



# Minutes

|                  |  |
|------------------|--|
| Name of meeting  | <b>LICENSING SUB-COMMITTEE</b>   |
| Date and time    | <b>MONDAY, 13 OCTOBER 2014 COMMENCING AT 10.10 AM</b>  |
| Venue            | <b>COUNCIL CHAMBER, COUNTY HALL, NEWPORT, ISLE OF WIGHT</b>  |
| Present          | Cllrs Colin Richards (Chairman), David Eccles, John Hobart   |
| Officers Present | Jon Baker, Amanda Gregory, Duncan Macdonald, Claire Thomas, Justin Thorne, Claire Whitchurch, Kevin Winchcombe |

---

13. [Minutes](#)

RESOLVED:

THAT the Minutes of the meeting held on [27 August 2014](#) be confirmed.

14. [Declarations of Interest](#)

There were no declarations received.

15. [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 made by Environmental Health under Section 51 of the Licensing Act 2003 to review a Premises Licence.

Additional representations were received from Environmental Health, the holder of the licence and from other persons who were unable to attend the hearing after the printing of the report. These were submitted to Members prior to the consideration of the application.

The Sub Committee followed the agreed procedure, which had previously been circulated to all parties prior to the meeting.

It was noted that Environmental Health had visited the premises to investigate complaints and concluded that the licence as it stood was not appropriate when it came to upholding the licencing objective of preventing a public nuisance. Such concerns included the noise emanating from

customers smoking outside the main entrance as well as that coming from live entertainment from within the premises.

Environmental Health wished for it to be noted that their concerns were around issues of noise nuisance only and that there were no apprehensions around any of the other licensing objectives. It appeared from their visits to the area and to the surrounding residential properties that the licence was not fit for purpose in promoting the licensing objective of preventing a public nuisance. They therefore proposed amended conditions which they believed would help in resolving the issues.

The subcommittee received various objections to the proposals, which could, in the opinion of the objectors, have a serious impact on the sustainability of the business, should such proposals be enforced.

The Licence Holder had accepted that there had been problems in the past which needed to be addressed and wished to make proposals to the subcommittee that could help address concerns. One of the proposals was to utilise the courtyard of the premises as a designated smoking area, to prevent noise from those smoking outside the front entrance. Other proposals included improving the signage to patrons advising them of their responsibilities to local residents as well as implementing a written noise assessment procedure and carrying out noise monitoring.

After hearing from all parties, 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, licence holder and other persons 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 2014 - 2019, the application be determined as detailed below:

**Application:**

Application for the Review of the Premises Licence for Crab and Lobster Tap, Grove Road, Ventnor, Isle of Wight.

**Resolution:**

THAT in respect of the Premises Licence for Crab and Lobster Tap, Grove Road, Ventnor, Isle of Wight, the licence be modified to such an extent as members had considered appropriate and proportionate for the promotion of the four licensing objectives, but in particular the prevention of public nuisance

## Conditions:

Members accepted that there had been evidence of disturbance and that therefore there had been a failure to prevent public nuisance. All parties accepted that the licence required modification and members agreed that it was not as it stood, fit for purpose and believed that there was a need to modify the licence, but recognised it may impact on the commercial viability of the business.

Members were also of the opinion that their agreed measures were appropriate and necessary. However, they may form a different point of view if the promises made were not honoured or the works did not address the nuisance that the DPS accepted did occur on occasions. Members therefore agreed to the following conditions.

- I. Prominent, clear and legible notices will be displayed at all exits, requesting customers respect the needs of local residents by leaving the premises and area quietly.
- II. Except the area marked green [on the attached plan](#) (and forming part of these minutes), no customers shall be permitted or allowed to remain outside the premises after 2300hrs.
- III. The sales of alcohol for consumption off the premises, with the exception of the area in the approximate position marked green [on attached plan](#) (and forming part of these minutes), shall cease at 2230hrs.
- IV. No alcohol should be allowed to be taken into the area in the approximate position marked green [on attached plan](#) (and forming part of these minutes) after 2300hrs.
- V. No regulated entertainment shall be permitted inside the premises unless all external doors and windows are fully closed. (S177A Licensing Act 2003 does not apply to this condition and therefore live music is included within the definition of regulated entertainment.)
- VI. Signage shall be displayed that is visible from outside of the premises which provide contact details for a person to complain to. A copy of all public nuisance complaints received shall be recorded in a log book containing the time of complaint, date, name and address (where provided), along with action taken to deal with complaint, including date and time of the actions completed. The log book shall be available for inspection by authorised officers of the Local Licensing Authority (LLA).
- VII. A written noise assessment procedure shall be submitted to and agreed in writing with the LLA, identifying the measures proposed to be taken to identify potential for noise nuisance and measures taken to reduce noise nuisance.
- VIII. When regulated entertainment is taking place, regular assessments of the noise coming from the premises will be conducted and steps will be taken to reduce the levels of noise where it is likely to cause a disturbance to local residents. A written record shall be made of those assessments in a log book and shall include date and time of checks, the person making the checks and the results including any remedial action. (S177A Licensing Act 2003 does not apply to this condition and therefore live music is included within the definition of regulated entertainment.)

**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 Protection of Children From Harm and in particular the Prevention of Public Nuisance

In reaching the decision the subcommittee had regard to the Human Rights Act 1998, and in particular Article 1 of the First Protocol, Article 8 and Article 6. The subcommittee considered the decision to be proportionate and appropriate 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 (or if different from those applied for):**

None

**Public Participants:**

David Weedon – DPS

Ian Pearson - Representing Licence Holder

Mathew Phipps – Solicitor Representing Licence Holder

Joyce Mears – Objector

Graham Benson – Objector

Betty McNeice - Objector

**Additional Representations:**

The subcommittee received additional representations from the licence holder and Environmental Health.

**Comments:**

It was noted that live music would be brought under the definition of regulated entertainment and a condition to that effect be made under s177a of the Live Music Act 2012.

Members also advised that with regard to doors being opened and closed for the purpose of exit and egress during live entertainment, common sense should be exercised.

---