



# Minutes

Name of meeting	<b>LICENSING (DETERMINATIONS) SUB COMMITTEE</b>
Date and time	<b>MONDAY, 4 OCTOBER 2010 COMMENCING AT 2.30 PM</b>
Venue	<b>COUNCIL CHAMBER, COUNTY HALL, NEWPORT, ISLE OF WIGHT</b>
Present	Cllrs Ivan Bulwer (Chairman), Colin Richards, Arthur Taylor
Officers Present	Bill Berry, Ben Gard, Marian Jones, Claire Van Heerden

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23. [Election of Chairman for the Day](#)

RESOLVED:

THAT Councillor Ivan Bulwer be elected Chairman for the day.

24. [Minutes](#)

The minutes for the previous meeting were reviewed.

RESOLVED:

THAT the Minutes of the meeting held on [24 August 2010](#) be confirmed.

25. **Declarations of Interest**

No declarations were received.

26. [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 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 each application, the Sub Committee presented the following decision and the reasons for that decision.

The Sub-Committee noted that, following discussions with the applicant, the application had been amended as follows (page B30 of the report):

- Amendment of the 9<sup>th</sup> paragraph to read “The noise levels generated from within the licensed premises shall be controlled so as to ensure that the music noise level shall not exceed 65dB(A) Leq, nor more than 75dB Leq at the 63 Hz and 125 Hz octave bands, when measured at the nearest or agreed noise-sensitive premises over any 15 minute period.”
- Deletion of the 10<sup>th</sup> paragraph beginning “Noise levels agreed with Environmental Health.”

**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 s18 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:** 08 (10/11)

**Application:** A Premises Licence Under Section 17 Of The Licensing Act 2003 For Ventnor Botanical Gardens, The Undercliff Drive, Ventnor, Isle Of Wight, PO38 1UL

**Resolution**

THAT the grant of a Premises Licence for Ventnor Botanical Gardens, The Undercliff Drive, Ventnor, Isle Of Wight, PO38 1UL 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 those agreed by the Police named in the report 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) A CCTV system shall be installed and maintained to the satisfaction of the local authority Licensing Team. This system shall cover all relevant areas within the visitor centre, also any area adjacent to the visitor centre, where licensable activities take place. Recorded images shall be retained for at least 30 days and shall be made available to police upon reasonable request.
  - (ii) A written record shall be made of any relevant incident taking place on the premises, of any complaint relating to the premises, and of the refusal to sell alcohol to any person who appears to be either drunk or under the age of 18 years. Such a record shall be signed and dated by the person making the entry and shall be produced to a police officer or relevant officer of the local authority on reasonable request.
  - (iii) A ‘Challenge 21’ policy shall be adopted, so that alcohol shall not be sold to any person appearing to be under

the age of 18 years, unless that person produces satisfactory documentary proof that he or she is over 18.

- (iv) Posters carrying the message that a 'Challenge 21' policy is in place shall be displayed prominently at every point of sale.
- (v) Signage shall be placed at every public exit to the visitor centre, also at every main public exit to the licensed site, requesting that customers respect local residents and leave quietly.
- (vi) Alcohol sold for consumption off the premises shall not be provided in an open container.
- (vii) The designated premises supervisor, or his nominated deputy, who shall be the holder of a personal licence to sell alcohol, shall be present at all times live or recorded music is provided on the premises.
- (viii) A suitable number of security staff shall be present whenever live or recorded music is provided at the premises after 1900hours. Such staff shall remain there until licensable activities cease.
- (ix) The designated premises supervisor shall ensure that all staff engaged in the sale of alcohol shall receive regular instruction regarding the responsible sale of alcohol. The delivery of such training shall be documented, and such documentation shall be made available to police or relevant officer of the local authority upon reasonable request.
- (x) No licensable activity shall take place in the area within the Meadow designated as a children's area.

Conditions to apply to any event provided for 500 or more persons (in addition to the conditions above):

- (xi) Isle of Wight Police Licensing Unit shall be notified in writing (or by e-mail) at least 28 days in advance of any event taking place on the licensed site which is likely to attract more than 500 persons.
- (xii) Events likely to attract more than 500 persons shall not be held on more than 10 days per calendar year and no more than 5 per calendar month.
- (xiii) No event shall last for a period exceeding 72 hours.
- (xiv) The licence holder, or a person on their behalf, shall produce an event management plan which shall take account of the recommendations of the Event Safety Guide. Such an event management plan shall be

submitted to the Isle of Wight Police Licensing Unit at least 14 days prior to the event.

- (xv) The event management plan shall contain details of the number of security staff to be engaged at the event, also the deployment and duties of such staff.
- (xvi) Where, without good cause, a significant deviation from the management plan occurs at the time of the event, the deviation may be treated as a breach of this condition of the premises licence.
- (xvii) No beverage shall be provided in a glass container (including glass bottles) and plastic/polycarbonate vessels shall be used unless written permission is received from the licensing authority beforehand.
- (xviii) The designated premises supervisor or his nominated deputy, who shall be the holder of a personal licence to sell alcohol, shall be present at all times during such an event
- (xix) No person under the age of 18 years shall be involved in the sale of alcohol.
- (xx) Where required to do so by a police supervisor, for the purpose of preventing violence or disorder, the licence holder shall close any outlet for the sale of alcohol for such period as police consider necessary.
- (xxi) No person shall be permitted to bring any alcohol onto the licensed site and, as a condition of entry; security staff may search persons attending an event for alcohol.

The Sub Committee also agreed to the inclusion of the following advisory notes:

- Beverages shall be provided only in plastic / polycarbonate drinking vessels at events attended by less than 500 people where so agreed by the applicant and police beforehand.
- The applicant shall advise the licensing authority and police about events in writing at least 7 days in advance of an event.
- The telephone number of the designated premises supervisor shall be displayed in suitable locations to enable people with concerns about an event to make their concerns known.
- A complaints log shall be maintained.

**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.

**Public Participants:**

Sergeant Mark Voller (Hampshire Constabulary)

Mrs Astrid Davis – applicant's representative

Mrs Clements – resident. Mrs Clement stated that nearby residents appreciated the applicant's efforts to hear their concerns and most of these concerns had been covered. However, Mrs Clements raised the following concerns:

- Public safety, in particular in relation to the children's play area, where visitors arriving at the gardens may be unaware that the premises were in use for other purposes.
- The sale of alcohol for consumption off-premises.
- Need for the additional conditions proposed for events attracting more than 500 people to apply to all events regardless of the number of attendees.
- Who should make the decision regarding the location for dancing, given the terrain of the land.
- Need for people to know who to contact if problems arose during an event.

**Comments:**

The Sub Committee recognised that the nature of certain events would render the serving of drink in plastic/polycarbonate containers undesirable and in order to provide flexibility for this an advisory note had been agreed rather than a formal condition on this issue.

CHAIRMAN