

# Minutes

Name of meeting	<b>LICENSING (DETERMINATIONS) SUB COMMITTEE</b>
Date and time	<b>WEDNESDAY, 28 APRIL 2010 COMMENCING AT 9.30 AM</b>
Venue	<b>COMMITTEE ROOM TWO, COUNTY HALL, NEWPORT, ISLE OF WIGHT</b>
Present	Cllrs Jonathan Bacon, Ivan Bulwer (Chairman), Paul Fuller
Officers Present	Jonathan Baker, Bill Berry, Sarah MacDonald, Claire Thomas, Justin Thorne, Claire Van Heerden, Sergeant Mark Voller

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**28. Election of Chairman for the Day**

RESOLVED:

THAT Councillor Ivan Bulwer be elected Chairman for the day.

**29. Minutes**

RESOLVED:

THAT the Minutes of the meeting held on [16 March 2010](#) be confirmed.

**30. Declarations of Interest**

There were no declarations received at this stage.

**31. Report 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 Variation of a Premises Licence, received in accordance with Section 34 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 written evidence from the applicant, interested parties and responsible authorities and having regard to the Guidance issued under Section 182 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:

<b>Decision Ref</b>	12 (09/10)
<b>Application:</b>	Application for a Variation of the Premises Licence for Dalyan, 28 High Street, Shanklin, Isle of Wight, PO37 6JY
<b>Resolution:</b>	THAT the grant for a Variation of the Premises Licence for Dalyan, 28 High Street, Shanklin, 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.
<b>Conditions:</b>	Members did not believe that there would be a substantial licensing objection for the conditioning or refusing the application.
<b>Reasons for Decision:</b>	<p>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.</p> <p>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.</p> <p>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.</p>
<b>Details:</b>	As per application.
<b>Public Participants:</b>	None
<b>Additional Representations:</b>	None

- b). 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.

A schedule of additional representations, received after the printing of the reports, was submitted to Members prior to the consideration of each relevant 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 each 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 2008 – 2011, the applications be determined as detailed below:

**Decision Ref:** 13 (09/10)

**Application:** A Premises Licence for Ventnor Botanical Gardens, The Undercliffe Drive, Ventnor, Isle Of Wight, PO38 1UL

**Resolution** THAT the grant of a Premises Licence for Ventnor Botanical Gardens, The Undercliffe Drive, Ventnor, 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:** As per suggested conditions as set out by the Police and amended as follows:

- i. Amend condition (1) to include 'The Meadow'
- ii. Amend condition (2) to read 'The designated premises supervisor, or his nominated deputy, who shall be a personal licence holder, shall be present at all times whilst live entertainment is provided at the premises;

- iii. Where a live entertainment event is provided in any outdoor licensed area, a suitable number of security staff shall be engaged for the duration of the event in accordance with a risk assessment carried out by or on behalf of the licence holder; The risk assessment shall be agreed with the Police no later than 14 days prior to the event.
- iv. The licence holder must inform the local Authority and Police licensing unit no later than 28 days prior to a live entertainment event at the Meadow area.
- v. A 'Challenge 21' policy shall be adopted, so that alcohol shall not be sold to any person appearing to be under 21 years of age unless that person can produce satisfactory proof that he is over the age of 18.
- vi. A written record shall be made of any incident taking place on the premises or of any complaint made by any party, also of the refusal to sell alcohol to anyone who is under 18 or who appears to be drunk. Any such record shall be signed and dated by the person making the entry and shall be produced to a police officer on reasonable request.

The following Environmental Health conditions shall apply for all regulated outdoor entertainments located within the Meadow licensable area.

- i. This License authorises the holding of outdoor entertainments for no more than 10 days in any year of which no more than three days may be consecutive.
- ii. The event organisers will appoint a person responsible for the overall control of all noise being generated from within the boundary of the licensed premises. Contact details for this person will be provided to the Licensing Authority no less than 28 days prior to the start of the event. The person so appointed will be contactable by the Licensing Authority at all times throughout the event.
- iii. The sound system shall be available for testing by the Environmental Health Department at such times as agreed between the Environmental Health Department and Licence Holder. All testing of amplified equipment before the event shall be by prior agreement with the Environmental Health Department.

- iv. Between 1000hrs and Midnight on any day, the noise levels generated from within the licensed premises shall not exceed 60 dBA Leq when measured at a designated monitoring location, the location of which to be supported and approved in unity by the Local Licensing Authority, as detailed on the attached map over any 15 minute period. Noise levels in the 63Hz octave frequency bands must not exceed 70 db at the same locations.

The following additional conditions agreed by the Sub Committee:

- i. All licensable activity shall cease at 2300hrs on a Saturday within the Meadow.
- ii. Notwithstanding application, no licensable activity shall take place in the Marked Childrens area within the Meadow.
- iii. Prior to any licensing activity taking place on site, a plan identifying the position of a display has been submitted to and approved in writing by the Local Licensing Authority. Thereafter, no licensable activity shall take place in the Meadow unless 14 days notice of the activity, indicating type of licensable activity, times, position and person to contact to complain has been on display.
- iv. The variation permitted by this application shall cease to have effect on 30 September 2010.

**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

**Public Participants:** Mrs York of Ventnor  
Mr Strawson of Ventnor

Cllr Susan Scoccia – Ward member for Ventnor West

**Comments:** Two emails from Mrs E Clements from Ventnor with regards to residents concerns were circulated.

It was noted that access to the Children’s Play area should be made available at all times during the preparation of any licensable event.

- c). Consideration was given to the report of the Head of Community Safety Service, providing details of an application for a Variation of 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 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 2008 – 2011, the applications be determined as detailed below:

**Decision Ref:** 14 (09/10)

**Application:** A Premises Licence for “Hawkfest”, field opposite East Afton Farm, Newport Road, Freshwater Isle of Wight

**Resolution** THAT the grant of a Premises Licence made under section 17 of the Licensing Act 2003 for “Hawkfest”, field opposite East Afton Farm, Newport Road, Freshwater, 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, and 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:**
- i. It was agreed between the Applicant, Environmental Health and the Police that within the report a minor amendment to condition 4 on page D-33, would read:
 

Between 10.00hrs and midnight on any day, during sound checks, the noise levels generated from within the licensed premises shall not exceed 75 dBA Leq when measured against the nearest noise sensitive premises as detailed on the attached map over any 15 minute period. Noise levels in the 63 Hz or 125 Hz octave frequency bands must not exceed 85 dBA at the same locations at a distance of 1 metre from the boundary of any noise sensitive premises over any 15 minute period.
  - ii. No late night refreshments shall be sold between 3 and 5.00am.

**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

**Public Participants:** None

**Additional Representations:** Mr Holsbert of Freshwater on behalf of Cllr George Cameron.