

Report to: Licensing and Enforcement Sub Committee



Date of Meeting 30 July 2025

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

Application for a REVIEW OF A Premises Licence under Section 51 of the Licensing Act 2003

Report summary:

The report summarises an application to review a premises licence.

Is the proposed decision in accordance with:

Budget Yes ☒ No ☐

Policy Framework Yes ☒ No ☐

Recommendation:

That the committee consider an application for a review of the following premises licence:
PLWA0408 The Anchor Inn, Old Fore St, Sidmouth EX10 8LP.

Reason for recommendation:

To comply with statutory processes

Officer: Lesley Barber, Licensing Officer, lesley.barber@eastdevon.gov.uk

Portfolio(s) (check which apply):

- ☐ Assets and Economy
- ☐ Communications and Democracy
- ☐ Council, Corporate and External Engagement
- ☐ Culture, Leisure, Sport and Tourism
- ☐ Environment - Nature and Climate
- ☒ Environment - Operational
- ☐ Finance
- ☐ Place, Infrastructure and 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 – Review application

APPENDIX B – Review application – supporting documents & statements

APPENDIX C – PLWA0408 Premises Licence

APPENDIX D– Premises Plan

APPENDIX E– Location map & photos

APPENDIX F – Environment Health Officer Report

APPENDIX G – Representations List

APPENDIX H – Responses to Notice of Hearing

APPENDIX I - S182 Guidance (reviews)

APPENDIX J – Noise Management Plan

Link to [Council Plan](#)

Priorities (check which apply)

- ☐ A supported and engaged community
 - ☐ Carbon neutrality and ecological recovery
 - ☐ Resilient economy that supports local business
 - ☐ Financially secure and improving quality of services
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Report in full

1 Description of Review Application

- 1.1 The Licensing Authority has received an application from a member of the public for a review of the premises licence under Section 51 of the Licensing Act 2003 at The Anchor Inn, Old Fore St, Sidmouth. The application has been submitted by a member of the public.
- 1.2 The Anchor Inn is located in the centre of the town, in a mixed business and residential area. It is in close proximity to Market Square.
- 1.3 The application is provided at **APPENDIX A**.
- 1.4 The applicant has provided a number of documents in support of the review application. These are provided at **APPENDIX B**. These include:
 - review covering letter from the applicant to the Premises Licence Holders
 - statements and supporting documents & photos from the applicant
 - statement from Suzanne Jones
 - statement from Abigail Barker
 - statement from Cynthia Watson
 - statement from Lawrence King
 - statement from Harry Hopworthy
 - statement of Kathryn Spencer
 - statement of Stephen Spencer
 - statement of Mary Whitfield
- 1.5 In accordance with Section 51(3)(a) of the Licensing Act 2003 the applicant has served a copy of the application on the Premises Licence Holder and on all responsible authorities.

- 1.6 The Licensing Authority has complied with the requirements of Section 51(3)(b) of the Licensing Act 2003 by advertising the review application at the premises and by displaying a copy of the notice at the East Devon District Council offices and on the licensing pages of the East Devon District Council's website.
- 1.7 The purpose of the notice is to give others the opportunity to join the review application.
- 1.8 The review is submitted in relation to the 'prevention of public nuisance' licensing objective.
- 1.9 The review relates specifically to events that take place at the premises during the annual Sidmouth Folk Festival event. This is an eight day event, Friday to Friday inclusive, usually taking place during the first week of August. The 2025 Folk Festival will take place 1st August to 8th August.
- 1.10 A summary of the grounds on which the review application is made:
- Music noise levels from the daily/nightly Folk Festival events taking place in the beer garden to the rear of The Anchor, are affecting neighbouring properties adjacent to the premises.
 - Dray work being carried out after 23:00 is causing a disturbance to adjacent properties. The applicant is seeking a formal licence condition, restricting dray work in the vicinity of bordering properties, limiting this to between 18:00 – 21:00 daily.

2 Premises Licence Information

- 2.1 Premises licence PLWA0408 exists at The Anchor Inn, Old Fore St, Sidmouth.
- 2.2 The full premises licence is provided at **APPENDIX C**.
- 2.3 The premises licence holders are Denise Theresa FUDGE and Trevor John FUDGE.
- 2.4 The Designated Premises Supervisor is Trevor John FUDGE.
- 2.5 Both Mr Fudge and Mrs Fudge hold personal licences, issued by this Licensing Authority in 2005, becoming valid on commencement of the current Licensing Act. Personal Licence were obtained under the 'grandfather rights' system which permitted an existing licensee under the Licensing Act 1964 to convert this status to a personal licence.
- 2.6 The Anchor Inn premises licence was converted from the previous licensing regime (Licensing Act 1964) and granted by the Licensing Authority taking effect on the first appointed date of 24 November 2005.
- 2.7 The premises plan is provided at **APPENDIX D**. The area to the rear of the premises, referred to as the 'beer garden' within this report is shown as the 'car park' area on the plan.
- 2.8 Licensable activities are permitted in the areas outlined in red on the plan. The areas include the building ground floor, building first floor and an area surrounding the building which includes the rear beer garden and a smaller external area to the front of the building currently used for tables and chairs.
- 2.9 A location plan is provided at **APPENDIX E**, showing the location of the premises along with the location of relevant residential premises.
- 2.10 The following licensable activities are permitted:

- a) performance of live music (indoors and outdoors)
- b) playing of recorded music (indoors and outdoors)
- c) supply of alcohol for consumption ON and OFF the premises

2.11 The licence permits the performance of live music and the playing of recorded music between the hours of 10:00 and 23:00. Indoors and Outdoors.

2.12 As a result of deregulatory changes that have amended the Licensing Act 2003, no licence is now required for a number of activities. Including:

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

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

2.13 In practice this deregulation means that, providing the audience does not exceed 500, the performance of any live music within the beer garden during the folk festival events, between 08:00 and 23:00 is not a licensable activity. Any current licence conditions specifically related to this entertainment are 'suspended'. However, should the audience exceed 500 at any time then the activity is once again licensable and conditions would apply.

2.14 Section 177A of the Act does however make provision for such a suspension of these conditions to be lifted and/or further conditions added by the Licensing Authority, on a review of the premises licence.

Of particular relevance to Live music, the current premises licence contains the following conditions within Annexe 2:

50. The designated premises supervisor, or such person so authorised by him, will control the volume of music or other apparatus used.

51. A noise limiter device capable of being sealed to be installed and monitored to the satisfaction of the Council's Corporate Director - Communities

2.15 With respect to the licence condition proposed by the applicant to restrict dray work 18:00 to 21:00hrs daily, no current conditions exist on the licence and as such the premises are not currently restricted by the licence as to when they can undertake this work.

2.16 The premises licence contains a number of conditions that are specific to these particular premises. They are detailed at Annexe 2 within the premises licence at **APPENDIX C**. It is noted however that a number of these conditions could now be regarded as obsolete as they relate to matters now covered under separate legislation. Conditions relating for fire safety, for example.

2.17 Such conditions remain in place on the licence since there is no mechanism within the Act for these to be automatically removed. Such conditions could potentially be removed by way of a minor variation application, submitted by the Premises Licence Holders, should they wish to do so. This would have the effect of 'tidying' the licence conditions.

3 Statutory Bodies' Response

3.1 Devon & Cornwall Police

Comments received from Police Licensing Officer on 12/06/2025: I have checked our systems and I have no reason to offer any representations to this application

3.2 Devon & Somerset Fire & Rescue Service

Comments received from Fire Safety Inspector on 04/07/25:

I have been in contact with the premises and a fire safety check is scheduled for next week. The responsible person is aware that the premises requires a fire risk assessment and has had one undertaken for the premises.

Further notification received from the Fire Safety Inspector on 15/07/2025 advising that the following information had been forwarded to the premises, following a fire safety check on 11th July:

I am pleased to advise you that a reasonable standard of fire safety was evident in the areas that were sampled.

You should note that this was not a comprehensive check of all your fire safety arrangements and that you have an on-going responsibility to carry out periodic reviews of your fire risk assessment.

3.3 Area Child Protection Committee and Local Safeguarding Children Board

No representations.

3.4 Devon Trading Standards

No representations.

3.5 East Devon District Council, Environmental Health Service

A statement from the Environmental Health Officer, is provided at **APPENDIX F**.

3.6 East Devon District Council, Planning & Countryside Service

No representations.

3.7 Primary Care Trust

No representations.

3.8 Home Office

Comments received from Immigration Enforcement Licensing Compliance Team on 16/06/2025: Having checked Home Office databases, I was unable to find any immigration related offences. Therefore, on this occasion Home Office will not be making any representation.

4 Premises Licence Holders'(PLH) Response to Review Application

4.1 The PLHs have responded to the review application. The response includes:

- Statement including suggested Noise Management Plan (NMP)
- Extracts from the business facebook page – community feedback
- Letter from the contracted security provider
- Petition signed by individuals in support of the folk week live music at the premises

4.2 The PLH response is provided in full within the representations list at **APPENDIX G**.

4.3 The NMP, which the Premises Licence Holders are offering to put in place for the duration of the Sidmouth Folk Festival event is provided again on a separate document (for ease of reading) at **APPENDIX J**.

5 Additional Representations Received

5.1 Two additional representations have been received. These are provided at **APPENDIX G**.

- 5.2 Both of these additional representations are from residents (one living close to the premises and one living in Sidbury) in support of the folk festival entertainment provided in the beer garden at The Anchor.

6 Responses to Notice of Hearing

- 6.1 Details of the responses to the statutory Notice of Hearing are attached at **APPENDIX H**.
- 6.2 The applicant has submitted additional comments, including his responses to the representations made and a proposal to amend the Noise Management Plan offered by the Premises Licence Holders. **(APPENDIX H)**

7 Relevant Licensing Policy Considerations

- 7.1 Paragraph 4.4.1 states: A Responsible Authority and any other person can, at any time following the grant of a premises licence or club premises certificate, apply to the licensing authority to review the licence/certificate because of concerns arising at the premises which may have an adverse impact on any of the licensing objectives. The authority regards this as a valuable protection for residents and businesses. Applications for a review must be made in writing and will be considered by a Licensing Sub Committee at a hearing.
- 7.2 Paragraph 4.4.2 states: Any application for a review should be treated seriously. Responsible authorities will aim to give licensees early warning of any concerns identified at a premises, and talk to the licence or certificate holder to establish whether there are any steps they may be willing to take to rectify the situation. Similarly those seeking a review and are not a responsible authority are encouraged to take initial steps. For example:
- asking the licensing authority to talk to the licence holder on their behalf
 - asking their local MP or Councillor to speak to the licence holder on their behalf
 - talking to the relevant responsible authority (for example Environmental Health in relation to noise nuisance or the police in relation to crime and disorder) to establish whether there is other action that can be taken to resolve the problem.
- 7.3 Paragraph 4.4.3 states: The review process is not intended as a means of challenging the grant of a licence following the failure of representations to persuade the licensing authority on an earlier occasion. No more than one review from a person other than a Responsible Authority will be entertained in relation to a particular premises within a period of twelve months on similar grounds, save in compelling circumstances (for example where new problems have arisen) or where it arises following a closure order made under s.160 or s.161 of the Act.
- 7.4 Paragraph 4.4.4 states: When considering a review of a premises licence or club premises certificate, the authority will expect the applicants for the review to provide evidence of infringements of licensing regulations, failure to comply with licence conditions and/or of failure to promote the licensing objectives.
- 7.5 Paragraph 4.4.5 states: Following a review, the authority will focus any remedial action directly on the concerns identified in the representations. In all cases, action will be appropriate, reasonable and proportionate to the nature of the problems giving rise to the review. Options available to the authority are:
- to modify the conditions of licence
 - to exclude a licensable activity from the scope of the licence
 - to remove the designated premises supervisor
 - to suspend the licence for a period of not more than three months
 - to revoke the licence
- 7.6 Paragraph 4.4.6 states: In cases where the crime and disorder objective has been undermined or where it can be demonstrated that a premises has a history of persistent offending, suspension or revocation of a licence, even in the first instance, may be seriously considered as a form of deterrence.

8 Guidance issued under Section 182 Licensing Act 2003 (revised February 2025)

- 8.1 A link to the full Section 182 Guidance document is provided at the beginning of this report.
- 8.2 The Section 182 Guidance offers guidance regarding a review of a premises licence. The relevant paragraphs 11.1 – 11.24 are provided at **APPENDIX I**.
- 8.3 Licence reviews: Live and recorded music
At section 16.55 the guidance states: 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 suspension 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.

9. Observations

- 9.1 No complaint has been made directly to the Licensing Authority regarding the matters disclosed in the review application.
- 9.2 No Responsible Authority has submitted representations in support of this review.
- 9.3 It is noted that the Premises Licence Holders (PLHs) have offered a Noise Management Plan (NMP) (**APPENDIX J**) to formalise the arrangements in place during the folk festival event.
- 9.4 As part of the NMP is it set out that:
'Between the hours of 07:00 and 23:00 the A-weighted equivalent continuous noise level emanating from music on the premises, when measured at the boundary of any noise sensitive property over any 15-minute period with entertainment taking place, will be controlled not to exceed 70 dB (LAeq15min)'. The applicant has responded with a recommendation that this should 65 dB (LAeq15min).
- 9.5 With regard to the dray work, the PLHs have set out in their NMP that *'a new designated fenced area of the business will be used for empty barrel storage. This is located away from noise sensitive receptors'*. It is understood that the area in question is in the far corner of the beer garden. It can be seen in 'photo 9' and 'photo 3' at **APPENDIX E**.

Legal Advice

- 1 The Licensing Authority must determine the application in accordance with Section 52 of the Licensing Act which outlines the circumstances whereby a hearing is required and the options available to the committee when determining the application.
- 2 Section 52(4) sets out the steps available to the committee as follows:
(a) to modify the conditions of the licence;
(b) to exclude a licensable activity from the scope of the licence;
(c) to remove the designated premises supervisor;
(d) to suspend the licence for a period not exceeding three months;
(e) to revoke the licence;
(and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added).
- 3 Section 52(11) states: a determination under this section does not have effect –

- (a) until the end of the period given for appealing against the decision, or
- (b) if the decision is appealed against, until the appeal is disposed of.

4 Any appeal must be made to the Magistrates' Court within 21 days from the date of notification of the decision.

5 **Human Rights Act 1998**

- 5.1 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.
- 5.2 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.
- 5.3 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.
- 5.4 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.
- 5.5 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.

Financial implications:

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

Legal implications:

The legal framework is set out within the report and requires no further comment.