



Minutes

Name of meeting	LICENSING (DETERMINATIONS) SUB COMMITTEE
Date and time	TUESDAY, 29 SEPTEMBER 2009 COMMENCING AT 10.00 AM
Venue	COMMITTEE ROOM TWO, COUNTY HALL, NEWPORT, ISLE OF WIGHT
Present	Cllrs Susan Scoccia (Chairman), Ivan Bulwer, David Whittaker
Officers Present	Claire Thomas, Justin Thorne, Simon Wiggins

7. **Minutes**

RESOLVED :

THAT the Minutes of the meeting held on [17 August 2009](#) be confirmed.

8. **Declarations of Interest**

There were no declarations received at this stage.

9. **Report of the Head of Community Safety Service**

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/or written evidence from the applicant, interested parties and having regard to the Guidance issued under Section 34 of the Licensing Act 2003 and the Isle of Wight Council's Statement of Licensing Policy 2008 – 2011, the application be determined as detailed below:

Decision Ref	05 (09/10)
Application:	Application for a Variation of the Premises Licence for Café Maya, 9 Forelands Road, Bembridge, Isle of Wight.
Resolution:	<p>THAT the grant for a Café Maya, 9 Forelands Road, Bembridge, 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:</p>
Conditions:	<p>i) As those suggested conditions 3 and 4 on pages B – 36 of Paper B of the report dated 29 September 2009. Reason: As per reasons given within the same report in order to promote the licensing objective of the prevention of public nuisance and in accordance with the Isle of Wight Councils Statement of Licensing Policy 2008 – 2011 and s182 guidance.</p> <p>ii) No regulated entertainment is permitted by the Licence. Reason: The application has been judged according to the provision of background music only which is not licensable.</p> <p>iii) No Licensable activity shall take place on the premises until a complaints book recording the date, time, names of complainant, employee acting and action taken shall be kept and maintained on the premises at all times and available to the police and local licensing authority upon immediate request. Reason: In order to adequately demonstrate action to reduce potential public nuisance.</p> <p>iv) Music noise emanating from the premises shall be of a level whilst audible (heard), is so low in volume that distinct lyrics, tones, musical instruments and the bass beat can not be recognised (in open air) at a position 1 metre from the boundary of the closest noise sensitive premises Reason: To promote the licensing objective of the prevention of public nuisance and in accordance with the Isle of Wight Councils Statement of Licensing Policy 2008 – 2011 and s182 guidance.</p>

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.

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:

Laura Parker (On behalf of applicant)

Laura Caporaso (On behalf of applicant)

Councillor Jonathan Bacon (On behalf of objectors)

Comments:

It was noted that allegations had been made in both an interested party representation and by the Local Member that the premises had been operating outside of the current licence.

It was clarified that the area had been visited by a member of the Environmental Health Department on 28 August 2009 to investigate those allegations and that this was subject to a separate investigation. Members were advised to consider the application as it had been submitted.

Members asked for an informative to be issued to the applicant which made it clear that there was to be no removal of alcohol from the premises.

CHAIRMAN