

# Minutes

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Name of meeting	<b>LICENSING (DETERMINATIONS) SUB COMMITTEE</b>
Date and time	<b>MONDAY, 27 APRIL 2009 COMMENCING AT 10.00 AM</b>
Venue	<b>COMMITTEE ROOM ONE, COUNTY HALL, NEWPORT, ISLE OF WIGHT</b>
Present	Cllrs Susan Scoccia (Chairman), Ivan Bulwer, Mike Cunningham
Officers Present	Amanda Gregory, Julie Martin, Justin Thorne, Claire Van Heerden

**46. Declarations of Interest**

Councillor Ivan Bulwer declared a personal interest in Minute 47 (a) - A Premises Licence for The Bistro, Island Harbour, Newport - as he knew one of the objectors.

**47. Reports of the Head of Community Safety Service**

- (a) Consideration was given to the report of the Head of Community Safety Service, providing details of an application for a Premises Licence, received in accordance with Section 17 of the Licensing Act 2003.

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/or written evidence from the applicant, interested parties and/or 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 2008 – 2011, the applications be determined as detailed below:

**Decision Ref:** 18 (08/09)

**Application:** A Premises Licence for The Bistro, Island Harbour, Newport, Isle of Wight

**Resolution** THAT the grant of a Premises Licence The Bistro, Island Harbour, Newport, Isle of Wight be approved, in accordance with the application, subject to those conditions proposed by the applicant within the operating schedule and also subject to the mandatory conditions specified in the Licensing Act 2003, but modified to such an extent as the Sub Committee have considered necessary for the promotion of the four licensing objectives, namely by requiring the following conditions listed below:

- Conditions:**
1. Notwithstanding this licence, within 30 days of the grant of this licence a detailed training programme shall be submitted to and approved in writing to the Local Licensing Authority to include
    - (i) Misuse of drugs.
    - (ii) The refusal of intoxicated patrons.
    - (iii) The 4 licensing objectives.
    - (iv) Roles and responsibilities under the Licensing Act.
    - (v) Conflict management.

written records shall be kept of those attending, dates and training provider and made available on request to the Local Licensing Authority.

2. A written drugs policy shall be submitted to and approved in writing to the Local Licensing Authority and all staff members will be made aware of it.
3. The Challenge 21 Scheme shall be adopted as regard to proof of age for the sale and supply of alcohol. ID to be requested and checked from anyone purchasing or consuming alcohol and appears to be under 21. Staff to be trained to be aware of who the alcohol is being purchased for and refusal log to be kept. A refusals register and incident log detailing a description of the customer will be kept and made available to the authorities on request.
4. The use of the outside areas will cease at 23:00 hours except for the 12 special occasions per year and save for a smoking area to be provided in an area to be agreed in writing with the Local Licensing Authority.
5. No customers will remain on the premises after 00:30 hours except for the 12 special occasions per year.

6. No alcohol to be removed from the premises in open containers.
7. No regulated entertainment shall be permitted outside the premises except on 12 occasions per calendar year between 10:00 hours to 22:00 hours and such entertainment shall not occur on consecutive days and shall not give rise to a sound level of more than 60dB(A), measured as leq over 15 minutes at the boundary of the nearest noise sensitive premises (Tide Mill House). Such levels to be monitored during the occasions permitted at no less than 2 hour intervals.
8. During regulated entertainment, the noise levels shall be regularly monitored from outside the building. Noise levels are to be reduced, where such monitoring indicates that is necessary to prevent public nuisance.
9. No regulated entertainment hereby permitted by this licence shall take place inside the premises after 22:00 hours until all external doors or windows are fully closed.
10. Prominent, clear and legible notices shall be displayed at all exits requesting customers to respect the needs of local residents by leaving the premises and the area quietly.
11. A copy of all public nuisance complaints shall be recorded in a log book containing the time of complaint, date, complainant's name and address (where provided) along with the action taken by the responsible person to deal with the complaint including the date and time of the actions completion. The log book shall at all times be available for inspection by an authorised officer of the Local Licensing Authority and in any event within 24 hours of a request.
12. Notwithstanding the licence, no live music shall be permitted except on 12 occasions in any calendar year.

**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, in particular.

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 :** As per application as amended during the hearing.

**Public Participants:** Mr Michael Harrigon (Applicant)

Mr Keith Traves (Objector)  
Mr Ian Husbands (Objector)  
Mr Edward Wright (Objector)

**Additional Representations:** None.

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- (b) Consideration was given to the report of the Head of Community Safety Service, providing details of applications for the Grant of Street Trading Consent in accordance with the Local Government (Miscellaneous Provisions) Act 1982, Schedule 4 Street Trading.

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

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

**RESOLVED:**

THAT upon receiving the reports of the Licensing section, oral and written evidence from the applicant, interested parties and responsible authorities and having regard to the Local Government (Miscellaneous Provisions) Act 1982, Schedule 4, Street Trading, the applications be determined as detailed below:

**Decision Ref:** 19 (08/09)

**Application:** An application for the grant of a Street Trading Consent submitted by Mr Michael Tracey

**Resolution:** Upon receiving the report of the licensing section, oral and written evidence from the applicant and objectors, and having regard to the Isle of Wight Council's Interim Statement of Licensing Policy (Street Trading Consents) adopted in July 2008, the sub committee hereby refuse the application.

**Reasons for Decision:** Members considered that the application may have a negative effect on the Crime and Disorder in that area. Members believe it would actively encourage congregation of intoxicated persons and increase the dispersal time for

customers which is contrary to the Police strategy in this area. Members are mindful of the current anti social behaviour and alcohol problems in this area and do not believe there are conditions that can adequately mitigate this problem. Members believe that it is very difficult due to its outside nature without the benefit an enclosed venue can provide. The combination of location, anti social behaviour and alcohol problems in this area and the times mean it has no option but to refuse the application.

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.

All parties were advised there was no direct right of appeal against the decision but if anyone was dissatisfied they did have the right to judicially review the decision.

**Details:**

As per application.

The proposed day's of trading are Monday – Sunday.

To start trading from: 21:00 hours  
End of trading: 04:15 hours

The site requested is Ryde Esplanade (Car park spaces by coach bay)

**Public Participants:**

Sergeant G Mudge (Hampshire Constabulary)  
Sergeant S Goodier (Hampshire Constabulary)  
Inspector W Pinnell (Hampshire Constabulary)

**Additional Representations:**

11 Late representations had been received on 20, 21 and 23 April 2009. The applicant had been given a copy of the late representations.

The applicant view on the acceptance of the late representations was sought and he agreed they could be submitted as late evidence.

A short adjournment was held to enable members of the Sub Committee to read the late representations.

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CHAIRMAN