

Date of Meeting 8th September 2021

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

Application for the grant of a time-limited premises licence under the Licensing Act 2003 for The Ham Recreation Ground and adjoining car park, Sidmouth.

Report summary:

The report summarises an application for the grant of a time limited premises licence to be considered by the sub-committee under the Licensing Act 2003.

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 allow the provision of regulated entertainment and the sale of alcohol for consumption ON the premises at The Ham Recreation Ground and adjoining car park, Sidmouth, EX10 8DB. The application is to cover the period of 1st – 5th June 2022.

Reason for recommendation:

To comply with statutory processes.

Officer: Emily Westlake, Licensing Officer - 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
Licensing Act 2003 Guidance issued under Section 182

APPENDIX A – Licensing application

APPENDIX B – Plan of premises

APPENDIX C – Conditions offered in Operating Schedule

APPENDIX D – Location maps and photographs

APPENDIX E – Noise management plan

APPENDIX F – Representations list

APPENDIX G – Responses to Notice of Hearing

APPENDIX H – Copy Premises licence – The Ham, Folk Week Licence 2021

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 J R Event Services Ltd on behalf of the Sidmouth Jazz and Blues Festival Ltd for the grant of a new (time-limited) premises licence at The Ham Recreation Ground and adjoining car park, Sidmouth, EX10 8DB. The application is to provide licensable activities at The Ham for an event known as “The Sidmouth Jazz and Blues Festival”.
- 1.2 The Sidmouth Jazz and Blues Festival is new to Sidmouth and is planned to take place at various locations throughout the Town from the 1st – 5th June 2022. Time-limited premises licences have already been granted for Connaught Gardens (Licence Number: PLWA0882) and Blackmore Gardens (Licence Number: PLWA0883) and this hearing is to consider an application for a proposed temporary concert venue to be located at The Ham Recreation Ground and adjoining car park.
- 1.3 The application form is provided in full at **APPENDIX A**.
- 1.4 A plan of the premises, submitted as part of the application, is attached at **APPENDIX B**. The plan sets out both the extent of the site and the area proposed for licensable activities which is outlined in red.
- 1.5 The proposed licensed area includes an auditorium for concerts on the grassy area of the Ham together with food stalls and bar, spread between the Ham Recreation Ground and the adjacent car park in front of Sidmouth swimming pool.
- 1.6 The car park to the rear of the swimming pool is proposed for use as an event production space, not to be included within the licensed area.
- 1.7 The structures to be included within the licensable area are specified on the plan.
- 1.8 The applicant has requested the premises licence to start on the 1st June 2022 and be valid for a limited time period, ending on the 5th June 2022.

1.9 The proposed timings and licensable activities applied for are as follows:

Provision of live music (indoors & outdoors):

Wednesday	11.00 - 23.00
Thursday	11.00 – 23.00
Friday	11.00 – 23.00
Saturday	11:00 - 23:00
Sunday	11.00 – 22.00

Provision of recorded music (indoors & outdoors):

Wednesday	11.00 - 23.00
Thursday	11.00 – 23.00
Friday	11.00 – 23.00
Saturday	11:00 - 23:00
Sunday	11.00 – 22.00

Provision of anything of a similar description to live music, recorded music or performance of dance (indoors & outdoors):

Wednesday	11.00 - 23.00
Thursday	11.00 – 23.00
Friday	11.00 – 23.00
Saturday	11:00 - 23:00
Sunday	11.00 – 22.00

Sale of Alcohol (for consumption ON the premises only):

Wednesday	12.00 - 22.45
Thursday	12.00 - 22.45
Friday	12.00 - 22.45
Saturday	12.00 - 22.45
Sunday	12.00 – 22.00

Premises opening hours:

Wednesday	11.00 - 23.00
Thursday	11.00 – 23.00
Friday	11.00 – 23.00
Saturday	11:00 - 23:00
Sunday	11.00 – 23.00

- 1.10 The applicant proposes to licence both indoor and outdoor areas for regulated entertainment, the indoor areas comprising of temporary structures to be erected within the licensed area.
- 1.11 The applicant has stated that the whole licensable area capacity is 2,750 when auditorium and outdoor space combined.
- 1.12 The Ham Recreation Ground is owned by Sidmouth Town Council. The car parks to the front and rear of Sidmouth Swimming Pool are owned and operated by East Devon District Council.
- 1.13 The conditions offered by the applicant in the operating schedule submitted with the application are attached at **APPENDIX C**.

- 1.14 Additional plans and photos detailing the location of the proposed event space are attached at **APPENDIX D.**
- 1.15 The applicant has submitted a noise management plan (NMP) with the application and this is attached at **APPENDIX E.**
- 1.16 An Event Management Plan (EMP) has not been submitted with the application. The applicant has advised that this will be provided as soon as it is available.

2 Statutory Bodies' Response

- 2.1 Devon & Cornwall Police
No representations have been received.
- 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.

When confirming that they would not be making a representation, Environmental Health made the following comments:

"Having worked with the applicant to develop the Noise Management Plan as best as possible within the confines of the site's location together with the bringing forward of the end times of the music to 23:00, I do not anticipate any environmental health concerns with the licence application and therefore I have no objections".

- 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 **3** representations have been received in relation to this application.
- 3.2 This includes **2** objections against the application from local residents and **1** representation in support of the application from Sidmouth Town Council.
- 3.3 The objections make reference to all four licensing objectives but relate primarily to public safety.
- 3.4 All representations are attached in full at **APPENDIX F.**

- 3.5 Both objectors have made reference in their representations to the annual Sidmouth Folk Week and the licensable activities that take place on the Ham Recreation Ground during that event. A copy of the premises licence granted for the Ham Recreation Ground for Sidmouth Folk Week 2021 is attached at **APPENDIX H** for information. It should be noted that, in accordance with East Devon District Council's Licensing Policy, a separate application is required for each individual event regardless of whether the event occurs annually. This means that the licences for Sidmouth Folk Week are applied for and determined on a yearly basis and may differ from event to event.

Responses to Notices of Hearing

- 3.6 Details of the responses to the statutory Notice of Hearing are attached at **APPENDIX G**.
- 3.7 Of the **3** representations received:
- 3.8 The Town Council have confirmed that they will not be attending the hearing.
- 3.9 Both objectors have confirmed that they will attend the sub-committee hearing with one of the objectors representing both parties.
- 3.10 Both objectors have made additional key points when responding to the notice of hearing, as detailed at **APPENDIX G**. These key points must be considered by the committee in conjunction with the original representations.

4 Proposed Operating Schedule and Mediation

- 4.1 The conditions offered by the applicant in the operating schedule are attached at **APPENDIX C**.
- 4.2 Mediation has not been undertaken for this contested application.

5 Relevant Licensing Policy and Guidance 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.

Large Scale Public Events

- 5.4 Section 5.5 of the policy sets out the Licensing Authority's recommendation that all organisers of large scale public events attend the multi-agency Safety Advisory Group (SAG).

Section 5.5.7 of the Policy states: For large scale events that are occasional in nature and where the maximum number of attendees exceeds 499 people, the licensing authority will

require an application for a full time-limited premises licence. A separate application will be required for each individual event regardless of whether the event occurs annually or on more than one occasion in any year. This will allow the Responsible Authorities and members of the public the opportunity to consider each application in light of previous events held. Responsible Authorities and Interested Parties should be have the opportunity to make representations relevant to the nature of the event which is planned. Large scale events have significant potential to undermine the promotion of the licensing objectives, due to their size, complexity and the potential implications for planning such events. Risks can be adequately mitigated by the submission of an up to date, relevant, detailed and complete operating schedule specific to the proposed event on each separate occasion.

Conditions

- 5.5 Section 6 of the policy sets out what the Sub Committee should consider before imposing conditions on a licence.
- 5.6 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.

Environmental Factors

- 5.7 Section 5.6 of the Policy sets out the Licensing Authority's expectations noting the potential impact to the environment from time limited, outdoor licensed events.
- 5.8 Section 5.6.2 states: Any operating schedule submitted in respect of time limited premises licences should include proposed times of operating and details of how the applicant intends to comply with the licensing objectives and in particular, how outside areas will be managed to prevent noise, smell, or obstruction nuisance to residents and the public.

Licensing Hours

- 5.9 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.
- 5.10 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

- 5.11 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

5.12 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.

5.13 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.

5.14 The **Guidance** issued under Section 182 Licensing Act 2003 states the following in relation to **Public safety** at Sections 2.7 – 2.9:

Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above. There will be course be occasions when a public safety condition could incidentally benefit a person's health more generally, but it should not be the purpose of the condition as this would be outside the licensing authority's powers (be ultra vires) under the 2003 Act. Conditions should not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.

A number of matters should be considered in relation to public safety. These may include:

- Fire safety;
- Ensuring appropriate access for emergency services such as ambulances;
- Good communication with local authorities and emergency services, for example communications networks with the police and signing up to local incident alerts (see paragraph 2.4);
- Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;

- Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation);
- Ensuring appropriate and frequent waste disposal, particularly of glass bottles;
- Ensuring appropriate limits on the maximum capacity of the premises (see paragraphs 2.12 – 2.13, and Chapter 10; and
- Considering the use of CCTV in and around the premises (as noted in paragraph 2.3 above, this may also assist with promoting the crime and disorder objective).

The measures that are appropriate to promote public safety will vary between premises and the matters listed above may not apply in all cases. As set out in Chapter 8 (8.38 – 8.46), applicants should consider when making their application which steps it is appropriate to take to promote the public safety objective and demonstrate how they achieve that.

5.15 The **Guidance** issued under Section 182 Licensing Act 2003 states the following in relation to **Ensuring safe departure of those using premises** at Section 2.10

Licence holders should make provision to ensure that premises users safely leave their premises. Measures that may assist include:

- Providing information on the premises of local taxi companies who can provide safe transportation home; and
- Ensuring adequate lighting outside the premises, particularly on paths leading to and from the premises and in car parks.

5.16 The **Guidance** issued under Section 182 Licensing Act 2003 states the following in relation to **Maintenance and repair** at Section 2.11:

Where there is a requirement in other legislation for premises open to the public or for employers to possess certificates attesting to the safety or satisfactory nature of certain equipment or fixtures on the premises, it would be inappropriate for a licensing condition to require possession of such a certificate. However, it would be permissible to require as a condition of a licence or certificate, if appropriate, checks on this equipment to be conducted at specified intervals and for evidence of these checks to be retained by the premises licence holder or club provided this does not duplicate or gold-plate a requirement in other legislation. Similarly, it would be permissible for licensing authorities, if they receive relevant representations from responsible authorities or any other persons, to attach conditions which require equipment of particular standards to be maintained on the premises. Responsible authorities – such as health and safety authorities – should therefore make their expectations clear in this respect to enable prospective licence holders or clubs to prepare effective operating schedules and club operating schedules.

5.17 The **Guidance** issued under Section 182 Licensing Act 2003 states the following in relation to **Safe Capacities** at Sections 2.12 – 2.13:

“Safe capacities” should only be imposed where appropriate for the promotion of public safety or the prevention of disorder on the relevant premises. For example, if a capacity has been imposed through other legislation, it would be inappropriate to reproduce it in a premises licence. Indeed, it would also be wrong to lay down conditions which conflict with other legal requirements. However, if no safe capacity has been imposed through other legislation, a responsible authority may consider it appropriate for a new capacity to be attached to the premises which would apply at any material time when the licensable activities are taking place and make representations to that effect. For example, in certain circumstances, capacity limits may be appropriate in preventing disorder, as overcrowded venues can increase the risks of crowds becoming frustrated and hostile.

The permitted capacity is a limit on the number of persons who may be on the premises at any time, following a recommendation by the relevant fire and rescue authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority which will consider it and decide what the “permitted capacity” of those premises should be.

6. Observations

- 6.1 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’.
- 6.2 The application being considered is for the grant of a Premises Licence to allow:
- Sale of alcohol for consumption ON the premises
 - The performance of live music (indoors and outdoors)
 - Playing of recorded music (indoors and outdoors)
 - Anything of a similar description to live music, recorded music or performances of dance (indoors and outdoors)
- 6.3 Both objectors have responded to the notice of hearing indicating that they will be attending the hearing and one of the objectors will address the committee on behalf of both parties.
- 6.4 Details of all representations received are attached at **APPENDIX F** and include 1 representation in support of the application. These representations must be considered in conjunction with the responses to notice of hearing and additional key points set out at **APPENDIX G**.
- 6.5 The applicant has provided a “festival statement of facts” when responding to the Notice of Hearing which is included at **APPENDIX G** and this should be considered in conjunction with the premises licence application.
- 6.6 Mr Trevor Spink is nominated as the Designated Premises Supervisor. Mr Spink holds a Personal Licence, issued by Tunbridge Wells Borough Council.
- 6.7 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

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

8. Review Provisions

If extended hours/licensable activities are granted, the Licensing Act contains review provisions which enable 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 the applicant appeals against the decision made, with the possibility of court costs.

Legal implications:

Legal implications are included within the report