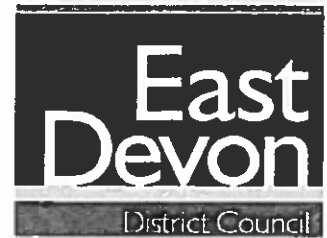


Date: 17 May 2010
Contact number: (01395) 571544
E-mail: clane@eastdevon.gov.uk
Our Reference: Christopher Lane
Your Reference: CL



East Devon District Council
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To: Members of the Licensing & Enforcement Sub-Committee
(Councillors: Chris Gibbings, Steve Hall, John Humphreys)
Remaining members of the Licensing and Enforcement Committee
for information)

Assistant Solicitor
All parties to the hearing

Meeting of the Licensing & Enforcement Sub-Committee

Tuesday 25 May 2010 at 9.30 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

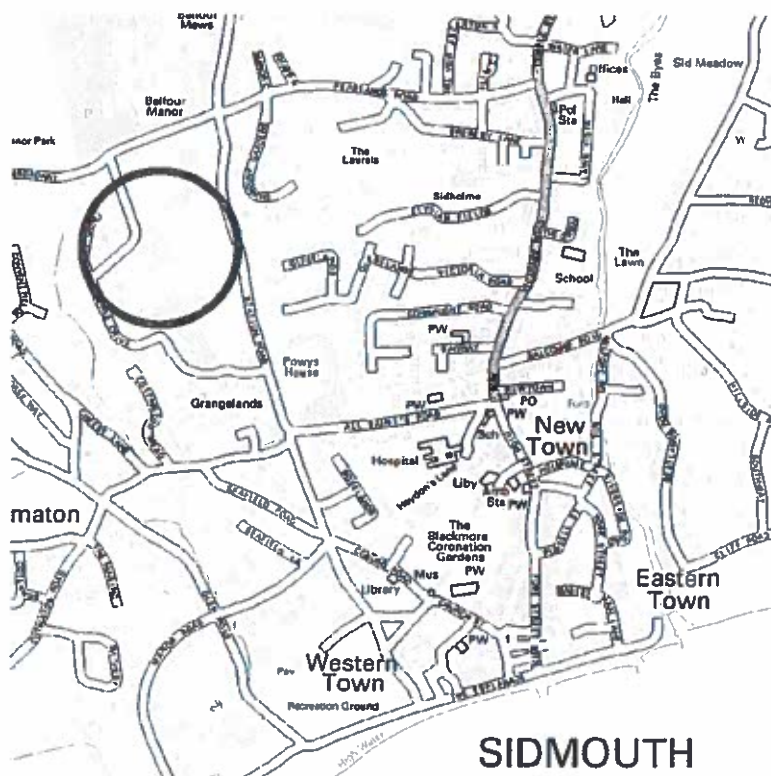
- | | Page/s |
|---|--------|
| 1. To receive the minutes of the meetings held on 13 April 2010. | 3 - 5 |
| 2. To receive any apologies for absence from Members of the Sub Committee. | |
| 3. To receive any declarations of interests relating to items on the agenda. | |
| 4. To consider any items which 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 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). | |

- | | | | |
|----|--|-------------------|---------|
| 6. | 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 | Licensing Officer | 6 - 50 |
| 7. | Schedule of applications for Sub Committee approval where an agreed position has been reached and all Parties have agreed a hearing is unnecessary. | Licensing Officer | 51 - 52 |

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 13 April 2010

Present: Councillors:
Graham Godbeer(Chairman)
Chris Gibbings (Vice Chairman)
Barry Nicholson

Officers: John Tippin – Licensing Manager
Ian Carter – Senior Licensing Officer
Neil McDonald – Licensing Officer
Giles Salter – Assistant Solicitor
Diana Vernon - Democratic Services Manager

The meeting started at 9.35 am and finished at 9.40 am.

*28 Minutes

The minutes of the meetings of the Licensing & Enforcement Sub Committee held on 23 February 2010, were confirmed and signed as a true record.

*29 Declarations of interest

| Councillor/ Officer | Agenda Item | Type of interest | Nature of interest |
|------------------------------|---|---------------------|--|
| Councillor Chris Gibbings | 6 – Schedule of application for Sub-Committee approval | Personal | The Kingswood and Devoran Hotels are within Councillor Gibbings' Ward. |

*30 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 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 Senior Licensing Officer explained the background of the applications and the negotiations carried out. He advised that the standard mandatory conditions now included those which had come into force on 6 April 2010 under the Licensing Act 2003 in respect of efforts by the Government to try to control binge drinking.

The Kingswood and Devoran Hotels had been separate hotels with individual licences. The owner had submitted an application for a licence to cover both premises. The application in respect of Greendale Farm Shop was for a variation in their licence to allow consumption of alcohol on the premises.

*30

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

RESOLVED that the applications 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 a premises licence to be granted | Kingswood & Devoran Hotel, The Esplanade, Sidmouth, EX10 8AX | <p>Following mediation the applicant, Devon & Cornwall Constabulary and the Councils Environmental Health service 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"> 1. This licence permits the performance of non amplified live music excluding the playing of percussion instruments including drums only. 2. Performances of amplified live music must be limited to no more than two per month. 3. The CCTV currently installed at the hotel to be operated and maintained to the satisfaction of the Licensing Authority and the Police. 4. CCTV recordings must be kept in accordance with current policy (DVD hard drive system currently 14 days). 5. Should the CCTV become defective the Licensing Authority and Police must be informed forthwith and immediate steps must be taken to repair. 6. There must be no irresponsible alcohol promotions. 7. A challenge 21 policy will be operated, any person who looks under 21 years must be asked for proof of age. The accepted forms of identification are passport, photo driving licence and an identification card bearing the PASS logo. |

*30

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

| | | |
|--|---|--|
| <p>Application for a Variation of a premises licence to be granted</p> | <p>Greendale Farm Shop, Farringdon, Nr Exeter, EX5 2JU.</p> | <p>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.</p> <p>The application be approved as submitted subject to:</p> <ol style="list-style-type: none"> 1. No sale of alcohol for consumption on the premises 30 minutes before the end of permitted opening hours of the premises. 2. Alcohol for consumption on the premises must only be supplied with food purchased for consumption on the premises in the designated restaurant and patio areas. 3. Consumption of alcohol on the premises must only take place in the designated restaurant and patio areas. 4. All alcohol for consumption on the premises to be decanted into glasses. |
|--|---|--|

*31

Thanks and appreciation

The Chairman reminded those present that this was Ian Carter's last EDDC licensing meeting before taking up his appointment as Licensing Manager at Taunton Deane Borough Council. The Chairman and Vice Chairman of the Committee formally thanked Ian for his valued contribution to the Council's licensing work and wished him well. In response, Ian said that it had been a privilege to have worked with the Licensing Committee and to have been involved with progressing the licensing function at East Devon.

Chairman Date

Agenda Item 6

Licensing & Enforcement Sub Committee

25 May 2010

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.

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 19 August 2010 to 23 August 2010 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.

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 Management Environmental Noise Strategy 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

5.9 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 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 of the licensing objectives being 'the prevention of public nuisance'.
- 6.3 This application is similar to that submitted for the 2009 festival but also includes the extra noise conditions requested by Environmental Health last year and subsequently imposed by the Licensing Sub Committee. A representation has been received from Environmental Health based on guidance from a document entitled 'Recommendations from the Code of Practice on Environmental Noise Control at Concerts' (Appendix E). This code of practice suggests guidelines for music noise levels at concerts and differentiates between the frequencies of concert days at a particular venue as shown in the table below.

| Concert days per calendar year, per venue | Venue Category | Guideline |
|---|------------------------------|--|
| 1 to 3 | Urban Stadia or Arenas | The MNL should not exceed 75dB(A) over a 15 minute period |
| 1 to 3 | Other Urban and Rural Venues | The MNL should not exceed 65dB(A) over a 15 minute period |
| 4 to 12 | All Venues | The MNL should not exceed the background noise level ¹ by more than 15dB(A) over a 15 minute period |

This application and the previous Beautiful Days festivals were for a three day period at the venue and therefore fell into the higher music noise level listed under 'other urban and rural venues' on the chart. This year there has been an application by another promoter for a two day concert event at the same venue on the 16 and 17 July known as the Sound City Festival. As a result the total concert days at the venue for this year will be five and will fall into the lower music noise level as shown on the chart listed under 'all venues'. The applicants for the Sound City Festival have been able to comply with the lower music noise level suggested by the guide for live and recorded music between the hours of 4 pm and 10.30 pm each day. Following mediation a representation lodged by Environmental Health against the Sound City Festival application was withdrawn and the licence granted. However the applicant for the Beautiful days Festival is unable to comply with the lower music levels suggested by the guide and this forms the basis of the representation by Environmental Health as they are concerned that the combined effect of both festivals at this venue is likely to cause public nuisance to people living in the surrounding area.

- 6.4 The Environmental Health Service have not proposed any stricter noise control criteria or conditions as they believe that they are unlikely to be reasonably achievable by the Beautiful Days Event organisers. The Sub Committee will have to consider whether they are prepared to step outside of the code of practice when considering this application.
 - 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**.
-

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 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 – Code of Practice on Environmental Noise Control at Concerts
- Appendix F – Plan

Background Papers

- Licensing Application dated 22 March 2010
- The District Council's Statement of Licensing Policy

Neil McDonald ext 2079
Licensing Officer

Licensing & Enforcement Sub Committee
25 May 2010

| Beautiful Days | | | | | | | | | |
|--------------------|------------------|-------------------------------|-------------------------------|--------------------------|---|----------------------------|---|----------------------------|---------------------|
| | (a) Plays | (e) Performance of live music | (f) Playing of recorded music | (g) Performance of dance | (h) Anything of a similar description the that falling within (e), (f) or (g) | (i) Facilities for dancing | (k) Facilities for entertainment similar to (i) & (j) | (l) Late Night Refreshment | (m) Sale of alcohol |
| Thursday | | | | | | | | | |
| Fiddlers Arms | | | | | | | | | 6:00 pm - 1:00 am |
| Dirty Davey's | | | | | | | | | 6:00 pm - 1:00 am |
| Bimble Inn | | | | | | | | | 6:00 pm - 1:00 am |
| Over The Top | | | | | | | | | 6:00 pm - 1:00 am |
| Hope Tavern | | | | | | | | | 6:00 pm - 1:00 am |
| Backstage Bar | | | | | | | | | 11:00pm - 4:00am |
| Friday | | | | | | | | | |
| Whole Site | Midday - 2:00 am | | | 6:00 pm - 2:00 am | Midday - 2:00 am | | Midday - 2:00 am | | |
| Main Stage (1) | | 6:00 pm - Midnight | | | | | | | |
| Big Top (2) | | 3:00 pm - Midnight | | | | | | | |
| Little Big Top (3) | | 6:00 pm - 2:00 am | Midday-2:00 am | | | | | | 10 am - 2:00 am |
| Hope Tavern | | | | | | | | | 10 am - 2:00 am |
| Fiddlers Arms | | | | | | | | | 10 am - 2:00 am |
| Over the Top | | | | | | | | | 10 am - 2:00 am |
| Bimble Inn | | Midday - 3:00 am | Midday - 3:00 am | | | Midday-3:00 am | Midday - 3:00 am | 11:00 pm - 5:00 am | Midday - 3:00 am |
| Tiny Tea Tent | | | | | | | | 11:00 pm - 5:00 am | |
| Dirty Davey's | | | | | | | | | 10:00 am - 2:00 am |
| Leviticus Tent | | | Midday-2:00 am | | | | Midday-Midnight | 11:00 pm - 5:00 am | |
| Band Stand | | | | | | | | | |
| Arena 1 | | | | | | Midday-2:00 am | | | |
| Arena 2 | | | | | | Midday-2:00 am | | | |
| Arena 3 | | | | | | Midday-2:00 am | | | 11:00pm - 4:00am |
| Saturday | | | | | | | | | |
| Whole Site | Midday - 2:00 am | | | Midday-2:00 am | Midday - 2:00 am | | Midday - 2:00 am | | |
| Main Stage (1) | | Midday - 2:00 am | | | | | | | |
| Big Top (2) | | Midday - Midnight | | | | | | | |
| Little Big Top (3) | | Midday - Midnight | Midday-2:00 am | | | | | | 10:00 am - 2:00 am |
| Hope Tavern | | | | | | | | | 10:00 am - 2:00 am |
| Fiddlers Arms | | | | | | | | | 10:00 am - 2:00 am |
| Over the Top | | | | | | | | | 10:00 am - 2:00 am |
| Bimble Inn | | Midday-3:00 am | Midday - 3:00 am | | | Midday - 3:00 am | Midday - 3:00 am | 11:00 pm - 5:00 am | Midday - 3:00 am |
| Tiny Tea Tent | | | | | | | | 11:00 pm - 5:00 am | |
| Dirty Davey's | | | | | | | | | 10:00 am - 2:00 am |
| Leviticus Tent | | | Midday-2:00 am | | | Midday-2:00 am | | 11:00 pm - 5:00 am | |
| Arena 1 | | | | | | Midday-2:00 am | | | |
| Arena 2 | | | | | | Midday-2:00 am | | 11:00 pm - 5:00 am | |
| Arena 3 | | | | | | Midday-2:00 am | | | |

Representations Received

| Mr A Ennis, Environmental Health Manager, Environmental Protection, East Devon District Council, Knowle, Sidmouth, EX10 8HL | |
|---|---|
| Objective | Representations |
| Prevention of Public Nuisance | <p>As you know I took particular interest in last year's festival and carried out monitoring personally. I was very aware that having heard my representation (and submissions on behalf of the applicant) the Committee decided to grant a licence for the event that permitted noise (albeit at a slightly reduced level) to continue until 02:00h rather than midnight as per my representation.</p> <p>In the event I received just four complaints about noise in total, from residents in Taleford, Kerswell and Payhembury.</p> <p>I would wish to make two observations. Firstly, the music noise before midnight was in some locations surprisingly intrusive and after midnight it was still clearly audible and did result in two different households in Payhembury who were specifically concerned that their sleep was being disturbed far later than anticipated.</p> <p>Secondly, since last year's event, at least one additional two-night event has sought approval for late night music noise at Escot. I refer to Sound City Festival which I think takes place in July. This of course is not the responsibility of the applicant here. However, you may recall the appropriate guidance that we rely on in these cases does have regard to the frequency with which outdoor music events occur. In fact my comments last year (which I attach again for completeness) proposed noise control based on outdoor music at a venue hosting fewer than four concert days per year. It seems clear that following Sound City's two days, Beautiful Days additional three days takes the venue into a very much stricter noise control category.</p> <p>My view following last year's Beautiful Days festival was that I saw little value in making the same representation as the one I made last year. However, mindful of the fact that I did receive four complaints and the present circumstances where another music festival is scheduled for the same venue this summer, I feel that on balance I must again make a representation on the basis that I am concerned that the combined effect of both festivals at this venue is likely to cause public nuisance.</p> <p>I have not at this stage proposed the stricter noise control criteria and that is in part because in my opinion they are unlikely to be reasonably achievable by the Beautiful Days event that I observed last year. I anticipate being able to meet with the applicant's expert to work through some technical issues in the near future (he is out of the country on holiday at present) but I am confident that he will be of the same opinion. It will therefore quite properly be for Members to weigh up the overall risk of public nuisance arising from this additional event alongside its benefits.</p> |

APPENDIX C

Beautiful Days – Responses to Notice of Hearing

Applicant

| | |
|---|---|
| David Farrow, 126 Buddle Lane, Exeter, EX4 1JL | |
| Hearing Unnecessary | No |
| Attending | Yes |
| Represented by | Mr Tim Selley, Crosse & Crosse Solicitors, 14 Southernhay West, Exeter Mr Steve Anderson, Anderson Mitchell, Clink Road, Frome, Somerset, BA11 2EL. |
| Supporting documents | Operating Schedule and policies as submitted with the application. |
| Summary of key points | |
| Prevention of Public Nuisance | <p>The Applicant believes that the controls they exercise with this event are appropriate so as to deal with concerns over noise. They refer to the operating schedule they have proposed and their policies that they apply in running this event.</p> <p>At a meeting held of 'interested parties' on 12th November 2009 at 2:30pm to discuss the 2009 event it was stressed on the applicants behalf that the other parties were invited there and to indicate if they had any concerns as to the 2010 event. Mr Ennis mentioned four complaints but stated that he was not going to make a huge fuss over them and he felt that procedures which had been put in place worked extremely well overall. Mr Ennis also stated that provided there were no further complaints he did not envisage any further changes needed to be made.</p> <p>As said, it is submitted the licensing of the event should be agreed to on the terms proposed.</p> |

Responsible Authority

| | |
|--------------------------------------|--|
| 1. | Mr A Ennis, Environmental Health Officer, East Devon District Council, Knowle, Sidmouth, EX10 8HL |
| Hearing Unnecessary | No |
| Attending | Yes |
| Represented by | |
| Supporting documents | Yes – Code of Practice on Environmental Noise Control at Concerts |
| Summary of key points | |
| Prevention of Public Nuisance | <p>As you know I took particular interest in last year's festival and carried out monitoring personally. I was very aware that having heard my representation (and submissions on behalf of the applicant) the Committee decided to grant a licence for the event that permitted noise (albeit at a slightly reduced level) to continue until 02:00h rather than midnight as per my representation.</p> <p>In the event I received just four complaints about noise in total, from residents in Taleford, Kerswell and Payhembury.</p> <p>I would wish to make two observations. Firstly, the music noise before midnight was in some locations surprisingly intrusive and after midnight it was still clearly audible and did result in two different households in</p> |

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Payhembury who were specifically concerned that their sleep was being disturbed far later than anticipated.

Secondly, since last year's event, at least one additional two-night event has sought approval for late night music noise at Escot. I refer to Sound City Festival which I think takes place in July. This of course is not the responsibility of the applicant here. However, you may recall the appropriate guidance that we rely on in these cases does have regard to the frequency with which outdoor music events occur. In fact my comments last year (which I attach again for completeness) proposed noise control based on outdoor music at a venue hosting fewer than four concert days per year. It seems clear that following Sound City's two days, Beautiful Days additional three days takes the venue into a very much stricter noise control category.

My view following last year's Beautiful Days festival was that I saw little value in making the same representation as the one I made last year. However, mindful of the fact that I did receive four complaints and the present circumstances where another music festival is scheduled for the same venue this summer, I feel that on balance I must again make a representation on the basis that I am concerned that the combined effect of both festivals at this venue is likely to cause public nuisance.

I have not at this stage proposed the stricter noise control criteria and that is in part because in my opinion they are unlikely to be reasonably achievable by the Beautiful Days event that I observed last year. I anticipate being able to meet with the applicant's expert to work through some technical issues in the near future (he is out of the country on holiday at present) but I am confident that he will be of the same opinion. It will therefore quite properly be for Members to weigh up the overall risk of public nuisance arising from this additional event alongside its benefits.

The details of the four complaints are as follows:

Friday 21 August 2010

7:10pm complaint from resident of Taleford who reported the following: "...she has been annoyed by the festival for the last 6 years – she usually goes away to avoid it but she doesn't understand why we allow it – she does not want me to visit - just to log that she is unhappy that the thumping bass is annoying her - sleep will be difficult later and she would be unable to sit in her garden this evening".

Saturday 22 August 2010:

6:35pm complaint from a resident of Kerswell who reported that he was disturbed by loud music which he thought was possibly from one of his neighbours but he was unable to find the source. I visited at 8:30pm and established that the source was Beautiful Days – some six miles away. The "loud music" was predominantly "thumping" bass.

11:20pm complaint from a resident of Payhembury who reported that her

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grandparents were unable to sleep because of the noise. I was in the area and after contacting the applicants noise consultant I went there straight away arriving at 11:40pm and meeting with both the complainant and the applicant's noise consultant – there was clear audibility of both music and bass at their dwelling – we agreed that the source of the noise was primarily the main stage at the festival. This part of the event was due to end at midnight. There was a "just perceptible" reduction in noise at around 5 minutes or so past midnight. Music and bass were still audible but slightly less so

than before and I formed the opinion that the dance tent was the most likely source. I had further telephone contact with the applicants consultant who confirmed at 12:30am that he had been able to get sound levels down to 40dB(A) at one of the control points but that he would be unable to achieve any further reduction until 2am.

Sunday 23 August 2010:

During the Sunday afternoon I received a fourth complaint from another residents of Payhembury. Her complaint was that she had "...called to say noise did not go down at midnight - it was loud until 02:00h".

Finally, as I have explained to the applicant my concern is linked to the use of the same venue for other outdoor music events. I understand that the previous occasion when an additional outdoor music event took place was during the summer of 2007. Our records show that there were thirteen or so complaints relating to music noise from Escot during the weekends of 28/29 July and 18/19 August. Under the circumstances it might be appropriate for a hearing to consider both of this year's Escot applications together and the details of these older complaints would I suggest also be relevant.

Environmental Health Representation –Beautiful days 2009

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.

Daytime Noise Impact Assessment

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(A)eq(15min) 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 09:00 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.

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.

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ENVIRONMENTAL NOISE STRATEGY

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*PLEASE TURN OVERLEAF FOR THE ANDERSON MITCHELL PRODUCED
ENVIRONMENTAL NOISE STRATEGY*



Whole Niche Yards
CONSULTANCY ©All rights reserved

Beautiful Days



Beautiful Days Festival, 20th-22nd August 2010

Noise Management Statement-Version 1

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 (BNT) 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 Resource-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.
2. 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.

3. 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.
4. 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 2010. These are summarised briefly below
 - a. Timing of stages Dance tent hours. This was significantly reduced on the last evening to finish at 21.30.
 - b. 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.
 - c. A greater resource was provided for noise monitoring and control with 2 consultants, to allow for simultaneous off-site monitoring and on-site control.
2. The licence conditions imposed by EDDC and agreed for the 2009 event varied from previous events in 3 areas
 - a. To take account of the operation of the main stage between 23.00 and 00.00 on Friday and Saturday, the level criteria was increased by 5dB
 - b. The level criteria for the period between 00.00 and 02.00 was reduced by 5dB to take account of EDDC's concerns about the importance of any disturbance at this time
 - c. The level criteria for post 02.00 until 09.00 was dispensed with and a new criteria of "virtual inaudibility" introduced for similar reasons to b).
3. There were 4 noise complaints received by the event and 4 by EDDC (7 in total). Of these, 4 were able to be visited and were within the licence conditions. All of the complaints were to the north of the site where similar levels would not have been experienced in previous years as a function of wind direction. The complaints were not coincident with the location of residents exposed to the highest levels.
4. There are no changes proposed to the event noise management and site venues, arrangements and timings are similar to 2009. Some internal improvements are being considered for the management of secondary noise sources on site including bars and traders.

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_{Aeq5} 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 octave band levels.
5. 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 $L_{eq, 5}$ and measured at the boundary of any nearby residential property.
Between 09.00 hours and 23.00 hours 55dBA
Between 23.00 hours and Midnight 50dBA
Between Midnight and 02.00 40dBA
Between 02.00 and 09.00 noise shall be "virtually inaudible".
Note that the above level criteria are coincident with the 2009 licence granted by EDDC.
"Virtually inaudible" shall mean that the noise is such a level as to be inaudible or barely audible at the boundary of a noise sensitive premises, such that it can be judged as to be inaudible within said premises with the windows open for normal ventilation.
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 and 2009. The monitoring of these sites will be determined as the event progresses dependant primarily upon weather conditions. Additional sites may be used should it be considered useful to do so to control levels. 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 and Dance 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 (slow) 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 |
| Total | 69 |

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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Code of Practice on Environmental Noise Control at Concerts

THE NOISE COUNCIL

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1.0 INTRODUCTION

- 1.1 Large music events involving high powered amplification are held in sporting stadia, arenas, open air sites and within lightweight buildings. These events give pleasure to hundreds and in some cases thousands of people. However, the music from these events can cause disturbance to those living in the vicinity. The purpose of this code is to give guidance on how such disturbance or annoyance can be minimised.
- 1.2 This Code of Practice has been prepared by the Noise Council through a Working Party comprising specialists who are experienced in the particular problems that can arise with environmental noise control at concerts and similar music events. A list of members of the working party is shown in Appendix II and a list of technical papers providing some background data and more detailed information is given in Appendix I.
- 1.3 Various guidelines and criteria are described in this document covering a range of events from the single occasional concert to a full season. It is believed that compliance with the guidelines and the other advice given here will enable successful concerts to be held whilst keeping to a minimum the disturbance caused by noise. It is recognised, though, that full compliance with this code may not eliminate all complaints, and local factors may affect the likelihood of complaints.
- 1.4 This Code is not designed to address the question of environmental noise arising from discotheques, clubs and public houses, nor environmental noise affecting noise sensitive premises which are structurally attached to the venue.

- 1.5 This Code is designed to assist those planning a music event, those responsible for licensing such events and those responsible for enforcing the nuisance provisions of the Environmental Protection Act 1990 (England and Wales) and the Control of Pollution Act 1974 (Scotland). It addresses the environmental problem of noise from the performance and sound checks only. Other environmental impacts of concerts and the question of meeting the requirements of the Noise at Work Regulations 1989 and the guidance given in the Health and Safety Executive's Guide to Health, Safety and Welfare at Pop Concerts and similar events are beyond the scope of this document.
- 1.6 Compliance with this Code of Practice does not of itself confer immunity from legal obligations.
- 1.7 The Noise Council is keen to receive accounts of the practical application of the Code in order to improve and enhance its content.

2.0 DEFINITIONS

- Background Noise Level:** The prevailing sound level at a location, measured in terms of the $L_{A90,T}$, on an equivalent day and at an equivalent time when no concert or sound checks are taking place.
- dB(A):** The A-weighted sound pressure level whereby various frequency components of sound are weighted (equalised) to reflect the way the human ear responds to different frequencies.
- Delay Tower:** An additional set of loudspeakers employed to provide a better spread of sound to the audience.
- L_{Aeq} :** The equivalent continuous noise level which at a given location and over a given period of time contains the same A-weighted sound energy as the actual fluctuating noise at the same location over the same period.
- $L_{A90,T}$:** The A-weighted sound pressure level exceeded for 90% of the measuring period (T).
- Mixer:** The location where the main sound system is controlled. As well as ensuring the correct sound balance between the various performers, the overall level of sound for the audience is controlled at this location.

Music Event: A concert or similar event where live or recorded music is performed by a solo or group of artists before an audience.

Music Noise: The noise from the music and vocals during a concert or sound checks and not affected by other local noise sources.

Music Noise Level (MNL): The L_{Aeq} of the music noise measured at a particular location.

Noise Consultant: A person given responsibility by the organiser of the event for monitoring noise levels in accordance with the prevailing conditions, and who has the ability and authority to make decisions and implement changes in noise level during the event.

Noise Monitoring Position: The location of the microphone within the venue from which the level of sound is monitored and controlled. For outdoor venues, this location tends to be at the mixer.

Noise-sensitive Premises: Includes premises used for residential purposes hospitals or similar institutions, education establishments (when in use), or places of worship (during recognised times and days of worship) or any premises used for any other purposes likely to be affected by the Music Noise.

Other Urban Venue: An urban park or similar area which is not normally used for major organised events.

Rural Venue: A park, open space or grounds of a country house in a rural area not normally used for major organised events.

Sound Engineer: Person employed to control the sound quality of the music for the audience.

Urban Stadia or Arenas: A regular venue for major sporting or similar events in an urban area.

3.0 GUIDELINES

3.1 The Music Noise Levels (MNL) when assessed at the prediction stage or measured during sound checks or concerts should not exceed the guidelines shown in Table 1 at 1 metre from the façade of any noise sensitive premises for events held between the hours of 0900 and 2300.

TABLE 1

| Concert days per calendar year, per venue | Venue Category | Guideline |
|---|------------------------------|--|
| 1 to 3 | Urban Stadia or Arenas | The MNL should not exceed 75dB(A) over a 15 minute period |
| 1 to 3 | Other Urban and Rural Venues | The MNL should not exceed 65dB(A) over a 15 minute period |
| 4 to 12 | All Venues | The MNL should not exceed the background noise level ¹ by more than 15dB(A) over a 15 minute period |

Notes to Table 1

1. The value used should be the arithmetic average of the hourly L_{Aeq} measured over the last four hours of the proposed music event or over the entire period of the proposed music event if scheduled to last for less than four hours.
2. There are many other issues which affect the acceptability of proposed concerts. This code is designed to address the environmental noise issue alone.
3. In locations where individuals may be affected by more than one venue, the impact of all the events should be considered.
4. For those venues where more than three events per calendar year are expected, the frequency and scheduling of the events will affect the level of disturbance. In particular, additional disturbance can arise if events occur on more than three consecutive days without a reduction in the permitted MNL.
5. For indoor venues used for up to about 30 events per calendar year an MNL not exceeding the background noise by more than 5dB(A) over a fifteen minute period is recommended for events finishing no later than 2300 hours.

6. Account should be taken of the noise impact of other events at a venue. It may be appropriate to reduce the permitted noise from a concert if the other events are noisy.

7. For venues where just one event has been held on one day in any one year, it has been found possible to adopt a higher limit value without causing an unacceptable level of disturbance.

3.2 For events continuing or held between the hours 2300 and 0900 the music noise should not be audible within noise-sensitive premises with windows open in a typical manner for ventilation.

Notes to Guideline 3.2

1. The use of inaudibility as a guideline is not universally accepted as an appropriate method of control. References 6 & 7 (Appendix 1) set out the various issues. This guideline is proposed as there is insufficient evidence available to give more precise guidance.
2. Control can be exercised in this situation by limiting the music noise so that it is just audible outside the noise sensitive premises. When that is achieved it can be assumed that the music noise is not audible inside the noise sensitive premises.

3.3 The nature of music events means that these guidelines are best used in the setting of limits prior to the event (see 4.0).

3.4 Assessment of noise in terms of dB(A) is very convenient but it can underestimate the intrusiveness of low frequency noise. Furthermore, low frequency noise can be very noticeable indoors. Thus, even if the dB(A) guideline is being met, unreasonable disturbance may be occurring because of the low frequency noise. With certain types of events, therefore, it may be necessary to set an additional criterion in terms of low frequency noise, or apply additional control conditions.

Notes to Guideline 3.4

1. It has been found that it is the frequency imbalance which causes disturbance. Consequently there is less of a problem from the low frequency content of the music noise near to an open air venue than further away.

2. Although no precise guidance is available the following may be found helpful (Ref 8):
A level up to 70dB in either of the 63Hz or 125Hz octave frequency band is satisfactory; a level of 80dB or more in either of those octave frequency bands causes significant disturbance.

- 3.5 Complaints may occur simply because people some distance from the event can hear it and that, consequently, they feel the music must be loud even though the guidelines are being met. In fact topographical and climatic conditions can be such that the MNL is lower at locations nearer to the venue.
- 3.6 Although care has been taken to make these guidelines compatible with what occurs at existing venues, this may not be the case at every location. Where arrangements are satisfactory with either higher or lower noise levels than those contained in the guidelines, these limits should continue.
- 3.7 It has been found that if there has been good public relations at the planning stage between the event organisers and those living nearby, annoyance can be kept to a minimum.
- 3.8 The music noise level should be measured using an integrating-averaging sound level meter complying with type 2 or better of BS6698. The background noise level should be measured using a sound level meter complying with type 2 or better of BS5969. Time weighting F (fast response) should be used.
- 3.9 When measuring L_{Aeq} in order to determine the music noise level, care must be taken to avoid local noise sources influencing the result. When the local noise is intermittent, a series of short term L_{Aeq} measurements should be made of the music noise while the local source is absent or has subsided to typically low or mean minimum values. An average of these short term

readings will give an estimate of the music noise level. A further option would be to measure the A-weighted sound pressure level on a sound level meter complying with type 2 or better of BS5969 with the time weighting set to S (slow response) when the music is loudest and not influenced by local noise. If the local source is continuous, make a measurement of the L_{Aeq} of the local source when the music is not occurring, and make a correction to the measured L_{Aeq} when the music is occurring to obtain an estimate of the music noise level.

- 3.10 The nature of many concerts requires the sound volume level to be increased during the event to enhance the performance. The prevailing noise control restrictions should be borne in mind so that the sound volume at the start of the event is not too high, hence allowing scope for an increase during the event.
- 3.11 Some concerts are accompanied by associated activities (e.g. fairgrounds) which can be noisy. These should be taken into account when setting the limit for the music noise level.
- 3.12 When monitoring the music noise level, the sound of the audience applause can be a significant contributor. It is not possible to address this issue precisely; instead it is recommended that any such effect be noted.

4.0 RECOMMENDED NOISE CONTROL PROCEDURE

4.1 This procedure has been developed over several years and found to provide an effective means of addressing the problem of environmental noise control at events. The main features of the procedure are set out below and references are made to various technical papers which give more details.

Planning

4.2 Determine the sound propagation characteristics between the proposed venue and those living nearby who might be affected by noise, and carry out an appropriate background noise survey. This should be undertaken by a competent person who is experienced in noise propagation and control, particularly from music events.

4.3 Check the viability of the event against the relevant guideline levels. This is achieved by determining from 4.2 above the sound level experienced by the audience which would allow the guidelines to be met. Research shows that the music noise level in the audience by the mixer position at pop concerts is typically 100dB(A), and that levels below 95dB(A) will be unlikely to provide satisfactory entertainment for the audience.

4.4 Prospective licensees should give the local authority as much notice as possible of the proposed event especially if more than one event is planned during a calendar year.

4.5 The local authority should make use of licensing conditions and statutory powers to implement the procedures described in this Code of Practice. Examples of possible conditions are given in Appendix III.

4.6 The Noise Consultant should be appointed.

Before the Event

4.7 Install the loudspeaker system early enough to enable alignment and orientation to be optimised to minimise noise disturbance.

4.8 Carry out a sound test prior to each event to ascertain the maximum level that can prevail at the monitoring position to enable the guidelines to be met. This effectively calibrates the system, taking into account as far as possible prevailing weather conditions, and, for indoor events, the sound insulation of the venue.

Notes to Guideline 4.8

1. It should be remembered that the introduction of an audience to a venue increases the acoustic absorption present. This has the effect of reducing the sound level in the venue for a given amplifier setting compared with the sound test. This should be borne in mind when setting the limit levels.

During the Event

4.9 Advertise and operate an attended complaint telephone number through which noise complaints can be channelled. This will enable an immediate response to the complaints to be given and the Noise Consultant to judge whether or not any adjustment to the music noise level is needed.

4.10 Establish a communication network between all those involved in noise

control. This should include the local police authority.

Note to Guideline 4.10

1. It is difficult to communicate effectively in noisy environments, especially in the vicinity of the mixer. It has been found helpful for those involved in the communication network to use head-sets with their two way radio systems.

4.11 Carry out noise monitoring within the venue at the noise monitoring position and at sample locations outside the venue throughout the event. If the event is employing one or more delay towers, additional noise monitoring may be needed inside the venue to control the sound output from them.

4.12 Although the limit value set at 4.8 above would be in terms of 15 minute L_{Aeq} , useful control can be exercised by monitoring the L_{Aeq} over one minute periods. This enables an early warning to be obtained of possible breaches in the 15 minute limit. It is sometimes appropriate to set an additional control limit in terms of the one minute L_{Aeq} (typically some 2-3dB(A) above the 15 minute value) and to use a level recorder display to assist the sound engineer in checking compliance with the limit. The Noise Consultant should advise the sound engineer of any breaches in the prescribed noise limit, to enable a reduction in level as appropriate. The sound engineer should also be advised of occasions when the limit has only just been met.

APPENDIX I

References

1. Noise Control Techniques and Guidelines for Open Air Concerts, J.E.T. Griffiths (ProcIOA, Vol. 7, Part 3, 1985).
2. A Noise Control Procedure for Open Air Pop Concerts, J.E.T. Griffiths, S.W. Turner and A.D. Wallis (ProcIOA, Vol 8, Part 4, 1986).
3. Noise Control in the Built Environment, edited by John Roberts and Diane Fairhall, Gower Technical, 1988 (Chapters 1, 2 and 3).
4. Environmental Noise Guidelines proposed for the new Health & Safety Executive Guide for Pop Concerts, J.E.T. Griffiths and A. Dove (ProcIOA, Vol 14, Part 5, 1992).
5. A Survey of Sound Levels at Pop Concerts, J.E.T. Griffiths (HSE Contract Research Report No 35/1991).
6. Inaudibility - an Established Criterion, A.W.M. Somerville (ProcIOA, Vol 13, Part 8, 1991).
7. Noise Control at All-night Acid House Raves, K. Dibble (ProcIOA, Vol 13, Part 8, 1991).
8. A study of Low Frequency Sound from Pop Concerts, J.E.T. Griffiths, J. Staunton and S. Kamath (ProcIOA, Vol 15, Part 7, 1993)

APPENDIX II

Noise Council Working Party Membership

| | |
|------------------|---|
| S.W. Turner* | Technical Director, TBV Science |
| A. Somerville* | Department of Environmental Health, City of Edinburgh District Council |
| A.D. Wallis* | Cirrus Research Limited |
| J. Bickerdike | Leeds Polytechnic |
| K. Dibble | Ken Dibble Acoustics |
| J.E.T. Griffiths | Director, Travers Morgan Environment |
| S.S. Kamath | Director, Pollution & Scientific, London Borough of Brent. |
| J. Sargent | Building Research Establishment |
| J. Staunton | Associate, Travers Morgan Environment |

* Full members of the Noise Council

APPENDIX III

Sample Conditions Concerning
Environmental Noise Control at Concerts

- 1.0 The licensee shall appoint a suitably qualified and experienced noise control consultant⁺, to the approval of the Licensing Authority, no later than..... weeks prior to the event. The noise control consultant⁺ shall liaise between all parties including the Licensee, Promoter, sound system supplier, sound engineer and the licensing authority etc. on all matters relating to noise control prior to and during the event.
- 2.0 If not already carried out, the noise control consultant⁺ shall carry out a survey to determine the background noise levels (as defined by the Code of Practice on Environmental Noise Control at Concerts) at..... locations around the venue representative of the noise sensitive premises likely to experience the largest increase in noise/highest noise level* as a result of the concert. The information obtained from this survey shall be made available to the licensing authority..... weeks prior to the event.
- 3.0 A noise propagation test shall be undertaken at least..... hours prior to the start of the event in order to set appropriate control limits at the sound mixer position. The sound system shall be configured and operated in a similar manner as intended for the event. The sound source used for the test shall be similar in character to the music likely to be produced during the event.

- 4.0 The control limits set at the mixer position shall be adequate to ensure that Music Noise Level (MNL) shall not at any noise sensitive premises exceed.....dB(A) over a 15 minute period/the background noise level by more thandB(A) over a 15 minute period* throughout the duration of the concert.
- 5.0 The control limits set at the mixer position shall be adequate to ensure that the MNL shall not at any noise sensitive premises exceed.....dB(A) over a 15 minute period/the background noise level by more thandB(A) over a 15 minute period* throughout any rehearsal or sound check for the event.
- 6.0 The Licensee shall ensure that the promoter, sound system supplier and all individual sound engineers are informed of the sound control limits and that any instructions from the noise control consultant⁺ regarding noise levels shall be implemented.
- 7.0 The appointed noise control consultant⁺ shall continually monitor noise levels at the sound mixer position and advise the sound engineer accordingly to ensure that the noise limits are not exceeded. The Licensing Authority shall have access to the results of the noise monitoring at any time.
- 8.0 Rehearsals and sound checks are permitted only between the following hours:
.....hrs to.....hrs.

9.0 Music from the event is permitted only between the following hours:
.....hrs to.....hrs.

Note: Suitable noise conditions should also be considered with respect to minimising noise exposure to the audience and people working at the event as advised in the HSE document "Guide to Health, Safety and Welfare at Pop Concerts and Similar Events".

*delete as appropriate.

*i.e. the Noise Consultant

THE NOISE COUNCIL

The Noise Council was established by a group of professional bodies concerned with problems relating to noise and vibration in the community and industrial environments. Its aims and objectives are to promote and respond to issues relating to noise and vibration, and to make independent technical and scientific expertise available to international and national agencies, central and local government, commerce and industry.

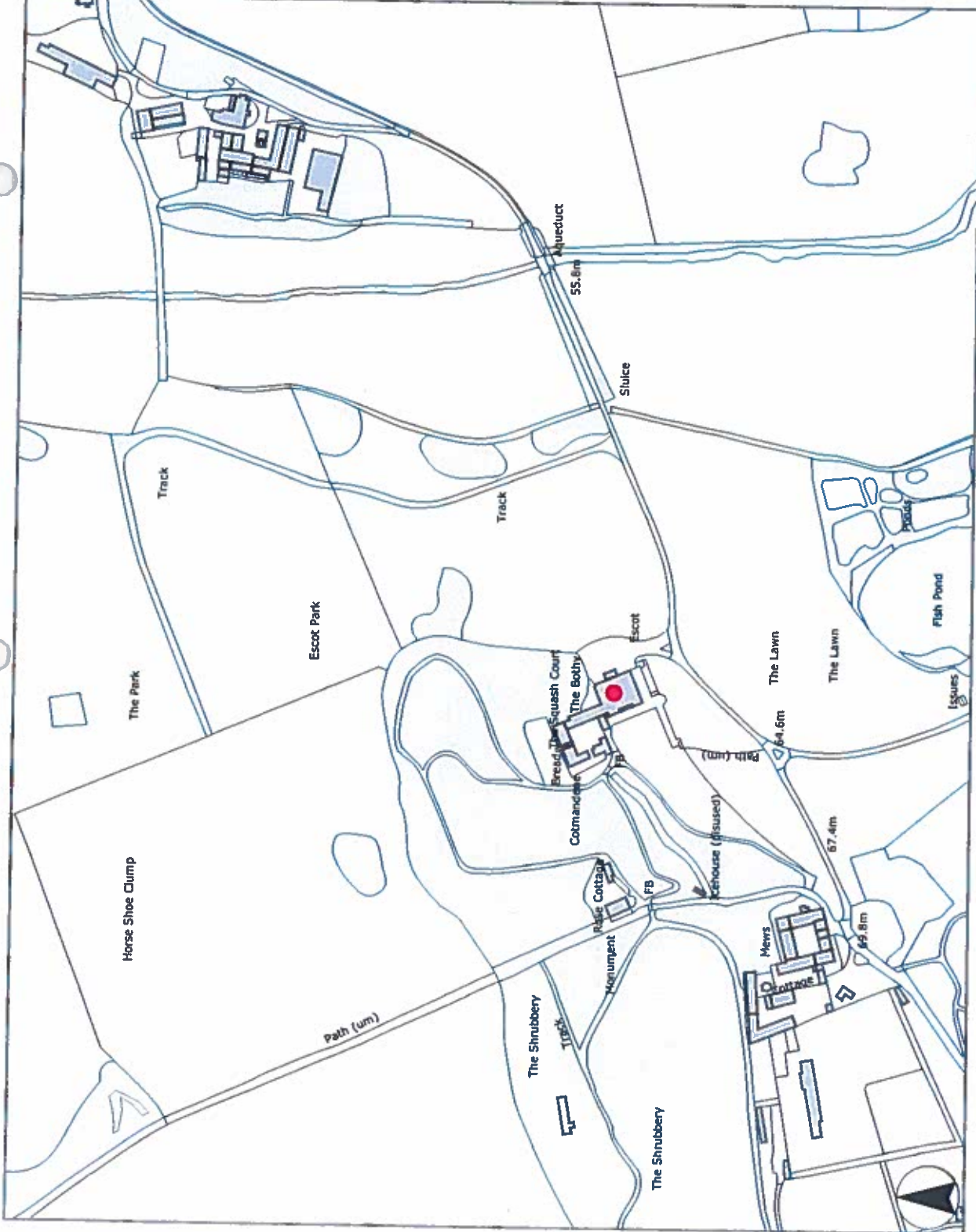
The Founding Bodies are:

- The Chartered Institute of Environmental Health
- The Institute of Acoustics
- The Royal Environmental Health Institute of Scotland
- The Institute of Occupational Safety & Health

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APPENDIX F

Map Title: SY0898SW Full Reference: SY0827 9818

Agenda Item 7

Licensing & Enforcement Sub Committee

25 May 2010

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 this application 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 the grant of a premises licence | Oakmead Golf Weston Sidmouth EX10 0PT | Following mediation the applicants and the Devon & Cornwall Constabulary have agreed that they consider a hearing to be unnecessary if the following agreed position is approved. Section M Supply of Alcohol – withdraw non standard times. Plastic or toughened glass must be used in the outside area where alcohol is to be consumed. |
| Recommendation | Recommend approval of application subject to the amended operating schedule | |

Legal Implications

Included within the report

Financial Implications

No apparent financial implications

Background Papers

- The relevant licensing application
- 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.2709

Licensing & Enforcement Sub Committee

Licensing Officer

25 May 2010