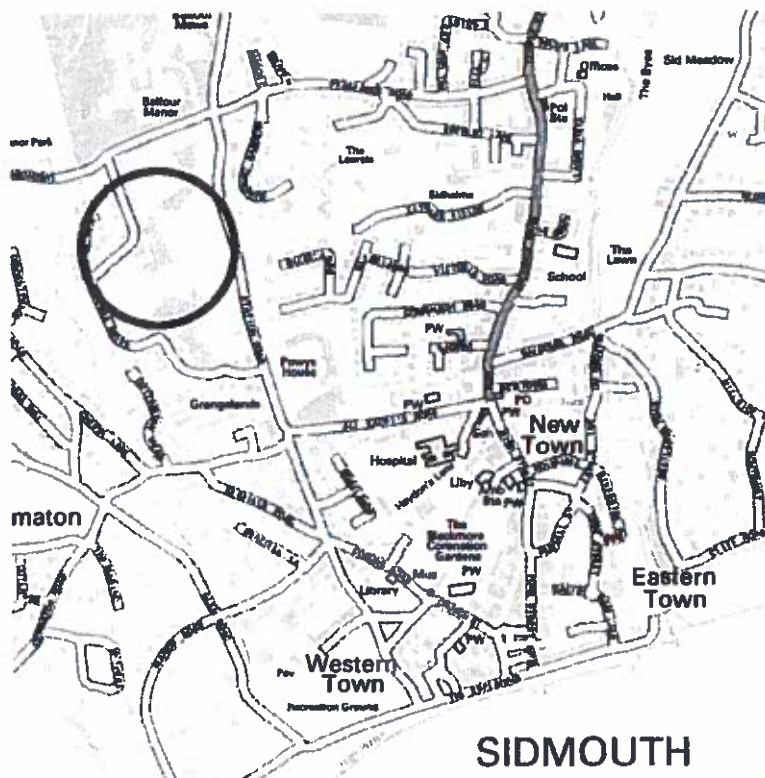
- |   | Page/s |
|---|--------|
| 1 To confirm the minutes of the meeting of the Licensing and Enforcement Sub Committee held on 11 May and 20 May 2009.  | 3 - 9  |
| 2 To receive any apologies for absence from Members of the Sub Committee.   |        |
| 3 To consider any items which in the opinion 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>                         |        |
| 4 To agree any items to be dealt with after the public (including the press) have been excluded. (There are no items which the Officers recommend should be dealt with in this way are shown under Part B of the agenda). |        |

5. Application for the grant of a premises licence under the Licensing Act 2003 to permit the provision of regulated entertainment, entertainment facilities and late night refreshment and the sale of alcohol for consumption both on and off the premises at Beautiful Days, Escot, Ottery St Mary Senior Licensing Officer 10 - 32
6. Schedule of applications for Sub Committee approval where an agreed position has been reached and all Parties have agreed a hearing is unnecessary. Senior Licensing Officer 33 - 35

## 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 – 340 (Railway Station), 387 (Town Centre)**  
**From Seaton – 52A, 899**  
**From Ottery St Mary – 382, 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 11 May 2009**

**Present:** Councillors:  
Graham Godbeer (Chairman)  
Chris Gibbings (Vice Chairman)  
Pat Graham

**Also Present:** Councillors:  
Steve Hall

**Officers:** Ian Carter - Senior Licensing Officer  
Chris Lane- Democratic Services Officer  
Neil McDonald - Assistant Licensing Officer  
Giles Salter – Assistant Solicitor

The meeting started at 9.45 am and finished at 2.30 pm.

#### **\*36 Minutes**

The minutes of the meeting of the Licensing & Enforcement Sub Committee held on 2 February, 30 March and 31 April 2009, were confirmed and signed as a true record.

#### **\*37 Application to grant a Premises License under the Licensing Act 2003 at Courtlands House, Courtlands Lane, Exmouth**

The Sub Committee gave consideration to the application for the grant of a Premises Licence under the Licensing Act 2003 to permit the provision of regulated entertainment, entertainment facilities and late night refreshment and the sale by retail of alcohol for consumption on and off the premises at the Courtlands House, Courtlands Lane, Exmouth.

The Chairman identified members of the Sub Committee, Officers, applicants and interested parties present. The applicant was Grace Carleton. The Police were represented by Karen Mobbs, with Philip Townsend of Devon County Council acting as a Road Safety Expert Witness. The Interested parties were represented by Graham Gover Solicitor, and Caroline McAusland and N Fereday.

The Applicant's the hearing, outlined her business experience, stating that she had operated similar licensed business before. Mrs Carleton then outlined the planning application for change of use of the premises to a hotel but this had been refused for amongst other issues, concerns over traffic safety. Mrs Carleton stated that she intended to operate a conference and function centre catering for business use, weddings, anniversaries and birthdays and so on. She had operated using Temporary Event Notices over the past 12 months and now wished to formalizer the licensable activities with a premises licence.

The applicant commented on representations about the road safety issues at the junction of Courtlands Land and the A396, and from the property, at the private traffic splay onto Courtlands Lane. She stated that she did not agree that there were any issues over the safety of local residents or patrons of her intended business. She had looked into providing mirrors for traffic leaving the property from the acute angled entrance and would be prepared to control exit and egress at times when guests would be expected to arrive or leave the premises.

**Application to grant a Premises License under the Licensing Act 2003 at Courtlands House, Courtlands Lane, Exmouth (Cont)**

The interested parties asked for clarification over the positioning of the toilets within the premises and this was indicated by the applicant on the plan.

The Police case was on paper that the hours requested for licensable activities may result in drunkenness and anti-social behavior. There were also concerns over road safety risk at narrow junctions leading to and from the premises and that the narrow lane was unsuitable for the traffic which would serve the premises. At the hearing the Police asked Philip Townsend of Devon County Highways to attend, he read out a prepared statement. When questioned, Mr Townsend confirmed his recommendation that the application should be refused due to road safety risks. Mr Gover asked Mr Townsend for clarification over some of the issues raised in his report in relation to the type and frequency of traffic use on the narrow country lane.

The interested parties' case was on paper that in relation to the prevention of crime and disorder, there was the possibility of anti social activity and disorder associated with the late night economy and that there was no indication in the application of the volume of use of the premises. Regarding public safety, there were traffic flow issues along the narrow lanes that served the premises, a single track land, and road safety at the junction with Exeter Road. Regarding the prevention of public nuisance, there was the possibility of increased noise pollution next to a quiet residential area and traffic nuisance.

At the hearing Mr Gover restated the issues and put forward some suggested 'without prejudice' conditions to further promote the licensing objectives with particular regard to noise concerns and the road safety issues.

The Sub Committee carefully considered the application for variation to a Premises Licence under 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 operating schedule put forward by the applicant and the likely impact of the application. In relation to the evidence they had heard regarding the history of the premises, they considered that the establishment could be well managed and controlled with some good policies in place and adequately supervised from line management if conditioned appropriately with regard to the issues raised during the hearing.

The Sub Committee did not accept that there was evidence of a significant public nuisance, risk to crime and disorder, risk to public safety, or risk to children arising from the current operation of the premises. This was because of a lack of evidence of a history of complaints to the statutory authorities. They did however; take into account the concerns of local residents about future operation by ensuring that suitable conditions were imposed and that the operating hours were not unreasonably late.

At the present time there was no real evidence that the operation the applicant proposed to run would cause the unacceptable impact local residents suggested.

All parties were reminded of the closure and review powers which the Government brought into force on 24 November 2005. Premises which do 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.

**Application to grant a Premises License under the Licensing Act 2003 at Courtland House, Courtlands Lane, Exmouth (Cont)**

**RESOLVED 1):** that the Premises Licence be granted with the following conditions:

- (a) The extent of the areas within which the various licensable activities will be permitted is as indicated by the legends on the applicants plan.
- (b) Permitted hours for the various licensable activities will be set out in the Appendix A.
- (c) All licensable activities to finish at 12.00 midnight Monday to Saturday and at 11,00pm on a Sunday.
- (d) The conditions will now be as shown in Appendix D as amended by Appendix E to read as follows:
  - 1. A trained manager must always be on duty during hours of opening.
  - 2. A designated smoking area must be provided for patrons. The smoking area must be clearly delineated on the plan and approved by an Environmental Health Officer of East Devon District Council and the Licensing Authority.
  - 3. Drinks must not be taken outside after 10.00 pm.
  - 4. A noise limiting device must be installed and maintained to the satisfaction of the District Council's Environmental Health Service. The level must be set by an Environmental Health Officer of East Devon District Council.
  - 5. All external windows and doors to any room where regulated entertainment is taking place must be kept closed except for access and egress.
  - 6. Amplified music must only be played in the rooms marked as Music Room and Drawing Room on the plan submitted to and approved by the licensing Authority.
  - 7. Commercial waste must not be kept at the premises for any period over 48 hours without the written permission of the Council's Environmental Health Service.
  - 8. CCTV to be installed and maintained to the satisfaction of the Licensing Authority and the Chief Officer of Police.
  - 9. CCTV recordings must be maintained for a period of 14 days or for a period of time to be agreed in writing by the Licensing Authority.
  - 10. If the CCTV equipment is inoperative the Licensing Authority must be informed within seven days and immediate steps to be taken to restore the equipment to full working order.
  - 11. A notice must be displayed at the entrance to the premises advising that CCTV is in operation.
  - 12. Membership of the Local Licensees Association must be maintained and the license holder or their representative must attend meetings and participate in all relevant initiatives.
  - 13. The license holder must ensure that all staff receives appropriate training regarding emergency and general safety precautions and procedures.
  - 14. The license holder must ensure that all staff is aware of the social and legal obligations and their responsibilities regarding the sale of alcohol.

15. The telephone numbers of local taxi operators must be prominently displayed at the premises for the benefit of customers.
16. The licence holder must ensure that staff regularly patrol the premises both indoors and out to supervise the orderly conduct of patrons.
17. The licence holder, or persons authorised by them, must control the volume of regulated entertainment taking place at the premises.
18. The premises must have a Health and Safety Policy which must be reviewed at least once a year and be available for inspection by the relevant authorities.
19. A proof of age policy agreed in writing by the Licensing Authority must be enforced.
20. Prominent, legible notices requesting people to leave the premises and the area quietly must be displayed at all exits.
21. Prominent, legible notices stating that smoking is only permitted within the designated smoking area must be displayed.
22. All bottles and glasses and rubbish must be removed from public areas on a regular and frequent basis.
23. Suitable signage must be displayed in the garden areas requesting patrons to respect the amenities of local residents.
24. Where outside areas are provided for the use of patrons facilities for the depositing and the collection of litter will be maintained.
25. The maximum occupancy of the premises must not exceed 150 people.
26. The area within which licensable activities are permitted are as shown outlined in RED on the plans submitted to and approved by the Licensing Authority.

(e) The mandatory conditions required by sections 19, 20 and 21 of the Licensing Act 2003 would also be imposed.

2) that the Designated Premises Supervisor would be Grace Carleton of Courtlands House, Courtlands Lane, Exmouth EX8 3NZ.

**\*38 Schedule of application for Sub Committee approval where an agreed position has been reached and all parties have agreed a hearing is unnecessary**

Consideration was given to the report of the Senior Licensing Officer which set out a schedule of applications for Sub Committee approval where an agreed position had been reached and all parties had agreed that a hearing was unnecessary.

**RESOLVED** that the applications be granted as applied 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 a variation of an existing premises	Honiton Rugby Football Club, Allhallows	Following mediation the applicant and the Devon & Cornwall Constabulary have agreed that they consider a hearing to be



<p>licence to be granted</p>	<p>Playing Fields, Honiton</p>	<p>unnecessary if the following agreed position is approved.</p> <p>The proposed operating schedule be amended to include the following conditions.</p> <ol style="list-style-type: none"> <li>1. The premises will retain its status as a Rugby Club and will continue to operate with membership and club rules.</li> <li>2. Suitably qualified door supervisors must be employed when the premises are open past midnight and both the provision of regulated entertainment and the supply of alcohol are taking place. When required, door supervisors must be employed 30 minutes prior to the commencement of the entertainment until 30 minutes after the end of the entertainment. To be employed at a ratio of 1:75.</li> <li>3. Drinks for consumption in outside areas must be served in plastic or toughened glass.</li> <li>4. Should there be any significant incidents of crime and disorder during the period of six months following the issue of the licence, C.C.T.V. will be installed.</li> </ol>
<p><b>Recommendation</b></p>	<p>Recommend approval of application subject to the amended operating schedule</p>	

Chairman ..... Date .....

# EAST DEVON DISTRICT COUNCIL

## Minutes of a Meeting of the Licensing & Enforcement Sub Committee held at Knowle, Sidmouth on Wednesday 20 May 2009

**Present:** Councillors:  
Graham Godbeer(Chairman)  
Chris Gibbings (Vice Chairman)

**Officers:** Ian Carter – Senior Licensing Officer  
Chris Lane - Democratic Services Officer  
Giles Salter – Assistant Solicitor

**Apologies** Councillors Steve Hall  
Ken Potter

The meeting started at 4.30 pm and finished at 4.35 pm.

\*39 **Schedule of applications for Sub Committee approval where an agreed position has been reached and all parties have agreed a hearing is unnecessary**

Consideration was given to the report of the Senior Licensing Officer which set out a schedule of applications for Sub Committee approval where an agreed position had been reached and all parties had agreed that a hearing was unnecessary.

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

**RESOLVED** that the application be granted as applied 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	Fair Field, Green Bridge, Colyton	Following mediation the applicant and the Devon & Cornwall Constabulary have agreed that they consider a hearing to be unnecessary if the following agreed position is approved.  The licence to time limited to 6 June 2009 to 7 June 2009.  The hours that the premises will be open to the public to be 10.00 am to 11.30 pm  The proposed operating schedule be replaced



		with an Event Safety Management Plan.
<b>Recommended</b>	Recommend approval of application subject to the amended operating schedule	

Chairman .....

Date .....

## Agenda Item 5

Licensing & Enforcement Sub Committee

9 June 2009

### 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 time limited premises licence to be granted under the Licensing Act 2003 - To permit the provision of regulated entertainment, entertainment facilities, late night refreshment and the sale of alcohol for consumption both on and off the premises at the Beautiful Days Music Festival, Escot Park, Ottery St Mary, Devon, EX11 1LU.**

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.

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#### 1 Description of Application

1.1 An application has been received from Mr David Farrow, 126 Buddle Lane, Exeter, Devon EX4 1JL for the grant of a time limited premises licence at Escot Park, Ottery St Mary, Devon EX11 1LU for the Beautiful Days Music Festival.

1.2 The premises for this outdoor music festival are set in the grounds of Escot Park which is a large 220 acre parkland estate located in a rural position situated off the A30 between Exeter and Honiton at Fairmile. The area for public trade comprises of three stages for live music and various marquees and tents on the site for licensable activities including the sale/supply of alcohol.

- 1.3 The licence for this annual music festival has been requested to run from 20 August 2009 to 24 August 2009 the proposed timings and licensable activities applied for are produced in table form at **Appendix A**.
- 1.4 A plan of the premises will be available at the meeting to show the layout of the festival site and the areas of licensable activity.

#### **Mediation Meeting & Amended Application**

- 1.5 Mediation between the Environmental Health Department and the applicant has resulted in a request for three extra conditions that if accepted would address the concerns of the Environmental Health Department see **Appendix E**. The applicants have indicated on their response to notice of hearing see **Appendix C** that they would agree the first two conditions but not condition 3 which refers to an 'inaudibility' request.

## **2 Statutory Bodies' Response**

- 2.1 Devon & Cornwall Constabulary  
No representations received
- 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  
Representations received see **Appendix B**.
- 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 East Devon District Council Environmental Health Service Details of the representations are attached at **Appendix B**.
- 3.2 Details of the responses to the statutory Notice of Hearing are attached at **Appendix C**.

## **4 Proposed Operating Schedule**

- 4.1 The applicants have prepared a detailed Event Safety Management Plan setting out the steps they propose to take to promote the licensing objectives. Copies of the pages relating to the Noise Management Statement are attached at **Appendix D**. The full Event Safety Management plan will due to its size be made available at the hearing.

## **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**

5.7 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 performance of plays
  - the performance of live music
  - the playing of recorded music
  - the performance of dance
  - the provision of entertainment of a similar description to live music, recorded music or dance
  - the provision of facilities for dancing
  - the provision of facilities for entertainment of a similar description to making music or dancing
  - the provision of late night refreshment
  - the supply of alcohol for consumption on and off the premises
- 6.2 Representations have been received from the Council's Environmental Health service who have concerns that if the licence is granted it will fail to promote one the licensing objectives being 'the prevention of public nuisance'.
- 6.3 The representation received expresses concern that the event documentation submitted by the applicant is not sufficient to prevent local households being unreasonably disturbed by noise from the site. Although there were few complaints about last year's festival it is suggested that adverse weather conditions were responsible and better weather this year could have a widespread impact due to the times and duration of the event and could cause a disturbance amounting to a public nuisance.
- 6.4 The Environmental Health Service have proposed three conditions see **Appendix E** that would address their concerns but the applicants will only agree to conditions 1 and 2 and refuse to agree to condition 3 which relates to an inaudibility request stating that the condition is unreasonable and imprecise.
- 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 F**.

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## 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 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 effected 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 – Details of representations received
- Appendix C – Details of responses to the Notice of Hearing
- Appendix D – Applicants proposed Operating Schedule
- Appendix E – Suggested EHO Conditions
- Appendix F – Plan

#### **Background Papers**

- Licensing Application dated 8 April 2009
- The District Council's Statement of Licensing Policy

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Ian Carter ext 2080  
Licensing Officer

Licensing & Enforcement Sub Committee  
9 June 2009





## Representations Received

<b>1. Mr A Ennis, Environmental Health Manager, Environmental Protection, East Devon District Council, Knowle, Sidmouth, EX10 8HL</b>	
<b>Objective</b>	<b>Representations</b>
<b>Prevention of Crime &amp; Disorder</b>	<p>Ian - based on the event documentation I have been given and Jill's previous experience, we wish to make a representation in respect of conditions that we believe will be necessary to prevent public nuisance.</p> <p>It is our view that there were few complaints last year due to the coincidence of the event with adverse weather conditions and without that same coincidence this year, it is likely that a number of households will be unreasonably disturbed by noise.</p> <p>Because of the widespread impact, the times of operation and the duration of the event, we believe that the said disturbance would amount to a public nuisance and we should seek to prevent that from occurring.</p> <p>However, I have left a telephone message with the applicant's noise consultant to establish whether our concerns can possibly be addressed by additional mitigation built into the operating schedule. If this is not possible I will suggest draft conditions in due course.</p> <p>I have also formally requested that he submit to me the "off-site noise logs" for the 2008 event referred to in section C.4 of his Noise Management Statement - Version 3. I have not yet seen them and neither, I understand, have you.</p>
<b>Public Safety</b>	
<b>Prevention of Public Nuisance</b>	
<b>Protection of Children from Harm</b>	

Beautiful Days – Responses to Notice of Hearing

Applicant

<b>David Farrow, 126 Buddle Lane, Exeter, EX4 1JL</b>	
<b>Hearing Unnecessary</b>	No
<b>Attending</b>	Yes
<b>Represented by</b>	Mr Tim Selley, Crosse & Crosse Solicitors, 14 Southernhay West, Exeter Mr Steve Anderson, Anderson Mitchell, Clink Road, Frome, Somerset, BA11 2EL.
<b>Supporting documents</b>	Noise policy as submitted with the application.
<b>Summary of key points</b>	
<b>Prevention of Public Nuisance</b>	The Applicant believes the noise policy as submitted adequately addresses reasonable concerns to public nuisance. In terms of the representation of Mr Ennis this lacks any detail and as such gives us nothing extra to reply to. In the absence of any further documentation having been made available to the Applicant in support of the representation but in the spirit of co-operation, the Applicant would agree to accept the revised conditions as suggested by the Environmental Health Officer in terms of decibel levels of 55db before 2300hrs and 50db between 2300hrs and 0000hrs but objects to a suggested condition that thereafter, the event be inaudible on the basis that this condition is unreasonable and imprecise.

Responsible Authority

<b>1.</b>	<b>Mr A Ennis, Environmental Health Officer, East Devon District Council, Knowle, Sidmouth, EX10 8HL</b>
<b>Hearing Unnecessary</b>	No
<b>Attending</b>	Yes
<b>Represented by</b>	
<b>Supporting documents</b>	Yes
<b>Summary of key points</b>	
<b>Prevention of Public Nuisance</b>	Beautiful days festival has become an established event at Escot over a number of years. However, in more recent years, in common with a number of other camping-based festivals around the country, the desire to provide all-night entertainment has resulted in an event that persists throughout an entire August weekend each year.  There are some "objective" acoustic standards that EDDC's Environmental Health team can use to help assess the acceptability (or otherwise of course) of music noise associated with previous years' events and to comment on the likely acceptability (or otherwise again) of this year's proposal. The promoters noise consultant uses these same objective standards and there is, broadly speaking, no professional disagreement regarding the legal status of these standards or the predicted music noise levels that might occur.  <b>Daytime Noise Impact Assessment</b>  In terms of the impact of the "main stage" live music event, there is



agreement that the music noise levels can be adequately controlled to mitigate the impact on the community whilst at the same time, allowing satisfactory entertainment throughout the day and into the evening for those attending the festival. There will of course be a detrimental impact because of noise on the community but in our view, a balance has to be struck and that impact is judged acceptable for that one weekend event. This concurs with published guidance and objective measurements of noise levels.

**Night time Noise Impact Assessment**

The current substantive guidance document, entitled "Code of Practice on Environmental Noise at Concerts" dates from 1995 goes on to suggest that "...for events continuing or held between the hours of 23:00 and 09:00 the music noise should not be audible within noise-sensitive premises with windows open in a typical manner for ventilation." However, the guidance even then noted that "...the use of inaudibility as a guideline is not universally accepted as an appropriate method of control.." but it was proposed "...as there is insufficient evidence available to give more precise guidance".

**Guidance**

More recent work by two of the contributors to this original guidance was published in 2008 at a meeting of the Institute of Acoustics. In this review they suggest that the majority of the public are "...able to tolerate a modest degree of audibly intrusive entertainment noise on an infrequent basis and that the threshold of audibility did not equate to a measure of acceptability ...". Instead, the authors suggest an alternative measure, an absolute sound level criterion (of 45dB LAeq10min) which they say was used successfully at another all night event at Turweston airfield.

The original guidance acknowledges that average "A" weighted sound levels "...can underestimate the intrusiveness of low frequency noise..." and that was based on research that found that "A" weighting can "...underestimate annoyance at greater distances from the venue (in excess of 2km) as the mid and high frequency energy is quickly attenuated with respect to low frequency and the expectation of people living some distance from the event being that the concert should be inaudible" (1995). However, the 2008 research suggests that this might not be the case and based upon the authors' experience of real events, they appears to recommend that "A" weighting alone is sufficient. Whilst clearly interesting and relevant to our deliberations, Members are advised that this has not been published and should not be afforded the status of a replacement for the original guidance.

**Proposed night time criteria**

The promoter's consultant is proposing this year a "night time" criteria of 45dB LAeq15min) and in support of this proposal he cites a number of sources including the above mentioned research by Griffiths presented to the Institute of acoustics in 2008 and criteria proposed by the World

Health Organisation. These criteria were developed to predict the onset of annoyance (as a health consequence of exposure to steady and continuous noise, based on research of exposure to anonymous transportation noise sources such as distant road traffic). They have been incorporated into UK guidance such as PPG 24 (also cited) but in my view, their extrapolation to predicting whether or not public nuisance is likely to occur because of a weekend all night music noise disturbance in an area that is otherwise particularly tranquil is out of context, way beyond the scope of the WHO guidelines and the use of PPG 24 for this purpose is expressly stated as guidance for "planning" and not for the assessment of "nuisance or determining appropriate licensing conditions but nonetheless, it advises that the local authority will have to "...balance the enjoyment of the participants against nuisance to other people..."

An additional control parameter has also been offered in the form of low frequency noise monitoring. Whilst this may be important in controlling the disturbance arising from the bass element of the music noise, particularly at night, it has not been possible to agree an objective standard to which the low frequency element of the music noise could be restricted. Because of its rhythmic characteristic it attracts the attention of a listeners at considerable distances and at very low sound levels. We are probably all familiar with the dull "thump thump" of a distant car stereo and it is low level disturbances of this kind that may well be permitted to continue throughout the night potentially affecting a wide area without an appropriate restrictive condition. I am not aware of a reliable objective standard to substitute for the original "not audible" criteria that I recommend should apply between the hours of 23:00 and 09:00 on any day.

#### **Risk Considerations**

There is an issue concerning festivals and the consequences of not allowing regulated entertainment between 23:00 and 09:00. It is possible (and with experience, even likely) that festival goers will improvise and gather informally for impromptu, unregulated private entertainment within the camp site. It is suggested that with sufficient on-site security, this situation could be adequately controlled without risks to public safety, health and safety and crime and disorder whilst preventing public nuisance. Alternatively, a reduced sound level for regulated entertainment might prove less popular with attendees but could nonetheless be set in order to comply with the offsite site "not audible" condition. Clearly, the impromptu gatherings may well occur regardless of whether or not "official" entertainment" has been provided during night time hours.

#### **Public Nuisance**

Finally, I should point out to members that whilst ultimately it is a matter for the Courts to determine whether or not a public nuisance exists or is likely to occur, joint guidance issued by government (DEFRA) and the Chartered Institute of Environmental Health in October 2006 expressly state that it is the job of the Environmental Health Practitioner, as the

competent person, to assess noise perceived to be a nuisance. Guidance and specific objective measures are helpful in this respect but in the absence of specific, applicable standards, an element of professional judgement must also be applied. In other respects we expect premises licensed for entertainment on a regular basis not to cause a nuisance and to follow the guidance issued by the Institute of Acoustics in 2003 "Good Practice Guide on the Control of Noise from Pubs and Clubs" which advises that music noise should simply not be audible within noise sensitive premises at any time. Also, we are frequently asked to deal with noisy neighbours and late night parties in particular. When investigate, we would not normally expect people to tolerate their neighbours "all night" parties and after 23:00h we would take the view that the adult population may quite properly wish to sleep and that other neighbours should not unreasonably prevent them from doing so. We are faced with a situation here that it not entirely dissimilar in this respect and I believe we should adopt a consistent approach to such matters.

Historically noise from Beautiful Days has indeed been accepted by the community, albeit with some level of complaint. Nonetheless, the desire of the promoter to entertain and those attending the event to be entertained throughout the night must be balanced against the rights of residents who will certainly be exposed to unwanted music noise throughout daytime and evening on Friday, Saturday and Sunday and would perhaps understandably prefer not to hear the event throughout the night time as well and to have a noise free sleeping period during each of those nights.

#### Complaints:

I have reviewed our record of complaints. Our database records go back to and since that time we have received 49 complaint about noise about the Beautiful Days event.

The more recent ones are:

1. Payhembury, Aug 2008 2.5 miles – hears music all weekend
2. Ditto, Aug 2008, loud bass thumping "until the early hours"
3. Feniton, Aug 2007, very loud and excessive duration
4. Ditto, Aug 2007, loud music and fireworks
5. Ditto, Aug 2007, very loud music and fireworks until 3am
6. Talaton, Aug 2007, loud music until early hours
7. Feniton, Aug 2007, loud music between 4am and 5am
8. Ottery St Mary, Aug 2007 (00:30hrs)
9. West Hill, Aug 2007, bass beat audible
10. Ottery St Mary, Aug 2007, loud music
11. Tipton St John, Aug 2007 – bass beat audible and level confirmed by EHO as 45dB(A)!
12. Ottery St Mary, Aug 2007, music too loud
13. Ditto, Aug 2007, music too loud

Historically, 15 complaints were received about the 2006 event, 18 from

2005 and 3 from 2004.

I understand that the promoter does not wish to end the main stage event until midnight. The music noise levels required to satisfy the audience will be unable to meet their own proposed night time criteria and they have instead proposed a compromise criteria of 50dBLAeq15min to apply between 23:00h and midnight. This is 5 dBLAeq below their offered (and accepted) daytime criteria of 55dBLAeq15min.

I am satisfied that the proposals in the operating schedule are satisfactory to mitigate noise impact between the hours of 09:00 to 23:00 and I suggest that the following condition should be imposed:

1. The music noise level shall not exceed an equivalent continuous sound level of 55dB(A) over any fifteen minute period between the hours of 09:00 and 23:00 on Friday 21, Saturday 22 and Sunday 23 August 2009 at any of the seven monitoring locations shown on plan A .

I am also satisfied that the event has become established as one that runs into the late evening and it would, in my opinion, be possible to take the view that the applicants request for an extra hour of noise after 23:00h (albeit at a slightly reduced level) is reasonable and in the spirit of give and take, could be accommodated without causing nuisance.

2. The music noise level shall not exceed an equivalent continuous sound level of 50dB(A) over any fifteen minute period between the hours of 23:00 and 00:00 on Friday 21 and Saturday 22 August 2009 at any of the seven monitoring locations shown on plan A .

I have reviewed the complaints received during previous years and it is clear to me that a recurrent theme is that the calls are made because either the music is felt to be too loud for the late hour, or that the caller feels that it is going on for too long. I have been informed by our Environmental Health Officer in attendance at the 2008 event that inclement weather last year is likely to have been responsible for the reduction to just two complaints being logged after the event.

It is my view that a period of respite should be built into the weekend to allow protected sleep for residents in the vicinity in order to prevent a public nuisance from occurring.

The promoter has suggested that an "inaudibility" condition is unnecessary and may harm the success of the festival and as an alternative he has suggested some objective criteria. However, I am not certain that these criteria will adequately protect residents to a standard equivalent to "respite" and from personal experience, I can advise that residual bass beat is capable of causing annoyance at very low levels indeed. In my opinion, having allowed this tranquil location to be affected by music noise from 09:hh to midnight, it is necessary in the absence of an alternative safe and reliable night time criteria, to ensure night-time respite from noise arising from the festival.

## APPENDIX C

Accordingly, I recommend the following condition:

3. Music noise arising from the premises shall not be audible at any of the seven monitoring locations shown on plan A between the hours of 00:00 and 09:00 on any day.



**Beautiful Days Festival, 21<sup>st</sup>-23<sup>rd</sup> August 2009**  
**Noise Management Statement-Version 3**

**A. Objectives**

1. Together with the organisers, Anderson Mitchell have produced this Noise Management Statement (NMS) which sets out the planned steps and measures that the organisers will take to manage noise from the musical entertainment at the event and its potential to cause disturbance.
2. The NMS needs to be considered together with details of the proposals contained within the operational plan. The NMS is a working document subject to change and amendment prior to the event to allow for changing circumstances and input from East Devon District Council (EDDC) Officers. All changes will be notified to EDDC officers and issued as an amended NMS prior to the granting of the licence for the event. It is accepted that this document forms part of the licence proposal and that the organiser is therefore committed to implementing the NMS. Any changes will be minor and will not impact upon the licensing objectives. Wherever possible all such changes will be agreed with the appropriate EDDC officers.
3. The primary objective is to monitor and manage the noise levels on and off-site to ensure that nuisance is not caused to nearby residents and that the noise conditions attached to the event's licence are complied with. This objective is compatible with the need to ensure sufficiently high levels within the venues to ensure audience satisfaction.
4. The Beautiful Days Noise Team (BDNT) will pursue the primary objective by measuring levels on and off-site, receiving and investigating any noise complaints, sharing information with EDDC officers and effecting changes to on-site levels to ensure the primary objective is achieved. Control will also be affected over additional noise sources of traders.

**B. Noise Management Resources-personnel and equipment**

1. The Beautiful Days organisers have contracted Anderson Mitchell to provide an environmental noise advice, monitoring and liaison role. There will be a team of 2 consultants provided by Anderson Mitchell for the duration of the event. Steve Anderson is the principal consultant who will manage the team and take the lead role in resolving any noise issues and liaising with the Licensing Authority.

Anderson Mitchell provides acoustic services to a variety of clients including other local authorities and festival/dance organisers. Steve holds the Diploma of the Institute of Acoustics as well as Noise at Work and Environmental Noise competence certificates. The remaining consultant will be an Environmental Health Practitioner experienced in environmental noise assessments and noise monitoring and control at events.

2. All sound level meters used for environmental monitoring will be integrating meters to Type 1 specification and subject to a current calibration. At least one of the meters will be capable of real time octave and one third octave band analyses.
3. Additional meters will be provided to monitor levels at the stages, and may be installed for the duration of the show dependant upon security of location.



**C. Review of issues from previous event (where relevant).**

1. Significant changes were introduced for the 2007 event to reduce off-site noise and potential for complaint and these will be again repeated in 2009. These are summarised briefly below
  - Timing of stages Dance tent hours. This was significantly reduced on the last evening to finish at 21.30.
  - Location of Dance Tent. This was moved from its previous location to a less elevated position on the site. This resulted in a reduction of off site noise levels.
  - A greater resource was provided for noise monitoring and control with 2 consultants, to allow for simultaneous off-site monitoring and on-site control.

In addition for 2009 the Spiegel Tent venue has now been deleted from the proposals as a public venue. The Spiegel Tent structure may be used to accommodate the back stage bar for staff.

2. In addition to the above changes criteria were used for objectively measuring off-site levels at noise sensitive locations. These criteria were based on current practice elsewhere, and took account of all relevant guidance and standards. There were occasions between 23.00 and 00.00 when these criteria were potentially likely to have been breached for a brief period of time at one location. This was at the most noise vulnerable location at Colesworth. Neither occasion was coincident with any complaint, and no complaints have been made from Colesworth about the event.
3. There were no noise complaints received by BNT or forwarded by EDDC during the event. Previous recent history of the event indicates a very low level of complaint which is not coincident with licence level breaches.
4. Copies of off-site noise logs were forwarded to East Devon Council following the event in 2008. EDDC advised the organiser in November 2008 that complaint had been received by the council post event from Payhembury but no further details were given. It should be noted that Payhembury is approximately 3km from the site and levels there would have been considerably less than those measured at the routine monitoring positions and would not therefore represent any breach of licence conditions.
5. Given the level of noise control and low level of complaint in 2007 and 2008 a minor change is again requested to the noise criteria to allow for a slightly higher off-site limit of 50dB between 23.00 and 00.00 for Friday and Saturday night only. This does not mean that the noise from the site will increase, and control levels would remain targeted at compliance with the previous 45 dB limit. It would however ensure that the (almost inevitable) minor transgressions did not result in a licence breach at Colesworth.

**C. Monitoring Strategy**

1. The noise team will be available for on and off-site monitoring and control from 14.00 until the main stages close. One member of the noise team will be charged with off-site monitoring and will be doing so for the majority of the event. The remaining BNT member will be engaged in on-site venue level monitoring, managing complaints or other noise problems, provide a contact point for EDDC officers, and monitor compliance with any miscellaneous noise conditions.
2. Measurements will be made off-site as  $L_{Aeq,5}$  as per described in C3 to C5 below in addition to conducting subjective assessments also described. If the BNT considers levels need to be modified by changes on-site, including where there are any exceedances of the levels and characteristics described in C3 to C5, this information will be immediately relayed back by phone or radio to the consultant on site for his attention and prompt action.

3. Measurements will include octave and one third octave band measurements where useful in the identification of any intrusive frequency. In particular routine measurements will be made of 63 Hz and 125Hz octave band levels and associated one third octave bands.
4. In assessing noise from the event at the boundary of any noise sensitive location after 23.00 particular regard will be had to noise which is "audible and discernible". (Note: Definition of Audible and Discernible--"Noise which is distinct above the general hubbub of activity on the site, such as vocals (recorded or live) or instrumental music (recorded or live), or in combination can be identified by the human ear as being likely to originate from discrete sources from the licensed site.") The aim is to achieve conditions where the above "audible and discernible" criteria is met at noise sensitive locations wherever possible. Note that due to the close proximity it is likely that it will not always be possible to achieve this criteria at Talaton and Colesworth.
5. Music noise levels shall not exceed the following levels expressed as 15 minute  $L_{eq, 15}$  and measured at the boundary of any nearby residential property.  
Between 12.00 hours and 23.00 hours 55dBA  
Between 23.00 hours and Midnight 50dBA  
After Midnight 45dBA
6. The BNT member on-site will be primarily concerned with monitoring levels within the music venues. Whilst the purpose of this is to mainly establish the prevailing level at each venue against which off-site levels can be viewed, the on-site monitoring will also provide information on noise at work levels. This part of the exercise will provide quantitative information on levels to assist in the situation where they need to be reduced.
7. Fixed locations will be established at each venue's engineers mixing position or other suitable location from which to take routine measurements.

#### D. Environmental Monitoring Sites

1. The same routine sites will be used as in 2008. The monitoring of these sites will be determined as the event progresses dependant primarily upon weather conditions. It is the intention to deploy one member of the BNT monitoring off-site for a significant proportion of time during the event.
2. The suggested (routine) monitoring sites are listed below
  - 1) Talaton Farm
  - 2) Beacon Cottages, Beacon Cross
  - 3) Half Moon Farm, Talewater
  - 4) Colesworth Farm Cottages, Colesworth
  - 5) Entrance to The Burlands Feniton
  - 6) Keeper's Cottage, Gosford Lane
  - 7) Chineaway Gardens, Ottery St. Mary

Weather conditions and forecasts will be reviewed in considering the venue levels and monitoring locations to be used, taking particular account of wind conditions and potential temperature inversions.

**E. Setting levels in each venue**

1. A sound test will be carried out of the systems at the Main and Big Top stages using a typical music track. Simultaneous measurements will be carried out from the monitoring position at the venue and off site sequentially in order that a guide level can be established for each venue.
2. Noise levels will be monitored throughout the event at each venue. If any one-minute level approaches the control limits set during the sound propagation tests and subsequently, the sound engineer will be advised and when necessary required to reduce the levels. In addition to the control of the overall sound level, frequency adjustments can also be made to reduce the sound at certain low frequencies, often characterised off-site as a 'bass beat', and MC vocals.
2. The venue guide levels will be modified should that be necessary throughout the event in order to ensure satisfactory off-site environmental levels.
3. The engineers will also be encouraged to leave some "headroom" early in the event to provide a safety margin to insure against the consequence of adverse climatic conditions developing later during the event, and to be able to allow some upward movement of levels should that be necessary to maintain audience satisfaction.
4. Measurements of  $L_{Aeq, 1 \text{ min}}$  within the venues will be made from fixed datum locations to provide representative levels against which changes can be made and measured. Meter displays will be set as A weighted sound pressure levels to provide a reference point for sound engineers.

**F. Sound Systems configuration and management**

1. The power and location of main stage systems is attached at Appendix 1 and their locations are shown in the application plan. All PA will be flown to maximise audience levels whilst minimising off-site spillage.
2. Prior to the stages running the stage managers and sound engineers will be briefed by the organisers and BNT on the importance of limiting any off-site disturbance.
3. During the event engineers for individual acts will have only limited control over the system in their area. The maximum level in the venue will be directly under the control of The Beautiful Days Festival sound crew and adjusted only by them or with their approval.
4. All tented venues will be operated with the tent side walling in place subject to maintenance of sufficient openings to provide for venue evacuation.

**G. Management of other potential noise sources**

1. Traders will not be permitted PA systems unless approved and agreed by the organisers. Trader and minor venue levels will be managed to provide inaudibility at the boundary of the site. In the event of non-compliance with this requirement the site security have been briefed to close the trader on the instruction of the BNT.
2. Car parks will be kept under surveillance by security patrols to ensure any systems with the potential to be audible off-site are stopped. Security patrols will also seek to identify and curtail any members of the public setting off fireworks. It is recognised that the unauthorised use of fireworks can cause unnecessary noise and that the use of fireworks after 23.00 is generally prohibited by law. The organiser will therefore use all reasonable endeavours to ensure that fireworks are not brought onto the site and set off by the public.

**1. Liaison with LA and complaint handling**

1. The BNT will be contactable by Local Authority officers via mobile phone.
2. The BNT will report directly to Dave Farrow. Steve Anderson will be primarily responsible for liaison with Local Authority officers on noise matters. This will be achieved through both programmed meetings as well as ad-hoc issue based discussions as and when circumstances necessitate.  
(Should the Local Authority request scheduled meetings it is suggested these take place at 16.00 to debrief on the previous night, and 22.00 in preparation for the rest of the night).
3. The noise team will seek to work closely with Local Authority officers, agreeing any changes to off-site monitoring positions, sharing noise data observations and other information wherever possible. A role that the noise team will fulfil is to ensure that Local Authority Officer requests concerned with noise are translated into action by the appropriate personnel within The Beautiful Days organisation. All requests relating to noise will be routed through the BNT to ensure any noise issues are properly managed and dealt with as soon as possible.
4. Beautiful Days will establish a 24 hour Noise Hotline telephone number for any complaints. The number will be distributed to local residents by for example publication in a local newspaper or distribution to Parish Councils etc. The number will also be provided to East Devon District Council to have available via their out of hours service. Any complaints received via the Noise Hotline will be logged and kept available for inspection by Local Authority officers.
5. In the event that East Devon receive complaints directly or via their out of hours service, then, in addition to any action which they may or may not take, that complaint will be relayed to the BNT as soon as practical. Upon receipt BNT will investigate by relaying to the off-site BNT member and undertake to report back to EDDC officers in terms of findings and action taken.
6. References to contact with EDDC officers during the event will be dependant upon East Devon determining it that it wishes to attend the event and does not infer any commitment on the part of East Devon to do so.

**Appendix 1-Schedule of Sound Systems by Venue**

Stage	kw
1 (Main)	30
2 (Big Top)	15
3 (Dance)	24
<b>Total</b>	<b>69</b>

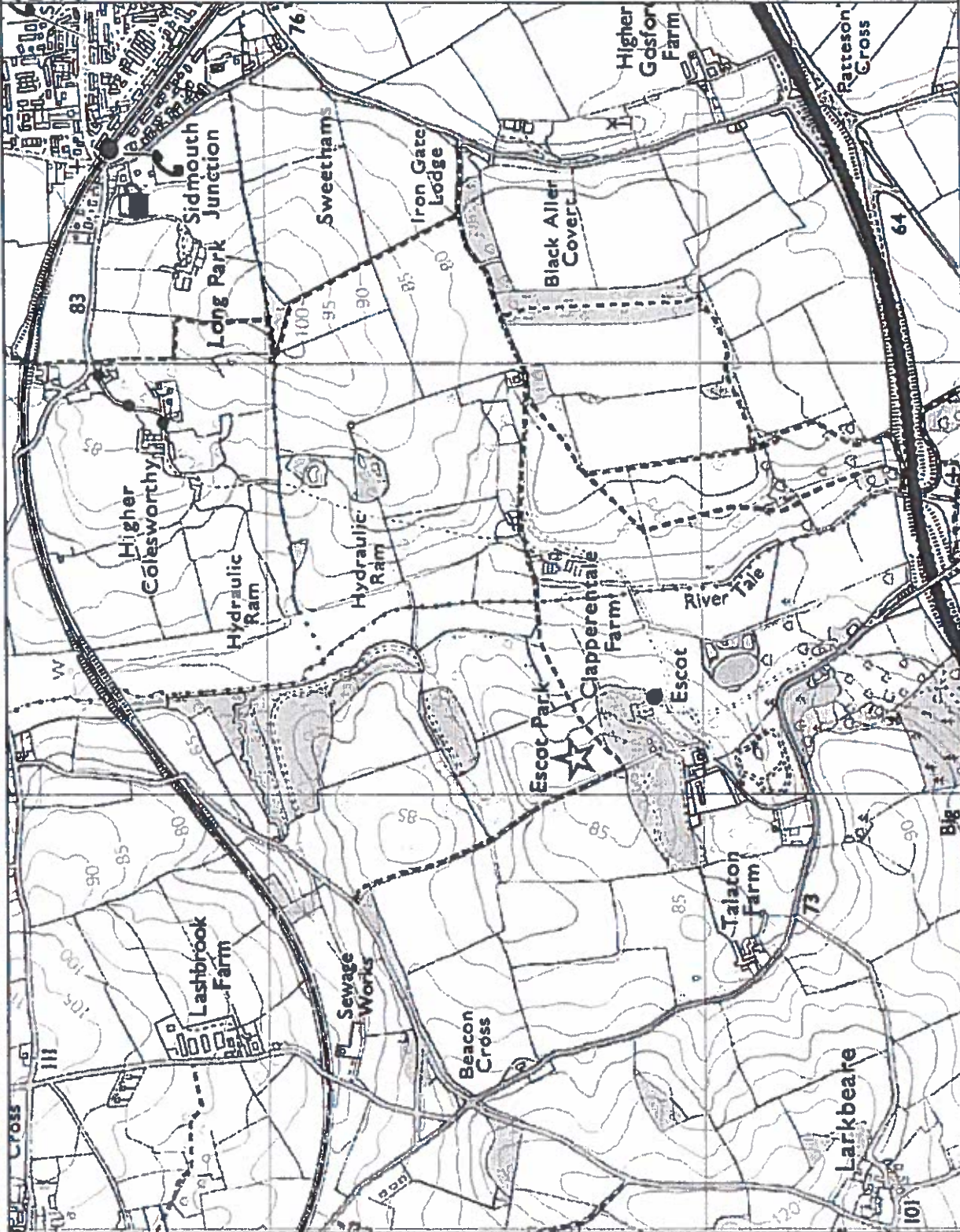
Note that the above are amplifier maximum ratings and should not be used as a direct measure of the sound power which will be produced, rather an approximate order of scale of the various systems.

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## Appendix E

1. The music noise level shall not exceed an equivalent continuous sound level of 55dB(A) over any fifteen minute period between the hours of 09:00 and 23:00 on Friday 21, Saturday 22 and Sunday 23 August 2009 at any of the seven monitoring locations shown on plan A .
2. The music noise level shall not exceed an equivalent continuous sound level of 50dB(A) over any fifteen minute period between the hours of 23:00 and 00:00 on Friday 21 and Saturday 22 August 2009 at any of the seven monitoring locations shown on plan A .
3. Music noise arising from the premises shall not be audible at any of the seven monitoring locations shown on plan A between the hours of 00:00 and 09:00 on any day.





Beautiful Days Festival

Map Tile: SY0898NW Full Reference: SY0841 9850

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## Agenda Item 6

Licensing Sub Committee

9 June 2009

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**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.

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## 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	Branscombe Airfield Higherlands Farm, Branscombe	<p>Following mediation the applicant and the Devon &amp; Cornwall Constabulary 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:</p> <ol style="list-style-type: none"> <li>1. All licensable activity to cease at 0100 hrs.</li> <li>2. The hours the premises are open to the Public to be 1800 hrs to 01:30 hrs.</li> <li>3. Replace the conditions offered at Section 'P' for the Operating Schedule with a condition of 'The Licence Holder must comply with the Event Management Plan Submitted in Writing to and approved by the Licensing Authority.'</li> </ol>
Recommend approval of application subject to the amended operating schedule and the relevant mandatory conditions of the Licensing Act 2003		
Application for a premises licence to be granted	Tale Valley Farm Shop, Escot. Ottery St Mary.	<p>Following mediation the applicant and the Devon &amp; Cornwall Constabulary 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 inclusion within the operating schedule of the following conditions</p> <ol style="list-style-type: none"> <li>1. An incident book must be maintained within which full details of all occurrences of disorder and refused alcohol sales at the premises must be recorded.</li> <li>2. Irresponsible drinks promotions must not be carried out.</li> <li>3. All staff must be made aware of the social and legal obligations and their responsibilities regarding the sale of alcohol.</li> <li>4. A proof of age policy must be enforced.</li> <li>5. The premises must operate a 'challenge 21' policy to ensure that under 18 year olds are</li> </ol>

		not sold/supplied alcohol.
<b>Recommendation</b>	Recommend approval of application subject to the amended operating schedule and the relevant mandatory conditions of the Licensing Act 2003	

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### **Legal Implications**

Included within the report

### **Financial Implications**

No apparent financial implications

### **Background Papers**

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

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Ian Carter Ext.2080

Senior Licensing Officer

Licensing Sub Committee

9 June 2009

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