

**NEW FOREST DISTRICT COUNCIL**

**LICENSING ACT 2003**

**APPLICATION: PEBBLE BEACH, MARINE DRIVE, BARTON ON SEA**

**Decision of the Licensing Sub-Committee hearing held at Appletree Court,  
Lyndhurst on Friday, 23 September 2005 at 9.30 a.m.**

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**1. Members of the Licensing Sub-Committee**

Councillor W H Dow  
Councillor R C H Hale - Chairman  
Councillor J Penwarden

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**2. Parties and their Representatives attending the Hearing**

Mr M Caddy - Applicant  
Mr A Poole – Solicitor representing Mr. Caddy  
Ms S Creasy – Premises Manager  
Mr C Poncin and Mr B Gaudicheau – Part of the premises management team

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**3. Other Persons attending the Hearing**

Mrs C Gallagher – Environmental Health Officer  
Mr & Mrs B Bunn  
Roy & Barbara Cragg  
Mr & Mrs J Donnelly  
D Farthing  
Mr & Mrs Hicks  
Mr & Mrs Milcoy  
Mr B Parke  
G Pilling  
Mr & Mrs R Poulter represented by Mr B Parke  
Doreen Richardson  
S E Saunders  
Mr Slack  
Mr D Thompson  
Mr & Mrs M Webbon  
D Whale  
Mrs P Whyte  
Mrs D Cole  
Mrs Dark  
Mr Mitchell

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#### 4. Parties not attending the Hearing

Mr H J & Mrs J A Wilkinson  
Mr V C & Mrs R Craig  
Mr H Thorogood  
Ms J Dommatt  
Mr J & Mrs I Bevan  
Mrs J Keeys  
Mr & Mrs H E Hames  
Mr E Finn  
Mr D & Mrs N A Newton  
M Gilbert  
Mr J L & Mrs J A Meadow  
Mr D W Arnett  
H J Wilkinson  
Mrs J Coppage  
Mrs A M Bosdet  
Ms I M Leyland  
Mr K Jones  
L Spooner  
Capt L & Mrs C d'Espagnac  
Mr G Nightingale  
Mr I D Austin  
Mr H A Bartlett  
Mrs J M James  
Mrs E J Payne  
Ms J M Elliot  
Mr G F Reeves  
Mr P G Lemon  
Mr A McLean Johnstone & Mrs J Johnstone  
Mr A J & Mrs S E Richards-Taylor  
Mr & Mrs R Davis  
Mrs S R Sparks  
Ms M E Collins CBE  
Mrs I Hamer  
Mr G B & Mrs S E Clarke  
Mr G & Mrs S Lewis  
Mr J & Mrs F Grimditch  
Mr C Payne  
Ms A Verinder  
Brigadier F G D Heppenstall  
Mr M A Unwin  
Ms P & Ms E Fagan  
Mr J P Slocombe  
Mrs P Hopkins  
Mrs M Sheard  
Mr N & Mrs M Sheard  
K E & D K Baden  
Mrs D M Johnson  
The Directors - Barton Chase Management Cttee  
Mr K Bennett - objector  
Mr J & Mrs P Ellis - objectors  
Mrs R L Douglas - objector  
Mr D & Mrs L Collins - objectors  
R & M Askin - objectors  
Mr J A Marshall - objector  
Mr R V & Mrs J D Blundell - objectors  
Mrs D Warsop - objector  
Mr C Griffith - objector  
Mr A J & Mrs G H Beaumont - objectors  
Brook Oliver – on behalf of Mr and Mrs Melville - objectors

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**5. Officers attending to assist the Sub-Committee**

Ms J Mutlow – Legal Advisor  
Mrs M Dunsmore - Clerk

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**6. Decision of the Sub-Committee**

The application is granted on the following terms and conditions.

**Licensable activities and times permitted:**

E. Live music:

(i) INDOORS:

Monday 08.00 to 01.00  
Tuesday 08.00 to 01.00  
Wednesday 08.00 to 01.00  
Thursday 08.00 to 01.00  
Friday 08.00 to 01.00  
Saturday 08.00 to 01.00  
Sunday 08.00 to 01.00

Limitations

- The indoor live music permitted at E (i) above shall be limited to piano, guitar or solo/duo singers by a maximum of 2 performers and shall not be audible at any nearby noise sensitive\* premises after 23.00 hours.

(ii) OUTDOORS:

Monday 12.00 to 23.00  
Tuesday 12.00 to 23.00  
Wednesday 12.00 to 23.00  
Thursday 12.00 to 23.00  
Friday 12.00 to 23.00  
Saturday 12.00 to 23.00  
Sunday 12.00 to 23.00

Limitations

- The outdoor live music permitted at E (ii) above shall be restricted to 4 occasions per calendar year and the nature of the live music shall be limited to a maximum of 2 performers and shall not be audible at any nearby noise sensitive\* premises.

F. Recorded music:

(i) INDOORS:

Monday 08.00 to 01.00  
Tuesday 08.00 to 01.00  
Wednesday 08.00 to 01.00  
Thursday 08.00 to 01.00  
Friday 08.00 to 01.00  
Saturday 08.00 to 01.00  
Sunday 08.00 to 01.00

Limitations

- The indoor recorded music permitted at F (i) above shall be limited to backing tracks to accompany the live music permitted at E (i) above and shall not be audible at any nearby noise sensitive\* premises after 23.00 hours.

(ii) OUTDOORS:

Monday 12.00 to 23.00  
Tuesday 12.00 to 23.00  
Wednesday 12.00 to 23.00  
Thursday 12.00 to 23.00  
Friday 12.00 to 23.00  
Saturday 12.00 to 23.00  
Sunday 12.00 to 23.00

Limitations

- The outdoor recorded music permitted at F (ii) above shall be restricted to the same 4 occasions per calendar year as permitted at E (ii) above and the nature of the recorded music shall be limited to backing tracks to accompany the live music permitted at E (ii) above and shall not be audible at any nearby noise sensitive\* premises.

- G. Performances of dance\*
- I. Provision of facilities for making music\*
- J. Provision of facilities for dancing\*

\*The licensable activities referred to at sections G. I. and J. above shall be subject to the same restrictions and timings as those permitted under sections E. and F. above.

L. Late night refreshment:  
Monday 23.00 to 00.30  
Tuesday 23.00 to 00.30  
Wednesday 23.00 to 00.30  
Thursday 23.00 to 00.30  
Friday 23.00 to 00.30  
Saturday 23.00 to 00.30  
Sunday 23.00 to 00.30

M. Supply of alcohol:  
Monday 08.00 to 00.30  
Tuesday 08.00 to 00.30  
Wednesday 08.00 to 00.30  
Thursday 08.00 to 00.30  
Friday 08.00 to 00.30  
Saturday 08.00 to 00.30  
Sunday 08.00 to 00.30

**Non-standard hours:**

The licensable activities permitted at sections E (i) and F (i) above shall be permitted from 08.00 hours on New Years Eve until 02.00 hours on New Years Day.

The licensable activities permitted at section L. and M. above shall be permitted from 08.00 hours on New Years Eve until 01.30 hours on New Years Day.

## **Hours premises to be open to the public**

Monday 08.00 to 01.00  
Tuesday 08.00 to 01.00  
Wednesday 08.00 to 01.00  
Thursday 08.00 to 01.00  
Friday 08.00 to 01.00  
Saturday 08.00 to 01.00  
Sunday 08.00 to 01.00

## **Non-standard opening hours**

The premises will be permitted to be open from 08.00 hours on New Years Eve until 02.00 hours on New Years Day.

## **Mandatory conditions:**

As provided in the Licensing Act 2003

## **Other conditions:**

1. No events involving discos or karaoke shall be permitted at any time.
2. Any incidental recorded music, which is played outdoors, other than backing tracks (referred to at F (ii) above) to accompany the live music (referred to at section E (ii) above), shall be restricted to the terrace.
3. The kitchen extraction system shall be switched off between the hours of 23.00 and 08.00 hours (unless alterations are made to the system to limit noise to the satisfaction of the Environmental Protection Officers of New Forest District Council).
4. The limitations set out at Sections E and F above shall form conditions of the licence and for those purposes the definition of noise sensitive premises shall include premises used for residential purposes, hospitals or similar institutions, educational establishments (when in use), places of worship (during recognised times and days of worship) and any other premises used for any other purpose likely to be affected by the music noise.
5. The Licensing Authority must be notified at least 7 days in advance of any outdoor event involving live/recorded music.

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## **7. Reasons for the Decision**

The Sub-Committee carefully considered the evidence, both written and oral, supplied by the parties and in particular the significant reduction in opening hours and conditions proposed by the Applicant at the hearing.

The Sub-Committee accepted that there could potentially be scope for noise nuisance caused by later vehicular movement and slamming of doors associated with patrons leaving the premises. However, they considered that any such potential would be limited due to the limited nature of the application for variation. It further took the view that as such concerns were broadly speculative, it did not have justification at this stage to restrict the hours applied for, particularly in light of the fact that had been on previous complaints relating to nuisance of this nature.

They further accepted the Applicant's submission, that due to the nature of the business, there was no justification for differentiation between weekday and weekend opening as the nature and volume of the clientele was unlikely to differ significantly therefore there was not, in the Sub-Committees view, good reason to grant more restrictive hours on weekdays. Obviously any such restrictions would need to be necessary for the promotion of the licensing objectives relating to the prevention of public nuisance and the Sub-Committee did not believe this to be appropriate in this case.

The Sub-Committee considered that conditions should be imposed requiring measures to ameliorate noise, as set out in this decision. The Environmental Health Officer was satisfied that these conditions would overcome her concerns. Should a statutory nuisance in the future be established, action will be taken under the Environmental Protection Act or the licence could be reviewed under the new provisions of the licensing regime.

**Date: 23.09.05**

**Licensing Sub-Committee Chairman: Cllr R C H Hale**

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**FOR OFFICE USE ONLY**

**Decision noted to interested parties on 27 September 2005**