

LICENSING ACT 2003 Hearings



June 3rd 2019

Key Objectives

The Act is designed to meet the Government's four key **Licensing Objectives**:-

- Prevention of crime & disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm

Types of licenses and hearings we determine ?

Licensing Act 2003 Licence	LN/0000XXXX
ISSUING LOCAL AUTHORITY	 Wiltshire Council Where everybody matters
PART 1 – PREMISES & LICENCE HOLDER DETAILS	
POSTAL ADDRESS OF PREMISES, OR IF NONE, ORD/ANCE SURVEY MAP REFERENCE OR DESCRIPTION	
Dog and Duck	
NAME, (REGISTERED) ADDRESS AND CONTACT DETAILS OF HOLDER OF PREMISES LICENCE	
Mr Will Beer Ale House, Bottle Lane	
REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER	
NAME, ADDRESS AND TELEPHONE NUMBER OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL	
Mr James Cann 99 Swansea Lane, Barking,	
ISSUING AUTHORITY AND PERSONAL LICENCE NUMBER HELD BY DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES FOR THE SUPPLY OF ALCOHOL	
Colchester Borough Council 992365	
WHERE THE LICENCE IS TIME LIMITED - THE DATES AND TIMES	
Not Applicable	
WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND /OR OFF SUPPLIES	
ON and OFF the premises	
STATE WHETHER ACCESS TO THE PREMISES BY CHILDREN IS RESTRICTED OR PROHIBITED	
Yes - The provisions of Section 145 of the Licensing Act 2003 apply	

- Premises Licences
- Personal Licences
- Licence Reviews
- Variation of Licences

Licensable Activities

- the sale by retail of alcohol



- the supply of alcohol by or on behalf of a club to a member of the club



- provision of regulated entertainment



- provision of late night refreshment



What happens next ?

- Where no representations are made the licence must be granted as applied for, subject only to the conditions consistent with the operating schedule.
- Where representations are made the applications must be referred to the Councils Licensing Committee through the area Licensing Sub Committee to be determined within the statutory timescales.

Who can make a representation ?

Responsible authorities

- Wiltshire Police
- Wiltshire Fire & Rescue
- Planning
- Enforcing agency for health & safety
- Trading Standards
- Child protection agency
- Licensing Authority
- Public Health
- Any other persons

Representations can be in favour of, or against an application

On what grounds can a representation be made?

Representations must be:-

- Made in writing clearly stating reasons for objection
- Linked to at least one of the key licensing objectives
- Specific to the premises and the application
- Within the legal consultation period (28 days)

Representations that fail to comply with the requirements of the Act cannot be considered and are deemed irrelevant and must be rejected.

Hearing Details: The Licensing Act 2003 Hearings Regulations

- **Schedule 1:** Timescales depending on the type of hearing The Licensing Act 2003 Hearings Regulations. *Where the hearing is to be held on more than one day, the hearing must be arranged to take place on consecutive working days.*
- **Schedule 2:** Persons to whom notice of hearing should be given.
- **Schedule 3:** Documentation that should be supplied with notice of hearing.

Licensing Officers have a responsibility to:

- Check validity of the representation's
- Advise applicant valid representation's received.
- Contact Democratic services to ask for a hearing to be arranged (at the earliest opportunity)
- If possible offer to mediate between the parties
- Advise all parties of date and time of hearing
- Assemble hearing report and associated documentation

Following receipt of notice of hearing

A party should advise the authority:

- Whether they intend to attend or be represented at the hearing; if they wish additional person to appear at the hearing, they must request permission for any such persons to appear.
- Whether they consider a hearing to be unnecessary
- *Prescribed time scales apply*

Hearing Report Templates

WILTSHIRE COUNCIL
NORTHERN AREA LICENSING SUB COMMITTEE
DATE OF MEETING 29th November 2012

Application for Review of a Premises Licence: WOMAD Charlton Park Estate
Charlton Park Malmesbury, Wiltshire SN16 9DG

1. Purpose of Report
- 1.1 Supplementary report to Licensing Officer's report dated 12th July 2012 to outline additional information, following two previous adjournments of this review hearing.
2. Additional Information
- 2.1 Additional papers have been submitted by Wiltshire Police on 16th November 2012 in support of their review application.
- 2.2 The previous two hearings dates have been set aside to enable ongoing negotiations / discussions between Wiltshire Police and World in the Park Limited to take place.
- 2.3 Wiltshire Police have proposed a number of additional conditions they wish to see applied to the operating schedule of World in the Park Limited licence to address their concerns, World in the park Limited have issued their own counter proposals, at the time of writing this report no agreement has been reached between the parties. However discussions are continuing.
- 3.0 The Sub Committee can take into account documentary or other information presented at the hearing with the consent of all other parties.

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Date of report 20th November 2012

Agenda Item 5

WILTSHIRE COUNCIL
NORTHERN AREA LICENSING SUB COMMITTEE
4TH JUNE 2013

Police and Environmental Health Authority Objection Notice: Received in
respect of Four Temporary Events Notices for WOMAD Charlton Park,
Malmesbury Wiltshire SN16 9DG

1. Purpose of Report
- 1.1 To determine the Objection Notices received from Wiltshire Police and Wiltshire Council Environmental Protection team for four Temporary Events Notices in respect of WOMAD Charlton Park Malmesbury Wiltshire.
2. Background Information
- 2.1 Four Temporary Events Notices were served on the Licensing Authority and Wiltshire Police on Thursday the 16th May 2013 in respect of WOMAD Charlton Park Malmesbury Wiltshire. The Notices were not accepted until payment was received on Friday the 17th May.
- 2.2 If the police or the Environmental Health Authority believe that allowing the premises to be used in accordance with the TEN's will undermine the licensing objectives, they must give the premises user and the licensing authority an objection notice. The objection notices must be given within three working days of their receipt of the TEN's.
- 2.3 An objection notice was received by the Licensing Authority from Wiltshire Police and Wiltshire Council Environmental Protection team on Wednesday the 22nd May 2013.
- 2.4 Wiltshire Council (as the Licensing Authority) must hold a hearing to consider the objection notices.
- 2.5 In accordance with Section 105 of the 2003 Act the Licensing Authority must, having regard to the objections give a counter notice on the basis of the objection, if it considers it appropriate to do so for the promotion of a licensing objective. Alternatively, it may impose on the Temporary Event Notice one or more of conditions that are on the existing premises licence for the same premises.

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Licensing Committee

- Under the Act, Licensing Authorities must form a Licensing Committee consisting of at least 10 members but no more than 15.
- A minimum of 3 Members form a Licensing Sub-Committee to determine applications
- To be able to participate in a Licensing hearing the members are required to have training commensurate with their role

Briefings

- **NOT** a 'practice' for the licensing hearing!
- What do you need to know for the informal briefing ?
- What should be contained in the précis of the report ?



Quasi-judicial body and natural Justice

- *The LA03 Licensing Committee (or an officer when acting under delegated powers) sits as a **quasi-judicial** body , therefore the rules of natural justice must always be followed:*

- Anyone affected by a decision has a right to be heard;
- No one should be a judge in their own cause
- The Council must not fetter its discretion by pre-judging (or pre-determining) an issue
- The Committee must consider each application on its merits (even if it appears to fly in the face of the Statement of Licensing Policy)



Licensing Committee and Sub-committees - Procedures

Can decide on own procedures subject to Regulation 21

- The procedures should be laid down
- Available to all
- Followed
- Kept up to date

Wiltshire Council has adopted its own hearing procedure

Composition of the Licensing Committee

Chair of the Committee:

- Should keep order
- Should explain Committee hearing procedures and ensure that they are followed
- Should announce the decision

Officers

Licensing Officer

- Reads out a précis of the report
- Explains any technical issues
- Is **not** a prosecutor
- Should not try to influence decision making in the absence of the applicant

Legal Officer – Clerk for the Committee

- Advises the sub committee on procedure and standing orders
- Advises on legal issues and retires with committee

Committee Clerk

- Ensures all papers are in order
- Takes minutes / record of hearing
- Records decision

Determining applications

Where an application is considered by the Sub Committee, the Committee will hear evidence from the:-

- Applicant and/or his appointed Solicitor or agent
- Responsible Authorities
- Persons who have made a valid representation



Determining applications

- Members of the Sub-Committee may ask any question of any party or other person appearing at the hearing
- Officers, responsible authorities, applicant and interested parties attending the hearing may also ask questions of persons in attendance
- Hearsay evidence is permitted but will all be given less weight than direct evidence
- Hearing is 'Inquisitorial' - to gather information
- No 'cross examination'

Closing Submissions

- The Chair will invite the applicant, and any parties making representations, or those representing any of them to briefly summarise their points if they wish.
- The Chair will confirm with each party that they are satisfied they have said all they wish to.
- The committee will disregard any information, which is not relevant to the application, representation or the promotion of the key licensing objectives

Deliberation and Decisions

- The Sub-Committee will retire to deliberate in private session
- Sub-Committee will **only** be accompanied by their Legal Advisor and their Committee Clerk

Basis of Decision Process

Each application that comes before Sub-Committee must be considered based on:

- Its own merits
- Promotion of the four licensing objectives
- Councils Statement of Licensing Policy; the Licensing Act and Regulations and any Guidance issued by the Secretary of State

Three Types Of Conditions

- **Proposed Conditions** - From a prospective licensee's or certificate holder's risk assessment which should be carried out prior to application. These are translated into steps recorded in the operating schedule.
- **Mandatory Conditions** – Included in every licence and or club premises certificate.
- **Imposed Conditions** – Discretion of licensing authority engaged following receipt of relevant representations.

Proposed Conditions

- Conditions that are necessary for the promotion of the four licensing objectives:
- Should emerge initially from a prospective licensee's or certificate holder's risk assessment.
- These are recorded in the operating schedule.
- Members will take into account the proposed conditions both during the hearing and whilst making their determination
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Imposed Conditions

Licensing sub committee may only impose conditions that are:

- Appropriate to promote one or more of the four licensing objectives and enforceable
- Proportionate and premises specific
- Avoids duplication of other statutory provisions, however if these do not adequately address specific issues, supplementary measures may be necessary to promote the licensing objectives. i.e. to monitor noise nuisance.

Proportionality

- Licensing conditions must be tailored to size, type and characteristics and activities taking place at the premises concerned.
- Conditions must be proportionate and properly recognise significant differences between venues.

Clear wording

- Licensing Conditions must be expressed in an unequivocal and unambiguous terms to avoid legal disputes
- It must be clear to the holder of the licence or club certificate, to enforcement officers and to the courts what duty has been placed on them licence holder in terms of compliance
- When composing conditions the licensing sub-committee must consider how the condition can be enforced.

Basis of Decisions

- **All** determinations must include the **reasons** for the decision to grant or to revoke and any conditions placed upon the licence (if granted) and the licensing objective to which they relate
- Decisions will generally be given orally at the hearing and followed up in writing in a formal decision notice.

Notification of Determination

- Decision notice given in writing to all parties to the hearing within 5 working days
- Gives information on the appeal process
- Published on the Council Website

DECISION NOTICE

Northern Area Licensing Sub Committee

Decision made on 6 January 2012

In respect of an application for a Review of the
Premises Licence made by Ms L Penfold for the
Guildhall Bar, Malmesbury

Decision:

The Northern Area Licensing Sub Committee has resolved to amend the Premises Licence for the Guildhall Bar, Malmesbury as follows:

The Provision of Licensable Activities:

Films

Monday to Saturday 11.00 hrs to 23.00 hrs
Sunday 12.00 hrs to 23.00 hrs

Indoor Sporting Events

Monday to Saturday 11.00 hrs to 23.00 hrs
Sunday 12.00 hrs to 23.00 hrs

Live Music

Sunday to Saturday 20.00 hrs to 23.00 hrs

Recorded Music

Sunday to Saturday 20.00 hrs to 23.00 hrs

Performances of Dance

Monday to Saturday 11.00 hrs to 23.00 hrs

Appeals

- All parties have the right to appeal against the Council's decision
- Appeals must be made within 21 days of receipt of the decision notice to the magistrates court.



ANY QUESTIONS?