

Date of Meeting 19 May 2021

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Exemption applied: None

Review date for release N/A

Application for the grant of a new premises licence for the Blue Ball, Sandygate, Exeter, EX2 7JL under the Licensing Act 2003

Report summary:

The report summarises an application for the grant of a premises licence to be considered by the sub-committee.

Is the proposed decision in accordance with:

Budget Yes No

Policy Framework Yes No

Recommendation:

That members consider an application for the grant of a premises licence to authorise the provision of regulated entertainment, provision of late night refreshment and the sale of alcohol for consumption ON and OFF the premises at The Blue Ball, Sandygate, Exeter, Devon, EX2 7JL

Reason for recommendation:

To comply with statutory processes.

Officer: Licensing Officer Emily Westlake, ewestlake@eastdevon.gov.uk 01404 515616

Portfolio(s) (check which apply):

- Climate Action and Emergencies
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Culture, Tourism, Leisure and Sport
- Democracy and Transparency
- Economy and Assets
- Finance
- Strategic Planning
- Sustainable Homes and Communities

Equalities impact Low Impact

Climate change Low Impact

Risk: Low Risk

Links to background information

EDDC Statement of Licensing Policy 2021-2026

APPENDIX A – Licensing application and operating schedule

APPENDIX B – Plans of premises submitted with application

APPENDIX C – Summary of licensable activities and timings applied for

APPENDIX D – Summary of licensable activities and timings granted by existing licence

APPENDIX E – Existing licence summary and licensed plans

APPENDIX F – Location plans & photos

APPENDIX G – Representations received

APPENDIX H – Responses to Notice of Hearing

APPENDIX I – Amendments to Operating Schedule requested by Devon & Cornwall Police

APPENDIX J – Mediation letter and enclosure, sent by applicant's solicitors to objectors

APPENDIX K – Full licence conditions/operating schedule agreed following representation from Devon & Cornwall Police

Link to [Council Plan](#):

Priorities (check which apply)

- Outstanding Place and Environment
- Outstanding Homes and Communities
- Outstanding Economic Growth, Productivity, and Prosperity
- Outstanding Council and Council Services

Report in full

1 Description of Application

- 1.1 An application has been received from St Austell Brewery Company Ltd for the grant of a new premises licence at The Blue Ball, Sandygate, Exeter, EX2 7JL.
- 1.2 The premises is a thatched, 17th century public house with a restaurant, bar and accommodation. The premises also has a large outside area, comprising of a beer garden and car park.
- 1.3 The application seeks to licence the areas shown on the plans attached at **APPENDIX B**.
 - The indoor licensed area is denoted by the red line on the ground floor plan at **APPENDIX B1**.
 - The sale of alcohol from the external bar servery is denoted by a red line on the site plan at **APPENDIX B2**.
 - The plan provided at **APPENDIX B3** provides a floor plan of the external bar structure.
 - The applicant has applied to licence the provision of live music both indoors and outdoors and the provision of late night refreshment both indoors and outdoors but has not indicated on the site plan (**APPENDIX B2**) any outdoor area to be licensed for these activities. The only area specified for licensable activities outdoors is the external bar servery itself which has been outlined in red and labelled "sale of alcohol". An area for the consumption of

alcohol and the premises perimeter have also been specified on this site plan but no further licensed area. The committee may wish to seek clarification on this point at the hearing.

- 1.4 The application and accompanying operating schedule is provided at **APPENDIX A**.
- 1.5 The proposed licensable activities and timings applied for are summarised at **APPENDIX C**.
- 1.6 The Blue Ball is currently licensed under an existing premises licence number PLWA0047, that licence having been converted and varied in 2005 from the old licensing regime under the local magistrates into the new format of the Licensing Act 2003. The existing licence summary and licensed plans are provided for information at **APPENDIX E**.
- 1.7 Since the grant of the existing licence PLWA0047, alterations have been made to the premises including the addition of a shelter area attached to the main premises and the addition of a wooden structure in the garden. The applicant wishes to licence these areas and, as this proposal increases the footprint of the licensed area, an application for a new premises licence is required rather than a variation.
- 1.8 The timings proposed for the licensable activities in the new premises licence application differ from the timings authorised by the existing premises licence. The licensable activities and timings requested in the new premises licence application are set out at **APPENDIX C** and the timings granted by the existing premises licence are set out at **APPENDIX D** for comparison.
- 1.9 The applicant has stated that, if the application for a new premises licence is granted to a satisfactory standard, the existing premises licence PLWA0047 will be surrendered.
- 1.10 The public house is located in a semi-rural setting on the edge of Exeter and there are residential dwellings both opposite the premises and immediately adjacent to the beer garden with further residential properties situated along Clyst Road and Old Rydon Lane.
- 1.11 A location plan showing the premises and the surrounding area is provided at **APPENDIX F** together with street view photos showing the front and sides of the premises. It should be noted that the photographs of the beer garden are provided to show the proximity to nearby dwellings only and do not accurately depict the beer garden as it is now configured.
- 1.12 A site visit to The Blue Ball has been carried out by Licensing Officers to ascertain the location and layout of the external areas of the premises.
- 1.13 The shelter - shown on the ground floor plan of the premises at **APPENDIX B1** - is a permanent wooden extension to the public house and adjoins the restaurant. It has a permanent roof, three fixed, enclosed sides (two of which have sliding doors) and a fourth side which can be enclosed or partially open. Prior to the visit, confirmation was received from the applicant that this is "an outdoor wooden structure off the restaurant"
- 1.14 The external bar servery - shown on the site plan at **APPENDIX B2** – is a wooden structure in the garden of the premises. The dimensions are shown in the plan of the bar at **APPENDIX B3**. This structure is situated partially underneath a large canopy (which is marked canopy in **APPENDIX B2** and is open on all sides) that extends out over a section of the garden to protect from the weather.
- 1.15 When the Licensing Officer visited the premises at lunchtime on the 7th May 2021, the external bar servery appeared to be already in use for serving drinks. This has been drawn to the attention of the applicant's solicitors.

2 Statutory Bodies' Response

- 2.1 Devon & Cornwall Police
Representation received – agreement reached between Police and applicant
- 2.2 Devon & Somerset Fire & Rescue Service
No representations have been received.
- 2.3 Area Child Protection Committee and Local Safeguarding Children Board
No representations have been received.
- 2.4 Devon Trading Standards
No representations have been received.
- 2.5 East Devon District Council, Environmental Health Service
No representations have been received.
- 2.6 East Devon District Council, Planning & Countryside Service
No representations have been received.
- 2.7 Primary Care Trust
No representations have been received.
- 2.8 Home Office
No representations have been received.

3 Representations and Responses to Notices of Hearing

- 3.1 A representation has been received from Devon & Cornwall Police against all four licensing objectives being: the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm.
- 3.2 The applicant has reached an agreed position with the Police and additions and amendments have been agreed to the conditions offered in the operating schedule. These relate to CCTV, SIA doorstaff, a challenge 25 policy and refusals register. **APPENDIX I** sets out the amendments that have been requested by the Police and agreed by the applicant and **APPENDIX K** sets out the full revised operating schedule which, if the licence is granted, will form conditions of the licence.
- 3.3 In addition to the Police representation, a further 8 representations have been received from persons living in the vicinity of the licensed premises. These relate, in the main, to the prevention of public nuisance licensing objective and details of these representations are set out at **APPENDIX G**.
- 3.4 The applicant will be represented at the hearing by their solicitor. Permission has also been requested for the designated premises supervisor and regional manager to attend the hearing to advise the committee on day-to-day operations at the premises. Further details are provided in the applicant's response to notice of hearing at **APPENDIX H**.
- 3.5 5 objectors have responded to the notice of hearing indicating that they wish to attend the hearing to address the committee.

- 3.6 1 of these objectors will be attending the hearing but has nominated another objector to represent them.
- 3.7 1 further objector has responded and has confirmed that they cannot attend the hearing but have nominated another objector to represent them.
- 3.8 The other 2 objectors have not responded to the Notice of Hearing. Their representations remain outstanding and their original written representations will have to be considered by the committee. These are set out at **APPENDIX G**.
- 3.9 Details of the responses to the statutory Notice of Hearing and additional comments in support of the representations are attached at **APPENDIX H**.

4 Proposed Operating Schedule and Mediation

- 4.1 The conditions offered by the applicant in the operating schedule submitted with the application are attached at **APPENDIX A**. The amendments requested by Devon and Cornwall Police are set out at **APPENDIX I** and the full amended operating schedule as agreed following the representation received from Devon and Cornwall Police is shown at **APPENDIX K**.
- 4.2 Informal mediation has taken place by way of a letter which has been sent by the applicant's solicitors to all residential objectors. A copy of this letter has been provided by the applicant's solicitors and is attached at **APPENDIX J** for information. This was posted to all objectors on the 10th May 2021.
- 4.3 At the time of submitting this report, no responses have been received to the mediation letter and 8 representations remain outstanding.

5 Relevant EDDC Licensing Policy Considerations

Licensing Objectives

- 5.1 Section 3.1.1 of the Policy states: 'The Licensing Authority has a duty under the Act to carry out its licensing functions with a view to promoting the four licensing objectives.'
These are:-
- The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm
- 5.2 Section 3.1.2 of the policy states: These objectives are the only matters to be taken into account in determining the application and any conditions attached must be appropriate in achieving the licensing objectives.
- 5.3 Section 3.1.3 of the Policy states: A licence will only be granted where the Licensing Authority is satisfied that these objectives have been met.

Conditions

- 5.4 Section 6 of the policy sets out what the Sub Committee should consider before imposing conditions on a licence.
- 5.5 Section 6.3 of the policy states: Generally it is recognised that the licensing function is not to be seen as a mechanism for the general control of anti-social behaviour by individuals/groups once they are beyond the direct control of the licence holder of any premises concerned. But

the Licensing Authority's discretion may be engaged if relevant representations are made and there is an evidential link between the disturbance and the licensed venue.

Licensing Hours

- 5.6 Section 10.1 of the Policy states: The licensing authority will deal with the issue of licensing hours on the individual merits of each application. When the Authority's discretion is engaged consideration will be given to the individual merits of an application but the presumption will be to grant the hours requested unless there are objections to those hours raised by Responsible Authorities or any other person on the basis of the licensing objectives. However, when issuing a licence with hours beyond midnight higher standards of control will generally need to be included in operating schedules to promote the licensing objectives especially for premises which are situated near residential areas.
- 5.7 Section 10.4 of the Policy states: The terminal hours will normally be approved where the applicant can show that the proposal would not adversely affect the licensing objectives unless, after hearing relevant representation the licensing authority believe it necessary, proportionate and reasonable to restrict the hours required.

Nuisance

- 5.8 Section 16.1 of the Policy states: To promote the licensing objectives, applicants for licences for licensable activities will be required to demonstrate the measures they have in place for the prevention of public nuisance. The impact of the licensable activities on people living in the vicinity should not be disproportionate or unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter. The prevention of public nuisance can include low-level nuisance affecting a few people living locally as well as a major disturbance affecting the whole community. It may also include the prevention of the reduction of the living and working amenity and environment of interested parties.

Capacity

- 5.9 Section 17.1 of the Policy states: Where it is considered necessary to control the maximum numbers of persons attending premises for the purpose of preventing crime and disorder or for public safety the licensing authority will expect this to be addressed in the operating schedule. The licensing authority, if relevant representations are made and only then if such conditions are deemed necessary, proportionate and reasonable, may impose a condition stipulating a maximum number of persons permitted to attend premises where it considers it necessary to prevent crime and disorder or for public safety purposes.

6 Relevant Considerations from the Guidance issued under Section 182 of the Licensing Act 2003

- 6.1 The **Guidance** issued under Section 182 Licensing Act 2003 states:

The licensing authority may not impose any conditions unless its discretion has been engaged following receipt of relevant representations and it has been satisfied at a hearing of the necessity to impose conditions. It may then only impose conditions that are appropriate to promote one or more of the four licensing objectives. Such conditions must also be expressed in unequivocal and unambiguous terms to avoid legal dispute.

It is perfectly possible that in certain cases, because the test is one of appropriate, where there are other legislative provisions which are relevant and must be observed by the applicant, no additional conditions at all are needed to promote the licensing objectives.

The Act requires that licensing conditions should be tailored to the size, style, characteristics and activities taking place at the premises concerned.

Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives, which means that they must not go further than what is needed for that purpose.

Licensing authorities should only impose conditions which are appropriate and proportionate for the promotion for the licensing objectives. If other existing law already places certain statutory responsibilities on an employer or operator of premises, it cannot be appropriate to impose the same or similar duties.

6.2 The **Guidance** issued under Section 182 Licensing Act 2003 states (at section 16.6):

As a result of deregulatory changes that have amended the 2003 Act, no licence is required for the following activities:

- ❑ 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.
- ❑ 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 an event between 08:00 and 23:00 on any day, provided that those present do 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.
- ❑ Live music: no licence permission is required for:
 - a performance of unamplified live music between 08:00 and 23:00 on any day, on any premises.
 - a performance of amplified live music between 08:00 and 23:00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500
 - a performance of amplified live music between 08:00 and 23:00 on any day, in a workplace that does not have a licence, provided that the audience does not exceed 500.
 - 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.

6.3 The **Guidance** issued under Section 182 Licensing Act 2003 states (at section 16.31):

- ❑ A “workplace” is as defined in regulation 2(1) of the Workplace (Health, Safety and Welfare) Regulations 1992 and is anywhere that is made available to any person as a place of work. It is a very wide term which can include outdoor spaces, as well as the means of entry and exit.
- ❑ A “relevant licensed premises” for the purposes of this chapter is one which is authorised to sell or supply alcohol for consumption on the premises by a premises licence or club premises certificate. Premises cannot benefit from the deregulation introduced by the 2012 Act by virtue of holding an authorisation for the sale or supply of alcohol under a TEN.

6.4 The **Guidance** issued under Section 182 Licensing Act 2003 states (at section 16.36 – 16.44):

- ❑ 16.36 Any existing licence conditions (or conditions added on a determination of an application for a premises licence or club premises certificate) which relate to live music or recorded music remain in place, but are suspended between the hours of 08:00 and 23:00 on the same day where the following conditions are met:
 - at the time of the music entertainment, the premises are open for the purposes of being used for the sale or supply of alcohol for consumption on the premises;
 - if the music is amplified, it takes place before an audience of no more than 500 people; and
 - the music takes place between 08:00 and 23:00 on the same day.
- ❑ 16.37 Whether a licence condition relates to live or recorded music will be a matter of fact in each case. In some instances, it will be obvious that a condition relates to music and will be suspended, for example “during performances of live music all doors and windows must remain closed” would be suspended insofar as it relates to music between 08:00 and 23:00 on the same day to an audience of up to 500, but the condition would continue to apply if there was regulated entertainment after 23:00.
- ❑ 16.38 More general licence conditions (e.g. those relating to overall management of potential noise nuisance) that are not specifically related to the provision of regulated entertainment (e.g. signage asking patrons to leave quietly) will continue to have effect.
- ❑ 16.39 Chapter 9 of this Guidance sets out how a licensing authority must determine applications for a new licence or to vary an existing premises licence. Licence conditions imposed, in accordance with paragraphs 9.41 to 9.43 for live or recorded music activities will only apply if the activity meets the criteria of having more than 500 people present, and/or the activities are taking place between 23:00 and 08:00.
- ❑ 16.40 These conditions will, in effect, be suspended between 08:00 and 23:00 if a performance of live music or the playing of recorded music takes place before an audience of 500 people or fewer, but will remain on the face of the licence for when these activities may take place under other circumstances.
- ❑ 16.41 Where a performance of live music or the playing of recorded music on relevant licensed premises is not licensable, it remains possible for anyone to apply for a review of a licence or certificate, if there are appropriate grounds to do so.

Beer gardens

- ❑ 16.42 Beer gardens are often included as part of a premises licence or club premises certificate. Live amplified music that takes place in a beer garden is exempt from licensing requirements, provided the beer garden is included in the licence or certificate applying to the relevant licensed premises, and the performance takes place between 08:00 and 23:00 on the same day before an audience of 500 people or fewer.
- ❑ 16.43 Where a beer garden does not form part of the relevant licensed premises, and so is not included in plans attached to a premises licence or club premises certificate, it is nevertheless very likely that it will be a workplace. Paragraph 12B of Schedule 1 to the 2003 Act says that a performance of live music in a workplace that does not have a licence (except to provide late night refreshment) is not regulated entertainment if it takes place between 08:00 and 23:00 on the same day in front of an audience of no more than 500 people. Note that the exemption in paragraph 12B does not apply to the playing of recorded music.
- ❑ 16.44 However, a licensing authority may, where justified, impose a licence condition that relates to the performance of live music in an unlicensed beer garden being served by any associated premises licence or club premises certificate. Provided such a condition is lawfully imposed, it takes effect in accordance with its terms.

6.5 The **Guidance** issued under Section 182 Licensing Act 2003 states (at section 16.55-16.56):

- ❑ 16.55 On a review of a premises licence or club premises certificate, section 177A (3) of the 2003 Act permits a licensing authority to lift the suspension⁷⁴ and give renewed effect to an existing condition relating to music. Similarly, under section 177A(4), a licensing authority may add a condition relating to music as if music were regulated entertainment, and as if that premises licence or club premises certificate licensed the music. In both instances the condition should include a statement that Section 177A does not apply to the condition.
- ❑ 16.56 An application for a review in relation to relevant premises can be made by a licensing authority, any responsible authority or any other person. Applications for review must still be relevant to one or more of the licensing objectives and meet a number of further requirements.

7. Observations

7.1 Following the implementation of the first set of regulations under the Police Reform and Social Responsibility Act on 25 April 2012 a new provision relating to the 'test' that Licensing Committees should consider when deciding on licensing applications was introduced. The evidential level for Licensing Committees has been lowered so that the test now is that their decisions need only be 'appropriate' and no longer 'necessary'.

7.2 The application being considered is for the grant of a Premises Licence to allow:

- ❑ The supply of alcohol for consumption ON and OFF the premises
- ❑ The provision of late night refreshment (indoors and outdoors)
- ❑ The exhibition of films (indoors)
- ❑ Indoor sporting events
- ❑ The performance of live music (indoors and outdoors)
- ❑ Playing of recorded music (indoors)
- ❑ The performance of dance (indoors)
- ❑ Any entertainment of a similar description to live music, recorded music or dance (indoors)

7.3 It should be noted that the applicant has applied for live music to be authorised both indoors and outdoors however, the site plan provided at **APPENDIX B2** does not show an outdoor

area to be licensed for live music. Clarification has been sought from the applicant with regard to this but a response has not been received at the time of writing this report. The committee may wish to seek clarification regarding this.

- 7.4 It should also be noted that the applicant has applied for late night refreshment to be authorised both indoors and outdoors but the site plan provided at **APPENDIX B2** does not show an outdoor area to be licensed for late night refreshment. Clarification has been sought from the applicant with regard to this but a response has not been received at the time of writing this report. The committee may wish to seek clarification regarding this.
- 7.5 Section 16 of the guidance issued under section 182 of the Licensing Act 2003 relates to regulated entertainment and should be read in conjunction to this report. It should be noted that deregulatory changes have amended the 2003 Act (by way of the Live Music Act 2012, Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013, the Legislative Reform (Entertainment Licensing) Order 2014 and the Deregulation Act 2015) in relation to regulated entertainment and these deregulations are set out at section 6.2 above for information purposes.
- 7.6 It should be noted that an agreed position has been reached with the Police and, if the licence is granted, the amendments agreed with the Police, as set out in full at **APPENDIX K**, will form conditions of the licence.
- 7.7 It should be noted that temporary event notices (TENs) have been used on various occasions in the past to temporarily authorise the sale of alcohol and the provision of regulated entertainment from outside areas at the premises. These include, 1 TEN received in 2020, 1 TEN received in 2019, 5 TENs received in 2018, 8 TENs received in 2017, 13 TENs received in 2016 and 12 TENs received in 2015. Temporary event notices can be used to authorise licensable activities at small scale events (for 499 people or less) which last for no longer than 7 consecutive days.
- 7.8 In the mediation letter sent by the applicant's solicitor to all objectors, attached at **APPENDIX J**, the applicant has proposed various amendments to the application (in addition to the agreed position already reached with Devon & Cornwall Police). These are summarised as follows:

- The applicant has offered to reduce the hours requested on a Friday and Saturday to be in line with the hours granted by the existing premises licence as shown at **APPENDIX D**.

The committee may wish to seek confirmation as to whether this applies to timings for all licensable activities and the premises opening hours.

- The applicant has offered to amend the timings requested for live music to the following:

Live music (indoors) – from 10:00 to 22:00
Live music (outdoors) – from 10:00 to 20:00

The committee may wish to seek confirmation as to whether this applies from Monday through to Sunday and on New Year's Eve.

- The applicant has offered to revise the operating schedule to remove the following condition:

- All live music will cease 30 minutes before the premises closes

and replace it with:

- All live music will cease 30 minutes before the premises closes, and in any event no later than 2200 indoors and 2000 outdoors.

7.9 It should be noted that the applicant's solicitor has stated that, in the event that the applicant is unable to agree the above with all of the residents who have made representations, the applicant reserves the right to pursue the application as submitted at the hearing on the 19th May 2021.

7.10 It should be noted that the applicant has advised the Licensing Officer that they may wish to submit further information to accompany the report which is not yet available. They have confirmed that this will be made available in good time before the hearing. If additional information is received, this will be distributed as soon as it is made available.

7.11 Adam Holland is nominated as the Designated Premises Supervisor. He holds a Personal Licence, issued by Birmingham City Council. Mr Holland will be attending the hearing.

7.12 The Sub Committee will now need to consider whether to grant this application as it stands or in the light of the representations to refuse the application or grant it in a different form.

Legal Advice

1. As relevant representations have been made in respect of the application, this hearing must be held. (Relevant representations are about the likely effect of the grant of the application on the promotion of the licensing objectives, by any person, bodies representing them or responsible authorities). The sub-committee must disregard any information or evidence not relevant to the licensing objectives.
2. The sub-committee must consider this application in accordance with Section 4 of the Licensing Act 2003, which requires that licensing functions must be carried out with a view to promoting the four licensing objectives. The licensing authority must also have regard to its own licensing policy and the Secretary of State's guidance, but may depart from both if it has good reason to do so. Those reasons should be stated.
3. Section 18 of the Act requires the licensing authority to grant a premises licence unless it considers additional steps are needed for the promotion of the licensing objectives having regard to any relevant representations.

The steps are:

- (a) to grant the licence subject to:
 - (i) the conditions in the operating schedule modified to such extent as members consider necessary for the promotion of the licensing objectives, and
 - (ii) any condition which must under sections 19, 20 or 21 be included in the licence;
- (b) to exclude from the scope of the licence any of the licensable activities to which the application relates
- (c) to refuse to specify a person in the licence as the premises supervisor
- (d) to reject the application.

The conditions of the licence are modified if any are altered or omitted or any new condition is added. Different conditions may be applied to different parts of the premises, and to different licensable activities. The sub-committee must give its reasons for its decision to take any of these steps. Similarly, if any part of an application is rejected, the sub-committee must give its reasons.

4. The Act requires mandatory conditions to be imposed where supplying alcohol or exhibiting films are approved as licensed activities. It also requires a mandatory condition to be imposed where door supervisors or other individuals carrying out security activities are conditions on the licence.

(a) Section 19 - Mandatory conditions relating to the supply of alcohol

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.
Source: Section 19 Licensing Act 2003
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 a disability).
3. The responsible person shall ensure that free potable water is provided on request to customers where it is reasonably available.
4. (1) The premises licence holder shall ensure that an age verification policy applies to 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 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; and
 - (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 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.

Source: Section 19A Licensing Act 2003

(b) Section 20 - Mandatory condition relating to exhibition of films

Children may only be admitted to films in accordance with the classification recommendations of the British Board of Film Classification, or as recommended by the licensing authority.

(c) Section 21 – Mandatory conditions relating to Door Supervision

Where door supervisors are specified by condition, those individuals must be licensed by the SIA.

5. The sub-committee will need to consider the hours of operation proposed in relation to the licensable activities in the light of the promotion of the licensing objectives, the effectiveness of the operating schedule proposed by the applicant, the representations received, the location of the premises in relation to residential and other commercial properties including other licensed premises, the history of the management of the premises and how it is proposed to be run in the future, the evidence produced of any problems in the past, and the likely impact of any extension of hours and activities. These issues, and any other relevant ones, may be explored at the hearing.

6. Human Rights Act 1998

- 6.1 The sub-committee must also have regard to the provisions of the Human Rights Act 1998 when determining this application. The 1998 Act made the European Convention of Human Rights directly enforceable in British courts. The relevant provisions are Article 6 (right to a fair trial), Article 8 (right to respect for private and family life), Article 11 (freedom of association) and Article 1 of the First Protocol (right to peaceful enjoyment of one’s possessions). These provisions are explained below. Essentially, they require the sub-committee to identify correctly the competing interests, give each appropriate weight in the circumstances of the case, and balance them against each other in order to arrive at a fair and reasonable decision.
- 6.2 Under Article 6, “everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law”. The procedures established by this Council for hearings under the Licensing Act 2003 are compliant with Article 6.
- 6.3 Under Article 8, “everyone has the right to respect for his private and family life, his home and his correspondence”. This right may not be interfered with except in accordance with the law and as may be “necessary in a democratic society in the interests of national security, public

safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others". In Licensing Act cases this means that the sub-committee must have regard to the effect of its decisions on local residents, and balance their interests against those of the public at large (e.g. the customers of the premises under consideration) and the people operating the business from the premises.

6.4 Under Article 11, "everyone has the right to freedom of peaceful assembly and to freedom of association with others" except where it is lawful to restrict that freedom in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others". In Licensing Act cases this means, for example, that the sub-committee is entitled to impose conditions to ensure that patrons of licensed premises do not unreasonably disturb others living or working nearby. Again, the sub-committee should balance the competing interests.

6.5 Article 1 of the First Protocol (that is, the first amendment to the Convention) says that every natural or legal person (meaning a human being or a company) is entitled to peaceful enjoyment of his possessions, except where the law provides for restrictions on that right in the public interest. This means, for example, that it is compliant with the Convention to impose restrictions, such as those provided in the Licensing Act 2003, upon business premises where it is in the public interest to do so. On the other hand the same applies to the owners and occupiers of neighbouring premises.

7. Appeals

If the sub-committee imposes conditions on the licence with which the applicant disagrees, or modifies the licensable activities permitted or refuses to specify a person as designated premises supervisor, he or she may appeal within 21 days of notification of the decision to the Magistrates' Court. The applicant may also appeal if an application for a premises licence is rejected. Those making relevant representations may appeal if they believe that the licence should not have been granted, or that, when granting the licence, the licensing authority ought to have imposed different or additional conditions or excluded a licensable activity or refused to specify a person as designated premises supervisor. The magistrates' court may dismiss the appeal, or substitute its own decision, or send back the case to the licensing authority with directions as to how the case is to be dealt with. The magistrates' court may make any costs order it thinks fit.

8. Review Provisions

If extended hours/licensable activities are granted, the Licensing Act contains review provisions which enable any person, bodies representing them or any of the responsible authorities to apply to this licensing authority for a review of the licence. A hearing follows which enables the sub-committee to use the normal powers at a hearing (set out above) but also to suspend the licence for a period of up to three months or to revoke it.

9. Police Closure

A senior police officer may close any premises for 24 hours (this can be extended) where s/he reasonably believes there is or is likely imminently to be disorder on, or in or in the vicinity of the premises and their closure is necessary in the interests of public safety. Closure can also be affected if public nuisance is being caused by noise coming from the premises and closure of the premises is necessary to prevent that nuisance

10. Surveillance Camera Code of Guidance-June 2013

Where a relevant authority has licensing functions and considers the use of surveillance camera systems as part of the conditions attached to a licence or certificate, it must in particular have regard to guiding principle one in this code. Any proposed imposition of a blanket requirement to attach surveillance camera conditions as part of the conditions attached to a

licence or certificate is likely to give rise to concerns about the proportionality of such an approach and will require an appropriately strong justification and must be kept under regular review. Applications in relation to licensed premises must take into account the circumstances surrounding that application and whether a requirement to have a surveillance camera system is appropriate in that particular case. For example, it is unlikely that a trouble-free community pub would present a pressing need such that a surveillance camera condition would be justified. In such circumstances where a licence or certificate is granted subject to surveillance camera system conditions, the consideration of all other guiding principles in this code is a matter for the licensee as the system operator.

Guiding principle one states:

Use of a surveillance camera system must always be for a specified purpose which is in pursuit of a legitimate aim and necessary to meet an identified pressing need.

Legitimate aim and necessity are considered in relation to the four licensing objectives which are set out elsewhere within this report if the Committee is considering conditioning any premises licence with the installation of a CCTV surveillance system.

Financial implications:

The only financial implication is if an appeal is made against the decision, with the possibility of court cost.

Legal implications:

Legal implications are included within the report.