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By Email and Post

Dear Madam

### **Application for Premises Licence - New Venue, Exmouth – Application 051731**

I act for and on behalf of Maer Beach Limited who have submitted the above licensing application in the terms set out. I am also in receipt of the representations made by members of the public as a consequence of the advertisement of the application. Before responding to the issues raised by members of the public, I consider it appropriate to set out the approach taken by the applicants in the development of its application.

The directors of the company are very experienced and well-respected participants in the restaurant and hospitality industry. As a consequence of this, the company gave clear guidance to its design team that it required a building that to be up to modern and sustainable standards and with interior plant machinery and facilities to enable it to operate as a modern facility that respects its location and can provide a facility that is complementary to its location.

A key element of the process was to consider the sound system to be installed in the premises and to consider any impact from noise generated within the premises on the external environment.

It is readily apparent that the construction of the building is such that all of the openings and outside areas face away from the nearest residential properties, which are over 240 meters away to the rear of the premises.

In that regard once the premises had reached practical completion, it had appointed an acoustic consultant to assist it with the development of the proposal and in particular to advise the company on an appropriate

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operating regime, together with advice on appropriate licensing conditions that may be imposed as part of the licensing process.

Most recently between the afternoon of Friday 19<sup>th</sup> March and the morning of Tuesday 23<sup>rd</sup> March a consultant from Clarke Saunders Acoustics has carried out an ambient background noise survey at a point close to the nearest residential dwellings to understand the existing background noise climate and had previously attended an on-site meeting on the morning of Friday 19<sup>th</sup> March with the Environmental Health Officer, Ms Alice Gill and Licensing Officer Ms Lesley Barber, to demonstrate the operation of the internal sound system and its effect on the locality. This has involved being present both inside and outside the premises with the sound system operating at its maximum level. This maximum level is controlled by an internal control system to which only management staff will have access, and as a consequence, is not capable of alteration.

This approach has resulted in the agreement of a licensing condition with the Environmental Health Officer to regulate noise emanating from the premises which would be recommended to the Committee as a condition to ensure that the premises, when operating will be within recognised limits.

A copy of the acoustic conditions report is attached to this letter with his professional recommendations to the noise climate and the agreed measures.

In addition, the client is mindful that there is a glazed area at first floor level where there are window openings. From the testing carried out, it is not considered that there is a need to enforce that all window apertures in the area are closed. The company is prepared to ensure that from 2300 hours the only apertures open in the building will be the windows which front directly onto the sea front. This scenario has been considered in the acoustics report.

I would respectfully suggest that the process indicates the careful and thorough approach of the client company in making their licensing application and to listen to inputs from professional officers of the Council and as a consequence of those, to examine in detail any acoustic implications and agree an appropriate way forward.

I appreciate that this application has to be considered strictly on its merits and considered against the four licensing objectives, namely :

- Prevention of Crime and Disorder
- Public Safety
- Prevention of Public Nuisance
- Protection of children from harm

In terms of the Prevention of Crime and Disorder, many of the representations make un-substantiated assertions that the operation of the premises will offend this objective. Clearly as part of the application process the applicants have consulted the local police and they have raised no objection to the application. In addition, the Applicant Company have devised operating procedures and the use of security staff at appropriate times to ensure compliance with this objective. There is no objective basis to reach a conclusion that the application will offend this objective.

Linked to this licensing objective is public safety. Again, there is a clear operating regime and in the event of a licence being granted, a set of licensing conditions will ensure public safety with the operation of this venue. The operating procedures are robust and clear and with the correct operation of the facility, including security staff when appropriate, it will ensure that the safety of the public is maintained at all times by those in proximity to the premises. Again, assertions are made in the representations which are unsubstantiated as to perceived impacts which have not actually occurred. The Applicant company is confident that it can operate the premises in a way that does not in any shape, way or form, compromise public safety.

In terms of the prevention of public nuisance, significant numbers of the representations raise issues of the perceived noise impact of the premises and the hours of operation.

As I have set out early in this letter, the operation of the premises and any noise impact has been one of the key considerations that the client company have had in mind for the premise operating in such a prominent location. It has engaged the services of an acoustic consultant to advise it as to ambient noise levels, together with the likely impact of the sound system being used internally at the premises and in his report, his professional advice is set out in the attached report.

The client company can appreciate the concerns of interested members of the public, however, it takes its responsibilities very seriously and has designed the premises, carried out tests at the premises and engaged an acoustic consultant to liaise with the licensing authority through its environmental health officer, to present to the authority an acoustic management regime, which the environmental health officer considers appropriate for the location.

Therefore, it is considered that by its approach it has taken all steps possible in advance of the granting of the licence to provide an acceptable operating regime.

Many of the representations refer to the sought hours of operation, both for the service of alcoholic drinks, and the playing of recorded and live music. The application presents an application which is in such terms as to provide the venue which reflects modern practice. Many representations suggest that the premises should be given the same operating hours as the Ocean facility which is on the seafront.

I would respectfully suggest that this is not an appropriate suggestion as the application before the Committee should be determined on its own merits and whether it offends the licensing objectives.

All of the consultees (namely the Police and the Council's own Environmental Health Officer) are not concerned as to the opening hours of the main premises.

As part of the wider consideration of the application, the Committee also has to consider the area known as The Events Place. This is to be an area where a Marquee is erected for events to be held and effectively hired out by patrons.

In connection with the event space, the client company is prepared to amend its application so that those events will take place from 1 April to 31 October in each year. Any live or recorded music will cease at 2300 hours, last orders will be at 2330 hours and the facility will be vacated by midnight. A noise consultant has considered this approach and he considers that in the attached report.

Again, I consider that this demonstrates to the Licensing Authority that the client company has liaised with its acoustic consultant and is now proposing a regime which the acoustic consultant and the environmental health officer consider to be appropriate in the location.

The final licensing objective relates to the protection of children from harm. In terms of the operation of the facility, it will have the benefit of allowing children (under 16 years of age) into the bar and restaurant area until 23.00. The event space outside will have the conditions of live/recorded music finishing at 23.00, last orders at 23.30 and event finishing at midnight, there will be children at these private events. After that time children will not be permitted in the premises and as such the conditions imposed will be adequate to safeguard any children from harm.

In conclusion having considered the letters of representation, the majority of them are focused on the noise impact of the premises and how it is perceived it may cause public nuisance. If one considers this letter which sets out the approach of the client company and the advice of the acoustic consultant, there appears to be an operating regime which is acceptable to him in his professional capacity and which has met with the approval

of the Council's Environmental Health Officer. In such circumstances, it is considered that this element of the application has been scrutinised and a solution arrived at which respects all parties' interests.

The application in all respects complies with the licensing objectives and as a consequence, I would respectfully suggest that with the imposition of appropriate conditions the application should be approved by the Committee.

Yours sincerely



**Gareth Pinwell**  
**for Ashfords LLP**  
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