

Agenda for Licensing & Enforcement Sub Committee

Wednesday, 21 March 2018; 10.30am (or upon the rising of the Licensing & Enforcement Committee)

[Members of the Committee](#)

Members of the Sub Committee will be Councillors:
Steve Hall, John O'Leary, Geoff Jung

Venue: Council Chamber. Knowle, Sidmouth, EX10 8HL

[View directions](#)

Contact: [Chris Lane](#), 01395 571544 (or group number 01395 517546): Issued 14 March 2018



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- 1 Minutes for 7 March 2018 (pages 2-3)
- 2 Apologies
- 3 [Declarations of interest](#)
- 4 [Matters of urgency](#) – none identified
- 5 To agree any items to be dealt with after the public (including press) have been excluded. There are no items that officers recommend should be dealt with in this way.

Part A Matters for Decision

- 6 **To consider an Environmental Health objection to the service of a temporary event notice at Fever Night Club, The Strand, Exmouth. (Pages 4-95)**
- 7 **Schedule of application for Sub Committee approval where an agreed position has been reached and all parties have agreed a hearing is unnecessary, at Andrewshayes Caravan Park, Dalwood, Axminster, EX13 7DY. (Pages 96-98)**

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)

[Decision making and equalities](#)

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EAST DEVON DISTRICT COUNCIL

Minutes of a Meeting of the Licensing & Enforcement Sub-Committee held at Knowle, Sidmouth on Wednesday, 7 March 2018

Present: Councillors:
John O'Leary(Chairman)
Dean Barrow
Bruce de Saram

Also present: Steve Hall

Officers: Giles Salter – Solicitor
Steve Saunders –Licensing Manager
Lesley Carlo – Licensing Officer
Emily Westlake – Licensing Officer
Chris Lane – Democratic Services Officer

The meeting started at 9.30 am and ended at 11.00 am.

- *48 Minutes
The minutes of the meeting of the Licensing and Enforcement Sub-Committee held on 14 February 2018, were confirmed and signed as a true record.
- *49 Exempt Information
RESOLVED that the classification given to the documents to be submitted to the Sub-Committee be confirmed and that the report relating to exempt information be dealt with under Part B of the agenda.
- *50 Exclusion of the Public
RESOLVED that under Section 100(A) (4) of the Local Government Act 1972 the public (including the press) be excluded from the meeting as exempt information, of the description set out on the agenda, is likely to be disclosed and on balance the public interest is in discussing this item in private session.
- *51 Hackney Carriage Driver Suitability
Consideration was given to whether an applicant was a fit and proper person to be licensed as a Hackney Carriage Driver. Applicants for the grant of a hackney carriage driver's licence were required to produce an enhanced DBS (Disclosure and Baring Service) certificate as part of their application. Where there was doubt about the fitness of an applicant, the District Council's Licensing and Enforcement Sub-Committee would review the DBS information and make a decision in light of the evidence available in satisfying itself that an applicant was a fit and proper person to whom a hackney carriage driver's licence can be granted.

Members considered the Council's policy on all issues, the overriding duty of the Sub Committee was protection of the public. The applicant was thanked for his frankness and openness in setting out the history of offences that had been placed before the Sub Committee.

RESOLVED that, Mr C Y's Hackney Carriage Drivers application for a licence be granted as he was considered to be a 'fit and proper' person.

*52 Private Hire Driver and Vehicle Suitability

Members noted that the applicant, Mr J B had made an application for the grant of a private hire driver's licence and the grant of a private hire vehicle licence for a vehicle that did not comply with the Council's vehicle age policy as it was 8 years and ten months old.

With regards to the grant of a private hire driver's licence, all applicants were required to produce a medical report signed by a registered medical practitioner who had access to their medical history. Certifying that the applicant was physically fit to DVLA Group 2 medical standards for vocational drivers' licences. Where there remained any doubts about the fitness of an applicant, the District Council's Licensing & Enforcement Sub Committee would review the medical history and make a decision in the light of the medical evidence available in satisfying itself that an applicant was a fit and proper person to whom a private hire driver's licence could be granted. Mr J B had some medical problems that were highlighted in his application.

Consideration was also given to the application for a Private hire licence for the vehicle which was issuing of the licence for a vehicle which was 8 years and 10 months of age and fell outside of the criteria in the policy as agreed by Council.

- RESOLVED
1. that, Mr J B's Private Hire Drivers application for a licence be granted as he was considered to be a 'fit and proper' person, subject to an annual medical check-up before the licence was renewed;
 2. that Mr J B's application for a vehicle licence be refused as the vehicle was overage and was not considered to be an exception to the policy.

Chairman Date

Report to: **Licensing and Enforcement Sub Committee**

Date of Meeting: 21st March 2018

Public Document: Yes

Exemption: None

Review date for release None



Agenda item: 6

Subject: Environmental Health objection to the service of a temporary event notice

Purpose of report: The report summarises an objection under the prevention of public nuisance licensing objective to a temporary event notice served under the Licensing Act 2003.

Recommendation: That the Licensing and Enforcement Sub Committee consider the objection notice and evidence and make a decision to either:

- a) Give the premises user a counter notice refusing the temporary event notice if it considers it appropriate for the promotion of one or more of the four licensing objectives to do so.
- b) Decide not to give a counter notice. This would allow the event to continue in line with the original temporary event notice.
- c) Impose one or more of the existing premises licence conditions to the TEN. The Licensing & Enforcement Sub Committee can only do this if they consider it appropriate for the promotion of the licensing objectives and, if the conditions would not be inconsistent with the carrying out of the licensable activities under the temporary event notice.

Reason for recommendation: To comply with statutory processes.

Officer: Lesley Carlo
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Tel: 01395 517411

Financial implications: There are no financial implication in this report

Legal implications: The legal implications are contained within the report

Equalities impact: Low Impact

Risk: Low Risk

Links to background information:

-) Licensing Act 2003
-) Revised Guidance issued under section 182 of the Licensing Act 2003
-) East Devon District Council's Statement of Licensing Policy under the Licensing Act 2003
-) Appendix A – Temporary event notice received on 9 March 2018
-) Appendix B – Premises licence for Fever & Boutique
-) Appendix C – Objection Notice from Environmental Health Service
-) Appendix D – Further statement and evidence from Environmental Health Service
-) Appendix E – relevant section of revised Guidance issued under section 182 of the Licensing Act 2003

Link to Council Plan: Not applicable

Report in full

1 Circumstances

- 1.1 A temporary event notice (TEN) was served on the Licensing Authority through the Council's online application system on the 9 March 2018 by the premises user Miss Sarah Louise Swan. Miss Swan is also the Designated Premises Supervisor at the premises. The TEN was submitted within the correct time periods, conforms to all the statutory requirements, and has been accepted as a valid notification by this authority.
- 1.2 As required by legislation the Licensing Authority served a copy of the TEN on the Devon and Cornwall Police Constabulary and East Devon District Council's Environmental Health Service.
- 1.3 The temporary event notice notifies the Licensing Authority, Police and Environmental Health Service that the premises user (Miss Swan) intends to provide licensable activities at Fever & Boutique Nightclub, 7 The Parade, Exmouth, EX8 1RS on Sunday 1st April 2018 into the early morning of Monday 2nd April 2018. This is Easter Bank Holiday Sunday and the nature of the event has been described in the TEN as "extending trading time".
- 1.4 The TEN states that the following licensable activities will be carried on at the event: the sale by retail of alcohol for consumption on the premises, the provision of regulated entertainment and the provision of late night refreshment.
- 1.5 The times when licensable activities will be carried on during the event have been given in the notice as follows:

All licensable activities will commence at 10 pm on Sunday 1st April 2018 and cease at 4am on Monday 2nd April 2018.
- 1.6 A copy of the temporary event notice is attached at **APPENDIX A**.
- 1.7 Fever & Boutique Nightclub holds a premises licence issued under the Licensing Act 2003 which authorises them to provide licensable activities on a permanent basis. A copy of the premises licence is attached at **APPENDIX B**. The timings authorised by the premises licence on a Bank Holiday Sunday are as follows:

Sale by retail of alcohol	10am to 3am
Recorded music	10am to 3:30am
Late night refreshment	11pm to 2:30am (late night refreshment is only licensable between the hours of 11pm and 5am)

- 1.8 The temporary event notice therefore extends the timings authorised by the premises licence as follows:
sale of alcohol – one hour
provision of recorded music (and all other forms of regulated entertainment) – 30 minutes
late night refreshment – 90 minutes

- 1.9 A temporary event notice overrides a premises licence for the period when it is in effect. Therefore, during the event period (1st/2nd April 2018, 10pm to 4am) the conditions attached to the premises licence will not have effect.

2 The Legislation

- 2.1 Temporary event notices provide a system for an event organiser to notify the Licensing Authority, Police and the Environmental Health Service of small scale ad hoc events where the maximum number of people in attendance at any one time does not exceed 499. A TEN can be used to authorise an event outside of the terms of an existing premises licence, or to provide authority for an event where there is no existing premises licence. Providing the notice meets the criteria laid down in Licensing Act, the event may go ahead unless a counter notice is served, either following objections from the Police or the Environmental Health Service or for exceeding the limits set out within the legislation as to exceeding the number of permitted days etc. A TEN can be used instead of a premises licence for short-term events involving licensable activities which are:

- ☐ The sale by retail of alcohol
- ☐ The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club
- ☐ The provision of regulated entertainment; and
- ☐ Provision of late night refreshment (hot food & drink between 23.00-05.00 hrs)

Regulated entertainment includes the following activities:

- ☐ performance of a play
- ☐ exhibition of a film
- ☐ indoor sporting event
- ☐ boxing or wrestling
- ☐ performance of dance
- ☐ performance of live music
- ☐ playing of recorded music

- 2.2 When it is proposed to use a premises for one or more licensable activities during a period not exceeding 168 hours (7 days), an individual may give the relevant Licensing Authority notice of that proposal (a temporary event notice). A temporary event notice (TEN) must be in the prescribed form, and contain all the information as required (Section 100 of The Licensing Act 2003). Only the Chief Officer of Police and the Local Authority exercising Environmental Health functions may object to a TEN. The grounds for objection would be that allowing the premises to be used in accordance with the notice would undermine one or more of the four licensing objectives being:

- ☐ the prevention of crime and disorder

- ☐ public safety
- ☐ the prevention of public nuisance and
- ☐ the protection of children from harm.

2.3 Temporary event notices (TENs) are intended to allow an individual to use premises for one or more licensable activities on an infrequent basis. While there is no application process for a TEN, the premises user must give notice to the relevant Licensing Authority, the relevant Chief Officer of Police and the relevant Environmental Health Service.

2.4 If the Chief Officer of Police or the Environmental Health Service is satisfied that allowing the premises to be used in accordance with the notice would undermine one or more of the four licensing objectives they must give an objection notice, within three working days from the date when they received the TEN, stating the reasons for this to the relevant Licensing Authority and the premises user. The Licensing Authority must then hold a hearing to consider the objection and determine whether a counter notice is necessary.

2.5 There is a procedure for the modification of a TEN following Police or Environmental Health Service objection any time up to the hearing, if the Police or Environmental Health Service and premises user reach agreement. This would lead to the objection being treated as withdrawn and a hearing would no longer be necessary. To date no modification has been agreed.

3 Environmental Health Service Objection

3.1 On 12 March 2018 the Environmental Health Service served a notice of objection to the Licensing Authority and premises user in relation to this temporary event notice. The objection notice was served within the time scales prescribed. The objection relates to the prevention of public nuisance licensing objective.

3.2 The objection from the Environmental Health Service relates to the fact that the temporary event notice allows for regulated entertainment to be provided until 04:00hrs. The objection notice states that Environmental Health have received complaints regarding noise and these are under current investigation.

3.3 A copy of the Environmental Health Service objection notice is attached at **APPENDIX C**.

3.4 The Environmental Health Service have also provided additional information and evidence relating to their objection which is included at **APPENDIX D**.

3.5 Section 105 of the Licensing Act 2003 provides that a Licensing Authority must hold a hearing to consider any objections from the Chief Officer of Police or Environmental Health Service unless all parties agree that a hearing is not necessary.

3.6 Where a hearing is held to consider an objection notice then the following options are open to the Licensing Sub-Committee:

- a) Having regard to the objection notice and having heard the evidence, the Licensing Authority may give the premises user a counter notice (refusing the original TEN) if it considers it appropriate for the promotion of one or more of the four licensing objectives to do so.
- b) Decide not to give a counter notice. This would allow the event to continue in line with the original temporary event notice
- c) Where the temporary event notice relates to a premises that currently holds a premises licence (which this TEN does) the Licensing Authority may impose one or more of the **existing** premises licence conditions to the TEN. The Licensing Authority can only do so

if they consider it appropriate for the promotion of the licensing objectives and, if the conditions would not be inconsistent with the carrying out of the licensable activities under the temporary event notice.

- 3.7 The conditions attached to the existing premises licence for Fever & Boutique are set out in Annexes 1 to 3 of the premises licence which is attached at **APPENDIX B**.
- 3.8 If the Licensing Authority decides to serve a counter notice on the premises user they must:
- a) give the premises user the counter notice and a notice stating the reasons for its decision and
 - b) give the Environmental Health Service a copy of both of these notices.
- 3.9 If the Licensing Authority decides not to serve a counter notice they must:
- a) give the premises user and the Environmental Health Service notice of the decision.
- 3.10 If the Licensing Authority decides to impose one or more of the existing premises licence conditions to the temporary event notice they must:
- a) give the premises user notice of the decision.
 - b) the notice must be accompanied by a separate statement which sets out the conditions that have been imposed on the temporary event notice, and
 - c) a copy of the notice and statement of conditions must be given to the Environmental Health Service
- 3.11 Members should note that whilst the Environmental Health Service can modify the TEN with the agreement of the premises user before the hearing once the matter is before the Sub Committee the only decisions that are open to the Sub Committee are as outlined at 3.6 a) b) and c) of this report.
- 3.12 In this case the legislation does not permit the Sub Committee to attach any terms, limitations, restrictions or conditions which are not already attached to the premises licence to the temporary event notice.
- 3.13 There is a right of appeal to the Magistrate's Court for the recipient of a counter notice or for the Environmental Health Service where their objection has been rejected.
- 3.14 In determining this objection to a (TEN), the Sub Committee should have regard to the Council's Statement of Licensing Policy and to the Guidance issued by the Secretary of State under section 182 of the Licensing Act 2003 (Section 7 – in particular paragraphs 7.28 to 7.40). This section of the guidance is attached at **APPENDIX E**.
- 3.15 The Sub Committee are advised that the hearing is of a quasi-judicial nature and representations from all parties both written and verbal will form part of matters that are to be considered. Findings on issues of fact should be on the balance of probability.
- 3.16 The Sub Committee are further advised that the final decision should be based on the individual merits of the case and findings of fact made at the hearing after hearing the facts.
- 3.17 Any decision or counter notice must be issued at least 24 hrs before the start of the event to which these documents relate.
- 3.18 The Council has a duty under Section 17 of Crime & Disorder Act 1998 to do all that it reasonably can to prevent:

- (a) crime and disorder in its area (including anti-social behaviour and other behaviour adversely affecting the local environment), and;
- (b) the misuse of drugs, alcohol and other substances in its areas.
- (c) re-offending in it's area

4. Conclusion

- 4.1 The Sub Committee is required to determine this objection to a TEN.
- 4.2 The Sub Committee should take such action as it deems proportionate with a view to promoting the objectives of the Licensing Act.
- 4.3 The courses of action that the Sub Committee is permitted to take are detailed in section 3.6 of this report.



East Devon District Council

https://crm.eastdevon.gov.uk:8443/Ef3/GeneralPrint.jsp?form=SelfService_Temporary_Event_Notice

What date will the event start?

01/04/2018

Ref: EDT001

Licensing Act 2003

Information on the Licensing Act 2003 is available on the home office website:

<http://www.homeoffice.gov.uk/drugs/alcohol/alcohol-licences/>

or from the Licensing Authority's Helpline 01395 517410 or on the District Council's website by accessing the licensing pages.

Before completing this notice please read the guidance notes that can be found at

<http://eastdevon.gov.uk/licensing/alcohol-and-entertainment/temporary-event-notices/a-guide-to-temporary-event-notices/>

Use additional sheets if necessary, you will be able to scan them and upload them.

The licensing authority will submit a copy of this application to the police and endorse a copy and return it to you as an acknowledgement of receipt.

GENERAL NOTE

In the notes on the following pages a person who gives a temporary event notice is called a "premises user".

The police and local authority exercising environmental health functions may intervene on the grounds of any of the four licensing objectives (the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm) to prevent the occurrence of an event at which permitted temporary activities are to take place or to agree a modification of the arrangements for such an event. However, the licensing authority will intervene of its own volition in the cases described below.

First, it will issue a counter notice if there is an objection to a late temporary event notice (see note 8 later on).

Secondly, it may issue a notice in relation to its decision to impose conditions on a temporary event notice (see note 2 later on).

Thirdly, it will issue a counter notice if the first, second and fifth of the limits set out below would be exceeded. If any of the limits below are breached or if a counter notice has been issued, any licensable activities taking place would be unauthorised and the premises user would be liable to prosecution. The limitations apply to:

- the number of times a person (the "premises user") may give a temporary event notice (50 times per year for a personal licence holder and 5 times per year for other people);
- the number of times a person (the "premises user") may give a late temporary event notice (10 times per year for a personal licence holder and 2 times per year for other people);
- the number of times a temporary event notice may be given in respect of any particular premises (15 times in a calendar year);
- the length of time a temporary event may last for these purposes (168 hours or 7 days);
- the maximum aggregate duration of the periods covered by temporary event notices at any individual premises (21 days per calendar year); and

- the scale of the event in terms of the maximum number of people attending at any one time (a maximum of 499).

For the purposes of determining the overall limits of 50 temporary event notices per personal licence holder (in a calendar year) and of 5 for a non-personal licence holder (in a calendar year), temporary event notices given by an associate or a person who is in business with a premises user (and that business involves carrying on licensable activities) count towards those totals. The limits applying to late temporary event notices are included within the overall limits applying to the total number of temporary event notices. Note 16 below explains the definition of an "associate".

When permitted temporary activities take place, a premises user must ensure that either:

- a copy of the temporary event notice endorsed as acknowledged by the licensing authority is prominently displayed at the premises; or
- the temporary event notice is kept at the premises either in his own custody or in the custody of a person present and working at the premises and whom he has nominated for that purpose.

Where the temporary event notice is in the custody of a nominated person a notice specifying that fact and the position held by that person must be displayed prominently at the premises.

Where the temporary event notice or a notice specifying the nominated person is not displayed, a constable or an authorised person (for example, a licensing officer, fire officer or environmental health officer) may require the premises user to produce the temporary event notice for examination. Similarly, where the nominated person has the temporary event notice in his custody, a constable or authorised person may require that person to produce it for examination. Failure to produce the temporary event notice without reasonable excuse would be an offence.

It should also be noted that the following, among other things, are offences under the Licensing Act 2003:

- the sale or supply of alcohol to children under 18 years of age (subject to an unlimited fine on conviction);
- allowing the sale of alcohol to children under 18 (subject to an unlimited fine on conviction);
- knowingly allowing the consumption of alcohol on the premises by a person aged under 18 (subject to an unlimited fine on conviction);
- allowing disorderly behaviour on the premises (subject to a fine not exceeding level 3 on the standard scale, on conviction);
- the sale of alcohol to a person who is drunk (subject to a fine not exceeding level 3 on the standard scale, on conviction);
- obtaining alcohol for a person who is drunk (subject to a fine not exceeding level 3 on the standard scale, on conviction);
- knowingly allowing a person aged under 18 to make any sale or supply of alcohol unless the sale or supply has been specifically approved by the premises user or any individual aged 18 or over who has been authorised for this purpose by the premises user (subject to a fine not exceeding level 1 on the standard scale, on conviction); and
- knowingly keeping or allowing to be kept on the premises any smuggled goods which have been imported without payment of duty or which have otherwise been unlawfully imported (maximum fine on conviction is a fine not exceeding level 3 on the standard scale, currently £1,000).

In addition, where the premises are to be used primarily or exclusively for the sale or supply of alcohol for consumption on the premises, it is an offence to allow children under 16 to be present when the premises are open for that purpose unless they are accompanied by an adult. In the case of any premises at which sales or supplies of alcohol are taking place at

all, it is an offence for a child under 16 to be present there between the hours of midnight and 5am unless accompanied by an adult. In both instances, the penalty on conviction is a fine not exceeding level 3 on the standard scale, currently £1,000.

DateCalculation Normal

Late notice ☐ No

Because the event start date is less than 10 working days away, this will be a late temporary event notice. This means that if either the police, environmental health authority or both give an objection to your late TEN, the notice will not be valid and the licensable activities will not be authorised to go ahead. There is no scope for a hearing or appeal against the decision. By continuing with this notice you are acknowledging that you are aware this will be a late TEN. For further advice please telephone us on: 01395 517410

Because the event start date is less than 5 working days away, it is not possible to submit a Temporary Event Notice. If you go ahead with the event, the licensable activities will be unauthorised and you could be liable to prosecution. For further advice please telephone us on: 01395 517410

I. THE PERSONAL DETAILS OF PREMISES USERS

Please read Note 1.

I, the proposed premises user, hereby give notice under section 100 of the Licensing Act 2003 of my proposal to carry on a temporary activity at the premises described below. ☒

YOUR NAME

Title

Miss

If you selected 'Other', please state your title

Surname

Swan

Forenames

Sarah Louise

PREVIOUS NAMES

Title

If you selected 'Other', please state your title

Surname

Forenames

Your date of birth

Your place of birth

National Insurance Number (UK nationals only)

Help for NI Number

Please give us your home address. We will ask for the premises address later in this form

Address

OTHER CONTACT DETAILS

Daytime telephone number

Evening telephone number (optional)

Mobile (optional)

Fax number (optional)

Email

NOTE 1

A temporary event notice may only be given by an individual and not, for example, by an organisation or club or business. The individual giving the notice is the proposed "premises user". Within businesses, clubs or organisations, one individual will therefore need to be identified as the proposed premises user.

If you include an email address, the licensing authority may send to this the acknowledgement of receipt of your notice or any notice or counter notice it is required to give under sections 104A, 106A or 107 of the Licensing Act 2003.

2. THE PREMISES

Help for the premises

Please give the address of the premises where you intend to carry on the licensable activities or if it has no address give a detailed description (including the Ordnance Survey references) (Please read note 2)

Does a premises licence or club premises certificate have effect in relation to the premises (or any part of the premises)? If so, please enter the licence or certificate number below.

Premises licence number

PLWA0283

Club premises certificate number

If you intend to use only part of the premises at this address or intend to restrict the area to which this notice

applies, please give a description and details below. (Please read note 3)

Please describe the nature of the premises below. (Please read note 4)

Nightclub

Please describe the nature of the event below. (Please read note 5)

Extending trading time until 4am on the following Monday (02/04/2018)

NOTE 2

For the purposes of the Licensing Act 2003, 'premises' means any place. Premises will therefore not always be a building with a formal address and postcode. Premises can include, for example, public parks, recreation grounds and private land. If a premises licence or club premises certificate has effect in relation to the premises (or any part of the premises) which you want to use to carry on licensable activities, it is possible that any conditions which apply to the licence or certificate may be imposed on the temporary event notice if certain pre-conditions are met. These pre-conditions are that the police or the local authority exercising environmental health functions object to the notice and the licensing authority decides:

- Not to give a counter notice under section 105 of the Licensing Act 2003;
- The conditions apply to the licence or certificate; and
- The imposition of the conditions on the notice would not be inconsistent with the carrying on of the licensable activities under the notice.

NOTE 3

A temporary event notice can be given for part of a building, such as a single room or a plot within a larger area of land. You should provide a clear description of the area in which you propose to carry on licensable activities. This is important as any licensable activities conducted outside the area of the premises protected by the authority of this temporary event notice would be unlawful and could lead to prosecution.

In addition, when holding the proposed event, the premises user would need to be able to restrict the number of people on the premises at any one time when licensable activities are taking place to less than 500. If more than 499 are on the premises when licensable activities are being carried on, the licensable activities would be unlawful and the premises user would be liable to prosecution. The maximum figure of 499 includes, for example, staff, organisers, stewards and performers.

NOTE 4

A description of the nature of the premises assists the chief officer of police and local authority exercising environmental health functions in deciding if any issues relating to the licensing objectives are likely to arise. You should state clearly that the premises to be used are, for example, a public house, a restaurant, an open field, a village hall or a beer tent.

NOTE 5

A description of the nature of the event similarly assists the chief officer of police and local authority exercising environmental health functions in making a decision as to whether or not to make an objection. You should state clearly that the event taking place at the premises would be, for example, a wedding with a pay bar, the supply of beer at a particular farmers' market, a discotheque, the performance of a string quartet, a folk group or a rock band.

3. THE LICENSABLE ACTIVITIES

Please state the licensable activities that you intend to carry on at the premises. Please tick all licensable activities you intend to carry on. (Please read note 6)

Help for licensable activities

The sale by retail of alcohol ☒

The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club ☐

The provision of regulated entertainment (Please read note 7) ☒

The provision of late night refreshment ☒

Are you giving a late temporary event notice? (Please read note 8)

No

Please state the dates on which you intend to use these premises for licensable activities. (Please read note 9)

Help for event dates

What date will the event start?

01/04/2018

What date will the event end? 2018-04-02

Please state the times during the event period that you propose to carry on licensable activities (Please read note 10) 22:00 - 04:00

Help for event times

Please state the maximum number of people at any one time that you intend to allow to be present at the premises during the times when you intend to carry on licensable activities, including any staff, organisers or performers. (Please read note 11) 450

Help for numbers of people

If the licensable activities will include the supply of alcohol, please state whether the supplies will be for consumption on or off the premises, or both; otherwise select 'No alcohol requested' (Please read note 12) On the premises only

Please state if the licensable activities will include the provision of relevant entertainment. If so please state the times during the event period that you

propose to provide relevant
entertainment (including, but not
limited to lap dancing and pole
dancing)(Please read note 13)
Help for relevant entertainment

NOTE 6

The licensable activities are:

- the sale by retail of alcohol;
- the supply of alcohol by or on behalf of a club to, or to the order of, a member of a club;
- the provision of regulated entertainment; and
- the provision of late night refreshment.

NOTE 7

Regulated entertainment, subject to specified conditions and exemptions, includes

- (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; and
- (h) entertainment of a similar description to that falling within (e), (f) or (g)

In terms of specific regulated entertainments please note that:

Plays: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500.

Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500. However, a performance which amounts to adult entertainment remains licensable.

Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.

Indoor sporting events: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.

Boxing or Wrestling Entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000. Combined fighting sports – defined as a contest, exhibition or display which combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.

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 is not licensed to sell alcohol 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 church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.

a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.

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.

any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.

any playing of recorded music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.

Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:

any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;

any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;

any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and

any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

If you are uncertain whether or not the activities that you propose are licensable, you should contact your licensing authority for further advice.

NOTE 8

Late notices can be given no later than 5 working days but no earlier than 9 working days before the event in relation to which the notice is given. A late notice given later than 5 working days before the event to which it relates will be returned as void and the activities described in it will not be authorised. The number of late notices that can be given in any one calendar year is limited to 10 for personal licence holders and 2 for non-personal licence holders. These count towards the total number of temporary event notices (i.e. 50 temporary event notices per year for personal licence holders and 5 temporary event notices for non-personal licence holders). If there is an objection from either the police or local authority exercising environmental health functions, the event will not go ahead and a counter notice will be issued.

NOTE 9

The maximum period for using premises for licensable activities under the authority of a temporary event notice is 168 hours or seven days.

NOTE 10

You should state here the times during the event period, for example 48 hours, when you intend to carry on licensable activities. For example, you may not intend to carry on licensable activities throughout the entire 48 hour event period, and may intend to sell alcohol between 8.00 hrs and 23.00 hrs on each of the two days.

NOTE 11

No more than 499 may be on the premises for a temporary event at any one time when licensable activities are being carried on. If you intend to have more than 499 attending the event, you should obtain a premises licence for the event. Your licensing authority should be able to advise you. The maximum figure of 499 does not just include the audience, spectators or consumers and includes, for example, staff, organisers, stewards and performers who will be present on the premises.

NOTE 12

If you indicate that alcohol will be supplied only for consumption on the premises, you would be required to ensure that no person leaves the premises with alcohol supplied there. If such a supply takes place, the premises user may be liable to prosecution for carrying on an unauthorised licensable activity. Similarly, if the premises user gives notice that only supplies of alcohol for consumption off the premises will take place, he/she must ensure that alcohol supplied is not consumed on the premises. The premises user is free to give notice that he/she intends to carry on both types of supplies. For this purpose the supply of alcohol includes both of the first two licensable activities listed in note 6 above.

NOTE 13

Relevant entertainment is defined in the Local Government (Miscellaneous Provisions) Act 1982 ("the 1982 Act") as **any live performance or any live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means)**. Relevant entertainment therefore includes, but is not limited to, lap dancing and pole dancing.

The 1982 Act requires premises which provide relevant entertainment to be licensed under that Act for this purpose. Premises at which there have not been more than eleven occasions on which such entertainment has been provided within a period of 12 months, no such occasion has lasted for more than 24 hours and there has been a period of at least one month between each such occasion are exempt from the requirement to obtain a licence under the 1982 Act. Such premises are likely instead to require an authorisation under the Licensing Act 2003 to be used for such activities as these are a licensable activity (the provision of regulated entertainment - see note 6 above). A temporary event notice may be given for this purpose.

4. PERSONAL LICENCE HOLDERS

Please read note 14

Do you currently hold a valid personal licence?

Yes

If 'Yes' please provide the details of your personal licence below.

Issuing licensing authority

East Devon District Council

Licence number

EDVE2174

Date of issue

2016-09-21

Any further relevant details

NOTE 14

The holder of a valid personal licence issued under the Licensing Act 2003 may give up to 50 temporary event notices in any calendar year subject to the other limitations in the 2003 Act. A proposed premises user who holds such a licence should give the details requested.

5. PREVIOUS TEMPORARY EVENT NOTICES YOU HAVE GIVEN

Help for previous TENS you have given

Please read note 15

Have you previously given a temporary event notice in respect of any premises for events falling in the same calendar year as the event for which you are now giving this temporary event notice? **No**

If answering yes, please state the number of temporary event notices (including the number of late temporary event notices, if any) you have given for events in that same calendar year.

Have you already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice? **No**

NOTE 15

As stated under Note 14, a personal licence holder (issued under the Licensing Act 2003) may give up to 50 temporary event notices (including 10 late notices) in any calendar year. An individual who does not hold a personal licence may only give 5 temporary event notices (including 2 late notices) in England and Wales in any calendar year. A calendar year is the period between 1 January to 31 December inclusive in any year.

If an event straddles two calendar years, it will count against the limits on temporary event notices (15 for each premises, 21 days for each premises, 50 per personal licence holder and 5 for nonholders) for each year, however, only one notice needs to be given.

For the purposes of determining the overall limits of 50 temporary event notices per personal licence holder (in a calendar year) and of 5 for a non-personal licence holder (in a calendar year), temporary event notices given by an associate or a person who is in business with a premises user (and that business involves carrying on licensable activities) count towards those totals. Note 16 on the next page sets out the definition of an 'associate'.

If a temporary event notice has been given for the same premises, by the same premises user, and would have effect within 24 hours before the start of the event period under the current proposal or within 24 hours after the end of that period, the temporary event notice given would be void and any licensable activities carried on under it would therefore be unlicensed.

For the purposes of determining whether or not the required gap of 24 hours is upheld, temporary event notices given by an associate or a person who is in business with a premises user (and that business involves carrying on licensable activities) count as if they

had been given by the premises user himself. Note 16 on the next page sets out the definition of an 'associate'.

6. ASSOCIATES AND BUSINESS COLLEAGUES

Help for previous TENS

Please read note 16

Has any associate of yours given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice? **No**

If answering yes, please state the total number of temporary event notices (including the number of late temporary event notices, if any) your associate(s) have given for events in the same calendar year

Has any associate of yours already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice? **No**
(Please tick the box that applies to you)

Has any person with whom you are in business carrying on licensable activities given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice? **No**

If answering yes, please state the total number of temporary event notices (including the number of late temporary event notices, if any) your business colleague(s) have given for events in the same calendar year.

Has any person with whom you are in business carrying on licensable activities already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice? (Please tick the box that applies to you) **No**

NOTE 16

An 'associate' of the proposed premises user is:

- a. the spouse or civil partner of that person;
- b. a child, parent, grandchild, grandparent, brother or sister of that person;
- c. an agent or employee of that person; or
- d. the spouse or civil partner of a person within (b) or (c).

For these purposes, a person living with another as that person's husband or wife is to be treated as that person's spouse.

7. CHECKLIST

Please read note 17

I shall (please tick as appropriate)

If the premises are situated in one or more
licensing authority areas, notify each ☒
additional licensing authority

Make payment of the fee for the application ☒

If you wish to include any continuation sheets
or additional documents please upload them
using the button below.

NOTE 17

It is a requirement that you send at least one copy of this notice to the licensing authority at least ten working days (or five working days for a late notice) before the commencement of the proposed licensable activities. The authority will give you written acknowledgement of the receipt of the notice. This will be important proof that you gave the notice and when you gave it for the purposes of the Act. Some premises may be situated in two licensing authority areas, for example, where a building or field straddles the local authority boundary. Where this is the case, at least one copy of the notice must be sent to each of the licensing authorities identified, together with the appropriate fee in each case. In such circumstances, you will receive acknowledgements from all the relevant licensing authorities.

One copy must be sent to each of the chief officer of police and the local authority exercising environmental health functions for the area in which the premises is situated at least ten working days for a standard notice (or five working days for a late notice) before the commencement of the proposed licensable activities. Please note that if you apply online the Licensing Authority will notify the police and environmental health authority on your behalf.

Where the premises are situated in two police areas or environmental health areas, a further copy will need to be sent to the further police force and local authority exercising environmental health functions.

8. CONDITION

Please read note 18

It is a condition of this temporary event notice that where the relevant licensable activities described in Section 3 above include the supply of alcohol that all such supplies are made by or under the authority of the premises user.

NOTE 18

Under the Licensing Act 2003, all temporary event notices are given subject to a mandatory condition requiring that where the licensable activities involve the supply of alcohol, all such supplies must be made by or under the authority of the named premises user. If there is a breach of this condition, the premises user and the individual making the supply in question would be liable to prosecution. For this purpose the supply of alcohol includes both of the first two licensable activities listed in note 6 on a previous page.

9. DECLARATIONS

Please read note 19.

The information contained in this form is correct to the best of my knowledge and belief.



I understand that it is an offence:



(i) To knowingly or recklessly make a false statement in connection with this temporary event notice and that a person is liable on summary conviction for such an offence to a fine of any amount; and

(ii) To permit an unauthorised licensable activity to be carried on at any place and that a person is liable on summary conviction for any such offence to a fine of any amount, or to imprisonment for a term not exceeding six months, or to both.

Please confirm your name

Sarah Swan
2018-03-09

NOTE 19

It is an offence knowingly or recklessly to make a false statement in, or in connection with, a temporary event notice. (A person is to be treated as making a false statement if he produces, furnishes, signs or otherwise makes use of a document that contains a false statement). To do so could result in prosecution and an unlimited fine.

FOR COMPLETION BY THE LICENSING AUTHORITY

Acknowledgement

I acknowledge receipt of this temporary event notice

Signature (on behalf of the licensing authority)

Date

Name of Officer Signing

East Devon District Council
 Knowle
 Sidmouth
 Devon
 EX10 8HL
 DX 48705 Sidmouth
 Tel: 01395 516551
 Fax: 01395 517507



Licensing Act 2003 Premises Licence

PLWA0283

East Devon District Council has granted this Premises Licence in accordance with the Licensing Act 2003. The licence authorises the identified premises to accommodate the licensable activities set out in the document and the plan deposited with and approved by the Licensing Authority. Where the sale of alcohol is authorised as a licensable activity the licence identifies the Designated Premises Supervisor.

Part 1 - Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

Fever & Boutique

7 The Parade, EXMOUTH, Devon, EX8 1RS.

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- a performance of a play
- an exhibition of a film
- an indoor sporting event
- a boxing or wrestling entertainment
- a performance of live music
- any playing of recorded music
- entertainment of a similar description to that falling within a performance of live music, any playing of recorded music or a performance of dance
- provision of late night refreshment
- the supply of alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
A. Performance of a play (Indoors)	Monday to Sunday	11:00am	10:00pm
B. Exhibition of films (Indoors)	Monday to Thursday & Sunday Friday & Saturday	11:00am 11:00am	10:00pm 11:00pm
C. Indoor sporting event	Monday to Sunday	10:00am	10:00pm
D. Boxing or wrestling entertainment (Indoors)	Monday to Sunday	11:00am	11:00pm
E. Performance of live music (Indoors)	Monday to Sunday	10:00am	1:00am
F. Playing of recorded music (Indoors)	Monday, Tuesday & Sunday Wednesday	10:00am 10:00am	2:30am 3:30am



Licensing Act 2003 Premises Licence

PLWA0283

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES continued ...

Activity (and Area if applicable)	Description	Time From	Time To
F. Playing of recorded music (Indoors) continued ...			
	Thursday	10:00am	2:30am
	Friday & Saturday	10:00am	3:30am
	Bank Holiday Sundays	10:00am	3:30am
	Applies to every May, Spring, Easter and August Bank Holiday Sundays.		
	New Year's Eve	10:00am	2:30am
	And from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.		
	Non Standard Timings:		
	An extra one (1) hour added to the end of permitted hours on the Saturday when British Summer Time begins when the normal permitted hours extend beyond 2am..		
H. Entertainment of a similar description to that falling within E, F, or G (Indoors)			
	Monday & Tuesday	7:00pm	2:00am
	Wednesday	7:00pm	3:30am
	Thursday	7:00pm	2:00am
	Friday & Saturday	7:00pm	3:00am
	Sunday	7:00pm	1:00am
I. Late night refreshment (Indoors)			
	Monday, Tuesday & Sunday	11:00pm	2:30am
	Wednesday	11:00pm	3:30am
	Thursday to Saturday	11:00pm	2:30am
J. Supply of alcohol for consumption ON the premises only			
	Monday, Tuesday & Sunday	10:00am	2:00am
	Wednesday	10:00am	3:00am
	Thursday	10:00am	2:00am
	Friday & Saturday	10:00am	3:00am
	New Year's Eve	10:00am	2:00am
	And from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.		
	Bank Holiday Sundays	10:00am	3:00am
	Applies to every May, Spring, Easter and August Bank Holiday Sundays.		
	Non Standard Timings:	10:00am	2:00am
	An extra one (1) hour added to the end of permitted hours on the Saturday when British Summer Time begins when the normal permitted hours extend beyond 2am..		



Licensing Act 2003
Premises Licence

PLWA0283

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday, Tuesday & Sunday	10:00am	2:30am
Wednesday	10:00am	3:30am
Thursday	10:00am	2:30am
Friday & Saturday	10:00am	3:30am
Bank Holiday Sundays	10:00am	3:30am
Applies to every May, Spring, Easter and August Bank Holiday Sundays.		
New Year's Eve	10:00am	2:30am
And from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.		
Non Standard Timings:		
An extra one (1) hour added to the end of permitted hours on the Saturday when British Summer Time begins when the normal permitted hours extend beyond 2am..		

WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

- J. Supply of alcohol for consumption ON the premises only



Licensing Act 2003
Premises Licence

PLWA0283

Part 2

NAME, (REGISTERED) ADDRESS, TELEPHONE NUMBER AND EMAIL (WHERE RELEVANT) OF HOLDER OF PREMISES LICENCE

Bar Fever (Exmouth) Limited

4 Rockfield Business Park, Old Station drive, Leckhampton, Cheltenham, GL53 0AN.

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

Bar Fever (Exmouth) Limited

09430376

NAME, ADDRESS AND TELEPHONE NUMBER OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

Sarah Louise SWAN

PERSONAL LICENCE NUMBER AND ISSUING AUTHORITY OF PERSONAL LICENCE HELD BY DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORIZES FOR THE SUPPLY OF ALCOHOL

Licence No. EDVE2174

Issued by East Devon



Henry Gordon Lennox
Strategic Lead - Governance & Licensing



Licensing Act 2003

Premises Licence

PLWA0283

ANNEXES

ANNEXE 1 - MANDATORY CONDITIONS

1. (a) There shall be no sale or supply of alcohol when there is no designated premises supervisor in respect of this premises licence or at a time when the said premises supervisor does not hold a personal licence or when his/her licence is suspended.
- (b) Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
2. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
- (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises-
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to-
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
3. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
4. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and

Licensing Act 2003 Premises Licence

PLWA0283

ANNEXES continued ...

- either-
- (a) a holographic mark, or
 - (b) an ultraviolet feature.
5. The responsible person must ensure that-
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures-
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
 - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
 - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available."
6. (1) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
- (2) For the purposes of the condition set out in paragraph 7(1) -
- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
 - (b) "permitted price" is the price found by applying the formula -
- $$P = D + (D \times V)$$
- where-
- (i) P is the permitted price,
 - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence-
- (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.
- (3) Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall



Licensing Act 2003 Premises Licence

PLWA0283

ANNEXES continued ...

- be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- (4) (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.
7. (a) Admission of children (under the age of 18) to any exhibition of films must be restricted in accordance with the film classification applied by the body designated as the authority under Section 4 of the Video Recordings Act 1984.
- (b) Where the film classification is not specified or where the Licensing Authority notifies the licence holder that Section 20(3) (b) applies to the film in question, admission of children must be restricted in accordance with any recommendations made by the Licensing Authority.
8. Any person used to carry out a security activity as required under any condition of this licence/certificate must be licensed or authorised to do so by the Security Industry Authority.

ANNEXE 2 - CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE

1. The maximum occupancy figures for inside the premises will be in agreement with the Licensing Authority and Devon and Somerset Fire and Rescue Service, based on the fire safety issues, available floor space and the sanitary accommodation available.
2. Door Supervisors
 - a. Will be correctly registered with the SIA
 - b. Will display a correct name badge
 - c. Will carry proof of registration
 - d. Will be used as a ratio to be agreed by the Police and Local Authority, which is currently 1:75.
 - e. A female supervisor will be available if searches are to be conducted on female customers.
 - f. Where there are 5 or more door supervisors, at least one of these will be female.
3. CCTV must be installed, operated and maintained to the satisfaction of the Licensing Authority and the Chief Officer of Police in accordance with the requirements set out in the EDDC Licensing Policy.
4. Alcoholic drinks will only be consumed inside the premises.
5. No customers carrying open or sealed bottles or glasses will be admitted to the premises at any time.
6. No customers will be permitted to take open containers of alcoholic or soft drinks from the premises.
7. All bottles and glasses will be removed from public areas as soon as they are finished with or empty.
8. All instances of crime and disorder will be reported to the police via CCTV or radio.
9. The capacity figure will be based on advice from the Police, Fire or local authority.
10. Door supervisors may be required to ensure the capacity limits are controlled.



Licensing Act 2003

Premises Licence

PLWA0283

ANNEXES continued ...

11. A proof of age policy to the satisfaction of the Police and the Local Authority will be in place Photo ID only, No ID, No sale policy.
12. A secure facility to store controlled drugs will be available.
13. Crime prevention notices will be displayed warning customers of the prevalence of crime which may target them, e.g. 'bags should not be left unattended', 'watch out for pickpockets'.
14. A detailed 'customer code of conduct' poster will be displayed warning customers that if they act in an inappropriate manner, they could be barred from all licensed premises in the vicinity.
15. Any restrictions on the admission of children to the premises will be displayed outside the premises.
16. Membership of the local Licensees Association will be maintained and a representative will attend meetings and participate in all initiatives.
17. A policy will be in force for the management of large groups, e.g. hen and stag parties. The group will be required to nominate a responsible person to liaise with staff.
18. A secure area for customer's personal belonging will be made available.
19. There will be a 30 minute drinking up time prior to the premises closing when alcoholic beverages will not be supplied and house lights will be turned up and the music played at a reduced level.
20. Where temporary electrical equipment is to be used, a suitable circuit breaker device will be installed to cove this equipment. The circuit breaker should operate at a current not exceeding 30mA and should comply with BS 4293. The device will be tested monthly and tests will be recorded.
21. The gas system including appliances will be inspected and tested by a Gas Safe registered engineer annually and a satisfactory Gas Safety Certificate will be obtained.
22. All safety certificates and inspection reports will be kept on site and made available for inspection by officers of relevant statutory bodies.
23. Free drinking water will be available at all times.
24. When disabled people are present, adequate arrangements will exist to enable their safe evacuation in the event of an emergency.
25. An appropriate method for checking the number of people entering and leaving the premises will be employed and steps will be taken so that, once the maximum occupancy is reached, no further persons are admitted. The method employed is an electronic counting system.
26. The air management system within the premises will be used during entertainment, as there will be insufficient ventilation when all windows and doors are closed, to prevent noise break out.
27. Special effects such as strobe lighting, smoke, foam, lasers, pyrotechnics, dry ice or bubbles will not be used unless full safety controls are put in place and prior to consideration of guidance and/or following consultation with the Environmental Health Service.
28. At all times there will be adequate first aid arrangements.
29. An adequate and appropriate supply of first aid equipment and materials will be available for the use of patrons.
30. Gangways, exit routes and steps will be maintained in good order with non-slippery and even surfaces, edges of steps and staircases will be conspicuously marked.
31. Where glazing forms part of windows, walls or partitions below waist height it will be constructed of safety materials.
32. Where glazing forms part of a door or side panel at below shoulder height it will be constructed of safety materials.



Licensing Act 2003

Premises Licence

PLWA0283

ANNEXES continued ...

33. Sufficient numbers of door staff/stewards who are suitably trained will be provided on the premises, depending on the activities or entertainment taking place on site and the likelihood of overcrowding.
34. All staff will receive suitable training as to what to do in an emergency and in general safety precautions.
35. The manager or senior member of staff check the premises prior to opening to ensure there are no risks to patrons and that all safety precautions are in place.
36. The provision of plastic glasses and bottles will be reviewed depending on the type of entertainment provided, the number and behaviour of patrons attending.
37. A means of addressing patrons during operating hours, which can be heard above entertainment, or a means of interrupting the entertainment to make important safety announcements will be available.
38. Lasers will not be used on the premises without prior consultation with the Environmental Health Service, and compliance with HS(G) 95.
39. The patrons/audience will not be exposed to an event Leq 107dB(A) and the peak sound pressure level should not exceed 140 dB. Where the event Leq is likely to exceed 96 dB(A).
40. All external doors and windows will be kept shut, other than for access and egress in all rooms when events involving amplified music or speech or other entertainment likely to give rise to noise.
41. Suitable signage at the exit to request the co-operation of patrons, in particular to make as little noise as possible when leaving the premises.
42. Patrons will be asked not to stand around talking in the street outside the premises and asked to leave the vicinity quickly and quietly.
43. An announcement will be made prior to closing requesting patrons' co-operation in leaving the premises and vicinity as quietly and quickly as possible.
44. A noise limiting device will be installed, fitted and maintained and set at a level to the satisfaction of the council's Environmental Health Service.
45. Door staff will be positioned at exits particularly at closing time.
46. The emergency exits are well fitted and are kept shut during opening hours.
47. Staff will check prior to entertainment, and periodically during the entertainment, that all windows and doors are shut.
48. A senior member of staff (manager) will assess the impact of any noisy activities on neighbouring residential premises at the start of the activity/ entertainment and periodically throughout the activity/entertainment.
49. Management will control the sound levels of the music/entertainment.
50. Provision of mechanical ventilation and air conditioning system will not allow noise breakout from the premises or cause a nuisance by its operation.
51. The delivery of goods is restricted to the normal working day.
52. The delivery of goods will be limited in number and/or frequency.
53. The handling of beer kegs, bottles and other similar items will not take place in the late evening, at night and during the early morning, when the noise generated could cause a nuisance particularly outside buildings.
54. Bottles and skips and bins containing cans or bottles will not be emptied outside after closing but will be dealt with the next day during normal working hours.
55. All the rubbish produced by the premises will be stored securely in a designated area or in a bin



Licensing Act 2003
Premises Licence

PLWA0283

ANNEXES continued ...

- with a tight fitting and lockable lid.
56. Facilities for depositing litter and the collection of litter generated by patrons will be available and maintained where outside areas are provided for the use of patrons.
 57. Advertising of events that contain nudity and or striptease will be agreed with the Licensing Authority.
 58. No person under 18 will be admitted onto the premises whilst nudity and striptease are taking place.
 59. Physical contact will not be permitted between performers, staff and customers.

ANNEXE 3 - CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY

1. Door Supervisors must be in attendance at the premises on opening until 30 minutes after the end of permitted opening hours except when regulated entertainment or the sale of alcohol will not extend past midnight or when the premises or part thereof is hired for a function to which the public are not admitted.
2. At all other times security staff shall be employed at the premises at the discretion of the Designated Premises Supervisor/Holder of the Premises Licence in accordance with their assessment of risk. A written risk assessment shall be prepared on a monthly basis and reflect anticipated events for the forth coming period. The risk assessment shall be made available for inspection by the authorities on demand.
3. Radios will be used to provide two way communication between licensees, the police and other licensed premises.
4. Radios used to provide two way communication between licensees, the police and other licensed premises will be maintained in working order at all times.
5. The radios and equipment used to provide two way communication between licensees, the police and other licensed premises will be on at all times the premises are open to the public, and will be monitored by the Designated Premises Supervisor or other responsible staff member.
6. The electrical system, including portable appliances will be inspected and tested annually by a competent person to ensure safety. A competent person will be a qualified electrician who is registered with the ECA or NICEIC.
7. There must be in place an adequate system of control to ensure that the permitted numbers on both balconies is never exceeded.
8. The Licensee shall ensure that where security personnel are employed in the premises, they enter in a register kept for that purpose their full name, Security Industry Authority Badge number (including expiry date), the time that they began their duty and the time that they completed their duty, immediately after doing so. The register shall be kept on the premises at all times and shall be made available for inspection by a police officer or a duly authorised officer of the Licensing Authority. Registers shall be retained for at least 12 months from the last entry.
9. The Licensee shall keep an 'Incident Report Register' to the satisfaction of the police and the Licensing Authority, in which full details of all occurrences of violent and/or disorderly conduct involving patrons of the premises and security personnel are recorded. The Register is to be kept



Licensing Act 2003

Premises Licence

PLWA0283

ANNEXES continued ...

on the premises at all times and shall be made available for inspection by a police officer or duly authorised officer of the Licensing Authority. Register shall be retained for at least 12 months from the last entry.

10. All Door Supervisors must only be engaged in duties relating to the safety and welfare of the public on the premises and for controlling ingress and egress to the premises.
11. The smoking area must be closed at 2.45am on Thursday mornings.

ANNEXE 4 - PLAN APPROVED BY THE LICENSING AUTHORITY

The extent of the areas within which the various licensable activities are permitted are as shown hatched **RED** on the plan deposited with and approved by the Licensing Authority.



APPENDIX C

Lesley Carlo

From: Environmental Health
Sent: 12 March 2018 20:41
To: 'sarah@feverexmouth.com'
Cc: Jillian Wheller; Licensing EDDC; 'Licensing.team@devonandcornwall.pnn.police.uk'; Janet Wallace; Environmental Health
Subject: OBJECTION TEWA7945/045975
Categories: Lesley

Dear Miss S L Swan

Application No: TEWA7945
Name of Applicant: SWAN
Address: FEVER AND BOUTIQUE

YOU NEED TO RESPOND TO THE EMAIL URGENTLY BY TUESDAY 13TH MARCH 12:00HRS at the latest.

I hereby give you notice that Environmental Health, as a responsible authority, are **objecting** to the above temporary event notice (TEN) application on the grounds of public nuisance. The applicant has requested: That regulated entertainment is played until 04:00hrs. We have received complaints regarding noise levels and these are under current investigation on reference 16/02413/NOIMUS.

I have at this time, emailed the notice giver to advise them of our objection. Confirmation will need to be approved before we agree to the event finish time (noise mitigation measures).

Regards



975258_Temporary
Event Notice...

Karen Arnett
Technical Officer
East Devon District Council
www.eastdevon.gov.uk

☎ Direct Dial 01395 517455
☎ EH General 01395 517457

APPENDIX D

Fever & Boutique Objection Temporary Event Notice TEWA7945/045975 (TEN)

Date TEN applied for 01/04.2018

Extending trading time until 4am on the following Monday (02/04/2018) (2200 - 04.00)Exhibit 1

Objection email from Environmental Health Exhibit 2

Premises License PLWA0283 licensible hours Monday, Tuesday & Sunday 10.00am - 02.30am

Wednesday 10.00am - 03.00am

Thursday 10.00am - 02.30am

Friday & Saturday 10.00am - 03.30am

Bank Holiday Sundays 10.00am - 03.30am

Noise complaints received by residents:

27.02.2018 Our ref 18/00869 Loud Music every night of the week, gets worse after 2300hrs and continues until 03.00-03.30hrs at night. Exhibit 3

09.12.2017 Our ref 17/0459/NOIPAS Constant thumping of bass, very loud

29.10.2017 Our ref 17/04065/NOIMUS Noise

08.10.2017 Our ref 17/03833/NOIMUS Noise from loud music

25.09.2017 Our ref 17/03671/NOIMUS Loud Music

Historically:

John Smith and myself have been working with Fever & Boutique over many years 22/08/2016 JS carried out noise report and letter sent to F & B Exhibit 4

10/07/2017 TEWA 7600 submitted for 0400hrs - objection raised by EH

11/07/2017 License granted for alcohol only

Email chain from 20/10/16 - 12/03/2018 JS conversations detailing working with F&B Exhibit 5

30/10/2017 Email to Jimmy asking for progress report on works

02/11/2017 Jwallace spoke to Sarah the current manager of the club Item 1- 4 agreed by the F & B

14/11/2017 Email from Jimmy - insulation/soundproofing works to commence on Tuesday 14th November

05/12/2017 Email from Jimmy - works complete.

18/12/2017 Email from JS Bass could still be heard when monitored therefore requested lowering the frequency volume

12/03/2018 Email conversation between Jimmy and Jante Wallace agree to still install acoustic doors and the rear Exhibit 6

Conclusion:

Objection raised to this TEN on the grounds of public nuisance and confirmed by the receipt of noise complaints regarding these premises.



East Devon District Council

https://crm.eastdevon.gov.uk:8443/Ef3/GeneralPrint.jsp?form=SelfService_Temporary_Event_Notice

What date will the event start?

01/04/2018

Ref: EDT001

Licensing Act 2003

Information on the Licensing Act 2003 is available on the home office website:

<http://www.homeoffice.gov.uk/drugs/alcohol/alcohol-licences/>

or from the Licensing Authority's Helpline 01395 517410 or on the District Council's website by accessing the licensing pages.

Before completing this notice please read the guidance notes that can be found at

<http://eastdevon.gov.uk/licensing/alcohol-and-entertainment/temporary-event-notices/a-guide-to-temporary-event-notices/>

Use additional sheets if necessary, you will be able to scan them and upload them.

The licensing authority will submit a copy of this application to the police and endorse a copy and return it to you as an acknowledgement of receipt.

GENERAL NOTE

In the notes on the following pages a person who gives a temporary event notice is called a "premises user".

The police and local authority exercising environmental health functions may intervene on the grounds of any of the four licensing objectives (the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm) to prevent the occurrence of an event at which permitted temporary activities are to take place or to agree a modification of the arrangements for such an event. However, the licensing authority will intervene of its own volition in the cases described below.

First, it will issue a counter notice if there is an objection to a late temporary event notice (see note 8 later on).

Secondly, it may issue a notice in relation to its decision to impose conditions on a temporary event notice (see note 2 later on).

Thirdly, it will issue a counter notice if the first, second and fifth of the limits set out below would be exceeded. If any of the limits below are breached or if a counter notice has been issued, any licensable activities taking place would be unauthorised and the premises user would be liable to prosecution. The limitations apply to:

- the number of times a person (the "premises user") may give a temporary event notice (50 times per year for a personal licence holder and 5 times per year for other people);
- the number of times a person (the "premises user") may give a late temporary event notice (10 times per year for a personal licence holder and 2 times per year for other people);
- the number of times a temporary event notice may be given in respect of any particular premises (15 times in a calendar year);
- the length of time a temporary event may last for these purposes (168 hours or 7 days);
- the maximum aggregate duration of the periods covered by temporary event notices at any individual premises (21 days per calendar year); and

- the scale of the event in terms of the maximum number of people attending at any one time (a maximum of 499).

For the purposes of determining the overall limits of 50 temporary event notices per personal licence holder (in a calendar year) and of 5 for a non-personal licence holder (in a calendar year), temporary event notices given by an associate or a person who is in business with a premises user (and that business involves carrying on licensable activities) count towards those totals. The limits applying to late temporary event notices are included within the overall limits applying to the total number of temporary event notices. Note 16 below explains the definition of an "associate".

When permitted temporary activities take place, a premises user must ensure that either:

- a copy of the temporary event notice endorsed as acknowledged by the licensing authority is prominently displayed at the premises; or
- the temporary event notice is kept at the premises either in his own custody or in the custody of a person present and working at the premises and whom he has nominated for that purpose.

Where the temporary event notice is in the custody of a nominated person a notice specifying that fact and the position held by that person must be displayed prominently at the premises.

Where the temporary event notice or a notice specifying the nominated person is not displayed, a constable or an authorised person (for example, a licensing officer, fire officer or environmental health officer) may require the premises user to produce the temporary event notice for examination. Similarly, where the nominated person has the temporary event notice in his custody, a constable or authorised person may require that person to produce it for examination. Failure to produce the temporary event notice without reasonable excuse would be an offence.

It should also be noted that the following, among other things, are offences under the Licensing Act 2003:

- the sale or supply of alcohol to children under 18 years of age (subject to an unlimited fine on conviction);
- allowing the sale of alcohol to children under 18 (subject to an unlimited fine on conviction);
- knowingly allowing the consumption of alcohol on the premises by a person aged under 18 (subject to an unlimited fine on conviction);
- allowing disorderly behaviour on the premises (subject to a fine not exceeding level 3 on the standard scale, on conviction);
- the sale of alcohol to a person who is drunk (subject to a fine not exceeding level 3 on the standard scale, on conviction);
- obtaining alcohol for a person who is drunk (subject to a fine not exceeding level 3 on the standard scale, on conviction);
- knowingly allowing a person aged under 18 to make any sale or supply of alcohol unless the sale or supply has been specifically approved by the premises user or any individual aged 18 or over who has been authorised for this purpose by the premises user (subject to a fine not exceeding level 1 on the standard scale, on conviction), and
- knowingly keeping or allowing to be kept on the premises any smuggled goods which have been imported without payment of duty or which have otherwise been unlawfully imported (maximum fine on conviction is a fine not exceeding level 3 on the standard scale, currently £1,000).

In addition, where the premises are to be used primarily or exclusively for the sale or supply of alcohol for consumption on the premises, it is an offence to allow children under 16 to be present when the premises are open for that purpose unless they are accompanied by an adult. In the case of any premises at which sales or supplies of alcohol are taking place at

all, it is an offence for a child under 16 to be present there between the hours of midnight and 5am unless accompanied by an adult. In both instances, the penalty on conviction is a fine not exceeding level 3 on the standard scale, currently £1,000.

DateCalculation Normal

Late notice

No

Because the event start date is less than 10 working days away, this will be a late temporary event notice. This means that if either the police, environmental health authority or both give an objection to your late TEN, the notice will not be valid and the licensable activities will not be authorised to go ahead. There is no scope for a hearing or appeal against the decision. By continuing with this notice you are acknowledging that you are aware this will be a late TEN. For further advice please telephone us on: 01395 517410

Because the event start date is less than 5 working days away, it is not possible to submit a Temporary Event Notice. If you go ahead with the event, the licensable activities will be unauthorised and you could be liable to prosecution. For further advice please telephone us on: 01395 517410

1. THE PERSONAL DETAILS OF PREMISES USERS

Please read Note 1.

I, the proposed premises user, hereby give notice under section 100 of the Licensing Act 2003 of my proposal to carry on a temporary activity at the premises described below. ☒

YOUR NAME

Title

Miss

If you selected 'Other', please state your title

Surname

Swan

Forenames

Sarah Louise

PREVIOUS NAMES

Title

If you selected 'Other', please state your title

Surname

Forenames

Your date of birth

Your place of birth

National Insurance Number (UK nationals only)

Help for NI Number

Please give us your home address. We will ask for the premises address later in this form

Address

OTHER CONTACT DETAILS

Daytime telephone number

Evening telephone number (optional)

Mobile (optional)

Fax number (optional)

Email

NOTE 1

A temporary event notice may only be given by an individual and not, for example, by an organisation or club or business. The individual giving the notice is the proposed "premises user". Within businesses, clubs or organisations, one individual will therefore need to be identified as the proposed premises user.

If you include an email address, the licensing authority may send to this the acknowledgement of receipt of your notice or any notice or counter notice it is required to give under sections 104A, 106A or 107 of the Licensing Act 2003.

2. THE PREMISES

Help for the premises

Please give the address of the premises where you intend to carry on the licensable activities or if it has no address give a detailed description (including the Ordnance Survey references) (Please read note 2)

Does a premises licence or club premises certificate have effect in relation to the premises (or any part of the premises)? If so, please enter the licence or certificate number below.

Premises licence number

PLWA0183

Club premises certificate number

If you intend to use only part of the premises at this address or intend to restrict the area to which this notice

applies, please give a description and details below. (Please read note 3)

Please describe the nature of the premises below. (Please read note 4)

Nightclub

Please describe the nature of the event below. (Please read note 5)

Extending trading time until 4am on the following Monday (02/04/2018)

NOTE 2

For the purposes of the Licensing Act 2003, 'premises' means any place. Premises will therefore not always be a building with a formal address and postcode. Premises can include, for example, public parks, recreation grounds and private land. If a premises licence or club premises certificate has effect in relation to the premises (or any part of the premises) which you want to use to carry on licensable activities, it is possible that any conditions which apply to the licence or certificate may be imposed on the temporary event notice if certain pre-conditions are met. These pre-conditions are that the police or the local authority exercising environmental health functions object to the notice and the licensing authority decides:

- Not to give a counter notice under section 105 of the Licensing Act 2003;
- The conditions apply to the licence or certificate; and
- The imposition of the conditions on the notice would not be inconsistent with the carrying on of the licensable activities under the notice.

NOTE 3

A temporary event notice can be given for part of a building, such as a single room or a plot within a larger area of land. You should provide a clear description of the area in which you propose to carry on licensable activities. This is important as any licensable activities conducted outside the area of the premises protected by the authority of this temporary event notice would be unlawful and could lead to prosecution.

In addition, when holding the proposed event, the premises user would need to be able to restrict the number of people on the premises at any one time when licensable activities are taking place to less than 500. If more than 499 are on the premises when licensable activities are being carried on, the licensable activities would be unlawful and the premises user would be liable to prosecution. The maximum figure of 499 includes, for example, staff, organisers, stewards and performers.

NOTE 4

A description of the nature of the premises assists the chief officer of police and local authority exercising environmental health functions in deciding if any issues relating to the licensing objectives are likely to arise. You should state clearly that the premises to be used are, for example, a public house, a restaurant, an open field, a village hall or a beer tent.

NOTE 5

A description of the nature of the event similarly assists the chief officer of police and local authority exercising environmental health functions in making a decision as to whether or not to make an objection. You should state clearly that the event taking place at the premises would be, for example, a wedding with a pay bar, the supply of beer at a particular farmers' market, a discotheque, the performance of a string quartet, a folk group or a rock band.

3. THE LICENSABLE ACTIVITIES

Please state the licensable activities that you intend to carry on at the premises. Please tick all licensable activities you intend to carry on. (Please read note 6)

Help for licensable activities

The sale by retail of alcohol ☒

The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club ☐

The provision of regulated entertainment (Please read note 7) ☒

The provision of late night refreshment ☒

<h>Are you giving a late temporary event notice?</h> (Please read note 8)

No

Please state the dates on which you intend to use these premises for licensable activities. (Please read note 9)

Help for event dates

What date will the event start?

01/04/2018

What date will the event end? 2018-04-02

Please state the times during the event period that you propose to carry on licensable activities (Please read note 10) 22:00 - 04:00

Help for event times

Please state the maximum number of people at any one time that you intend to allow to be present at the premises during the times when you intend to carry on licensable activities, including any staff, organisers or performers. (Please read note 11) 450

Help for numbers of people

If the licensable activities will include the supply of alcohol, please state whether the supplies will be for consumption on or off the premises, or both; otherwise select 'No alcohol requested' (Please read note 12) On the premises only

Please state if the licensable activities will include the provision of relevant entertainment. If so please state the times during the event period that you

propose to provide relevant
entertainment (including, but not
limited to lap dancing and pole
dancing)(Please read note 13)
Help for relevant entertainment

NOTE 6

The licensable activities are:

- the sale by retail of alcohol;
- the supply of alcohol by or on behalf of a club to, or to the order of, a member of a club;
- the provision of regulated entertainment; and
- the provision of late night refreshment.

NOTE 7

Regulated entertainment, subject to specified conditions and exemptions, includes

- (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; and
- (h) entertainment of a similar description to that falling within (e), (f) or (g).

In terms of specific regulated entertainments please note that:

Plays: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500.

Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500. However, a performance which amounts to adult entertainment remains licensable.

Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.

Indoor sporting events: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.

Boxing or Wrestling Entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000. Combined fighting sports – defined as a contest, exhibition or display which combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.

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 is not licensed to sell alcohol 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 church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.

a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.

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.

any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.

any playing of recorded music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.

Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:

any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;

any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;

any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and

any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

If you are uncertain whether or not the activities that you propose are licensable, you should contact your licensing authority for further advice.

NOTE 8

Late notices can be given no later than 5 working days but no earlier than 9 working days before the event in relation to which the notice is given. A late notice given later than 5 working days before the event to which it relates will be returned as void and the activities described in it will not be authorised. The number of late notices that can be given in any one calendar year is limited to 10 for personal licence holders and 2 for non-personal licence holders. These count towards the total number of temporary event notices (i.e. 50 temporary event notices per year for personal licence holders and 5 temporary event notices for non-personal licence holders). If there is an objection from either the police or local authority exercising environmental health functions, the event will not go ahead and a counter notice will be issued.

NOTE 9

The maximum period for using premises for licensable activities under the authority of a temporary event notice is 168 hours or seven days.

NOTE 10

You should state here the times during the event period, for example 48 hours, when you intend to carry on licensable activities. For example, you may not intend to carry on licensable activities throughout the entire 48 hour event period, and may intend to sell alcohol between 8.00 hrs and 23.00 hrs on each of the two days.

NOTE 11

No more than 499 may be on the premises for a temporary event at any one time when licensable activities are being carried on. If you intend to have more than 499 attending the event, you should obtain a premises licence for the event. Your licensing authority should be able to advise you. The maximum figure of 499 does not just include the audience, spectators or consumers and includes, for example, staff, organisers, stewards and performers who will be present on the premises.

NOTE 12

If you indicate that alcohol will be supplied only for consumption on the premises, you would be required to ensure that no person leaves the premises with alcohol supplied there. If such a supply takes place, the premises user may be liable to prosecution for carrying on an unauthorised licensable activity. Similarly, if the premises user gives notice that only supplies of alcohol for consumption off the premises will take place, he/she must ensure that alcohol supplied is not consumed on the premises. The premises user is free to give notice that he/she intends to carry on both types of supplies. For this purpose the supply of alcohol includes both of the first two licensable activities listed in note 6 above.

NOTE 13

Relevant entertainment is defined in the Local Government (Miscellaneous Provisions) Act 1982 ("the 1982 Act") as **any live performance or any live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means)**. Relevant entertainment therefore includes, but is not limited to, lap dancing and pole dancing.

The 1982 Act requires premises which provide relevant entertainment to be licensed under that Act for this purpose. Premises at which there have not been more than eleven occasions on which such entertainment has been provided within a period of 12 months, no such occasion has lasted for more than 24 hours and there has been a period of at least one month between each such occasion are exempt from the requirement to obtain a licence under the 1982 Act. Such premises are likely instead to require an authorisation under the Licensing Act 2003 to be used for such activities as these are a licensable activity (the provision of regulated entertainment - see note 6 above). A temporary event notice may be given for this purpose.

4. PERSONAL LICENCE HOLDERS

Please read note 14

Do you currently hold a valid personal licence?

Yes

If 'Yes' please provide the details of your personal licence below.

Issuing licensing authority

East Devon District Council

Licence number

EDVE2174

Date of issue

2016-09-21

Any further relevant details

NOTE 14

The holder of a valid personal licence issued under the Licensing Act 2003 may give up to 50 temporary event notices in any calendar year subject to the other limitations in the 2003 Act. A proposed premises user who holds such a licence should give the details requested.

5. PREVIOUS TEMPORARY EVENT NOTICES YOU HAVE GIVEN

Help for previous TENS you have given

Please read note 15

Have you previously given a temporary event notice in respect of any premises for events falling in the same calendar year as the event for which you are now giving this temporary event notice? **No**

If answering yes, please state the number of temporary event notices (including the number of late temporary event notices, if any) you have given for events in that same calendar year.

Have you already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; **No** or b) begins 24 hours or less after the event period proposed in this notice?

NOTE 15

As stated under Note 14, a personal licence holder (issued under the Licensing Act 2003) may give up to 50 temporary event notices (including 10 late notices) in any calendar year. An individual who does not hold a personal licence may only give 5 temporary event notices (including 2 late notices) in England and Wales in any calendar year. A calendar year is the period between 1 January to 31 December inclusive in any year.

If an event straddles two calendar years, it will count against the limits on temporary event notices (15 for each premises, 21 days for each premises, 50 per personal licence holder and 5 for nonholders) for each year, however, only one notice needs to be given.

For the purposes of determining the overall limits of 50 temporary event notices per personal licence holder (in a calendar year) and of 5 for a non-personal licence holder (in a calendar year), temporary event notices given by an associate or a person who is in business with a premises user (and that business involves carrying on licensable activities) count towards those totals. Note 16 on the next page sets out the definition of an 'associate'.

If a temporary event notice has been given for the same premises, by the same premises user, and would have effect within 24 hours before the start of the event period under the current proposal or within 24 hours after the end of that period, the temporary event notice given would be void and any licensable activities carried on under it would therefore be unlicensed.

For the purposes of determining whether or not the required gap of 24 hours is upheld, temporary event notices given by an associate or a person who is in business with a premises user (and that business involves carrying on licensable activities) count as if they

had been given by the premises user himself. Note 16 on the next page sets out the definition of an 'associate'.

6. ASSOCIATES AND BUSINESS COLLEAGUES

Help for previous TENS

Please read note 16

Has any associate of yours given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice? ☐ No

If answering yes, please state the total number of temporary event notices (including the number of late temporary event notices, if any) your associate(s) have given for events in the same calendar year

Has any associate of yours already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice? ☐ No
(Please tick the box that applies to you)

Has any person with whom you are in business carrying on licensable activities given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice? ☐ No

If answering yes, please state the total number of temporary event notices (including the number of late temporary event notices, if any) your business colleague(s) have given for events in the same calendar year

Has any person with whom you are in business carrying on licensable activities already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice? ☐ No
(Please tick the box that applies to you)

NOTE 16

An 'associate' of the proposed premises user is:

- a. the spouse or civil partner of that person;
- b. a child, parent, grandchild, grandparent, brother or sister of that person;
- c. an agent or employee of that person; or
- d. the spouse or civil partner of a person within (b) or (c).

For these purposes, a person living with another as that person's husband or wife is to be treated as that person's spouse.

7. CHECKLIST

Please read note 17

I shall (please tick as appropriate)

If the premises are situated in one or more
licensing authority areas, notify each ☒
additional licensing authority

Make payment of the fee for the application ☒

If you wish to include any continuation sheets
or additional documents please upload them
using the button below

NOTE 17

It is a requirement that you send at least one copy of this notice to the licensing authority at least ten working days (or five working days for a late notice) before the commencement of the proposed licensable activities. The authority will give you written acknowledgement of the receipt of the notice. This will be important proof that you gave the notice and when you gave it for the purposes of the Act. Some premises may be situated in two licensing authority areas, for example, where a building or field straddles the local authority boundary. Where this is the case, at least one copy of the notice must be sent to each of the licensing authorities identified, together with the appropriate fee in each case. In such circumstances, you will receive acknowledgements from all the relevant licensing authorities.

One copy must be sent to each of the chief officer of police and the local authority exercising environmental health functions for the area in which the premises is situated at least ten working days for a standard notice (or five working days for a late notice) before the commencement of the proposed licensable activities. Please note that if you apply online the Licensing Authority will notify the police and environmental health authority on your behalf.

Where the premises are situated in two police areas or environmental health areas, a further copy will need to be sent to the further police force and local authority exercising environmental health functions.

8. CONDITION

Please read note 18

It is a condition of this temporary event notice that where the relevant licensable activities described in Section 3 above include the supply of alcohol that all such supplies are made by or under the authority of the premises user.

NOTE 18

Under the Licensing Act 2003, all temporary event notices are given subject to a mandatory condition requiring that where the licensable activities involve the supply of alcohol, all such supplies must be made by or under the authority of the named premises user. If there is a breach of this condition, the premises user and the individual making the supply in question would be liable to prosecution. For this purpose the supply of alcohol includes both of the first two licensable activities listed in note 6 on a previous page.

9. DECLARATIONS

Please read note 19.

The information contained in this form is correct to the best of my knowledge and belief. ☒

I understand that it is an offence: ☒

(i) To knowingly or recklessly make a false statement in connection with this temporary event notice and that a person is liable on summary conviction for such an offence to a fine of any amount; and

(ii) To permit an unauthorised licensable activity to be carried on at any place and that a person is liable on summary conviction for any such offence to a fine of any amount, or to imprisonment for a term not exceeding six months, or to both.

Please confirm your name

Sarah Swan
2018-03-09

NOTE 19

It is an offence knowingly or recklessly to make a false statement in, or in connection with, a temporary event notice. (A person is to be treated as making a false statement if he produces, furnishes, signs or otherwise makes use of a document that contains a false statement). To do so could result in prosecution and an unlimited fine.

**FOR COMPLETION BY THE
LICENSING AUTHORITY**

Acknowledgement

I acknowledge receipt of this temporary event notice

Signature (on behalf of the licensing authority)

Date

Name of Officer Signing

Jillian Wheller

From: Environmental Health
Sent: 12 March 2018 20:41
To: 'sarah@feverexmouth.com'
Cc: Jillian Wheller; Licensing EDDC;
'licensing.team@devonandcornwall.pnn.police.uk'
'Janet Wallace; Environmental Health
Subject: OBJECTION TEWA7945/045975

Dear Miss S L Swan

Application No: TEWA7945
Name of Applicant: SWAN
Address: FEVER AND BOUTIQUE

YOU NEED TO RESPOND TO THE EMAIL URGENTLY BY TUESDAY 13TH MARCH
12:00HRS at the latest.

I hereby give you notice that Environmental Health, as a responsible
authority, are **objecting** to the above temporary event notice (TEN)
application on the grounds of public nuisance. The applicant has requested:
That regulated entertainment is played until 04:00hrs. We have received
complaints regarding noise levels and these are under current investigation
on reference 16/02413/NOIMUS.

I have at this time, emailed the notice giver to advise them of our objection.
Confirmation will need to be approved before we agree to the event finish
time (noise mitigation measures).

Regards



975258_Temporary
Event Notice...

Karen Arnett
Technical Officer
East Devon District Council
www.eastdevon.gov.uk

 Direct Dial 01395 517455
 EH General 01395 517457

Exhibit 2

EAST DEVON DISTRICT COUNCIL

Environmental Health

WORKSHEET – Service Request

Case Ref:

18/00869/NOIMUS

Subject

Trading Name

Address 7 Parade Exmouth EX8 1RS

Contact

Area (Parish) Exmouth

Customer

Name

(Member of the Public)

Address

Palace Cottages Exmouth EX8 1RP

Message

Contact Details

EMAIL

MOBILE

Task Group	Noise - Music	Task	Noise Request
Date Received	27.02.2018	Time	17:00
Method	Telephone	Received by	
Date Occurred			

Details Fever was noisy saturday

Officer	Mr John Smith	First Response	Target	Actual
Next Task/Due			01.03.2018	28.02.2018

Inspections:

Inspection Reference: 18/01471/NCOMP

Inspection Type: NCOMP

Visit Type: General Complaint Initial Response

Visit Date: 28.02.2018

Visit Officer: Mr John Smith

Comments: 13/03/18 at 17:17 by jwallace

28/02/18 at 16:13 by jrsmith

28/02/18 at 16:12 by jrsmith

Spoke to [REDACTED] - was noisy saturday. Will get an update from Fever about the outstanding works and let her know when they will be completed.

Action Taken	Officer	Actual Date	Due Date	Time
Administration (Time Recording)	JS	28.02.2018		16130000
Contact complainant/enquirer	JS	28.02.2018		12000000

Complaints

Subject Name

Contact Details

Previous Complaints (not including this one)

Reference	Received	Details	Outcome
08/00201/NOIM US	29.10.2008	Complaint received regarding noise from club, caller says that noise is every night of the week and gets worse after 11.00. and continues until 3.00-330 at night.	8_CLO
09/01205/NOIM US	17.04.2009	[REDACTED] is complaining of how the noise levels of the music in the club has increased and she can now hear the music as if it is on her own stereo.	8_CLO
09/01980/NOIM	22.06.2009	I have recently moved to Palace Cottages tonight	8_CLO

US		the noise from Farenheit was un-acceptable i went with my neighbour to complain at 12.30am where we were told we were told that we were complaining little bitches by the owners son i feel that with 2 small children listening to thud thud thud is un-acceptable. My neighbour had to tell 2 people to go away from her bench opposite her house that were having sex last Saturday also un-acceptable with also finding used condoms in the alley way a health hazard for children that play outside Palace Cottages i will contact you at some stage tomorrow to discuss this with you further i also know of at least 2 people who are under age that visit the club Yours sincerely [REDACTED]	
10/01763/NOIM US	24.05.2010	loud bass, noisy people and extremely loud music when fire escape doors are left open - continues until 03:30h	8_CLO
10/01889/NOIM US	07.06.2010	loud music	8_CLO
10/02679/NOIM US	30.07.2010	noise coming from the club is very loud this morning	8_CLO
10/03143/NOIM US	01.09.2010	Loud music	8_CLO
11/00632/GNW TRC	01.03.2011	SWW Supply Disconnection of water	8_CLO
12/03295/NOIM US	26.09.2012	Club renamed Pulse 8 - have noise limits been agreed	8_CLO
12/03614/XNIA LM	26.10.2012	Alarm within property - Pulse 8 Night club	8_CLO
12/03767/NOIP EO	13.11.2012	noise from people shouting outside nightclub	8_CLO
13/00740/NOIM US	13.03.2013	Very loud music on Saturday night	8_CLO
13/02376/GNC ONS	01.08.2013	Application for Licensed Premises - Exmouth Nightlife Ltd	8_CLO
14/00342/NOIM US	03.02.2014	noise from music and people	8_CLO
15/00780/LIPR EM	25.02.2015	Application to transfer the premises licence and an application to vary the premises licence see also 15/00781/LIPREM	8_CLO
15/00781/LIPR EM	25.02.2015	Application to transfer the premises licence and an application to vary the premises licence see also 15/00780/LIPREM	8_CLO
15/01014/NOIM US	13.03.2015	noise from loud music	8_CLO
15/01345/NOIM US	09.04.2015	loud music from nightclub - ongoing complaints	8_CLO
15/01348/NOIM US	09.04.2015	letter received re loud music from nightclub	8_CLO
15/01377/NOIM US	10.04.2015	loud music	8_CLO
15/01396/NOIM US	13.04.2015	loud music from Fever _ Boutique	8_CLO
15/01702/XNIM US	05.05.2015	loud music	8_CLO
15/01847/NOIU NS	14.05.2015	noise from anti- social behaviour	8_CLO
15/03151/NOIM US	06.08.2015	loud music and shouting	8_CLO
15/03287/NOIM	17.08.2015	loud music	8_CLO

US			
15/04061/NOIM	12.10.2015	loud music / smoke	8_CLO
US			
15/04234/HSOT	23.10.2015	unsafe flooring	8_CLO
HR			
16/00230/NOIM	18.01.2016	loud music	8_CLO
US			
16/00618/NOIM	14.02.2016	Noise from music	8_CLO
US			
16/02379/NOIM	31.05.2016	Night club very loud on Saturday and particularly Sunday night	8_CLO
US			
16/02413/NOIM	01.06.2016	noise from loud music	7_RSL
US			
16/02801/NOIM	24.06.2016	noise from loud music	8_CLO
US			
16/03555/XNIM	07.08.2016	Noise from loud music	8_CLO
US			
16/03834/NOIM	28.08.2016	Noise Fever and Boutique Night club	8_CLO
US			
16/03835/NOIM	28.08.2016	Noise	8_CLO
US			
16/03839/NOIM	29.08.2016	Noise	8_CLO
US			
16/03985/NOIM	05.09.2016	loud amplified music	8_CLO
US			
16/04320/NOIP	01.10.2016	Noise	8_CLO
AS			
16/04675/NOIM	29.10.2016	Noise	8_CLO
US			
16/04676/NOIM	29.10.2016	Noise	8_CLO
US			
16/05101/NOIM	11.12.2016	Noise Fever And Boutique	8_CLO
US			
16/05238/NOIM	27.12.2016	music	8_CLO
US			
17/00001/NOIP	01.01.2017	Noise	8_CLO
AS			
17/00002/NOIP	01.01.2017	Noise	8_CLO
AS			
17/00158/NOIP	15.01.2017	Noise	8_CLO
AR			
17/00496/NOIP	12.02.2017	Noise	8_CLO
AS			
17/00590/NOIP	19.02.2017	Noise	8_CLO
AS			
17/00694/NOIM	26.02.2017	Noise	8_CLO
US			
17/01005/NOIP	18.03.2017	Noise	8_CLO
AS			
17/01162/NOIM	02.04.2017	Noise	8_CLO
US			
17/01254/NOIM	09.04.2017	Noise	8_CLO
US			
17/01343/NOIM	18.04.2017	noise disturbance	8_CLO
US			
17/01693/FOIG	12.05.2017	FOI 623597 Kate Symington Stage 2 - Formal Complaint	8_CLO
EN			
17/01715/NOIM	15.05.2017	music noise	8_CLO
US			
17/01887/NOIM	28.05.2017	Noise	8_CLO

US			
17/01985/NOIM US	05.06.2017	Noise	8_CLO
17/02530/LIPR EM	10.07.2017	OBJECTION - TEWA7600/044513 27.8.17 Extension of Nightclub hours	8_CLO
17/02648/GNE NQU	17.07.2017	advice on noise issues	8_CLO
17/02733/NOIM US	23.07.2017	Noise	8_CLO
17/02989/NOIP AS	06.08.2017	Noise	8_CLO
17/03671/NOIM US	25.09.2017	loud music	8_CLO
17/03833/NOIM US	08.10.2017	Noise from loud music	8_CLO
17/03849/NOIU NS	09.10.2017	general noise	8_CLO
17/04065/NOIM US	29.10.2017	Noise	8_CLO
17/04068/NOIM US	29.10.2017	Noise	8_CLO
17/04509/PCM RAT	04.12.2017	dead rats by rubble next to fire escape	8_CLO
17/04591/NOIP AS	09.12.2017	Constant thrumming of bass, very loud.	8_CLO
17/04599/GNE NQU	08.12.2017	Enquiry re licensing hours, Fever and Boutique	8_CLO
18/01075/LIPR EM	13.03.2018	OBJECTION TEWA7945/045975	1_NEW
WK/200807016	13.09.2008	Loud music every night and day, except MOnday , we can sleep then	8_CLO
WK/200707872	04.10.2007	Loud music	8_CLO
WK/200708760	24.10.2007	Loud music again She is getting fed up as it seems nothing is getting done. Last night & over the weekend was awfull.	8_CLO
WK/200707296	14.09.2007	Music	8_CLO
WK/200707079	10.09.2007	Noise from club.	8_CLO
WK/200706779	31.08.2007	Loud music	8_CLO
WK/200707382	16.09.2007	Music	8_CLO
WK/200700565	27.01.2007	Music too loud	8_CLO
WK/200700005	29.12.2006	Loud music all the time	8_CLO
WK/200606070	24.08.2006	She is very fed up with the constant noise at night. Last night it got realy loud at 12.40am, she called the club to turn the music down, they didn't. It went on until closing. This has been going on for a long time. Over the past 4 weeks she has had promises from the club they will sort it out. Nothing being done.	8_CLO
WK/200605751	14.08.2006	Noise form Intruder Alarm	8_CLO
WK/200601069	08.02.2006	Phoned Debbie Fletcher in housing about another matter and complained about the noise from the club in early hours when it closes, keeping her awake.	8_CLO
WK/200600515	20.01.2006	1 application form received - Variation	8_CLO
WK/200600513	20.01.2006	1 application form received - Variation	8_CLO
WK/200600269	10.01.2006	Noise from nightclub	8_CLO
WK/200600221	06.01.2006	Complaint about people noise from people queing to get into the club. See letter.	8_CLO
WK/200508856	15.12.2005	Music and people noise from club. Hears it normally but it was especially bad last night. Music	8_CLO

		did not stop until 02:20.	
WK/200508230	14.11.2005	Noise from Fahrenheit - live band. see wk/8038	8_CLO
WK/200508038	15.11.2005	Horrendous noise from music last night. Thumping bass.	8_CLO
WK/200507983	12.11.2005	Noise from night club	8_CLO
WK/200508232	15.11.2005	Loud live band See wk/8038	8_CLO
WK/200507584	02.11.2005	High pitched whistle for over an hour	8_CLO
WK/200506984	07.10.2005	1 application form received	8_CLO
WK/200506983	07.10.2005	1 application form received	8_CLO
WK/200506768	26.09.2005	Workman working all day.	8_CLO
WK/200505259	08.08.2005		8_CLO
WK/200508838	15.12.2005	Noise from club	8_CLO
WK/200504021	06.07.2005	Document and plans for information no action required	8_CLO
WK/200502853	23.05.2005	No Obs Memo	8_CLO
WK/200403881	30.09.2004	Fire Doors open	8_CLO
WK/200403822	29.09.2004	Fire doors opened again last Fri night/early hrs Sat am. Today 29/09/04 they have their bottles removed from Ind. skip which is sited below [REDACTED] property - once again noise terrible. see remarks.	8_CLO
WK/200403252	04.09.2004	Have opened fire doors.	8_CLO
WK/200502942	27.05.2005	No Obs memo sent	8_CLO
WK/200401640	17.06.2004	Variation NO Obs memo sent 18/06/04	8_CLO
WK/200400756	01.05.2004	Loud music. See remarks.	8_CLO
WK/200402852	12.08.2004	Emptying glass bottles	8_CLO
WK/200401140	21.05.2004	Loud music	8_CLO
WK/200308533	16.01.2004	Loud music. The fire doors were left open for ten minutes - now shut but please can someone have a work with them. He tried to ring them but couldn't get through.	8_CLO
WK/200305804	29.09.2003	Letter complaining about noise from fans.	8_CLO
WK/200304940	29.08.2003	Noise from Nightclub - see remarks.	8_CLO
WK/200305215	10.09.2003	Noise especially on Friday and Saturday	8_CLO
WK/200304813	23.08.2003	Loud music	8_CLO
WK/200304699	21.08.2003	Vary licence	8_CLO
WK/200304698	21.08.2003	Loud Music	8_CLO
WK/200304510	14.08.2003	Noise has got louder (inc fans)	8_CLO
WK/200305921	02.10.2003	Consultation justices licence	8_CLO
WK/200306409	21.10.2003	Letter received stating that noise from nightclub is getting worse.	8_CLO
WK/200305126	05.09.2003	Noise from Night Club. Phoned back twice, message left an answer phone.	8_CLO
WK/200302697	30.06.2003	letter regarding noise from music and fan noise	8_CLO
WK/200301344	28.05.2003	Loud Music	8_CLO
WK/200301255	23.05.2003	Loud Music	8_CLO
WK/200301225	18.05.2003	Loud Music	8_CLO
WK/200300566	30.04.2003	as per complaint 200300612	8_CLO

Date 22 August 2016
Contact number 01395 571591
E-mail: jrsmith@eastdevon.gov.uk
Direct Fax 01395 517407
Our Reference 16/02413/NOIMUS
Your Reference

EXHIBIT 4.



The Managing Director
Bar Fever Exmouth Limited
4 Rockfield Business Park
Old Station Drive
Leckhampton
Cheltenham
GL53 0AN

East Devon District Council
Knowle, Sidmouth, EX10 8HL

DX 48705 Sidmouth

Tel: 01395 516551

Email: csc@eastdevon.gov.uk

www.facebook.com/eastdevon

www.twitter.com/eastdevon

Dear Sir or Madam

**Complaint – Alleged Noise Nuisance
Environmental Protection Act 1990
Fever and Boutique 7 Parade Exmouth EX8 1RS**

Following further recent complaints regarding the above premises, we have undertaken noise monitoring to establish what noise levels are being experienced by local residents. We have also used the measurements to provide a basis for appropriate noise criteria and also to assess what measures could be undertaken to resolve the situation.

I have noted that there are a number of licensing conditions relating to noise and at this time we are mainly concerned with the level of noise caused by sound breakout through the building. Of particular relevance is licensing condition 44, which I have copied below:

44. A noise limiting device will be installed, fitted and maintained and set at a level to the satisfaction of the Council's Environmental Health Service.

The noise limiting device was set on two occasions in April 2015 as follows (with my notes at the time)

16/04/15 – 10am

Set noise levels - introduced reduction of 10 db reduction in bass frequencies, gain reduced from 34 to 24

And again following further complaints:

30/4/15 - 8pm

levels set approx 93-97 dB(A) - Bass and mid frequencies tweaked down.

East Devon – an outstanding place

Chief Executive: Mark R Williams Deputy Chief Executive: Richard Cohen



Since May 2015, we have received a further 11 complaints from a number of different individuals. Furthermore, we made recordings in October 2015, June 2016 and July 2016.

The results of these measurements indicate that noise from the club continues to be a problem to neighbours. The report titled "Fever and Boutique – Noise monitoring results report 30 to 31 July 2016" quantifies the impact in some detail and provides recommendations for noise criteria.

Given the level of noise reduction required, it is our opinion that setting the noise limiter (and then ensuring that the noise limiter cannot be adjusted by anyone) will provide part of the solution as the required reduction in the relevant frequencies is very significant. We also believe that upgrading the sound insulation will be essential in providing part of the solution.

Please contact me as soon as possible so that we can discuss resolving the noise impact on our residents.

Yours sincerely

Mr John Smith
Environmental Health Officer - Environmental Protection

Cc John Mason

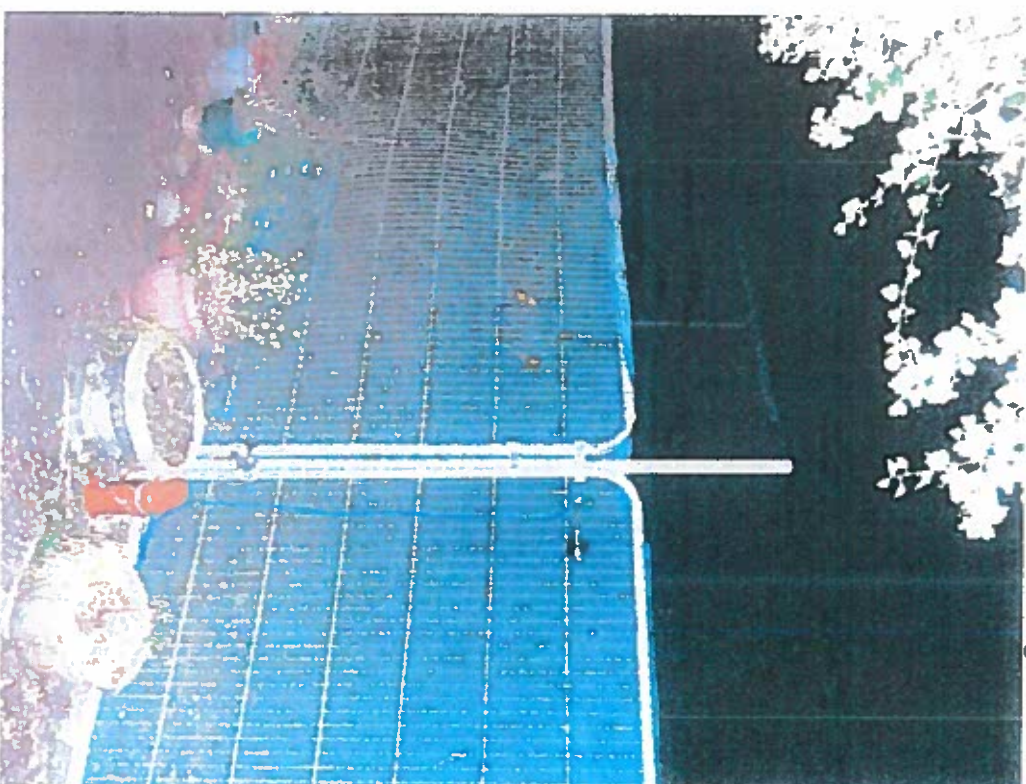
Fever and Boutique – Noise monitoring results report 30 to 31 July 2016

1. Noise monitoring locations

Monitoring Point 1 – Car parking area opposite Palace Cottages



Monitoring Point 2 – Adjacent to Palace Cottages



Monitoring Point 3 - within the bedroom of a local complainant (details not provided for data protection reasons)



2. Equipment and equipment set up

- The noise was monitored using two Norsonic 140 recording sound level meters
- Norsonic 140 Kit 3 was used INSIDE and Norsonic 140 Kit 4 was used OUTSIDE
- Both sound level meters were calibrated before and after use at 94.0 dB(A). There was no drift before and after measurements
- The sound level meters were time synchronised to ensure noise readings and recordings would be directly comparable (to provide directly comparable measurements at identical times)
- Synchronisation was checked post measurements by identifying an identical loud noise source. The sound of seagulls was used as it was clearly identifiable on both sets of recordings – the maximum noise level of this noise event was at 02:01:51 and maximum noise levels of 63.9 dB(A) and 47.3 dB(A) were measured outside and inside respectively. Thus noise recordings and measurements were confirmed to be synchronised within 1 second of each other

3. Noise monitoring and noise recording times

Monitoring point 1

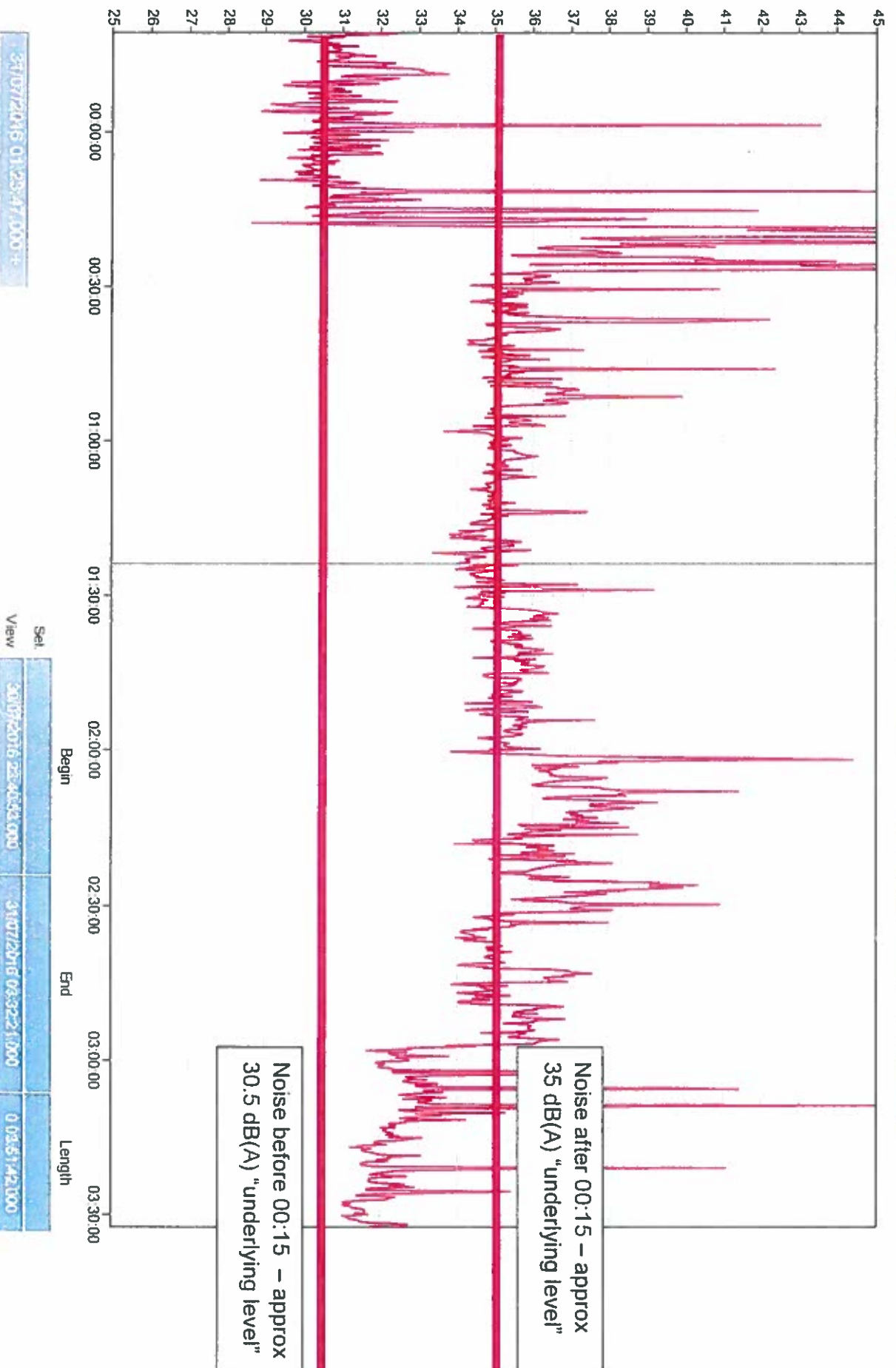
Car parking area opposite Palace Cottages - 31 July from 00:30 to 01:00 and 31 July from 02:25 to 03:05

Monitoring point 2

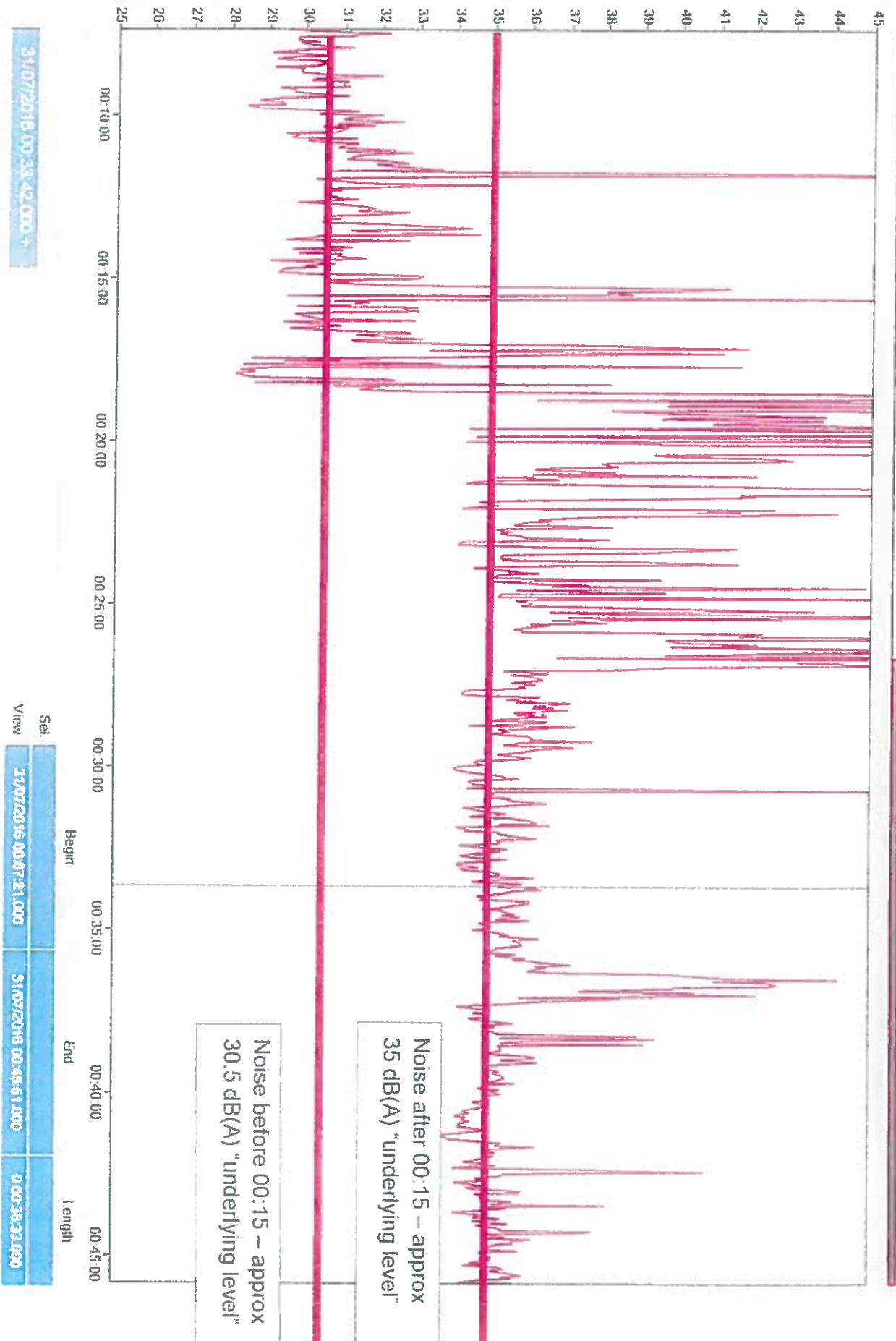
Adjacent to Palace Cottages - 31 July from 01:10 to 02:15

4. Inside residential property 30 July to 31 July 23:30 to 03:30

Underlying noise levels clearly change from approximately 30.5 dB(A) up to around 00:15 to approximately 35.0 dB(A) thereafter.



5. Inside residential property 31 July 00:00 to 00:45 (magnified time scale to show difference more clearly)



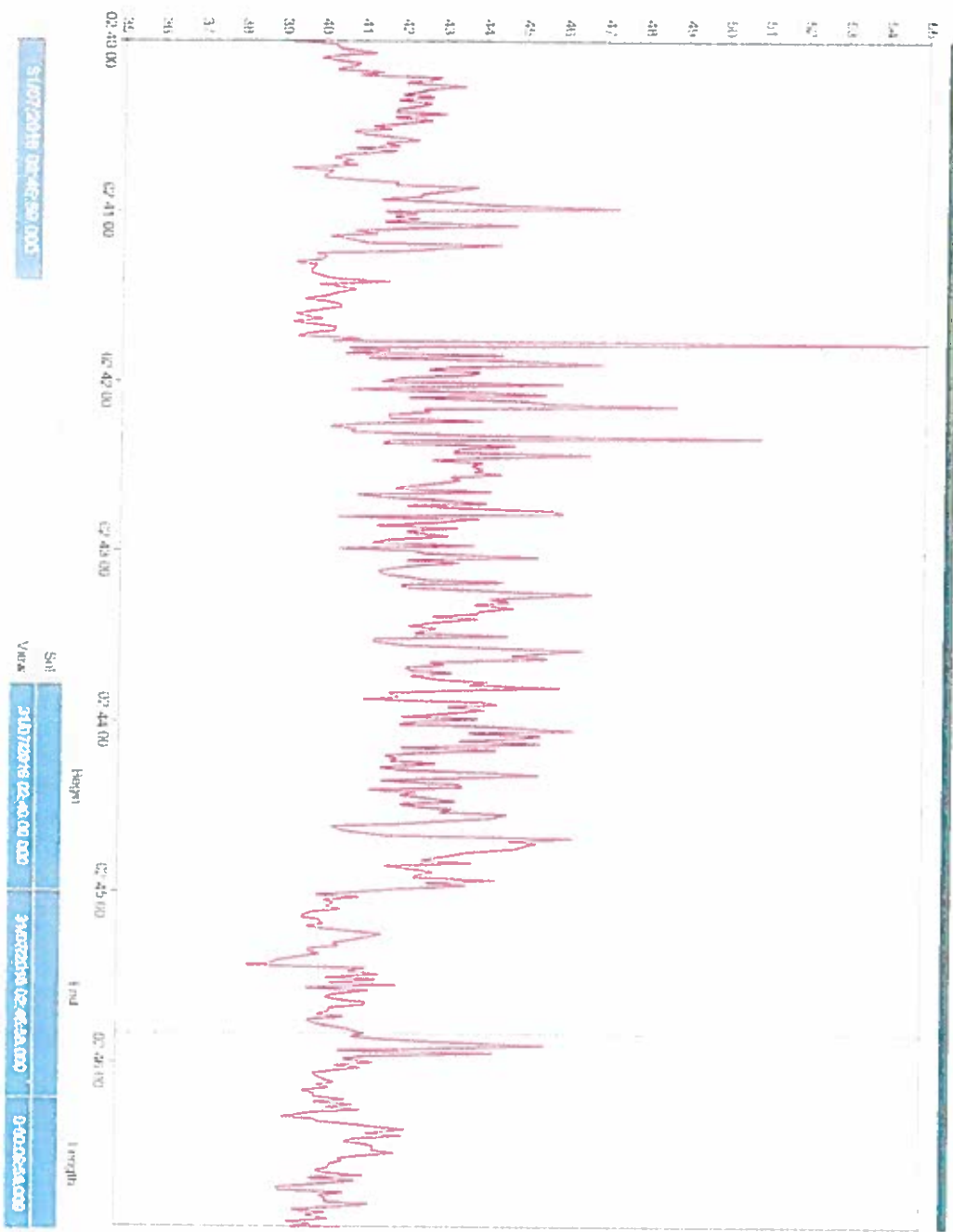
6. Subjective observations during monitoring

- After approximately 00:30 there was a noticeable "bass beat" which was coming from the premises known as Fever and Boutique.
- Earlier in the evening, amplified music could be heard coming from the Strand Public House.
- No music was audible from the Strand after 00:30.
- Later on (between approximately 01:30 and 03:00) it was possible, on occasion, to hear the voice of a DJ. The voice of the DJ was coming from Fever and Boutique (as this was the only premises open at this time). The voice was slightly muffled and I was not possible to clearly distinguish speech.
- I am certain that the measurements and recordings made between 00:30 and 03:00 relate only to the premises known as Fever and Boutique.

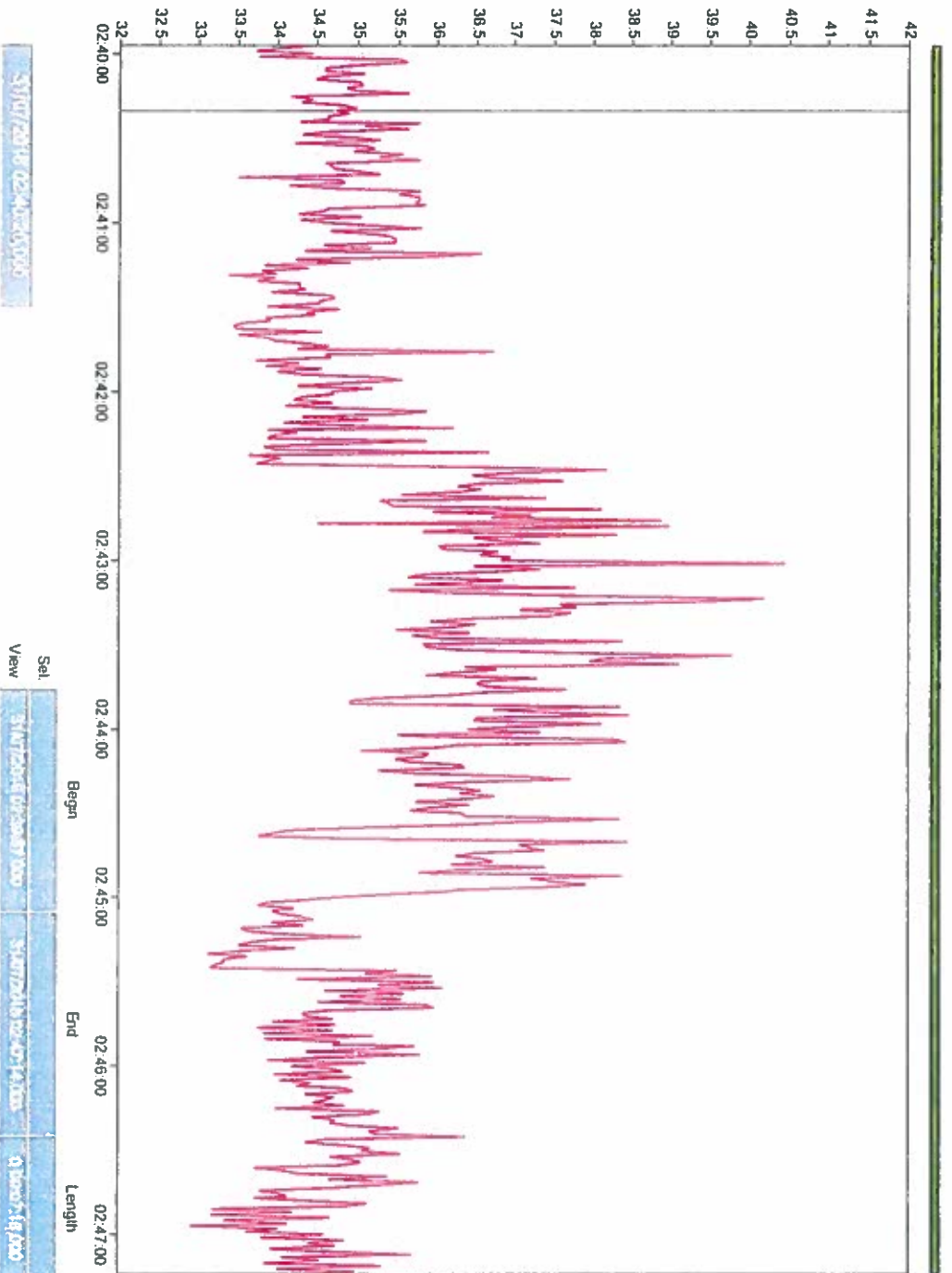
7. Noise recordings and measurements

In order to provide a criteria for the club to adopt, the measurement period between 02:42:26 and 02:43:19 was chosen as it provided recordings where the noise from the night club was clearly the dominant noise source. The graphs of the inside and outside levels are distinctly similar at this time (see below) albeit the outside levels are somewhat higher.

Outside noise levels - 02:42:26 and 02:43:19

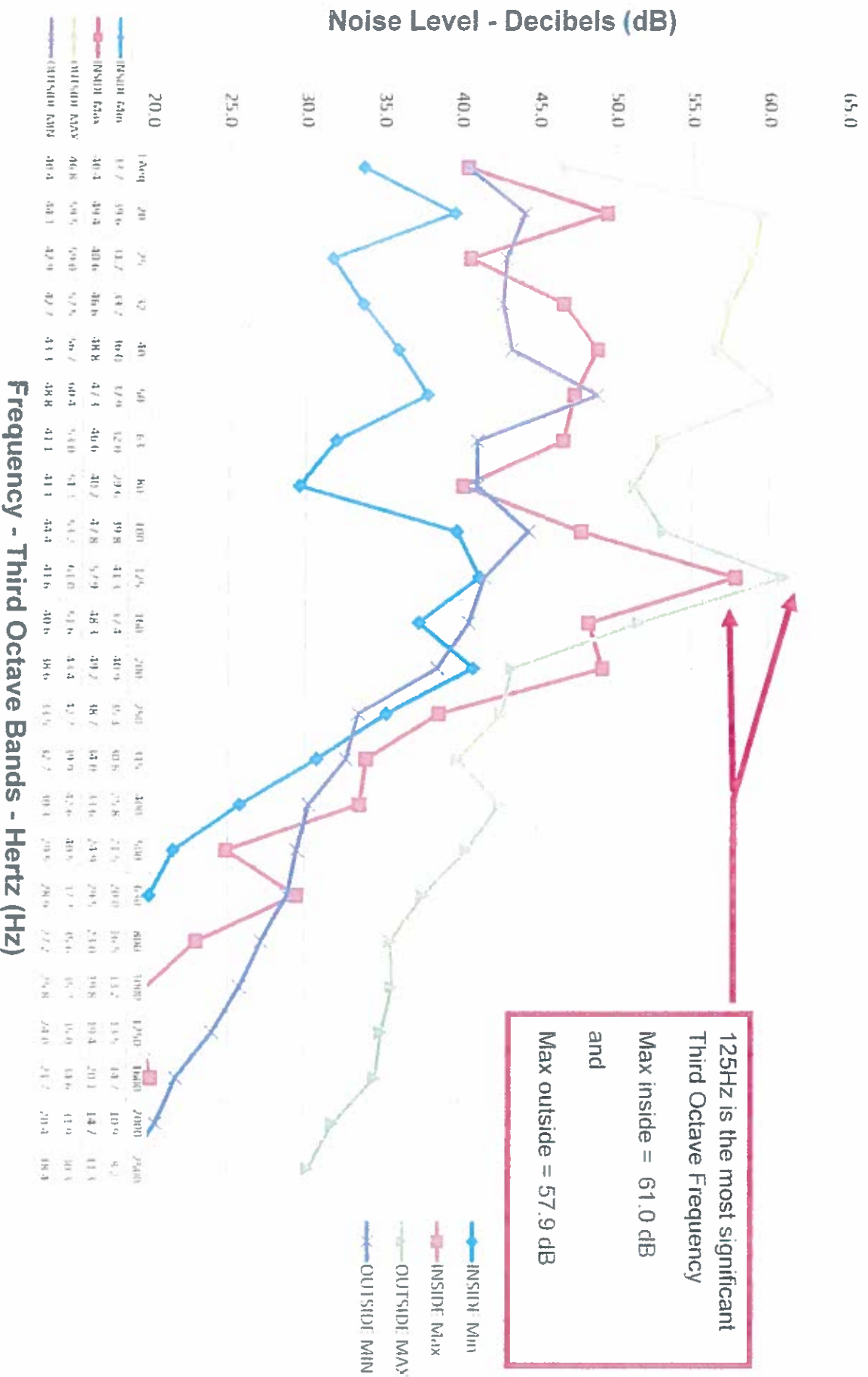


Inside noise levels - 02:42:26 and 02:43:19



8. Frequency content of the recordings and measurements

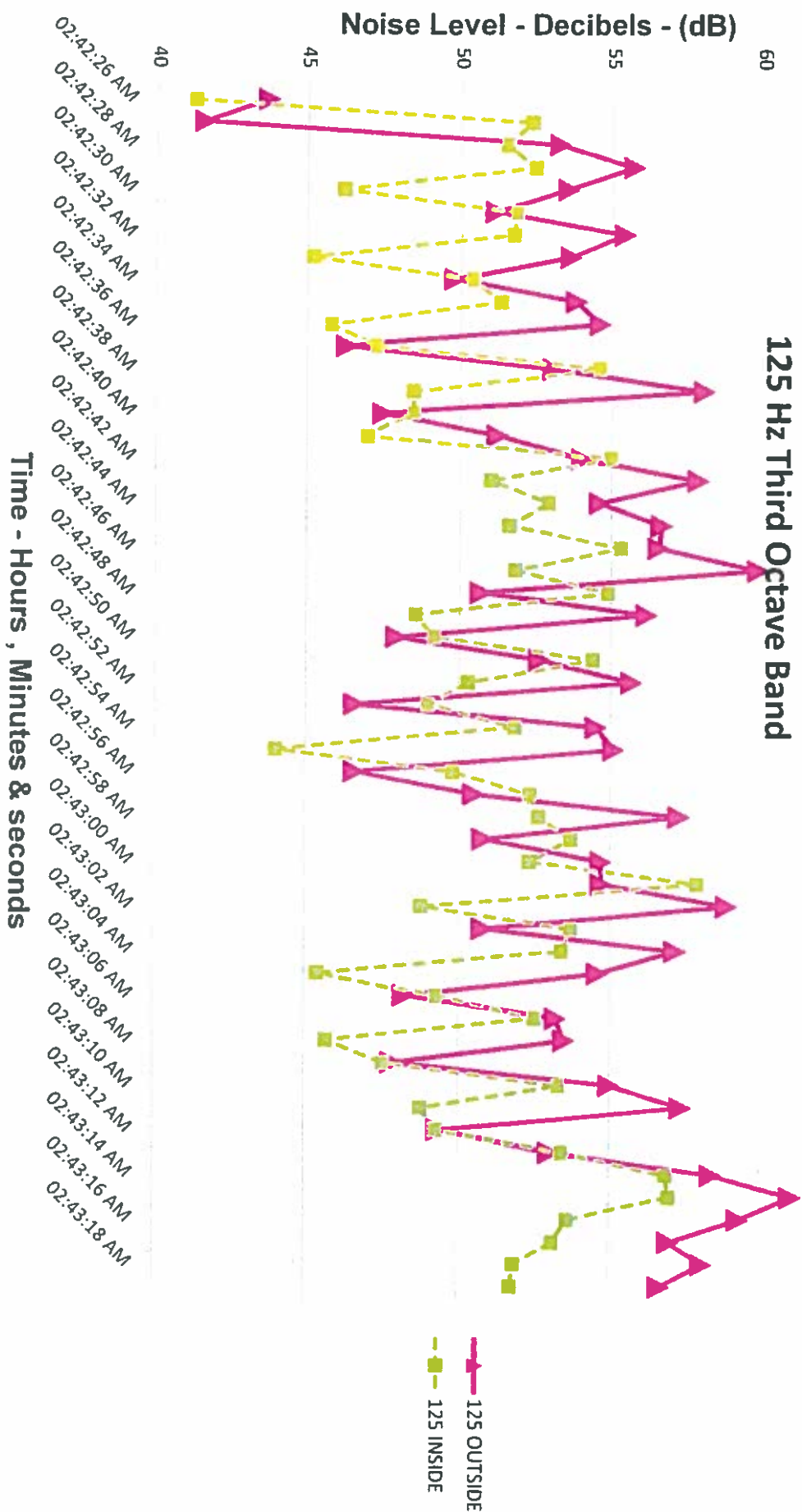
Further analysis shows that 125Hz is the most significant third octave frequency (02:42:26 and 02:43:19)



125 Hz "peaks and troughs" are similar inside and outside the club during this time period when the music noise is dominant above all other noise sources (02:42:26 and 02:43:19)

65

Temporal Variation 31 July 2016 - 02:42:26 to 02:43:19 **Noise Levels INSIDE & OUTSIDE residential property** **125 Hz Third Octave Band**



9. Noise criteria – Noise Rating (NR) curves

NR curves are especially useful when specifying noise in a given environment for control purposes and the NR of any noise can be characterised in octave band levels. For normal levels of background noise, the NR index is equal to the value of the A-weighted sound pressure level in decibels minus 5, but this relationship should be used as a guide only and not as a general rule. The NR approach actually tries to take into account the difference in frequency weighting made by the ear, at different intensity levels.

The council frequently recommends the following noise criteria as a planning condition:

Any plant (including ventilation, refrigeration and air conditioning units) or ducting system to be used in pursuance of this permission shall be so installed prior to the first use of the premises and be so retained and operated that the noise generated at the boundary of the nearest neighbouring property shall not exceed Noise Rating Curve 25, as defined in BS8233:2014 Sound Insulation and Noise Reduction for Buildings Code of Practice and the Chartered Institute of Building Service Engineers Environmental Design Guide. Details of the scheme shall be submitted to and approved by the Local Planning Authority prior to the first use of the premises.

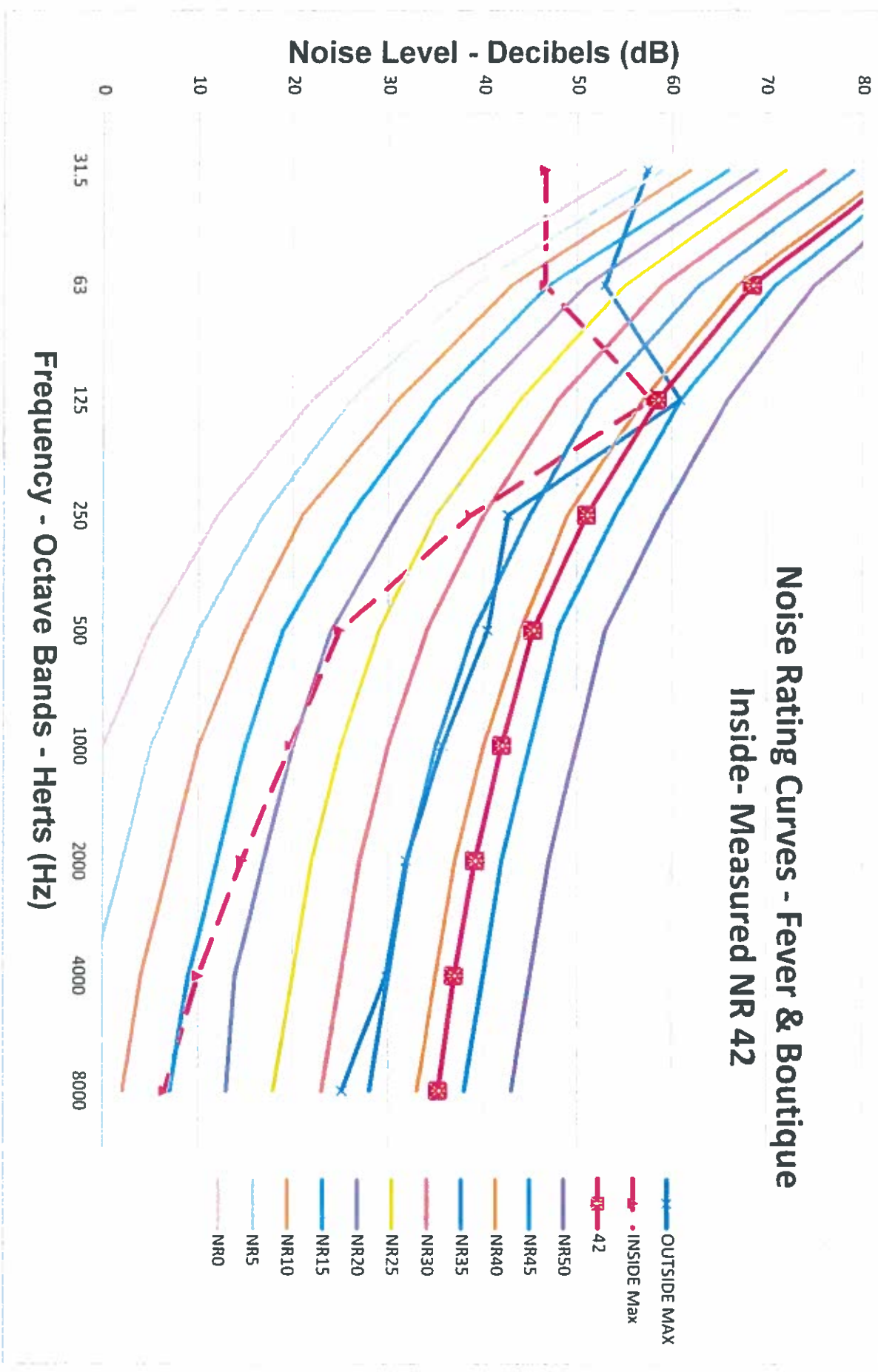
Reason: To protect the amenity of local residents from noise.

And, furthermore, following a planning appeal (Ref: APP/P4605/A/07/2039953 134, 139, 140, 141 Bromsgrove Road, Unity House and The Armouries site, Birmingham B5 6RG) where a housing development was proposed next to existing night club(s) the following condition was set:

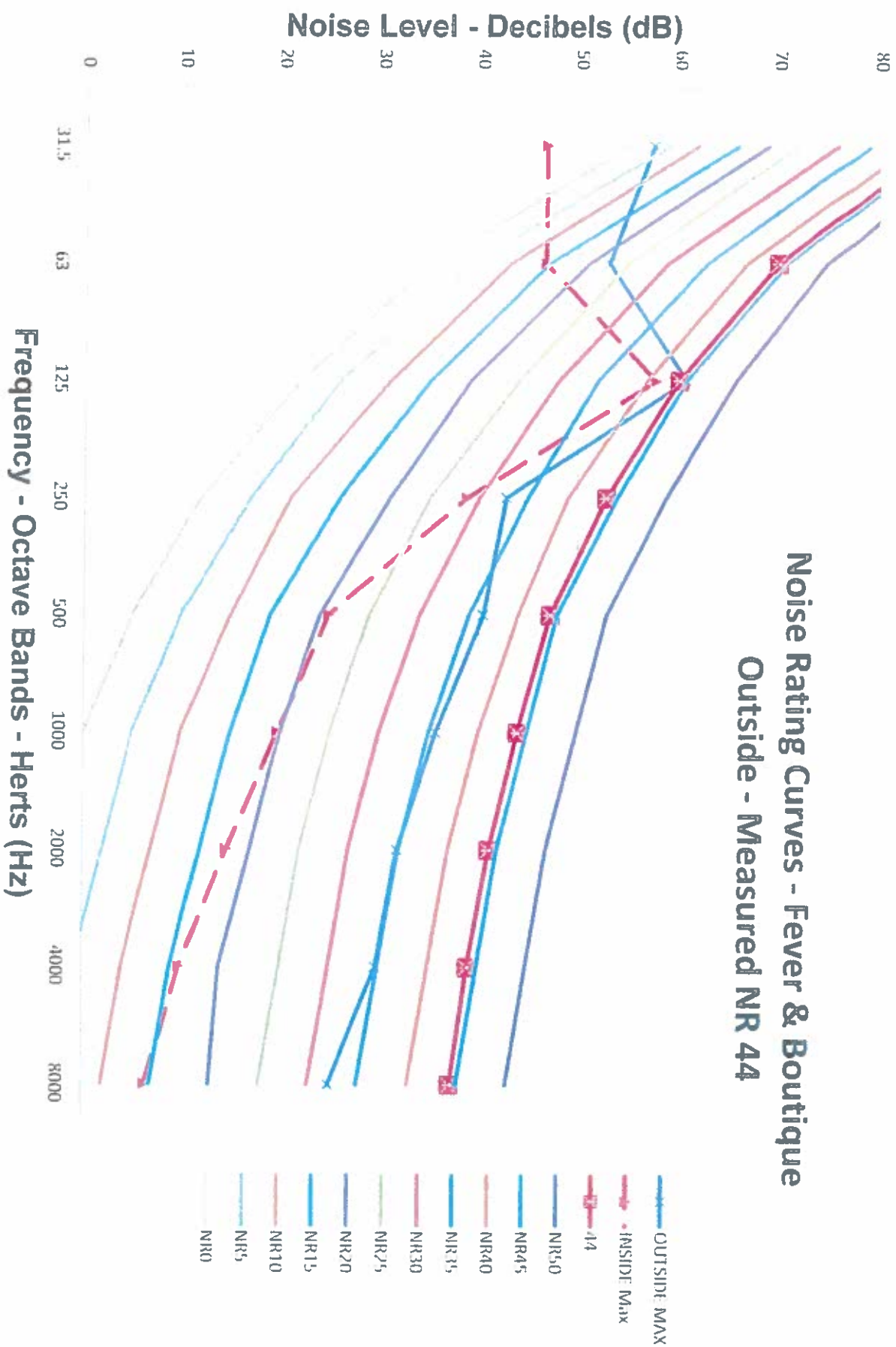
Before development commences, a design scheme (which must include the sound attenuation of the building envelope, the acoustic performance of any ventilation system and the detailed layout of the building) shall be submitted to and approved by the local planning authority to ensure that the internal noise level in habitable rooms resulting from the external noise from pubs and clubs shall not exceed Leq NR20. As part of this scheme the external free field sound pressure levels at the development site should be determined by means of a further Assessment of Noise in the Lower Essex Street frontage, which will be submitted to and approved by the local planning authority. Development shall be carried out in accordance with the approved scheme.

The appeal case document is embedded here

10. Measured Noise Rating (NR) curves - Measured inside residential = NR42



11. Measured Noise Rating (NR) curves - Measured outside residential = NR44



12. Recommendations

Proposed criteria are:

NR25 outside and / or NR20 inside.

Given that measurements show that there is an approximately 3 dB difference comparing inside and outside in the 125 Hz third octave band, it is appropriate to set a noise level based on our standard planning condition criteria, i.e. NR25 at the nearest residential façade.

This criteria would also enable the Council and the nightclub to check noise levels independently.

It is important to note that this would mean that the measured outside NR curve of 44 would need to be very significantly reduced in order to provide the proposed NR25 criteria.

EAST DEVON DISTRICT COUNCIL

Environmental Health

WORKSHEET – Service Request

Case Ref:

16/02413/NOIMUS

Subject

Trading Name **Fever And Boutique**
 Address **7 Parade Exmouth EX8 1RS**
 Contact **01395 266579** PHONE
 Area (Parish) **Exmouth**

Customer

Name [REDACTED] (Member of the Public)
 Address **Palace Cottages Exmouth EX8 1RP**
 Message
 Contact Details

EMAIL [REDACTED]
 [REDACTED]

MOBILE [REDACTED]

Name [REDACTED] (Member of the Public)
 Address **Palace Cottages Exmouth EX8 1RP**
 Message
 Contact Details

PHONEH [REDACTED]

Name [REDACTED] (Member of the Public)
 Address **Palace Cottages Exmouth EX8 1RP**
 Message
 Contact Details

Task Group	Noise - Music	Task	Noise Request
Date Received	01.06.2016	Time	13:18
Method	Email	Received by	Mrs Julie Green
Date Occurred			

Details **noise from loud music**

Officer	Mr John Smith	First Response	Target	Actual
Next Task/Due			03.06.2016	03.06.2016

Inspections:

Inspection Reference: 16/03324/NCOMP

Inspection Type: NCOMP

Visit Type: Noise Complaint Investigation

Visit Date: 03.06.2016

Visit Officer: Mr John Smith

Comments: 12/03/18 at 16:47 by jwallace

12/03/18 at 16:15 by jwallace
 update received from Jimmy Elias attached

12/03/18 at 16:13 by jwallace

email sent to Jimmy Ilias requesting a summary of what has been done and an update of the current situation as no updates received since December.

20/12/17 at 16:23 by jrsmith

20/12/17 - advised [REDACTED] - I will ring her tomorrow to check on levels.

20/12/17

Spoke to Jimmy today - he advised he would speak to Sarah to turn it down as per suggestion and would do the same if still too loud. Advised he would come and visit in next few days to check.

He said that DJ had played TAIO CRUZ DYANAMITE on sunday am.

18/12/2017 - download data and write brief report

email to Jimmy

Hi Jimmy

Some good news and some bad news, I'm afraid.

Following complaints (last week), I decided to do some noise monitoring on the morning of Sunday 17 December from midnight to about 2.30am. I didn't say anything last week as I wanted to hear and measure for myself.

Please see attached 2 x spreadsheets and 2 x MP3 files.

The good news is that I think that the Fever room was not causing a problem (though we will only really know when we meet in January 2018)

The bad news is that I think the sound proofing had little or no effect on the main room. I could hear a bass beat most of the time I was monitoring the levels and a colleague identified the "Taio Cruz Dynamite" song, MP3 file attached (recorded from about 0026 to 0030)

The other MP3 file (recorded from about 0152 to 0154) has a distinctive bass beat too, but I was not able to identify the track.

If you compare graphs for 63 Hz from our August measurements (23:10 to 23:14) compared with the ones I made on Sunday (00:25 to 00:30) the "peak noise" levels are both around 55 dB.

I have not yet done any more work on the numbers, but I think that the main room is, unfortunately, still causing a problem.

As a temporary measure, I think the way forward would be to reduce the volume in the lower frequencies in the main room - I think it may need a substantial reduction in the 40 to 80 Hz regions.

I'm afraid that I'm not in work tomorrow and have worked hard to get you something by close of play today.

I hope that we can speak on Wednesday.

Thanks and best wishes

17/12/2017

measurement survey weekend 16-17 December 2017

22:00 - 03:00

13/12/17 at 11:59 by jrsmith

Hi Jimmy

Following our brief discussion the other day, I am available to meet on the nights of Monday 8 January 2017 and Thursday 11 January 2017.

I hope that one of these days will be convenient for you.

May I also take this opportunity to wish you a merry Christmas and a happy new year.

Thanks and best wishes

John

plan to meet Jimmy new year

11/12/17 at 17:24 by jrsmith

email to Janet

08/12/17 at 16:43 by jrsmith

Hi Jimmy

Thanks for letting me know.

I've not spoken much to our complainants recently, on the basis that you were doing the works, though I am quite sure they will let us know if there is a problem!

I am very keen to visit and see what has been done - I am also keen to have a listen (with my recorder!) too!

I would ideally like to visit when the club is empty and play some music, though I suspect I may also need to visit in the early hours of the morning as well.

Mick has also been in touch and explained that you commissioned a new ceiling in the Fever Room at approximately 3.2m high constructed of a MF system and 2 layers of 15mm Soundbloc plasterboard, fully sealed at all edges and plastered - I am sure he is very keen to know if the problem has now been resolved.

Hopefully we can agree a mutually convenient time for me to visit soon.

I would also be grateful if you could provide me with reports / specifications for the works.

Thanks and best wishes

John

From: Jimmy Elias [mailto:jimmy@feverbars.com]

Sent: 05 December 2017 20:47

To: John Smith <JRSmith@eastdevon.gov.uk>

Subject: Exmouth

Hi John

Hope you are well, the works are now complete at Fever with the sound proofing.

I was wondering if you would like to come down one night and see the work for your self?

I assume there have been no further complaints against us?

Thanks

Jimmy

Sent from my iPhone

03/11/17 at 09:39 by jrsmith

Hi Jimmy

Thanks for letting me know and for advising Sarah.

I look forward to seeing the works and your new "makeover".

Thanks again

John

From: Jimmy Elias [mailto:jimmy@feverbars.com]

Sent: 31 October 2017 13:48

To: John Smith <JRSmith@eastdevon.gov.uk>

Subject: Re: Sound Insulation works and Noise from Fever and Boutique, Exmouth - weekend 28 to 29 October 2017 - CASE REFERENCE 16/02413/NOIMUS

Hi John

Works commences on Tuesday 14th November.

I have copied in Sarah the manager so she is aware of the complaints.

I will keep you updated on progress and invite you down once works are complete

Thanks

Jimmy

02/11/17 at 11:11 by jwallace

JHW called [REDACTED] back as she rang chasing a response. She said that on Saturday night she could hear noise from the downstairs room at the club - the music itself, the bass and the DJ. She said that the volume was turned up after midnight. She said that the noise was definitely from the club and not from any other noisy premises nearby. Advised that I had spoken to Sarah the current manager and she advised that

1. Works to install sound insulation and otherwise control noise escape are due to start on 13th November and will be completed in a few weeks.
2. The Bass amps upstairs have been turned off and noise limiter installed.
3. She was happy for complainants to have her mobile number (which I gave to [REDACTED]) so that they can call her at the time of a problem so that she can go to hear herself.
4. Sarah will make sure that she goes to the outside rear of the club for the next few weekends to make sure for herself that there is no unreasonable noise.

Suggested to [REDACTED] that she called the club directly if she could hear noise at an unreasonable level, that I would ask an officer to arrange a night time visit, and that we should all review the situation once the works had been completed.

30/10/17 at 16:40 by jrsmith

email to Jimmy

Dear Jimmy

Please could you provide a progress update regarding the planned works since we last met late last month - hopefully you will have some dates.

We have also received further complaints from residents about Fever & Boutique this weekend.

I did not attend and I understand that other premises were also loud (which my colleague is dealing with), but I understand that it was possible to distinguish the types of music, especially early in the morning.

I would be grateful if you could advise the Fever and Boutique management team to be aware that noise is still affecting residents and the levels need to be kept down and / or reduced when complaints are received.

Thank you

John

01/09/17 at 11:58 by jrsmith

email to Jimmy - appt Weds 27/9 @ 9pm

16/08/17 at 10:42 by jrsmith

emailed noise report to Jimmy and Bob

11/08/17 at 17:02 by jrsmith

email to Janet etc al - need to update case with my time etc

07/06/17 at 13:26 by jrsmith

action list and summary added (prepared as part of recent FOI request

03/04/17 at 16:47 by jrsmith

advised [REDACTED] we are planning to set levels 20 or 27 April between 10pm and 4am

23/03/17 at 09:27 by jrsmith

have updated [REDACTED] to let her know what we are doing about setting noise levels

06/03/17 at 15:11 by jrsmith

updated noise level setting report email sent

06/03/17 at 12:13 by jrsmith

6/20/27 April confirmed, subject to weather conditions

06/02/17 at 14:02 by jrsmith

have updated [REDACTED] to let her know what we are doing about setting noise levels

06/02/17 at 12:51 by jrsmith

email to Jimmy

Hi Jimmy

I hope you are OK too.

I think that makes it a Monday, Tuesday or Thursday night then!

I would be grateful if you could speak to Bob about how we ensure the levels are limited to the final internal noise level criteria we set - I would really like to document how this will work in practice, in the interest of all parties.

I would like to have the draft as an agreed document before we book dates, but based on the future weather conditions, I don't think we should book any time before w/c 20/2.

Thanks

John

From: Jimmy Elias [mailto:jimmy@feverbars.com]

Sent: 06 February 2017 12:46

To: John Smith

Cc: lisrpw@aol.com; Alice Gill

Subject: RE: Noise from Fever and Boutique - Recorder Installation(s) and monitoring 30 July to 31 July 2016
Kits - CASE REFERENCE 16/02413/NOIMUS - UNCLASSIFIED:

Hi John

Hope you are well. The venue is open Wednesday's, Friday's and Saturday's.

If you could give me some proposed dates and we will do our best to accommodate between myself and the manager of the venue. Completely appreciate that the date may be subject to change.

Thanks

Jimmy

From: John Smith [mailto:JRSmith@eastdevon.gov.uk]

Sent: 06 February 2017 12:36

To: Jimmy Elias

Cc: lisrpw@aol.com; Alice Gill

Subject: RE: Noise from Fever and Boutique - Recorder Installation(s) and monitoring 30 July to 31 July 2016
Kits - CASE REFERENCE 16/02413/NOIMUS - UNCLASSIFIED:

Dear Jimmy

I have spoken to various suppliers and colleagues about setting noise levels at the club.

Bob has been extremely helpful and has provided a schematic plan, which I have included in the attached report.

The attached report is a draft proposal for a method to set noise levels in the club rooms based on achieving the

NR25 external noise criteria.

I hope this is self explanatory. I also need to provide graphs and tables to help provide the necessary calculations (on the night), which I will create later.

I spoke to Bob briefly to explain that I was going to copy him in - I am confident that we can set objective noise levels for the rooms, separately and in combination, but I am unclear how we can ensure the sound system(s) will be able to do this, I hope that Bob may be able to provide some more details on this - preferably by way of diagrams and relevant text.

I hope that this provides the basis for a way forward. I have spoken to my line manager on how we will staff the process itself and my colleague Alice Gill has kindly volunteered.

Also, in order to do this properly we will need a wind free, rain free evening with quiet ambient noise levels, so whatever the planned date(s) we may be subject to cancellation at very short notice. I envisage that we should start this process on an evening when the club is closed, probably starting after 10pm.

Unfortunately I have been unable to find anyone who could find a way of setting the levels other than by playing pink or white noise within the club rooms and I do not think any of the Club's patrons would wish to pay for such an experience!

Thanks

John

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Unfortunately I have been unable to find anyone who could find a way of setting the levels other than by playing pink or white noise within the club rooms and I do not think any of the Club's patrons would wish to pay for such an experience!

Thanks

20/01/17 at 10:01 by jrsmith
have updated [REDACTED] to let her know what we are doing about setting noise levels

16/1 and 18/1 worked on noise limiter problem - contacted various suppliers and wrote up draft method to set system etc

06/01/17 at 11:18 by jrsmith

email to Jill - advice on licensing hours please

06/01/17 at 10:27 by jrsmith
have updated [REDACTED] to let her know what we are doing about setting noise levels

06/01/17 at 10:26 by jrsmith

further letter and hardcopy sent - agreed with Janet Mid December 2016 (upon Janet's return from leave)

9/12/2016 - email with draft letter to Janet

03/11/16 at 18:01 by jrsmith

hardcopy of detailed letter or requirements etc posted and emailed to Jimmy

26/10/16 at 09:59 by jrsmith

have updated [REDACTED] to let her know what we are doing about setting noise levels

26/10/16 at 09:15 by jrsmith

21/10/2016- email from Jimmy

Hi John

Yes it was the strand.

Base bin amps in the Fever room are switched off.

Adjustments have been made but very difficult to know if we are on the right track, there are also other venues as you know that are playing very loud music at late times and I would hate our venue to be getting the blame for other venues loud music. That is why I ask if there have been any further complaints, could you let me know please?

Thanks

Jimmy

21/10/2016

email to Jimmy from John S

Thanks for getting back to me and thanks for the video - I have forwarded that to my colleague. Please can you confirm which premises it was, I assumed it was the Strand.

I have copied part of the email sent in September:

Proposed immediate and existing actions

During our conversation your suggestions for immediate actions included:

- o Unplug the bass bins from the upstairs Fever bar
- o Reset the noise limiter / amplifier settings as appropriate

(Noting that adjusting either or both of the above would be subject to acceptable sound quality.)

And I also wondered if anything had be done regarding the 2nd bullet point above.

20/10/2016- email from Jimmy

As discussed, we have switched off the base amp from the fever room and that continues to remain off. Have there been any further complaints? As I was in Exmouth last weekend and filmed the following venue playing loud music and very audible. This was at 1.15am

20/10/16 at 12:26 by jrsmith

Dear Jimmy and John

Please can you provide an update following our meeting last month.

I would be grateful if you can confirm what actions have been taken so far and what further proposals you are considering.

Thanks

John

12/10/16 at 14:52 by jrsmith

Downloaded recorder today - [REDACTED] explained that it had been quiet on saturday night, a little noise on friday. She thought club may have been closed or there was a private party 8/10 (date of Exmouth Carnival)

05/10/16 at 16:55 by jrsmith

05/10/16 at 16:54 by jrsmith

collected 3/10/2016 - did not work - re-install 5/10/2016

Was (allegedly) really noisy w/e 1/2 Oct.

28/09/16 at 13:34 by jwallace

Next actions: listen to recordings on Thursday 6th Oct (if any) once DAT collected, and feedback to complainant and to club. NOT to do detailed analysis of the DAT recordings but to copy audio recordings onto a file that can be played to the club. Check with the club what action they have taken following the meeting in September - at least in the short term they must have taken out the offending frequencies as discussed.

22/09/16 at 11:10 by jrsmith

reset recorder 21/9/2016 - did not work - changed batteries, everything else seemed fine - maybe a power issue (it only lasts 6 hours on batteries)

12/09/16 at 16:05 by jrsmith

12/09/16 at 16:01 by jrsmith

site visit and email to Fever

08/09/16 at 16:00 by jrsmith

rearranged to

appt booked to meet John Mason monday 12 Sept @ midday

07/09/16 at 11:36 by jrsmith

appt booked to meet John Mason monday 12 Sept @ 3pm

22/08/16 at 14:21 by jrsmith

22/08/16 at 14:19 by jrsmith
emailed proposed letter and report to Jill

22/8/2016 - prep report and letter
11-12 August - prep noise report

22-25 July recorder installed
27/06/16 at 13:59 by jgreen1

██████████ called today wanting to speak to JS - she said the noise on Sat 24 June was horrendous - she could hear it through closed double glazed windows - can you please call her - see indexed email to JS

20/06/16 at 09:47 by jrsmith

booked to set up kits 3 and 4 weekend 22 - 25 July 2015

09/06/16 at 11:41 by fgriffiths

██████████ of ██████████ Palace Cottages phoned to say she can hear the music but it doesn't keep her awake at night as she keeps her windows closed. She has spoken to ██████████ who is disturbed by the noise a lot more.

03/06/16 at 17:18 by jrsmith

Installed KIT 4 2/6/2016 - 18:30 to 19:45

01/06/16 at 13:20 by jgreen1

noise from loud music - see indexed emails

Action Taken	Officer	Actual Date	Due Date	Time
Contact complainant/enquirer	JS	20.12.2017		
Contact subject	JS	20.12.2017		
Internal Memo	JS	18.12.2017		
Email	JS	18.12.2017		
Survey Visit	JS	17.12.2017		0
Survey Visit	JS	16.12.2017		22000000
Email	JS	13.12.2017		
Email	JS	11.12.2017		
Email	JS	08.12.2017		
Email	JS	03.11.2017		

Email	JS	30.10.2017		
Email	JS	01.09.2017		
Email	JS	16.08.2017		
Email	JS	11.08.2017		
Administration (Time Recording)	JS	07.06.2017		13270000
Email	JS	06.03.2017		
Email	JS	06.03.2017		
Email	JS	06.02.2017		
Email	JS	06.02.2017		
Advisory Letter	JS	18.01.2017		
Advisory Letter	JS	16.01.2017		
Email	JS	06.01.2017		11180000
Email	JS	06.01.2017		
Advisory Letter	JS	06.01.2017		10220000
Advisory Letter	JS	09.12.2016		
Email	JS	09.12.2016		
Administration (Time Recording)	JS	01.11.2016		
Administration (Time Recording)	JS	31.10.2016		
Email	JS	24.10.2016		11280000
Administration (Time Recording)	JS	24.10.2016		
Email	JS	24.10.2016		11290000
Email	JS	20.10.2016		
Administration (Time Recording)	JS	12.10.2016		14520000
Noise Rec. Collected	JS	10.10.2016		13580000
Noise Rec.Installed	JS	05.10.2016		18000000
Noise Rec. Collected	JS	03.10.2016		18000000
Noise Rec.Installed	JS	21.09.2016		18000000
Visit Subject	JS	12.09.2016		12000000
Email	JS	12.09.2016		14300000
Email	JS	08.09.2016		
Contact subject	JS	08.09.2016		
Contact subject	JS	07.09.2016		
Advisory Letter	JS	07.09.2016		
Email	JS	07.09.2016		
Advisory Letter	JS	05.09.2016		
Advisory Letter	JS	02.09.2016		
Advisory Letter	JS	31.08.2016		
Advisory Letter	JS	22.08.2016		
Email	JS	22.08.2016		14000000
Advisory Letter	JS	22.08.2016		12000000
Advisory Letter	JS	22.08.2016		10000000
Advisory Letter	JS	12.08.2016		
Advisory Letter	JS	12.08.2016		
Advisory Letter	JS	11.08.2016		
Advisory Letter	JS	11.08.2016		
Survey Visit	JS	31.07.2016		
Noise Rec. Collected	JS	25.07.2016		
Survey Visit	JS	24.07.2016		
Noise Rec.Installed	JS	22.07.2016		
Email	JS	20.06.2016		9470000
Noise Rec.Installed	JS	02.06.2016		19000000
Contact complainant/enquirer	JS	01.06.2016		
Email	JS	01.06.2016		
Administration (Time Recording)	JG	01.06.2016		13200000

Complaints

Subject Name **John Mason Or Manager Sarah Bar Fever (Exmouth) Ltd Fever And Boutique**

Contact Details **EMAIL - John@feverexmouth.com MOBILE - Sarah**
PHONE - 01395 266579

Previous Complaints (not including this one)			
Reference	Received	Details	Outcome
08/00201/NOIM US	29.10.2008	Complaint received regarding noise from club, caller says that noise is every night of the week and gets worse after 11.00. and continues until 3.00-330 at night.	8_CLO
09/01205/NOIM US	17.04.2009	Miss [REDACTED] is complaining of how the noise levels of the music in the club has increased and she can now hear the music as if it is on her own stereo.	8_CLO
09/01980/NOIM US	22.06.2009	I have recently moved to Palace Cottages tonight the noise from Farenheit was un-acceptable i went with my neighbour to complain at 12.30am where we were told we were told that we were complaining little bitches by the owners son i feel that with 2 small children listening to thud thud thud is un-acceptable. My neighbour had to tell 2 people to go away from her bench opposite her house that were having sex last Saturday also un-acceptable with also finding used condoms in the alley way a health hazard for children that play outside Palace Cottages i will contact you at some stage tomorrow to discuss this with you further i also know of at least 2 people who are under age that visit the club Yours sincerely [REDACTED]	8_CLO
10/01763/NOIM US	24.05.2010	loud bass, noisy people and extremely loud music when fire escape doors are left open - continues until 03:30h	8_CLO
10/01889/NOIM US	07.06.2010	loud music	8_CLO
10/02679/NOIM US	30.07.2010	noise coming from the club is very loud this morning	8_CLO
10/03143/NOIM US	01.09.2010	Loud music	8_CLO
11/00632/GNW TRC	01.03.2011	SWW Supply Disconnection of water	8_CLO
12/03295/NOIM US	26.09.2012	Club renamed Pulse 8 - have noise limits been agreed	8_CLO
12/03614/XNIA LM	26.10.2012	Alarm within property - Pulse 8 Night club	8_CLO
12/03767/NOIP EO	13.11.2012	noise from people shouting outside nightclub	8_CLO
13/00740/NOIM US	13.03.2013	Very loud music on Saturday night	8_CLO
13/02376/GNC ONS	01.08.2013	Application for Licensed Premises - Exmouth Nightlife Ltd	8_CLO
14/00342/NOIM US	03.02.2014	noise from music and people	8_CLO
15/00780/LIPR EM	25.02.2015	Application to transfer the premises licence and an application to vary the premises licence see also 15/00781/LIPREM	8_CLO
15/00781/LIPR EM	25.02.2015	Application to transfer the premises licence and an application to vary the premises licence see also 15/00780/LIPREM	8_CLO
15/01014/NOIM US	13.03.2015	noise from loud music	8_CLO
15/01345/NOIM US	09.04.2015	loud music from nightclub - ongoing complaints	8_CLO
15/01348/NOIM US	09.04.2015	letter received re loud music from nightclub	8_CLO

15/01377/NOIM US	10.04.2015	loud music	8_CLO
15/01396/NOIM US	13.04.2015	loud music from Fever _ Boutique	8_CLO
15/01702/XNIM US	05.05.2015	loud music	8_CLO
15/01847/NOIU NS	14.05.2015	noise from anti- social behaviour	8_CLO
15/03151/NOIM US	06.08.2015	loud music and shouting	8_CLO
15/03287/NOIM US	17.08.2015	loud music	8_CLO
15/04061/NOIM US	12.10.2015	loud music / smoke	8_CLO
15/04234/HSOT HR	23.10.2015	unsafe flooring	8_CLO
16/00230/NOIM US	18.01.2016	loud music	8_CLO
16/00618/NOIM US	14.02.2016	Noise from music	8_CLO
16/02379/NOIM US	31.05.2016	Night club very loud on Saturday and particularly Sunday night	8_CLO
16/02801/NOIM US	24.06.2016	noise from loud music	8_CLO
16/03555/XNIM US	07.08.2016	Noise from loud music	8_CLO
16/03834/NOIM US	28.08.2016	Noise Fever and Boutique Night club	8_CLO
16/03835/NOIM US	28.08.2016	Noise	8_CLO
16/03839/NOIM US	29.08.2016	Noise	8_CLO
16/03985/NOIM US	05.09.2016	loud amplified music	8_CLO
16/04320/NOIP AS	01.10.2016	Noise	8_CLO
16/04675/NOIM US	29.10.2016	Noise	8_CLO
16/04676/NOIM US	29.10.2016	Noise	8_CLO
16/05101/NOIM US	11.12.2016	Noise Fever And Boutique	8_CLO
16/05238/NOIM US	27.12.2016	music	8_CLO
17/00001/NOIP AS	01.01.2017	Noise	8_CLO
17/00002/NOIP AS	01.01.2017	Noise	8_CLO
17/00158/NOIP AR	15.01.2017	Noise	8_CLO
17/00496/NOIP AS	12.02.2017	Noise	8_CLO
17/00590/NOIP AS	19.02.2017	Noise	8_CLO
17/00694/NOIM US	26.02.2017	Noise	8_CLO
17/01005/NOIP AS	18.03.2017	Noise	8_CLO
17/01162/NOIM US	02.04.2017	Noise	8_CLO

17/01254/NOIM US	09.04.2017	Noise	8_CLO
17/01343/NOIM US	18.04.2017	noise disturbance	8_CLO
17/01693/FOIG EN	12.05.2017	FOI 623597 Kate Symington Stage 2 - Formal Complaint	8_CLO
17/01715/NOIM US	15.05.2017	music noise	8_CLO
17/01887/NOIM US	28.05.2017	Noise	8_CLO
17/01985/NOIM US	05.06.2017	Noise	8_CLO
17/02530/LIPR EM	10.07.2017	OBJECTION - TEWA7600/044513 27.8.17 Extension of Nightclub hours	8_CLO
17/02648/GNE NQU	17.07.2017	advice on noise issues	8_CLO
17/02733/NOIM US	23.07.2017	Noise	8_CLO
17/02989/NOIP AS	06.08.2017	Noise	8_CLO
17/03671/NOIM US	25.09.2017	loud music	8_CLO
17/03833/NOIM US	08.10.2017	Noise from loud music	8_CLO
17/03849/NOIU NS	09.10.2017	general noise	8_CLO
17/04065/NOIM US	29.10.2017	Noise	8_CLO
17/04068/NOIM US	29.10.2017	Noise	8_CLO
17/04509/PCM RAT	04.12.2017	dead rats by rubble next to fire escape	8_CLO
17/04591/NOIP AS	09.12.2017	Constant thrumming of bass, very loud.	8_CLO
17/04599/GNE NQU	08.12.2017	Enquiry re licensing hours, Fever and Boutique	8_CLO
18/00869/NOIM US	27.02.2018	Fever was noisy saturday	4_INV
18/01075/LIPR EM	13.03.2018	OBJECTION TEWA7945/045975	1_NEW
WK/200807016	13.09.2008	Loud music every night and day, except MOnday , we can sleep then	8_CLO
WK/200707872	04.10.2007	Loud music	8_CLO
WK/200708760	24.10.2007	Loud music again She is getting fed up as it seems nothing is getting done. Last night & over the weekend was awful.	8_CLO
WK/200707296	14.09.2007	Music	8_CLO
WK/200707079	10.09.2007	Noise from club.	8_CLO
WK/200706779	31.08.2007	Loud music	8_CLO
WK/200707382	16.09.2007	Music	8_CLO
WK/200700565	27.01.2007	Music too loud	8_CLO
WK/200700005	29.12.2006	Loud music all the time	8_CLO
WK/200606070	24.08.2006	She is very fed up with the constant noise at night. Last night it got really loud at 12.40am, she called the club to turn the music down, they didn't. It went on until closing. This has been going on for a long time. Over the past 4 weeks she has had promises from the club they will sort it out. Nothing being done.	8_CLO
WK/200605751	14.08.2006	Noise form Intruder Alarm	8_CLO

WK/200601069	08.02.2006	Phoned Debbie Fletcher in housing about another matter and complained about the noise from the club in early hours when it closes, keeping her awake.	8_CLO
WK/200600515	20.01.2006	1 application form received - Variation	8_CLO
WK/200600513	20.01.2006	1 application form received - Variation	8_CLO
WK/200600269	10.01.2006	Noise from nightclub	8_CLO
WK/200600221	06.01.2006	Complaint about people noise from people queing to get into the club. See letter.	8_CLO
WK/200508856	15.12.2005	Music and people noise from club. Hears it normally but it was especially bad last night. Music did not stop until 02:20.	8_CLO
WK/200508230	14.11.2005	Noise from Fahrenheit - live band. see wk/8038	8_CLO
WK/200508038	15.11.2005	Horrendous noise from music last night. Thumping bass.	8_CLO
WK/200507983	12.11.2005	Noise from night club	8_CLO
WK/200508232	15.11.2005	Loud live band See wk/8038	8_CLO
WK/200507584	02.11.2005	High pitched whistle for over an hour	8_CLO
WK/200506984	07.10.2005	1 application form received	8_CLO
WK/200506983	07.10.2005	1 application form received	8_CLO
WK/200506768	26.09.2005	Workman working all day.	8_CLO
WK/200505259	08.08.2005		8_CLO
WK/200508838	15.12.2005	Noise from club	8_CLO
WK/200504021	06.07.2005	Document and plans for information no action required	8_CLO
WK/200502853	23.05.2005	No Obs Memo	8_CLO
WK/200403881	30.09.2004	Fire Doors open	8_CLO
WK/200403822	29.09.2004	Fire doors opened again last Fri night/early hrs Sat am. Today 29/09/04 they have their bottles removed from Ind. skip which is sited below Mr Kelly's property - once again noise terrible. see remarks.	8_CLO
WK/200403252	04.09.2004	Have opened fire doors.	8_CLO
WK/200502942	27.05.2005	No Obs memo sent	8_CLO
WK/200401640	17.06.2004	Variation NO Obs memo sent 18/06/04	8_CLO
WK/200400756	01.05.2004	Loud music. See remarks.	8_CLO
WK/200402852	12.08.2004	Emptying glass bottles	8_CLO
WK/200401140	21.05.2004	Loud music	8_CLO
WK/200308533	16.01.2004	Loud music. The fire doors were left open for ten minutes - now shut but please can someone have a work with them. He tried to ring them but couldn't get through.	8_CLO
WK/200305804	29.09.2003	Letter complaining about noise from fans.	8_CLO
WK/200304940	29.08.2003	Noise from Nightclub - see remarks.	8_CLO
WK/200305215	10.09.2003	Noise especially on Friday and Saturday	8_CLO
WK/200304813	23.08.2003	Loud music	8_CLO
WK/200304699	21.08.2003	Vary licence	8_CLO
WK/200304698	21.08.2003	Loud Music	8_CLO
WK/200304510	14.08.2003	Noise has got louder (inc fans)	8_CLO
WK/200305921	02.10.2003	Consultation justices licence	8_CLO
WK/200306409	21.10.2003	Letter received stating that noise from nightclub is getting worse.	8_CLO
WK/200305126	05.09.2003	Noise from Night Club. Phoned back twice, message left an answer phone.	8_CLO
WK/200302697	30.06.2003	letter regarding noise from music and fan noise	8_CLO
WK/200301344	28.05.2003	Loud Music	8_CLO
WK/200301255	23.05.2003	Loud Music	8_CLO
WK/200301225	18.05.2003	Loud Music	8_CLO

EXHIBIT 6.

Jillian Wheller

From: Janet Wallace
Sent: 13 March 2018 17:02
To: Jillian Wheller
Subject: FW: Fever Nightclub Exmouth - Noise update

Follow Up Flag: Follow up
Flag Status: Flagged

Janet Wallace

Janet Wallace, PEHO and Contaminated Land Officer,
Environmental Health
EDDC, Knowle, Sidmouth, EX10 8HL
jwallace@eastdevon.gov.uk
01395 571647

From: Janet Wallace
Sent: 13 March 2018 12:25
To: Kaz Arnett <KArnett@eastdevon.gov.uk>
Subject: FW: Fever Nightclub Exmouth - Noise update

FYI.

Janet Wallace

Janet Wallace, PEHO and Contaminated Land Officer,
Environmental Health
EDDC, Knowle, Sidmouth, EX10 8HL
jwallace@eastdevon.gov.uk
01395 571647

From: Jimmy Elias [<mailto:jimmy@feverbars.com>]
Sent: 13 March 2018 11:49
To: Janet Wallace <JWallace@eastdevon.gov.uk>
Cc: Sarah Swan <sarah@feverexmouth.com>
Subject: RE: Fever Nightclub Exmouth - Noise update

Hi Janet

The application was submitted by Sarah Swan. I believe the original application had something missing off it and licensing had only asked for that part to be updated, which may of caused some confusion.
The date in question is bank holiday Sunday, a date we have successfully obtained tens for in the past. However this year we have the benefit of better sound proofing and would hope that you can see as a company, that we have gone to great lengths and expense to work with yourselves on resolving the issues and will of course continue to do so. I also hope that you recognise we are responsible operators and can withdraw your objection. I am happy to discuss further or answer any further questions you have. I have copied in Sarah Swan the manager as well.

Thanks

Jimmy

From: Janet Wallace [<mailto:JWallace@eastdevon.gov.uk>]
Sent: 13 March 2018 10:39
To: Jimmy Elias
Subject: RE: Fever Nightclub Exmouth - Noise update

Hi Jimmy,
Thankyou for that. Coincidentally we have today received a TEN application from a lady called Liz Swann to extend the hours to 4am on Sunday 1st April into Monday 2nd. There is no explanation on the licence form as to why this is being requested. At this stage we have lodged an objection but I was wondering whether you might know why the TEN is being requested?
Many thanks

Janet Wallace

Janet Wallace, PEHO and Contaminated Land Officer,
Environmental Health
EDDC, Knowle, Sidmouth, EX10 8HL
jwallace@eastdevon.gov.uk
01395 571647

From: Jimmy Elias [<mailto:jimmy@feverbars.com>]
Sent: 12 March 2018 16:50
To: Janet Wallace <jwallace@eastdevon.gov.uk>
Subject: RE: Fever Nightclub Exmouth - Noise update

No problem at all, will let you know as soon as I hear and I will speak to the management about monitoring more closely and making necessary reductions if necessary.

Thanks

Jimmy

From: Janet Wallace [<mailto:jwallace@eastdevon.gov.uk>]
Sent: 12 March 2018 16:47
To: Jimmy Elias
Subject: RE: Fever Nightclub Exmouth - Noise update

Dear Jimmy,
Thankyou very much for your reply. That is good to hear and I am sure the doors will make quite a difference. If you can let me know an install date by email (when you have it) that would be great. We have only had two individual complaints this year so that is also good to see.
Kind regards

Janet Wallace

Janet Wallace, PEHO and Contaminated Land Officer,

Environmental Health
EDDC, Knowle, Sidmouth, EX10 8HL
jwallace@eastdevon.gov.uk
01395 571647

From: Jimmy Elias [<mailto:jimmy@feverbars.com>]
Sent: 12 March 2018 16:37
To: Janet Wallace <jwallace@eastdevon.gov.uk>
Cc: Sarah Swan <sarah@feverexmouth.com>
Subject: RE: Fever Nightclub Exmouth - Noise update

Hi Janet

Sorry to hear about John, please do pass on my best wishes if you speak to him.

We soundproofed our first floor Fever room last year, which John came out and evaluated in early January. Which he seemed pleased with.
We have also agreed to install acoustic doors at the rear of the venue on the ground floor. These are currently being made and will happily give you the install date, once I have been given it.

Please let me know if there any areas that we need to address in the meantime.

Thanks

Jimmy Elias
07970287263

From: Janet Wallace [<mailto:jwallace@eastdevon.gov.uk>]
Sent: 12 March 2018 16:13
To: Jimmy Elias
Subject: RE: Fever Nightclub Exmouth - Noise update

Dear Jimmy,

I wonder if you might be able to give me an update on the noise mitigation scheme at Fever? John Smith is on long term sick leave and I cannot tell from his notes where we are at the moment. I know that some works were done and that there have been one or two complaints since but are you able to give me a summary of what was done, and anything else that is planned? Has the effectiveness of the works done been evaluated? If you can do this it would be very much appreciated.

Kind regards

Janet Wallace

Janet Wallace, PEHO and Contaminated Land Officer,
Environmental Health
EDDC, Knowle, Sidmouth, EX10 8HL
jwallace@eastdevon.gov.uk
01395 571647

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7. Temporary Event Notices (TENs)

- 7.1 This Chapter covers the arrangements in Part 5 of the 2003 Act for the temporary carrying on of licensable activities which are not authorised by a premises licence or club premises certificate.

General

- 7.2 The system of permitted temporary activities is intended as a light touch process, and as such, the carrying on of licensable activities does not have to be authorised by the licensing authority on an application. Instead, a person wishing to hold an event at which such activities are proposed to be carried on (the "premises user") gives notice to the licensing authority of the event (a "temporary event notice" or "TEN").
- 7.3 The TEN must be given to the licensing authority in the form prescribed in regulations made under the 2003 Act. The form requires the user to describe key aspects of the proposed event, including the general nature of the premises and the event, the licensable activities intended to be carried on at the proposed event, including whether they will include any relevant entertainment as defined in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (i.e. displays of nudity designed to sexually stimulate any member of the audience including, but not limited to, lap dancing and pole dancing).
- 7.4 Unless it is sent electronically, it must be sent to the relevant licensing authority, to the police and "local authority exercising environmental health functions" ("EHA") at least ten working days before the event. A premises user may also give a limited number of "late TENs" to the licensing authority less than 10 working days before the event to which they relate, although certain restrictions apply (see paragraphs 7.12-7.14). "Working day" under the 2003 Act means any day other than a Saturday, Sunday, Christmas Day, Good Friday or Bank Holiday. For limited purposes in relation to a TEN, the 2003 Act defines a "day" as a period of 24 hours beginning at midnight.
- 7.5 If a TEN is sent electronically via GOV.UK or the licensing authority's own facility, the licensing authority must notify the police and EHA as soon as possible and no later than the first working day after the TEN is given.
- 7.6 The police or EHA ("relevant persons" for the purposes of TENs) may intervene to prevent such an event taking place by sending an objection to the licensing authority, which the licensing authority must consider on the basis of the statutory licensing objectives and decide whether the event should go ahead. A relevant person may also intervene by agreeing a modification of the proposed arrangements directly with the TENs user (see paragraph 7.36). If a relevant person sends an objection, this may result in the licensing authority imposing conditions on a TEN but only where the venue at which the event is to be held has an existing premises licence or club premises certificate. When giving a TEN, the premises user should consider the promotion of the four licensing objectives. The licensing authority may only otherwise intervene if the statutory permitted limits on TENs would be exceeded (see paragraphs 7.15-7.22).
- 7.7 A TEN does not relieve the premises user from any requirements under planning law for appropriate planning permission where it is required.

Standard and late temporary event notices

- 7.8 There are two types of TEN: a standard TEN and a late TEN. These are subject to different processes: a standard notice is given no later than ten working days before the event to which it relates; and a late notice is given not before nine and not later than five working days before the event.

Standard temporary event notices

- 7.9 “Ten working days” (and other periods of days which apply to other requirements in relation to TENs) exclude the day the notice is received and the first day of the event.
- 7.10 The police and EHA have a period of three working days from when they are given the notice to object to it on the basis of any of the four licensing objectives.
- 7.11 Although ten clear working days is the minimum possible notice that may be given, licensing authorities should publicise their preferences in terms of advance notice and encourage premises users to provide the earliest possible notice of events planned by them. Licensing authorities should also consider publicising a preferred maximum time in advance of an event by when TENs should ideally be given to them.

Late temporary event notices

- 7.12 Late TENs are intended to assist premises users who are required for reasons outside their control to, for example, change the venue for an event at short notice. However, late TENs may, of course, be given in any circumstances providing the limits specified at paragraph 7.15 are not exceeded.
- 7.13 Late TENs can be given up to five working days but no earlier than nine working days before the event is due to take place and, unless given electronically to the licensing authority, must also be sent by the premises user to the police and EHA. A late TEN given less than five days before the event to which it relates will be returned as void and the activities to which it relates will not be authorised.
- 7.14 A key difference between standard and late TENs is the process following an objection notice from the police or EHA. Where an objection notice is received in relation to a standard TEN the licensing authority must hold a hearing to consider the objection, unless all parties agree that a hearing is unnecessary. If the police, EHA or both give an objection to a late TEN, the notice will not be valid and the event will not go ahead as there is no scope for a hearing or the application of any existing conditions.

Limitations

- 7.15 A number of limitations are imposed on the use of TENs by the 2003 Act:
- the number of times a premises user may give a TEN is 50 times in a calendar year for a personal licence holder and five times in a calendar year for other people;
 - the number of times a premises user may give a late TEN is limited to 10 times in a calendar year for a personal licence holder and twice for other people. Late TENs count towards the total number of permitted TENs (i.e. the limit of five TENs a year for non-personal licence holders and 50 TENs for personal licence holders). A notice that is given less than ten working days before the event to which it relates, when the premises user has already given the permitted number of late TENs in that calendar year, will be returned as void and the activities described in it will not be authorised.

- the number of times a TEN may be given for any particular premises is 12 times in a calendar year (the Deregulation Act 2015 has increased this number to 15 with effect from 1 January 2016);
- the maximum duration of an event authorised by a TEN is 168 hours (seven days);
- the maximum total duration of the events authorised by TENs in relation to individual premises is 21 days in a calendar year;
- the maximum number of people attending at any one time is 499; and
- the minimum period between events authorised under separate TENs in relation to the same premises (not including withdrawn TENs) by the same premises user is 24 hours.

- 7.16 Any associate, relative or business partner of the premises user is considered to be the same premises user in relation to these restrictions. The 2003 Act defines an associate, in relation to the premises user, as being:
- the spouse or civil partner of that person;
 - a child, parent, grandchild, grandparent, brother or sister of that person;
 - an agent or employee of that person; or
 - the spouse or civil partner of a person listed in either of the two preceding bullet points.
- 7.17 A person living with another person as their husband or wife, is treated for these purposes as their spouse. 'Civil partner' has its meaning in the Civil Partnership Act 2004.
- 7.18 A TEN that is given may be subsequently withdrawn by the TEN user by giving the licensing authority a notice to that effect no later than 24 hours before the beginning of the event period specified in the TEN. Otherwise, the TEN will be included within the limits of TENs allowed in a given calendar year, even if the event does not go ahead.
- 7.19 Once these limits have been reached, the licensing authority should issue a counter notice (permitted limits) if any more are given. Proposed activities that exceed these limits will require a premises licence or club premises certificate.
- 7.20 TENs may be given in respect of premises which already have a premises licence or club premises certificate to cover licensable activities not permitted by the existing authorisation.
- 7.21 In determining whether the maximum total duration of the periods covered by TENs at any individual premises has exceeded 21 days, an event beginning before midnight and continuing into the next day would count as two days towards the 21-day limitation.
- 7.22 There is nothing in the 2003 Act to prevent notification of multiple events at the same time, provided the first event is at least ten working days away (or five working days away in the case of a late TEN). For example, an individual personal licence holder wishing to exhibit and sell beer at a series of farmers' markets may wish to give several notices simultaneously. However, this would only be possible where the limits are not exceeded in the case of each notice. Where the events are due to take place in different licensing authority (and police) areas, the respective licensing authorities and relevant persons would each need to be notified accordingly.

Who can give a temporary event notice?

Personal licence holders

- 7.23 A personal licence holder can give a TEN at any premises on up to 50 occasions in a calendar year. This limit is inclusive of any late TENs given in the same year. The use of each TEN must of course observe the limits described above, including the limit of 12 TENs in respect of each premises in a calendar year.

Non-personal licence holders

- 7.24 The 2003 Act provides that any individual aged 18 or over may give a TEN to authorise the carrying on of all licensable activities under the Licensing Act 2003, whether or not that individual holds a personal licence. Such an individual will not, therefore, have met the requirements that apply to a personal licence holder under Part 6 of the 2003 Act. Where alcohol is not intended to be sold, this should not matter. However, many events will involve a combination of licensable activities and the 2003 Act limits the number of notices that may be given by any non-personal licence holder to five occasions in a calendar year (inclusive of any late TENs in the same year). In every other respect, the Guidance and information set out in the paragraphs above applies.

Role of the licensing authority

- 7.25 The licensing authority must check that the limitations set down in Part 5 of the 2003 Act are being observed and intervene if they are not (see paragraph 7.15). For example, a TEN would be void unless there is a minimum of 24 hours between events notified by the same premises user, or an associate or someone who is in business with the relevant premises user in respect of the same premises. This is to prevent evasion of the seven day (or 168 hour) limit on such events and the need to obtain a full premises licence or club premises certificate for more major or permanent events. In addition, for these purposes, a TEN is treated as being from the same premises user if it is given by an associate.
- 7.26 Where the application is not within the statutory parameters described earlier, the licensing authority will issue a counter notice to the premises user.
- 7.27 Where the TEN is in order, the relevant fee paid and the event falls within the prescribed limits, the licensing authority will record the notice in its register and send an acknowledgement to the premises user (which may be given electronically). The licensing authority must do so, no later than the end of the first working day following the day on which it was received (or by the end of the second working day if it was received on a non-working day), unless an objection notice is received beforehand from the police or EHA on the basis of any of the four licensing objectives (see paragraphs below).
- 7.28 If the licensing authority receives an objection notice from the police or EHA that is not withdrawn, it must (in the case of a standard TEN only) hold a hearing to consider the objection (unless all parties agree that this is unnecessary). The licensing committee may decide to allow the licensable activities to go ahead as stated in the notice. If the notice is in connection with licensable activities at licensed premises, the licensing authority may also impose one or more of the existing licence conditions on the TEN (insofar as such conditions are not inconsistent with the event) if it considers that this is

appropriate for the promotion of the licensing objectives. If the authority decides to impose conditions, it must give notice to the premises user which includes a statement of conditions (a "notice (statement of conditions)") and provide a copy to each relevant party. Alternatively, it can decide that the event would undermine the licensing objectives and should not take place. In this case, the licensing authority must give a counter notice.

- 7.29 Premises users are not required to be on the premises during the event authorised by the TEN, but they will remain liable to prosecution for certain offences that may be committed at the premises during the period covered by it. These include, for example, the offences of the sale of alcohol to a person who is drunk; persistently selling alcohol to children and allowing disorderly conduct on licensed premises.
- 7.30 In the case of an event authorised by a TEN, failure to adhere to the requirements of the 2003 Act, such as the limitation of no more than 499 being present at any one time, would mean that the event was unauthorised. In such circumstances, the premises user would be liable to prosecution.
- 7.31 Section 8 of the 2003 Act requires licensing authorities to keep a register containing certain matters, including a record of TENs received. There is no requirement to record all the personal information given on a TEN.

Police and environmental health intervention

- 7.32 The system of permitted temporary activities gives police and EHAs the opportunity to consider whether they should object to a TEN on the basis of any of the licensing objectives.
- 7.33 If the police or EHA believe that allowing the premises to be used in accordance with the TEN will undermine the licensing objectives, they must give the premises user and the licensing authority an objection notice. The objection notice must be given within the period of three working days following the day on which they received the TEN.
- 7.34 Where a standard TEN was given, the licensing authority must consider the objection at a hearing before a counter notice can be issued. At the hearing, the police, EHA and the premises user may make representations to the licensing authority. Following the hearing, the licensing authority may decide to impose conditions which already apply to an existing premises licence or club premises certificate at the venue, or issue a counter notice to prevent the event going ahead. As noted above, there is no scope for hearings in respect of late TENs and if objections are raised by the police or EHA in relation to a late TEN, the notice will be invalid and the event will not go ahead.
- 7.35 Such cases might arise because of concerns about the scale, location, timing of the event or concerns about public nuisance. However, in most cases, where for example, alcohol is supplied away from licensed premises at a temporary bar under the control of a personal licence holder, (such as at weddings with a cash bar or small social or sporting events) this should not usually give rise to the use of these powers.

Modification

- 7.36 As noted above, the police or EHA (as “relevant persons”) may contact the premises user to discuss their objections and try to come to an agreement which will allow the proposed licensable activities to proceed. The TEN can be modified (for example, by changing the details of the parts of the premises that are to be used for the event, the description of the nature of the intended activities or their duration). The other relevant person has to agree for the modification to be made. There is no scope under the 2003 Act for the modification of a late TEN.

Applying conditions to a TEN

- 7.37 The 2003 Act provides that only the licensing authority can impose conditions to a TEN from the existing conditions on the premises licence or club premises certificate at the venue. The licensing authority can only do so:
- if the police or the EHA have objected to the TEN;
 - if that objection has not been withdrawn;
 - if there is a licence or certificate in relation to at least a part of the premises in respect of which the TEN is given;
 - and if the licensing authority considers it appropriate for the promotion of the licensing objectives to impose one or more conditions.
- 7.38 This decision is one for the licensing authority alone, regardless of the premises user’s views or willingness to accept conditions. The conditions must be notified to the premises user on the form prescribed by regulations.

Hearings to impose conditions

- 7.39 Section 105 of the 2003 Act is clear that a licensing authority must hold a hearing to consider any objections from the police or EHA unless all the parties agree that a hearing is not necessary. If the parties agree that a hearing is not necessary and the licensing authority decides not to give a counter notice on the basis of the objection, it may impose existing conditions on the TEN.

Duty of premises users to keep and produce TENs

- 7.40 Where a TEN is not prominently displayed at the premises, the police and licensing officers have the right under sections 109(5) and (6) of the 2003 Act to request the premises user (or relevant nominated person who has the TEN in their custody) to produce the TEN for examination. If the police do not intervene when a TEN is given, they will still be able to rely on their powers of closure under the Anti-social Behaviour, Crime and Policing Act 2014³.

³ For further guidance on the closure power under the 2014 Act, please refer to www.gov.uk/government/uploads/system/uploads/attachment_data/file/352562/ASB_Guidance_v8_July2014_final__2_.pdf

Report to:

Licensing and Enforcement Sub Committee



Date of Meeting: 21/03/2018

Public Document: Yes

Exemption: None

Agenda item: Item 7

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

Purpose of report: The report details these applications.

Recommendation: That the application be granted as applied for subject to the agreed position set out in the schedule below, any relevant statutory conditions and the applicants having complied with relevant statutory requirements.

Reason for recommendation: To comply with statutory processes.

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Financial implications: The only financial implication is if the applicant appeals against the decision made, with the possibility of court costs.

Legal implications: The council's decision may be appealed to the Magistrates Court.

Equalities impact: Low Impact

Risk: Low Risk

Links to background information: Background Papers
The relevant licensing applications
Representations received from the police
Guidance issued under Section 182 of the Licensing Act 2003
The District Council's Statement of Licensing Policy

Link to Council Plan: Not applicable

Report in full

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.	Andrewshayes Caravan Park, Dalwood, Axminster, Devon, EX13 7DY	<p>Following mediation the applicant, the Devon and Cornwall Police have agreed that they consider a hearing to be unnecessary if the following agreed position is approved.</p> <p>The application be approved as submitted subject to the following additional conditions:</p> <ol style="list-style-type: none"> 1. CCTV will be installed, operated and maintained to the satisfaction of the Licensing Authority and Chief Officer of Police. 2. Images will be retained for a minimum of 28 days copies of which will be supplied to the Licensing Authority or Police upon request. 3. A4 sized warning notices must be displayed in public areas of the premises and at all entrances advising that CCTV is in operation. The signs located at entrances should be located on the exterior of the building at, and adjacent to, all public access doors. 4. All signs must comply with the requirements of the Data Protection Act 2002. 5. The CCTV system must be operational at all times whilst the premises are trading. If the system is faulty or not working then the Police and East Devon Licensing Service must be informed immediately. Details of the malfunction must be recorded in the premises incident book. 6. An incident book must be maintained within which full details of all occurrences of disorder and refused alcohol sales at the premises must be recorded. 7. The incident book must be kept on the premises at all times and must be made available for inspection by officers of both the Licensing Authority and the police.
	Recommend approval of application subject to the amended operating schedule and the relevant mandatory conditions of the Licensing Act 2003	

Neil McDonald Ext.2079

Licensing Sub Committee

Licensing Officer

21 March 2018