



North Devon Council

Report Date: 25th March, 2024

TOPIC: APPLICATION BY DUNCHIDEOCK LIMITED TO VARY A PREMISES LICENCE

SANDY COVE HOTEL BERRYNARBOR ILFRACOMBE DEVON
EX34 9SR

REFERENCE NUMBER 055749

REPORT BY: LICENSING OFFICER

1. INTRODUCTION

- 1.1 The purpose of this report is to present an application to vary a premises licence in respect of the Sandy Cove Hotel, Berrynarbor, Ilfracombe, Devon, EX34 9SR (**Appendix 1**).
- 1.2 The application is made by Dunchideock Limited and requests the following licensing activity:
 - 1.2.1 Permit the supply of alcohol on and off the premises.
 - 1.2.2 To add additional areas for licensable activities internally and on the patios, deck and lawn, as indicated on the submitted plan.
 - 1.2.3 To add the licence condition "Regulated entertainment shall be confined to the area(s) as outlined in RED and hatched RED on the attached plans".
 - 1.2.4 To add the licence condition "No alcohol sales or regulated entertainment may take place in the external licensed areas after 22:30".
 - 1.2.5 To remove from the existing premises licence condition number 13, "The performance of live entertainment will be limited to a maximum duration of 6 hours inclusive of any breaks".
- 1.3 The Licensing Authority has received seven relevant representations objecting to the proposed variations to the existing licence which give rise to the hearing.
- 1.4 The Licensing Authority has received fifty representations in support of Sandy Cove Hotel.

1.5 The relevant representations meet the following two Licensing Objectives as follows:

- The prevention of Public Nuisance
- Public Safety.

2. RECOMMENDATIONS

2.1 That the Sub Committee:

Considers the request for determination of the variation to the existing licence and the representations included in Appendices of this report, together with any oral submissions at the hearing.

2.2 In determining this application, the Sub-Committee must under Section 35 of the Act take such of the steps mentioned below (if any) as it considers appropriate for the promotion of the licensing objectives.

2.2.1 The steps are:

- to modify the conditions of the licence;
- to reject the whole or part of the application;

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

2.3 It will be best practice, as well as a matter of elemental fairness, that at a hearing, the Licensing Authority ensures that parties are aware of any condition the Licensing Authority is proposing to add of its own volition to a licence, in advance of the decision being made.

2.4 When Members are considering adding a condition that has not been addressed during the hearing, for example because it is raised after the Members have retired to consider their decision, the parties should be given an opportunity to address the Members on the new condition being considered. This can be done informally, for example, by the legal advisor passing a message to the waiting parties.

2.5 If the proposed condition proves controversial, the parties should be afforded the opportunity of addressing the Members further on both the principle of the condition or its specific wording. This is likely to serve the interests of all parties, including the Members who will be better informed about the impact and practicability of their proposal. Moreover, a failure to follow this approach risks attracting criticism from the appeal courts.

3. REASONS FOR RECOMMENDATIONS

- 3.1 The recommendations are made so that the Sub-Committee fulfils its duty under section 35 of the Licensing Act 2003 to determine the variation to a premises licence where relevant representations have been made.
- 3.2 The recommendations in relation to the imposition of conditions on the premises licence are made with a view to promoting the licensing objectives.

4. REPORT

- 4.1 An application to vary a premises licence for Sandy Cove Hotel, Berryarbor, Ilfracombe, Devon, EX34 9SR, was submitted on the 7th February, 2024. This application was correctly advertised as set out in the Licensing Act 2003. The closing date for this application was the 6th March, 2024 (**Appendix 1**).
- 4.2 The proposed variation to the existing premises licence is to:
 - 4.2.1 add additional areas for licensable activities internally and externally on the patios, deck and lawn as indicated on the submitted plan (**Appendix 1**). The plans submitted with the application show four outside areas outlined in red: two at 'hotel entrance level' (each labelled 'patio') and two at 'venue level' (one labelled 'lawn area' and the other 'deck'). Note: the existing licence shows areas of regulated entertainment outlined in blue and for alcohol outlined in red.
 - 4.2.2 add the licence condition 'Regulated entertainment shall be confined to the area(s) as outlined in RED and hatched RED on the attached plans'.
 - 4.2.3 add the licence condition 'No alcohol sales or regulated entertainment may take place in the external licensed areas after 22:30hrs'.
 - 4.2.4 remove the existing licence condition number 13 which reads 'The performance of live entertainment will be limited to a maximum duration of 6 hours inclusive of any breaks'.
- 4.3 The existing premises licence PLWA0904 (**Appendix 2**) has the following activities and timings as follows:

Activity	Day	Start	Finish
Supply of alcohol for consumption ON the premises only	Monday to Sunday	09:00	12:30am
Hours open to the public	Monday to Sunday	09:00	01:00am
Provision of Films	Monday to Sunday	None	None
Performance of Live Music (Indoors & Outdoors)	Monday to Sunday	11:00	12:30am
Playing of Recorded Music (Indoors & Outdoors)	Monday to Sunday	10:00	01:00am
Late Night Refreshment (indoors)	Monday to Sunday	11:00pm	01:00am

4.4 The amended proposed licensing activities and hours applied for are as follows:

Activity	Day	Start	Finish
Supply of alcohol on and off the premises	Monday to Sunday	09:00	12:30am
Hours open to the public	Monday to Sunday	09:00	01:00am
Provision of Films	None	None	None
Provision of Live Music (Indoors & Outdoors)	Monday to Sunday	11:00	12:30am
Provision of Recorded Music (Indoors & Outdoors)	Monday to Sunday	10:00	01:00am
Late Night Refreshment (Indoors)	Monday to Sunday	11:00pm	01:00am

4.5 Any grant/variation of a premises licence may be subject to conditions applied by the Licensing Authority as a result of this hearing.

4.6 A plan of the amended internal layout of the premises is attached at **(Appendix 1)**.

4.7 In addition to the above applied for licensable activity, Section 16.6 of the Statutory Guidance issued under Sec. 182 of the Licensing Act 2003, outlines the deregulatory changes that have amended the Licensing Act 2003 to make certain activities non-licensable. Of particular relevance to the representations received against this application are the following

provisions introduced by the Live Music Act 2012 and relevant Deregulatory Order:

- Live music: no licence permission is required for:
 - a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
 - a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace that does not have a licence, provided that the audience does not exceed 500.
- Recorded Music: no licence permission is required for:
 - any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.

4.8 Further to the above Section 16.43 of the Statutory Guidance issued under Sec. 182 of the Licensing Act states that where a beer garden does not form part of the relevant licensed premises and so is not included in plans attached to a premises licence or club premises certificate, it is nevertheless very likely that it will be a workplace. Paragraph 12B of Schedule 1 to the 2003 Act says that a performance of live music in a workplace that does not have a licence (except to provide late night refreshment) is not regulated entertainment if it takes place between 08.00 and 23.00hrs on the same day in front of an audience of no more than 500 people. Note that the exemption in paragraph 12B does not apply to the playing of recorded music.

4.9 It is worthy to note that whilst the above deregulatory changes do not apply to recorded music in a workplace, consideration should be made to the fact there are further exemptions provided for in the Licensing Act for music incidental to certain other activities, which may include wedding services. Moreover, there is an additional exemption applied in respect of religious services (which may apply, this term is not defined in the Act). These are outlined as follows:

4.9.1 The Licensing Act 2003 Schedule 1 Part 1 section 9 provides the below:

‘The provision of any entertainment for the purposes of, or for the purposes incidental to, a religious meeting or service..., is not to be regarded as the provision of regulated entertainment for the purposes of the Act’.

4.9.2 The Licensing Act 2003 Schedule 1 Part 1 section 7 provides the below:

The provision of entertainment consisting of the performance of live music, the playing of recorded music or the exhibition of a film is not to be regarded as the provision of regulated entertainment for purposes of this Act to the extent that it is incidental to:

- (a) A performance of a play,
- (b) An exhibition of a film,
- (c) An indoor sporting event,
- (d) A boxing or wrestling entertainment,
- (e) A performance of live music,
- (f) Any playing of recorded music,
- (g) A performance of dance,
- (h) Entertainment of a similar description to that falling within paragraph (e), (f) or (g).

5. RELEVANT REPRESENTATIONS

5.1 The relevant representations received are in relation to the below:

- The prevention of public nuisance.
- Public safety.

5.2 Responsible Authorities

5.2.1 Devon and Cornwall Police – No representation received.

5.2.2 Devon and Somerset Fire and Rescue Service – No representation received.

5.2.3 NDC Environmental Protection – No representation received.

5.2.4 NDC – Health Food and Safety – No representation received.

5.2.5 NDC Planning – No representation received – observations as per attached **(Appendix 3)**

5.2.6 NDC Licensing – No representation received.

5.2.7 Devon County Council, Business Strategy and Support Services (Child Protection) - No representation received.

- 5.2.8 Devon County Council, Trading Standards – No representation received.
- 5.2.9 Public Health Devon – No representation received.
- 5.2.10 Home Office Immigration Enforcement – No representation received.
- 5.3 The Licensing Authority has received seven relevant representations opposing the variation application:
 - 5.3.1 Jeremy Elden a resident of Berrynarbor. This representation expresses concerns with regards to the licensing objectives of public safety and the prevention of public nuisance. The representation raises particular concerns related to the noise nuisance associated with the proposed application but also raises concerns relating to light pollution. **(Appendix 4)**
 - 5.3.2 Kate Vince a resident of Berrynarbor. The representation expresses concerns with regards to the licensing objective of the prevention of public nuisance. The representations raises particular concerns in relation to the plan to extend music to the outside areas. “There were 55 weddings in July and August last year, virtually every day of the summer. If they are allowed to play music outside until 22:30 as I live by it will be like I am attending every wedding.” **(Appendix 5)**
 - 5.3.3 John and Kathleen Thorndycroft both residents of Berrynarbor. The representation expresses concerns with regards to the prevention of public nuisance. The representations raises particular concerns to the anticipated increase in noise, lighting and disturbance that the proposed variation will create. “Previously these activities were carried out in an internal sound proof room to minimise disturbance to neighbours”. **(Appendix 6)**
 - 5.3.4 Raymond Burman a resident of Berrynarbor. The representation expresses concern with regards to licensing objective of the prevention of public nuisance. The representation raises particular concerns in relation to an increased disturbance by loud music, raised voices under the influence of alcohol and the light pollution from unnecessary lighting. **(Appendix 7)**
 - 5.3.5 Hugh Monro a resident of Combe Martin. The representation expresses concern with regards to the licensing objective of the prevention of public nuisance. The representation is generalised but does raise concerns in relation to an increased noise disturbance that the variation to the premises licence will create, the representation concerns a precedent being set for other venues. **(Appendix 8)**

- 5.3.6 Mary Brennan a resident of Berrynarbor. The representation raised expresses concerns with regards to the licensing objectives of public safety and the prevention of public nuisance. The representation raises concerns in relation disturbance that outdoor music will have on the surrounding area particularly during the late hours. The representation also raises concerns in relation to the anticipated increase in vehicles arriving and leaving the premises which she believes will pose a safety hazard. **(Appendix 9)**
- 5.3.7 Barbara Eales a resident of Berrynarbor. The representation expresses concerns with regards to the licensing objective of the prevention of public nuisance. The representation raises concerns in relation to disturbance that outdoor music will have on the surrounding area particularly during the late hours. The representation states that “When the hotel had a marquee in the grounds for weddings the noise was often unbearable late into the night. I would not like to go back to that situation”. **(Appendix 10)**
- 5.4 The above representations have been shared with both the applicant and the Solicitor representing the applicant in order to facilitate communication and mediation between all parties. If the licensing authority receives representations that are relevant and cannot be mediated out between those making representations and the applicant, it must hold a licensing hearing to consider them.
- 5.5 It appears in these circumstances that an agreement has not been reached between those making relevant representations and the applicant and as such it will be necessary to hold a hearing.
- 5.6 There have been fifty one representations made in support of this application **(Appendices 4-66)**.
- 5.7 **Appendix 62** contains observations from Selaine Saxby MP for which the applicant’s Solicitor (Jon Dunkley of Wollens Solicitors), has responded at **Appendix 63**.
- 5.8 **Appendix 61** contains an email from the applicant’s Solicitor (Ewen Macgrogor of TLT LLP) which cites:

My clients, the Sandy Cove Hotel, have had some concerns expressed in relation to their application that they might wish to operate as a festival venue and also that they might be wanting to operate as a traditional off-licence. That is simply not the case but to allay such concerns we would ask that two further conditions are attached to the licence as follows:

1. *No music festivals will take place at the premises;*

2. Off-sales of alcohol will only be made to residents at the hotel or their bona fide guests.

Members should note that a 'music festival' as is not an area defined in the Licensing Act 2003.

5.9 **Appendix 65** contains an email from Ewen Macgrogor of TLT LLP dated 13th March 2024 to the applicant's Solicitor. In this communication he cites:

My client is happy to withdraw his representation (**Appendix 4**) to the application for variation on the basis that the following conditions are agreed, and added to the premises licence, and that the operators of the premises give a commitment to Mr Elden that the premises will operate and abide by the proposals set out below:

1. That existing condition 17 on the premises licence which reads as follows "All external doors and windows shall be kept shut from 10.00pm when regulated entertainment is on and there will be provision of air conditioning and ventilation" so that it reads as follows: That, save for the north facing bi-fold doors, which shall remain locked after 2200, all other external doors and windows shall be kept shut from 2200 when regulated entertainment is being provided in the premises".

2. That existing condition 3 on the licence is amended so that the following words are added at 3 (viii)

Any noise complaints received by the hotel, detailing date and time of complaint, nature of the complaint, who the complaint was made by, and to, and any remedial action taken to address the issue.

3. Notices shall; be placed in the external areas of the premises requesting that customers respect the amenity of local residents.

4. That the provision of regulated entertainment is limited to indoors only.

5. If officers of NDDC witness noise at a level that causes unreasonable disturbance to the occupants of any properties in the vicinity, then a noise-limiting device shall be used in relation to all sound amplification equipment used in conjunction with the premises.

6. Model Condition N31 Where a noise limiting device is installed the following conditions will apply: 1. The noise limiting device shall be kept at the settings approved by the Council through an authorised officer of the North Devon Council's Environmental Protection Team 2. The noise limiting device shall be properly secured so that it cannot be tampered with 3. The noise limiting device shall only be reset with the authority of North Devon Council through an authorised officer of North Devon Council's Environmental Protection Team 4. If deemed necessary, the noise limiting device shall be reset to a level approved by the Council

through an authorised officer of the North Devon Council's Environmental Protection Team within 14 days of notification.

7. Model Condition N74 The use of lighting in the external areas shall cease at 2200 hours except for health and safety or security reasons.

8. At the request of the local residents a representative from the Club Management Committee (*note to Members this application does not concern a club and therefore this would need amendment*) will meet with the local community on a quarterly basis. Minutes of the meeting will be kept and sent to the licensing authority.

9. Members of the responsible authorities will be invited to attend these meetings should they so wish.

10. A contact number of the premises shall be made available to local residents, on request, with somebody available at all times while the premises are open, to respond to complaints. If the above are agreed, and the operators of the hotel give a commitment my client that they will abide by the above, and that these conditions are added to the licence, then Mr Eldens representation to the variation application will be withdrawn.

Responsible Authority Involvement

5.10 There have been no complaints made to North Devon Council's Environmental Protection Team in relation to noise or light pollution concerning the Sandy Cove Hotel.

5.11 A complaint was made to North Devon Council Licensing Team on the 26th July 2023 in relation to alleged noise disturbance at Sandy Cove Hotel. A Licensing Officer visited the premises with a Police Alcohol Licensing Officer. The manager was spoken to in relation to this complaint. He stated that the noise complaint was in relation to a saxophonist that attended a wedding at the premises and who set up outside on the patio and was unaware that he should not have. He assured the Licensing Officer that this was a one off and there would not be a reoccurrence of this.

6. RELEVANT LICENSING POLICY CONSIDERATIONS

6.1 The Sub-Committee is entitled to draw upon any of the considerations outlined in its Licensing Policy document. However the most significant policy consideration appear to be the following:

- Paragraphs 3.3 to 3.3.2 (Public Safety).
- Paragraphs 3.4 to 3.4.3 (Prevention of Public Nuisance).
- Paragraph 4.6.5 in respect Live Music Act 2012; The Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013; The Legislative Reform (Entertainment Licensing) Order 2013.

6.2 The Sub-Committee is entitled to draw upon any of the considerations outlined in the Statutory Guidance issued under Sec. 182 of the Licensing Act 2003 and published by the Home Office. However, the most significant statutory guidance appears to be in the following:

- Paragraphs 2.8 to 2.20 (Public Safety).
- Paragraphs 2.21 to 2.27 (Prevention of Public Nuisance).
- Paragraphs 16.5 to 16.9 (Overview of circumstances in which entertainment activities are not licensable).

7. OBSERVATIONS/OPTIONS

- 7.1 The Act at section 35(3a) states that, before determining a variation application, the Licensing Authority must hold a hearing to consider it and any relevant representations. It must, having regard to the application and any relevant representations, take such steps mentioned in section 35(4) (if any) as it considers necessary for the promotion of the licensing objectives.
- 7.2 In determining this application, the Sub-Committee must take one of the following steps as outlined in section 2.2.1 of this report.
- 7.3 If a licence is varied, any relevant mandatory conditions must continue to be imposed in addition to any conditions the Sub-Committee decides to at the hearing. Whilst the Sub-Committee can draft their own conditions Members may wish to consider the conditions contained within the North Devon Council adopted Pool of Licensing Conditions (**Appendix 66**). Mandatory conditions are standard conditions imposed by way of legislation and in respect of which there is no power to vary.
- 7.4 A variation granted for alcohol sales in the external areas would bring with it the provisions of the Live Music Act. Under the Act premises with an alcohol licence may provide live and recorded music between 0800 and 2300 hours if fewer than 500 people are present at times when the alcohol licence is being operated. So if, for example, the terminal hour for alcohol sales is 2200 hours so too would be the terminal hour for live and recorded music.
- 7.5 Further, if a licence was granted for regulated entertainment in the outside areas any conditions attached to the licence would be suspended during periods when the Live Music Act provisions applied. For example, if the terminal hour for alcohol sales was 2200 hours and for regulated entertainment 2300 any conditions relating to music would start to operate at 2200.

- 7.6 The sub-committee when considering the alcohol application is concerned only with licensable activities. 'Regulated entertainment' is a licensable activity. But the Live Music Act 2012 amended the 2003 Act to provide: *The provision of live or recorded music is not to be regarded as regulated entertainment for the purposes of this Act (Sched.1, para.12A91)).*
- 7.7 It is therefore not open to the sub-committee to consider the live music exemption when considering an application for the sale of alcohol as it is not 'regulated entertainment'. (If it is claimed that a nuisance is caused by such music a review may be brought which could remove the exemption).
- 7.8 The application for regulated entertainment for the outside areas would be in addition to the Live Music Act exemption so as indicated above any conditions imposed in respect of regulated entertainment (if granted) for the outside areas would be disapplied by at times where the Live Music Act exemption was effective.
- 7.9 TLT in acting for Mr Elden making a representation states (see **Appendix 4 and 65**):
- The owner is currently applying to vary the premises licence to permit outdoor regulated entertainment, which would substantially increase the level of noise. This Representation asks that the Variation Application be rejected and that, as part of a Review, the existing conditions be adjusted to deal with noise and light nuisance.*
- 7.10 Mr Elden has offered to withdraw the representations if the applicant agrees to a number of conditions being placed on the licence. Under 177A(3) of the Licensing Act 200, by virtue of the Live Music Act any conditions relating to regulated entertainment do not have effect where the Act applies – alcohol licence being operated between 0800 and 2300 and fewer than 500 people present. However, should a review be brought in respect of the operation of the music exemption and the sub-committee resolves that the operation of the exemption is undermining one more of the licensing objectives s.173A(3) allows the sub-committee to disapply the Live Music Act exemption.
- 7.11 As this is a variation application not a review application the scope of the Licensing Authority's powers is limited. Section 177A(3) is not applicable to this variation application. It gives the authority power to remove the Live Music Act exemption in a review but in a variation application such as this it does not preclude the addition of conditions in relation to the variation. So the authority could, for example, grant the application for off-sales and attach a condition that off-sales are made only to hotel residents guests.

7.12 In any event the conditions put forward by the person making representations relate mainly to the existing licensable activities and as such are not within the scope of the application. Representations may be made in respect of variation applications within a prescribed period. The representations must concern *the likely effect of the grant of the application on the promotion of the licensing objectives* (s.35(5)(a) and(b)).

7.13 Evidence in support of these representations should be confined to the specific representations. See Section 182 guidance para 9.37:

*As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the **specific representation** and avoid straying into undisputed areas* (emphasis added).

7.14 The sub-committee should consider therefore only the variation applied for and should do this with regard only to the representations made in respect of the licensing objectives referred to in the representation. The variation is paramount. It is therefore necessary for the authority to examine the specific nature of the variation and its extent. The starting point has to be the existing premises licence. It is then necessary to consider what, if any, difference the variation would make to the licensing objectives if granted.

7.15 While s.35(3)(b) allows the authority '**having regard to the representations** to take such steps mentioned in subsection (4) (if any) as it considers necessary for the promotion of the licensing objectives' (emphasis added). This does not extend the power of the authority to deal with matters that fall outside of the terms of the variation applied for. It simply gives the authority power to act for the promotion of the licensing objectives within the curtilage of the variation application having regard to the representations made.

7.16 So, while one of the steps in s.35(4) is to modify the conditions of the licence, this has to be read in the light of what relevant representations may be made and these must be about 'the likely effect **of the grant** of the application on the promotion of the licensing objectives' (s.35(5) emphasis added). In other words, necessary for the promotion of the licensing objectives in light of the variation granted.

7.17 Thus the licensing authority must focus on representations which relate to the grant of the application before them and should not be concerned with

something different or less than exists already, since this is not before them.

7.18 In considering an application for variation the Licensing Authority is not entitled to review the licence generally. Any such issues can be dealt with under the review provisions. The sub-committee should concern itself solely with the question of whether the variation applied for should be granted.

7.19 In the email from Mr Macgregor of TLT acting for Mr Elden in making representations against the variation application he states:

My client is aware of, and acknowledges, the impact of the Live Music Act 2012. Notwithstanding these provisions, this does not prohibit or prevent a licensing authority from attaching certain conditions to a premises licence.

7.20 The Licensing Authority would concur that the Live Music Act does not prevent a licensing authority attaching conditions to a premises licence but as outlined above those conditions would need to relate to the subject of the variation – in this case the addition of off-sales and bringing the outside areas within the licensed area.

7.21 Any conditions attached relating to regulated entertainment would be suspended at times when music was being provided by virtue of the Live Music Act.

7.22 While those conditions relating to the existing licensable activities put forward by Mr Macgregor on behalf of Mr Elden could not in the view of the Licensing Authority be imposed by the Licensing Authority itself, if the applicant was agreeable to accept the conditions put forward by Mr Macgregor this would be a different matter.

7.23 In the case of this application the proposed removal of Condition 13 which reads 'The performance of live entertainment will be limited to a maximum duration of 6 hours inclusive of any breaks' was not included in the application in the section entitled: 'Briefly Describe the Nature of the Proposed Variation', nor was it included in the Section entitled 'Identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking'. As such, it was not specifically cited as proposed to be removed in the suggested blue notice to display. Moreover, the applicant sought no amendment to this notice. This is despite existing condition 13 not appearing in the list in Section 16 of 18 which asks the applicant to 'Describe the steps they will take to promote the four licensing objectives' (it includes the existing conditions other than this one). The Licensing Authority is of the view that this does not invalidate the application but that

it may need to result in the proposed removal of condition 13 not falling for consideration within the variation application. This will form a matter for the sub-committee to determine.

7.24 Any party to the hearing has the right of appeal to Barnstaple Magistrates' Court following the determination of the application under section 181 of the Act.

7.25 The Sub-Committee must have regard to all the evidence it hears in reaching its decision.

8. RESOURCE IMPLICATIONS

8.1 There are no direct financial or human resource implications for the Council associated with this report.

8.2 Should an appeal against the decision of the Licensing Sub-Committee be brought there are potential financial consequences to the Council should the Council's decision be overridden.

EQUALITIES ASSESSMENT

8.1. Not Applicable.

9. ENVIRONMENTAL ASSESSMENT

9.1. There are no direct environmental implications for the Council associated with this report.

10. CORPORATE PRIORITIES

10.1. What impact, positive or negative, does the subject of this report have on:

10.1.1. The commercialisation agenda: Neutral.

10.1.2. Regeneration or economic development: Neutral.

11. CONSTITUTIONAL CONTEXT

11.1. The Licensing and Community Safety (Sub-Committee) Article of part 3 Annexe 1 paragraph 4a.

11.2. Referred or delegated power: Delegated

12. STATEMENT OF CONFIDENTIALITY

This report contains no confidential information or exempt information under the provisions of Schedule 12A of 1972 Act.

13. BACKGROUND PAPERS

The following background papers were used in the preparation of this report:

- Licensing Act 2003.
- Revised guidance issued under section 182 of the Licensing Act 2003 (Home Office December 2023).
- Licensing Act 2003 (Hearings) Regulations 2005.
- North Devon Council Licensing Policy Approved January 2024
- Live Music Act 2012; The Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013: The Legislative Reform (Entertainment Licensing) Order 2013 and 2014
- North Devon Council's Pool of Licence Conditions.

14. STATEMENT OF INTERNAL ADVICE

The author (below) confirms that advice has been taken from all appropriate Councillors and Officers:

Noel Bourke, Licensing Officer. 14th March 2024