



Minutes

Name of meeting	LICENSING (DETERMINATIONS) SUB COMMITTEE
Date and time	THURSDAY, 22 SEPTEMBER 2011 COMMENCING AT 9.40 AM
Venue	COUNCIL CHAMBER, COUNTY HALL, NEWPORT, ISLE OF WIGHT
Present	Cllrs Susan Scoccia (Chairman), Paul Fuller, Margaret Webster
Officers Present	Bill Berry, Amanda Gregory, Sarah Macdonald, Justin Thorne, Iain Thornton, Simon Wiggins, Kevin Winchcombe, Charles Wright

37. [Minutes](#)

RESOLVED:

THAT the minutes of the meetings held on [1](#) and [5 September 2011](#) were agreed.

38. **Declarations of Interest**

There were no declarations received at this stage.

39. **Report of the Head of Planning and Regulatory Services**

Consideration was given to the report of the Head of Planning and Regulatory Services, providing details of an application for a Premises Licence, received in accordance with Section 17 of the Licensing Act 2003.

A schedule of additional representations, received after the printing of the report, was submitted to Members prior to consideration of the application.

Details of any proposed additional steps to promote the licensing objectives were set out in the report circulated with the agenda.

The Sub Committee followed the agreed procedure, which had previously been circulated to all parties prior to the meeting. After hearing the application, the Sub Committee presented the following decision and the reasons for that decision.

RESOLVED:

THAT upon receiving the report of the Licensing section, oral and written evidence from the applicant, interested parties and responsible authorities and having regard to the Guidance issued under s182 of the Licensing Act 2003 and the Isle of Wight Council's Statement of Licensing Policy 2011 – 2014, the applications be determined as detailed below:

Decision Ref: 28 (11/12)

Application: [A Premises Licence for WOW Fest, Land at Shanklin Road, Whitely Bank, Isle of Wight](#)

After receiving all of the representations and summing up, members decided to enter into private session to make their decision.

Resolution Members had taken into account all representations and oral submissions made to them from the licensing section, the applicant, interested parties and responsible authorities.

Members noted the Licensing Act 2003 was intended to provide a "more efficient" "more responsive" and "flexible" system of licensing which did not interfere unnecessarily. It aimed to give business greater freedom and flexibility to meet the expectations of customers and to provide greater choice for consumers whilst protecting local residents from disturbance and anti-social behaviour.

Indeed the explanatory note in Paragraph 12 to the Act gives an indication of the approach to be taken under the Act as it is currently drafted.

In contrast to the existing law, the Act does not prescribe the days or opening hours when alcohol may be sold by retail for consumption on or off premises. Nor does it specify when other licensable activities may be carried on. Instead, the applicant for a premises licence will be able to choose the days and the hours during which they wish to be authorised to carry on licensable activities at the premises for which a licence is sought. The licence will be granted on those terms unless, following the making of representations to the licensing authority, the authority considers it necessary to reject the application or vary those terms for the purpose of promoting the licensing objectives.

Members knew that they must carry out all its functions under the Act with a view to promoting the four "licensing objectives"

These are set out in section four and are well known to all parties, those being crime and disorder, public safety, prevention of harm to children and public nuisance.

In carrying out its licensing functions, the licensing authority must also have regard to its licensing statement and the guidance issued by the Secretary of State under section 182. Members confirmed that they had had regard to both the licensing statement and the s182 guidance in determining this application.

The authority must have regard to the representations it has received on this application, take such steps (if any) as it considers necessary for the promotion of the licensing objectives.

Members were mindful that they should only add conditions which were necessary and proportionate to the promotion of the four licensing objectives and if other law already places statutory responsibility on an employer or operator of the premises, it may not be necessary to impose the same or similar duties as part of this process.

Members were also mindful that until such time as the on going re-balancing consultation exercise evokes parliament to amend the current legislation and statutory guidance, the committee are required to follow the law and have regard to the guidance. They may only depart from the guidance where there are reasons for doing so. The current s182 guidance is still set within the concept of a light bureaucratic touch and not fixing artificially early opening hours to allow for the slower dispersal of patrons unless necessary.

The Committee took into account their statement of licensing policy including Paragraphs 2.5, 2.6, 2.7, 6.11 and section 9.

Members believed that the application did raise issues relating to all four licensing objectives.

Members had particular regard to :

- The nature of the licensing activities that were proposed and their duration.
- The proximity of the residential premises.
- The conditions that had been volunteered and agreed.
- The draft management plans that had been advanced.
- Together with the operating schedule and the evidence they had heard at the meeting.

Large events such as that proposed must ensure that they meet relevant standards to ensure public safety. Members

had regard to the event safety guide (the purple guide) and in particular those parts relating to traffic management and parts relating to pedestrian passage.

The police had made representations on all four licensing objectives and regard had been had to all of those and in particular crime and disorder, and weight had been given to this.

Environmental Health had made representations and in particular requiring conditions that accorded with the accepted code of practise. Committee members agreed that these were standards that should be followed.

Whilst highways were not a responsible authority for the purposes of the Act, representations had been heard from the local authority highways officer. It was considered that these representations were of assistance in conjunction with the police officers advice on road safety matters in assessing whether the objective of public safety would be adequately promoted.

Members took into account all the residents comments both verbally and written. Members believed that the festival for the limited duration agreed could proceed adequately promoting the licensing objectives, subject to conditions.

RESOLVED:

THAT the licence be granted subject to conditions.

Conditions:

Members noted that further discussions had taken place between the applicants and the Police. It was stated that the conditions attached at [appendix 1](#) had been agreed by all parties prior to the meeting.

The Committee was aware that Environmental Health had not concluded discussions with the applicants, however the following conditions were agreed during the meeting:

47. The License Holder shall appoint a person responsible for the management and coordination of all safety matters on site. Contact details for this person must be provided to the Licensing Authority not later than 28 days before the start of each year's event.
48. The Event Safety Plan (ESP) shall include a plan of the site, which shall show the boundaries of all designated Hearing Protection Zones, that term having the meaning given to it by the Control of Noise at Work Regulations 2005.

49. The ESP and associated Risk Assessments shall form part of the Operating Schedule.
50. The License Holder shall appoint a suitably competent person responsible for the overall control of all noise generated from within the boundary of the licensed premises. This person, and any person appointed to deputise in their absence, shall have no other duties, and shall have the authority to deal with all noise issues. The person is to be contactable by officers of Environmental Health and available to deal with any matters arising at all times throughout the event. Contact details must be provided to Isle of Wight Council Environmental Health at least seven days before the commencement of licensed activities.
51. The Event Organiser must provide and maintain sound level monitoring equipment to ensure compliance with the conditions of this License. The sound level monitoring equipment must be to a IEC Type 2 Standard capable of providing a read-out in dB(A) of 60 second to 15 minute dB(A) Leq values, the meters to be provided with an automatic reset facility. However it should be noted that the Licensing Authority will be using Type 1 instruments and in any disputed measurements, the enforcing authority readings shall take precedence.
52. The License Holder shall ensure that during times of entertainment a person is positioned off-site, undertaking noise monitoring, and a second person is located on-site to identify the sources contributing to any breach of conditions and facilitating the reduction in noise levels that may be required to prevent the breach.
53. The Event Organiser must ensure that amplification equipment is not brought onto site unless:
 - It is for use as part of the licensed entertainment, or
 - It is for use of authorised traders for the sole purpose of providing background music to their own concession.
54. Not later than 28 days after the end of the event, each year, the License Holder shall submit to the Licensing Authority a report showing all noise measurements taken during the event, together with details of what steps were taken in the event that exceedances of the sound level limits were noted.

The Committee modified a number of the proposed conditions to read:

55. The number of persons permitted to attend the premises shall not exceed:
 - 18,000 in 2012
 - 20,000 in 2013
 - 22,000 in 2014
56. The licence shall be operative for a period not exceeding five calendar days during the month of August each year, but not including Bank Holiday weekend.
57. Recorded music shall not be provided later than 02.00 hrs on any day except 02.30 hrs on Friday and Saturday nights.
58. No live or recorded music shall be provided on the main stage after 24.00 hrs on any day.
59. Licensable activities authorised under categories G, H, J and K (provision of facilities for dancing, etc) shall not be provided later than 02.00 hrs on any day (save 02.30 hrs on Friday and Saturday nights).
60. The holder of the premises licence, or an agent on behalf of and under their authority, shall produce an event safety and operational plan (ESOP) in advance of any event taking place in accordance with the licence. Such a plan will comply with the recommendations of the Event Safety Guide HSG195.
61. On Thursday and Monday of the festival 15 minute Music Noise Level (MNL) within the festival will not exceed 45 dB(A) Leq and in the 63hz and 125hz octave bands the music noise level shall not exceed 55 dB (measured as 15 minute Leq) at locations as to be agreed in writing between the licence holder and the licensing authority.
62. Between the hours of 02.30 hrs (02.00 Sunday) and 10.00 hrs on any day the event music noise level from within the festival will not exceed 45 dB(A) (measured as 15 minute Leq) and in the 63hz and 125hz octave bands the music noise level shall not exceed 55 dB (measured as 15 minute Leq) at locations as to be agreed in writing between the licence holder and the licensing authority.

The Committee agreed to add the following conditions to the licence:

63. Between the hours of 10.00 hrs and 23.45 hrs on Friday and Saturday of the event music noise level from within the festival will not exceed 65 dB (A) (measured as 15 minute Leq) and in the 63hz and 125hz octave bands the music noise level shall not exceed 75 dB (as measured as 15 minute Leq) at locations as to be agreed in writing between the licence holder and the licensing authority.
64. Between the hours of 10.00 hrs and 23.00 hrs on Sunday of the event music noise level from within the festival will not exceed 65 dB (A) (as measured as 15 minute Leq) and in the 63 hz and 125hz octave bands the music noise level shall not exceed 75 dB (as measured as 15 minute Leq) at locations as to be agreed in writing between the licence holder and the licensing authority.
65. Between the hours of 23.00 hrs and 02.30 hrs on Friday, Saturday and 02.00 on Sunday of the music event, music noise level from within the festival will not exceed 45 dB (as measured as 15 minute Leq) and in the 63hz and 125hz octave bands, the music noise level shall not exceed 55 dB (measured as 15 minute Leq) at locations as to be agreed in writing between the licence holder and the licensing authority.
66. At least one SIA registered steward shall be present in the immediate vicinity of the barn area on Upper Winstone Farm.
67. A draft transport management plan shall be circulated six months prior to any licensable activities occurring on the site, which must include information relating to how pedestrians and vehicles and public transport will be managed and accommodated, including the crossing over the A3020, together with which road closure orders are required.
68. No licensable activity shall take place except in strict accordance with the traffic management plan unless otherwise agreed in writing with the licensing authority and police.

**Reasons for
Decision:**

The reasons were provided in the report to promote the Licensing objective regarding the Prevention of Crime and Disorder, Public Safety, The Prevention of Public Nuisance and The Protection of Children From Harm. The additional conditions were required in order to adequately promote the

licensing objectives of public safety arising from traffic to the site; and public nuisance arising from the licensable activities.

In reaching the decision the Sub Committee had regard to the Human Rights Act 1998, and in particular Article 1 of the First Protocol, Article 8 and Article 6. The Sub Committee considered their decision to be proportionate and necessary for the promotion of the four licensing objectives under the Licensing Act 2003.

All parties were advised that they had a right of appeal to the Magistrates Court if they were dissatisfied with the decision, and that any such appeal had to be made within 21 days from the date of notification.

Details

Public

Participants:

As per application

Geri Ward (Applicant)

Philip Snellen (Applicant)

Louise Prior (Designated Premises Supervisor)

James Rankin (Counsel on behalf of the Applicants)

Rebecca Thomas (Solicitor on behalf of the Applicants)

Cllr David Pugh

Cllr Colin Richards

Cllr David Williams

Mrs Josephine Moorman (Objector)

Mr James Parsons-Smith (Objector)

Mr Barry Pike (Objector)

Mr Clive Richardson (Objector)

Ms Emma Banner (Objector)

Miss Kelly Moorman (Objector)

Mr Hider (Objector)

Mr Michael Poland (Objector)

Mr D Dobson (Objector)

Mr Steve Knight (On behalf of Shanklin Town Council)

Additional

Representations:

Prior to the hearing the applicants had submitted a Noise Assessment and Noise Management Plan. In addition they had submitted a Working Traffic Management Plan. Copies were circulated to members of the committee.

The Licensing Officers highlighted that a submission from the Ramblers Association had initially been rejected and a subsequent request for its inclusion had been received. After examining the submission members concluded that the representation would form part of the papers under consideration.

Comments:

It was noted that members of the committee had undertaken an accompanied site visit of the proposed festival on Wednesday, 14 September 2011.

Members confirmed they had read the lengthy papers and were given a presentation by licensing officers who reinforced which concerns could be attributed to which licensing objective and members should therefore have regard to. The Committee was advised which matters did not fall under the four licensing objectives and would be subject to either other legislation or separate orders.

A major concern of objectors was the safety of pedestrians who according to the plan would have to cross the A3020 to access the festival from the proposed car park and bus station and may use the road to walk to Shanklin. The applicants stated that attendees would be encouraged to remain on the site and that this would be promoted through provision of suppliers and concessionaires on site. Additionally, pedestrian access and egress from the site would be via the disused railway line, forming part of the sunshine trail, which would be lit at night.

Members considered the various options available to alleviate safety concerns where there was pedestrian and vehicle conflict, which could include a partial closure order of the A3020, during evenings and the early hours. They were mindful however of the need to balance this against the public nuisance that may be caused.

Concern was raised as to how the prevention of harm to children and crime and disorder would be managed both on and around the site. It was confirmed that an established security firm who had previous experience had been instructed by the applicants and risk assessments had been undertaken. It was clarified that safety and security would be further reinforced by the allocation of appropriate police resources.

Prior to his submission Cllr David Pugh declared a personal interest as he was speaking on behalf of local residents within his ward and that he lived in the vicinity of the site.

Cllr Pugh stated that there remained a large amount of outstanding concerns, which they believed could not be mitigated through conditions and that granting this application would further erode and not promote the licensing objectives. Cllr Pugh further stated that should the committee be minded to grant the license, that it should be granted for a single year, which would allow a further opportunity for objectors to voice their experiences and concerns after the event, he additionally proposed both amendments and

inclusion of additional conditions.

Local residents, whose land backed onto the proposed site voiced concerns in regard to matters including trespass onto private property, damage to agricultural buildings, safety concerns both to and from livestock, litter and the risk of fire by those camping on the downs above the site.

It was confirmed that access to Apse Manor Road would be controlled and that local residents would receive passes for them and any visitors to pass through the manned checkpoints.

CHAIRMAN