

**NEW FOREST DISTRICT COUNCIL**

**LICENSING ACT 2003**

**APPLICATION: Beachcomber Café, Marine Drive East, Barton on Sea**

**Decision of the Licensing Sub-Committee hearing held at Appletree Court,  
Lyndhurst on Monday 12 December 2005 at 9.00 a.m.**

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

Councillor R C H Hale - Chairman  
Councillor L R Puttock  
Councillor S S Wade

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

Applicant:  
Mr M J Barry  
Mr E Foggitt – Barrister representing applicant

Objectors:  
Mr Hicks  
Mrs C Dark

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**3. Other Persons attending the Hearing**

Miss V Fletcher and Mr E Vandyck

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**4. Parties not attending the Hearing**

Ms J Elliott  
Mr & Mrs Fehler  
Mr & Mrs Shave  
Mr & Mrs Collins  
Mr & Mrs Hames  
D J Farthing  
Mr H Barlett  
Mr G F Reeves  
Ms E Payne  
Ms J Dommett  
Ms J James  
Mrs S Sparks  
Mr & Mrs Pevost  
Mr C House  
S W Mewton

Mr S Aindow  
Mr & Mrs Carpenter  
Mr & Mrs Bevan  
Mr E Finn  
Mr & Mrs Craig  
Mr & Mrs Webbon  
Mr & Mrs Smith  
Mr Lemon  
Mr & Mrs Mitchell  
Mr & Mrs Latham  
Mr & Mrs Melville  
Mr Harper  
Mrs Johnson  
Mr & Mrs Morgan  
D Warsop  
Mr & Mrs Donnelly  
D J Hawkins  
Directors – Barton Chase Management Committee  
Mr & Mrs Clarke  
Mr & Mrs Baden  
D E Richardson  
Mr & Mrs Abbott  
Mrs E Fagan  
Mr & Mrs Harbour  
J Sully  
Mr & Mrs Sully  
Mr I Austin  
I M Leyland  
Miss P Fagan

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

Miss 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\*:  
Monday 09.00 to 22.30  
Tuesday 09.00 to 22.30  
Wednesday 09.00 to 22.30  
Thursday 09.00 to 22.30  
Friday 09.00 to 22.30  
Saturday 09.00 to 22.30  
Sunday 09.00 to 22.30
- G. Performances of dance\*:  
Monday 09.00 to 22.30  
Tuesday 09.00 to 22.30  
Wednesday 09.00 to 22.30  
Thursday 09.00 to 22.30

Friday 09.00 to 22.30  
Saturday 09.00 to 22.30  
Sunday 09.00 to 22.30

- I. Provision of facilities for making music\*:  
Monday 09.00 to 22.30  
Tuesday 09.00 to 22.30  
Wednesday 09.00 to 22.30  
Thursday 09.00 to 22.30  
Friday 09.00 to 22.30  
Saturday 09.00 to 22.30  
Sunday 09.00 to 22.30

- J. Provision of facilities for dancing\*:  
Monday 09.00 to 22.30  
Tuesday 09.00 to 22.30  
Wednesday 09.00 to 22.30  
Thursday 09.00 to 22.30  
Friday 09.00 to 22.30  
Saturday 09.00 to 22.30  
Sunday 09.00 to 22.30

**\*NOTE:** The licensable activities permitted at sections E. G. I. and J. above shall be restricted to a maximum of 12 events per calendar year in total.

- M. Supply of alcohol:  
Monday 09.00 to 22.30  
Tuesday 09.00 to 22.30  
Wednesday 09.00 to 22.30  
Thursday 09.00 to 22.30  
Friday 09.00 to 22.30  
Saturday 09.00 to 22.30  
Sunday 09.00 to 22.30

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

Monday 09.00 to 23.00  
Tuesday 09.00 to 23.00  
Wednesday 09.00 to 23.00  
Thursday 09.00 to 23.00  
Friday 09.00 to 23.00  
Saturday 09.00 to 23.00  
Sunday 09.00 to 23.00

#### **Mandatory conditions:**

As provided in the Licensing Act 2003

#### **Other conditions:**

1. Notices shall be displayed in prominent positions within and outside the premises requiring patrons to leave quietly and respect local residents.
2. No children under 18 shall be permitted to enter or remain on the premises after 19.00 hours when events which are not conducive for young persons are taking place.

3. No rubbish, including bottles will be moved, removed or placed in outside areas between 23.00 and 07.00 hours.
4. Music and noise emanating from the premises whilst audible shall be so low that distinct tunes, lyrics, musical instruments and any base beat shall not be recognised at the boundary of all noise sensitive premises\*\*, as will be defined in a red hashed line on a map attached to the licence.
5. No off-sales shall be permitted.
6. No beverages shall be served in bottles or cans of any description.
7. The licensable activities permitted at sections E, G, I & J above shall be restricted to a maximum of 12 events per calendar year in total and each event must be notified to the Licensing Authority at least 14 days in advance of the event taking place.

\*\* For the purposes of condition 4 above, 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.

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

The Sub-Committee carefully considered the evidence, both written and oral, supplied by the parties.

In respect of the finish time for the licensable activities the Sub-Committee had particular regard to representations concerning the potential for noise nuisance emanating from the premises in light of the proposed longer hours being applied for, for licensable activities including the sale of alcohol.

The Sub-Committee considered that permitting a longer period for certain licensable activities on a limited basis with appropriate conditions would be appropriate as the concerns raised were broadly speculative and could be countered by conditions attached to the licence. The conditions imposed would assist in promoting the licensing objective relating to the prevention of public nuisance.

However, the Sub-Committee took the view that there should be a period after which the permitted licensable activities ceased to enable patrons to consume their drinks and gradually disperse from the premises and on that basis it took the view that licensable activities should cease 30 minutes before the premises closed to the public. Additionally it took the view that due to the nature and location of the premises that it would be reasonable and in line with the licensing objectives to require the premises to close at the time stated above.

The Sub-Committee carefully considered the proximity of the premises in relation to a large number of residential properties but took the view that with the protection of licence conditions and other statutory regimes such as the Environmental Protection Act that could be invoked should a statutory nuisance occur and also the fact that the premises was apparently very well run, that the licence should be granted in the terms laid out above.

**Date: 12.12.05**

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

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**FOR OFFICE USE ONLY**

**Decision notified to interested parties on 12 December 2005**