

NEW FOREST DISTRICT COUNCIL

LICENSING ACT 2003

**APPLICATION: REVIEW OF PREMISES LICENCE: FOUNTAIN COURT HOTEL,
FROST LANE, HYTHE**

**Decision of the Licensing Sub-Committee hearing held at Appletree Court,
Lyndhurst on Thursday, 3 May 2012 at 10.00am**

1. Members of the Licensing Sub-Committee

Councillor W H Dow
Councillor R F Scrivens
Councillor P R Woods - Chairman

2. Parties and their Representatives attending the Hearing

Police:

Miss G Fice
PC B Wood

Fountain Court Hotel:

Mr J Wallsgrove (Solicitor)
Mrs S Gujral (Designated Premises Supervisor)
Mr Mercer (Supporter)

3. Other Persons attending the Hearing

Mr & Mrs Harris – observers

4. Parties not attending the Hearing

None.

5. Officers attending to assist the Sub-Committee

Lisa Clark – Legal Advisor
Melanie Stephens - Clerk

6. Decision of the Sub-Committee

Mandatory conditions:

As provided in the Licensing Act 2003 and Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010.

Licensable activities and times permitted:

B: Films (Lounge/bar combined)

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 12.00 to 23:00

C: Indoor sporting events
(Conference room, function room, dining room/restaurant, lounge bar)

Monday 10.30 to 01:00
Tuesday 10.30 to 01:00
Wednesday 10.30 to 01:00
Thursday 10.30 to 01:00
Friday 10.30 to 01:00
Saturday 10.30 to 01:00
Sunday

E: Live Music
(Conference room, function room, dining room/restaurant, lounge bar)

Monday 10.30 to 01:00
Tuesday 10.30 to 01:00
Wednesday 10.30 to 01:00
Thursday 10.30 to 01:00
Friday 10.30 to 01:00
Saturday 10.30 to 01:00
Sunday

F: Recorded Music
(Conference room, function room, dining room/restaurant, lounge bar)

Monday 10.30 to 01:00
Tuesday 10.30 to 01:00
Wednesday 10.30 to 01:00
Thursday 10.30 to 01:00
Friday 10.30 to 01:00
Saturday 10.30 to 01:00
Sunday

G: Performances of Dance
(Conference room, function room, dining room/restaurant, lounge bar)

Monday 10.30 to 01:00
Tuesday 10.30 to 01:00
Wednesday 10.30 to 01:00

Thursday 10.30 to 01:00
Friday 10.30 to 01:00
Saturday 10.30 to 01:00
Sunday

H: Anything of a similar description to that falling within e, f or g
(Conference room, function room, dining room/restaurant, lounge bar)

Monday 10.30 to 01:00
Tuesday 10.30 to 01:00
Wednesday 10.30 to 01:00
Thursday 10.30 to 01:00
Friday 10.30 to 01:00
Saturday 10.30 to 01:00
Sunday

I: Facilities for making music
(Conference room, function room, dining room/restaurant, lounge bar)

Monday 10.30 to 01:00
Tuesday 10.30 to 01:00
Wednesday 10.30 to 01:00
Thursday 10.30 to 01:00
Friday 10.30 to 01:00
Saturday 10.30 to 01:00
Sunday

J: Facilities for dancing
(Conference room, function room, dining room/restaurant, lounge bar)

Monday 10.30 to 01:00
Tuesday 10.30 to 01:00
Wednesday 10.30 to 01:00
Thursday 10.30 to 01:00
Friday 10.30 to 01:00
Saturday 10.30 to 01:00
Sunday

K: Entertainment of a similar description to that falling within i or j
(Conference room, function room, dining room/restaurant, lounge bar)

Monday 10.30 to 01:00
Tuesday 10.30 to 01:00
Wednesday 10.30 to 01:00
Thursday 10.30 to 01:00
Friday 10.30 to 01:00
Saturday 10.30 to 01:00
Sunday

M: Supply of Alcohol

Monday 10.00 to 23:00
Tuesday 10.00 to 23:00
Wednesday 10.00 to 23:00
Thursday 10.00 to 00:00
Friday 10.00 to 00:00
Saturday 10.00 to 00:00
Sunday 12.00 to 22.30

The “permitted hours” for the sale of alcohol are as set out at “M” above.

On Thursdays, Fridays and Saturdays, where music and dancing is provided (licensable activities as defined at Schedule 1, Part 1, 2(e) to (h) of the Licensing Act 2003), as provided by Part 1 e,f,g,h,i,j and k of the premises licence, and where the sale of alcohol is ancillary to the provision of the regulated entertainment, the permitted hours for the sale of alcohol shall extend until 1am the following morning, except that where the regulated entertainment ends between midnight and 1am the permitted hours for the sale of alcohol shall end at the time when the regulated entertainment ends.

The Licence Holder may also provide late night refreshment for a period of 30 minutes after the permitted hours.

Seasonal variations:

On Good Friday: 12:00 to 22:30

On Christmas Day: 12:00 to 15:00 and 19:00 to 22:30

On New Year’s Eve: The permitted hours shall extend through from the end of permitted hours on New Year’s Eve to the start of permitted hours the following day (or, if there are no permitted hours the following day, to midnight on 31 December).

Restrictions:

The above restrictions do not prohibit:

- a) During the first twenty minutes after the permitted hours the consumption of alcohol on the premises;
- b) During the first twenty minutes after the permitted hours, the taking of a vessel from the premises unless the alcohol is supplied or taken in an open vessel;
- c) During the first thirty minutes after the above hours the consumption of alcohol on the premises by persons taking meals there if the alcohol was supplied for consumption as ancillary to the meals;
- d) Consumption of alcohol on the premises by, or the taking or supply of alcohol to, any person residing in the premises;
- e) The ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
- f) The sale of alcohol to a trader or club for the purposes of the trade or club;
- g) The taking of alcohol from the premises by a person residing there;
- h) The supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied; or
- i) The supply of alcohol for consumption on the premises to persons employed there for the purpose of the business carried on by the holder of the premises licence, or the consumption of alcohol so supplied, if the alcohol is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.

Other conditions:

The number of persons admitted at any entertainment shall not exceed:

Conference room – 180

Function room – 100

Dining room/restaurant – 100

Lounge bar – 120

TOTAL – 500

The maximum number of people permitted for films within the lounge/bar areas combined must not exceed 120 persons.

The two fire exit doors from the dance hall should be kept closed during public entertainment functions.

Where the number of children attending regulated entertainment exceeds 100 the licensee shall ensure that the provisions of Section 12 of the Children and Young Persons Act 1933 are complied with.

Other conditions (as proposed by the Police and agreed by the Applicant at the hearing):

CCTV

1. The premises shall have sufficient cameras located within the premises to cover all public areas where licensable activities take place including outside of the premises covering the entrance and exit. The system should be able to cope with strobe lighting and all levels of illumination throughout the premises as well as outside areas.
2. CCTV warning signs to be fitted in public places.
3. The CCTV system must be operating at all times whilst the premises are open for licensable activity. All equipment shall have a constant and accurate time and date generation.
4. The recording system will be able to capture a minimum of 4 frames per second and all recorded footage must be securely retained for a minimum of 28 days.
5. Records must be made on a weekly basis and kept for inspection to show that the system is functioning correctly and that data is being securely retained.
6. The DPS or premises manager must be able to demonstrate that the CCTV system has measures to prevent recordings being tampered with, i.e. password protected.
7. There shall be sufficient members of trained staff at the premises during operating hours to be able to provide viewable copies on request by the Police or Local Authority. Any images recovered must be in a viewable format on either disc or VHS. Footage supplied in a digital format on CD or DVD will also have a copy of the CCTV system software enabled on the disc to allow playback.

8. In the event of technical failure of the CCTV equipment the Premises Licence Holder/DPS must report the failure to the Southampton Police Licensing Unit.

Incident book

9. An incident book will be provided and maintained at the premises. It will remain on the premises at all times and will be available to Police for inspection upon request.
10. Any incidents that include physical altercation or disorder, physical ejection, injury, ID seizure or drug misuse will be recorded in the incident book. The entry is to include an account of the incident and the identity of all person(s) involved (or descriptions of those involved if identity is not known). Should there be any physical interaction by members of staff and the public the entry will include what physical action occurred between each party. The entry shall be timed, dated and signed by the author.
11. If the member of staff creating the entry has difficulties reading or writing then the entry may be written by another staff member. This should however be read back to the person creating the entry and counter signed by the person who wrote the entry.
12. At the close of business on each day the incident book will be checked by the manager on duty where any entries will be reviewed and signed. If incidents have occurred the duty manager will de-brief door staff at the close of business. Should there be no incidents then this will also be recorded at the close of business in the incident book.

Refusals book

13. A refusals book will be kept and maintained at the premises and will be available for Police inspection upon request. All refusals for the sale of alcohol and the reasons for refusals should be recorded. Any age challenge or identification seizures should also be recorded.

Challenge 25 policy

14. There will be a Challenge 25 policy operating at the premises. Challenge 25 means that the holder of the premises licence shall ensure that every individual, who visually appears to be under 25 years of age and is seeking to purchase or be supplied with alcohol at the premises or from the premises, shall produce identification proving that individual to be 18 years of age or older.
15. Acceptable identification for the purposes of age verification will include a driving licence, passport or photographic identification bearing the "PASS" logo and the person's date of birth.
16. If the person seeking alcohol is unable to produce acceptable means of identification, no sale or supply of alcohol will be made to or for that person.

Staff training

17. All staff who sell alcohol will be trained to APLH (EDI Level 2 Aware for Personal License Holders) level within three months of commencement of employment. All sales of alcohol must be directly supervised and

authorised by a personal licence holder until such staff have achieved training to APLH level.

18. Staff will be trained regarding appropriate precautions to prevent the sale of alcohol to persons under the age of 18, the signs and symptoms of drunk persons and the refusal of sale due to intoxication. Records will be kept of such training which must be signed and dated by the member of staff who has received that training.

19. All training records will be made immediately available for inspection by Hampshire Constabulary and the Licensing Authority upon request. Training records will be kept for a minimum period of two years. Training records will be kept on the licensed premises to which they relate.

20. The DPS should complete a nationally recognised Level 2 DPS course.

7. Reasons for the decision

The Sub-Committee considered carefully the application by the Police for the review of the premises licence along with the evidence, both written and oral, supplied by all parties.

The Sub-Committee noted that the conditions proposed by the Police were agreed by the Licence Holder Mrs S Gujral subject to one small amendment.

The Sub-Committee did not consider that the Police had produced sufficient evidence to demonstrate that illegal drugs had been used at the premises, or that drunken persons had been served alcohol at the premises.

The Sub-Committee was concerned that despite advice from the Police, the Designated Premises Supervisor had failed to keep adequate records of refusals and incidents of disorder. The Sub-Committee was satisfied that these concerns could be addressed by way of conditions (as set out in Section 6 above).

The Sub-Committee took very seriously the two failed test purchases which led to fixed penalty notices being issued to a member of staff and the Designated Premises Supervisor. Given the seriousness of these offences the Sub-Committee seriously considered removing the Designated Premises Supervisor. However the Sub-Committee considered that on this occasion their concerns could be addressed by the inclusion on the licence of a condition requiring that the premises operate a Challenge 25 Policy and that the Designated Premises Supervisor complete a nationally recognised level 2 DPS course. This would promote the licensing objective relating to the Protection of Children from Harm.

The Sub-Committee concluded that it would not be appropriate to remove the Designated Premises Supervisor in response to this application by the Police for review of the premises licence.