



Minutes

Name of meeting	REGULATORY COMMITTEE
Date and time	TUESDAY, 5 MARCH 2013 COMMENCING AT 10.00 AM
Venue	COUNCIL CHAMBER, COUNTY HALL, NEWPORT, ISLE OF WIGHT
Present	Cllrs Richard Hollis (Chairman), Paul Fuller, John Hobart, Julie Jones-Evans, Susan Scoccia, David Williams
Officers Present	Marie Bartlett, Laura Gaudion, Maisy Green, Amanda Gregory, Sarah MacDonald, Matt Northard, Kevin Winchcombe
Apologies	Reg Barry, George Cameron, Margaret Webster
Public Participants	PC Gary Fletcher – Hampshire Constabulary PC Richard Veitch – Hampshire Constabulary Mr Ross McFarlane – on behalf of Licence Holder Mr Michael Hang – Licence Holder

25. **Declarations of Interest**

There were no declarations received at this stage.

26. **Report of Head of Planning and Regulatory Services**

[Application for the review of a premises Licence for Hong Kong Express, 3 Esplanade, Ryde, Isle of Wight](#)

Consideration was given to the report of the Head of Planning and Regulatory Services, providing details of an application made by the Police under Section 51 of the Licensing Act 2003 to review a Premises Licence.

Additional representations were circulated prior to the commencement of the meeting, with the agreement of all parties.

Details of any proposed additional steps to promote the licensing objectives were set out in the report circulated with the agenda.

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

A review of the licence had been requested on the grounds of Crime and Disorder and Public Nuisance.

The applicant provided members with detailed information regarding incidents that had taken place. It was made clear that the Licence had been breached and that the sale of stand-alone alcohol after 01:00 hours was not permitted. Police provided evidence of incidents where alcohol had been sold without food after 01:00 hours. Members were told that during the August Bank Holiday weekend alcohol was being served outside the premises; this had previously been refused by the Licensing Committee. It was highlighted that large crowds of intoxicated people loitered outside the premises after a night out, which was an increase in disorder and Public Nuisance.

The Licensing Authority Officer indicated that an application had been submitted to change the Designated Premises Supervisor (DPS). The Local Authority Officer advised there was a lack of evidence to imply the premises were responsible for all the incidents that had occurred on the Esplanade. It was also highlighted that a terminal hour had been requested by the police; however this was not contained in the review application.

Environmental Health advised that apart from a noise complaint in 2010, no other complaints had been received. Litter and noise nuisance could be seen as a possible problem and the committee was informed that conditions could be implemented if proportionate and appropriate.

The representative for the Licence holder stated that the change of DPS was a decision made in the best interest of the business; the Licence holder's son had a better understanding of English and of the late night trade. It was highlighted to the members that no issues had taken place inside the premises in 8 years and that providing food to intoxicated individuals was seen to be positive by all parties. It was made clear that the cause of large crowds was due to individuals trying to get food on their way home, and also trying to gain entry to the only late night drinking venue in Ryde, located next door to the premises. The Committee was advised that three members of staff had undertaken training in Alcohol Awareness. Members were advised that measures had been put in place to ensure a queuing system was maintained and only 10 individuals were permitted inside the premises at any one time, this had been trialled now for a few weeks and seemed to be working well.

(During the debate, Councillor Paul Fuller declared a non-pecuniary interest as he was a magistrate involved in a court case relating to the premises.)

Members sought clarification regarding door staff and staff training. There was some discussion in relation to a detrimental effect to the business closing at 02:00 hours. Members were told that although the premises continued to have door supervision and bar staff training had been undertaken, neither was a requirement of the current licence.

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 s182 of the Licensing Act 2003 and the Isle of Wight Council's Statement of Licensing Policy 2011 – 2014, it was

RESOLVED:

THAT the licence to be modified to such an extent as members had considered necessary for the promotion of the four licensing objectives, namely by requiring the following conditions:

- (i) The licensable activities authorised by the licence shall be modified as follows:
 - (a) Late night refreshment Monday to Sunday 2300 hours - 0300 hours;
 - (b) Opening hours of the premises Monday to Sunday 0830 hours – 0330 hours;
 - (c) The supply of alcohol Monday to Sunday 1000 hours – 0000 hours

The following additional conditions to be added to the licence:

- (ii) There will be no sales of alcohol after midnight on any day. Signs notifying patrons of this will be displayed prominently at the entrance to and within the premise;
- (iii) A copy of all public nuisance complaints received shall be recorded in a log book containing the time of the complaint, date, complainants name and address (where provided) along with the action by the responsible person to deal with the complaint including the date and time of the actions completion. The log shall at all times be available for inspection by an authorised officer of the licensing authority and in any event within 24 hours of a request.
- (iv) Prominent, clear and legible notices shall be displayed at all exists requesting customers to respect the needs of local residents by leaving the premises and the area quietly;
- (v) Prominent, clear, legible notices will be displayed with regard to the correct disposal of litter;
- (vi) Any litter arising from the premises and from customers in the immediate vicinity, including that on any adjoining footpath or street will be collected and removed as frequently as necessary and in any case not less than once per day, to prevent accumulations in the street or litter blowing away from the premises;
- (vii) A written record shall be made of every incident of crime and disorder taking place on the premises, to include any action taken by staff. Every entry in the record shall be signed and dated by the person making it. This record shall be produced to a police officer or an authorised officer of the local authority on reasonable request;

- (viii) A record shall be kept of every refusal to sell alcohol to a person who is drunk or who is or believed to be aged less than 18 years. Each entry shall be signed and dated by the person making it. The record shall be checked and countersigned by the DPS on at least a weekly basis and shall be produced to a police officer or authorised officer of the local authority on reasonable request
- (ix) All persons engaged in the sale of alcohol shall receive training or instruction to prevent the sale to anyone who is drunk or apparently under the age of 18 years. Staff members shall receive such training on induction, also at intervals no greater than one year apart. A record shall be made of:
 - (a) The date the training or instruction was delivered;
 - (b) Its content;
 - (c) The names of the members of staff who receive it.

The record shall be produced to a police officer or an authorised officer from the local authority on reasonable request;

- (x) After 0100 hours only 10 customers will be allowed into the premises at a time. A scheme detailing an appropriate queuing system, including the timing of using such system, shall be submitted to, and agreed, in writing with the local licensing authority by (21 days from the date of the decision). Prominent, clear, legible signage must be provided to ensure that customers are aware of the way in which the queuing system operates;
- (xi) The number of door supervisors to be engaged on any occasion shall be determined by the licence holder, taking into account such factors as the nature and duration of licensable activities proposed, the number, age and character of persons likely to attend, and any known risks to impact on the promotion of the licensing objectives. The licence holder shall make a written record of the number of door supervisors to be engaged and the factors taken into account by the licence holder. Any such record shall be produced to a police officer or authorised officer of the local authority on reasonable request;
- (xii) Where engaged at the premises door supervisors shall take all practicable steps to:
 - (a) Prevent any person who appears drunk, or who is drinking or openly carrying alcohol, from entering or remaining on the premises;
 - (b) Challenge any drunken or anti-social behaviour by customers;
 - (c) Encourage customers on leaving to do so in a quiet, orderly manner.

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 committee had regard to the Human Rights Act 1998, and in particular Article 1 of the First Protocol, Article 8 and Article 6. The Committee considered the 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.

27. Minutes

RESOLVED :

THAT the Minutes of the meeting held on [11 February 2013](#) be confirmed, subject to the removal of the word "attached" from minute 17 paragraph 1 line 6 and insertion of annex two between the words "conditions and"

CHAIRMAN