

Re: An Application for the Review of a Premises Licence
The Beach House Café, Mudeford Sandbank, Bournemouth BH6 4EW
Licensing Act 2003

Written Submissions on behalf of the Beach House Café

Background

Mudeford Sandbank

1. The Beach House Café is situated in a popular recreational destination, Mudeford Sandbank. In the peak Summer months, the Spit serves many thousand visitors daily; arriving by ferry or ‘Land Train’ from Hengistbury Head; by kayak from Mudeford Quay or Christchurch Quay; or on foot or by bicycle.
2. Many visitors to the Sandbank bring their own food and drink, for consumption there throughout the day. Others purchase supplies at the Beach House Café. Some day-trippers play music, live and recorded.

The Beach Huts

3. There are over 400 beach huts on the Sandbank. As the Sub-Committee will be aware, the hut-owners do not own the land on which the huts are placed but lease it from BCP. Many hut-owners let their huts out to holiday makers in the summer, for weekends or weeks at a time. The majority of huts do not have toilets or running water. Owners/renters are permitted to sleep overnight in the huts between 1 March and 31 October, subject to any specific regulations in the relevant BCP licence.
4. Some hut-owners have placed benches on the land in front of their huts. Their right to do so is unclear, and there is sometimes friction between visitors and hut-owners when the visitors sit on these benches.

The application for review

5. The Beach House is extremely popular, and its continued operation is supported by beach-hut owners, renters, and the wider public who visit the Sandbank in the Summer. Some hut owners, however, do not like the current operation. They object to what they describe as “*uncontrolled public drinking*” and the “*exposure of children*” to “*alcohol related activities*”. They say that the volume at which music is played is a public nuisance. Some, it seems, would even like to dislodge the current owner and take over the café for themselves: (see, for example, Support Rep #5).

6. It is respectfully submitted that Mudeford Sandbank is not in the private ownership of hut-owners. It is “*a unique and beautiful sandspit*”¹ open to the public at large, who come in their thousands to enjoy it.
7. The central question in this review is not whether the few who are demanding a heavily conditioned premises licence should have things *their* way, or whether the more diverse and numerous supporters of the Beach House, who wish things to remain as they are, should have things *their* way. The central question for the Licensing Sub-Committee is “*what is to be regarded as reasonably acceptable in this particular location*”: see the remarks of Toulson LJ in *Hope & Glory Public House v Westminster Magistrates’ Court*².
8. It is instructive to cite the well-known passage in Toulson LJ’s judgment in full:

“Licensing decisions often involve weighing a variety of competing considerations: the demand for licensed establishments, the economic benefit to the proprietor and to the locality by drawing in visitors and stimulating the demand, the effect on law and order, the impact on the lives of those who live and work in the vicinity, and so on. Sometimes a licensing decision may involve narrower questions, such as whether noise, noxious smells or litter coming from premises amount to a public nuisance. Although such questions are in a sense question of fact, they are not questions of the “heads or tails” variety. They involve an evaluation of what is to be regarded as reasonably acceptable in the particular location. In any case, deciding what (if any) conditions should be attached to a licence as necessary and proportionate to the promotion of the statutory licensing objectives is essentially a matter of judgment rather than a matter of pure fact.”
9. In considering what is “reasonably acceptable in the particular location”, it should perhaps be remembered that the Sandbank is not a densely residential area in an urban location. It is an extremely popular tourist destination by the sea.

Legal principles

10. A licensing authority must carry out its licensing functions with a view to promoting the licensing objectives: section 4(1) Licensing Act 2003 (“the 2003 Act”).
11. The licensing objectives are given by section 4, and are –

¹ “Visit Dorset”, 2025.

² [2011] EWCA Civ 31

- (a) the prevention of crime and disorder;
- (b) public safety;
- (c) the prevention of public nuisance; and
- (d) the protection of children from harm.

12. On an application for the review of a premises licence, section 52(3) of the 2003 Act requires a licensing authority -

“having regard to the application and any relevant representations, take such of the steps mentioned in subsection (4) (if any) as it considers for the promotion of the licensing objectives.”

13. Section 52(4) gives those steps as –

- (a) to modify the conditions of the licence;
- (b) to exclude a licensable activity from the scope of the licence;
- (c) to remove the designated premises supervisor;
- (d) to suspend the licence for a period not exceeding three months;
- (e) to revoke the licence.

14. Taking each of the licensing objectives in turn –

The prevention of crime and disorder

15. Government Guidance (section 182 of the 2003 Act) states at paragraph 9.12 –

Each responsible authority will be an expert in their respective field, and in some cases it is likely that a particular responsible authority will be the licensing authority’s main source of advice in relation to a particular licensing objective...The police should usually therefore be the licensing authority’s main source of advice on matters relating to the promotion of the crime and disorder licensing objective.

16. The police were consulted on this review and have made no representations.

17. It is respectfully submitted that the operation of the Beach House falls far short of what may fairly be described as ‘undermining the crime-prevention licensing objective’. It will be for the Sub-Committee to decide what steps, if any, need to be taken with regard to the few reported isolated incidents occurring away from the licensed premises.

Public Safety

18. There is no evidence whatsoever to support the proposition that the Beach House undermines the ‘Public Safety’ licensing objective. If there were, one would expect to see a representation to that effect from one or more of the responsible authorities.

The prevention of public nuisance

19. The response to this review from Environmental Health is significant. On only 4 days in the last 5 years has the Department received complaints about excessive noise from the Beach House Café. The most recent of them (19 August 2025) concerned a birthday party given by one of the hut-owners, and it resulted in five separate complaints from other hut-owners. Additional detail is given by Kim Slater in his witness statement. The others were isolated (single) complaints in June 2025, August 2023 and June 2021.
20. The EHO response to this review concludes that on investigation of these complaints, “*no nuisance was substantiated*”.
21. The Sub-committee may wish to hesitate before accepting that complained-of nuisances other than noise, for example littering, are necessarily attributable to the operation of The Beach House.
22. The bar for establishing public nuisance is set high: what may be annoying to some, but not to others, is unlikely to be a public nuisance.

The protection of children from harm

23. There is no evidence of the supply of alcohol to underage children.
24. The concern that “*Alcohol consumption now occurs openly outside the demised premises, making it unavoidable for children in nearby beach huts and on the beach to be exposed to such activity*” is disingenuous. Children throughout the UK are accustomed to see adults drinking alcohol, and they have been allowed in public houses since 1995.
25. Section 145 of the 2003 Act makes it an offence to allow unaccompanied children under 16 to be on premises exclusively or primarily used for the supply of alcohol for consumption on the premises. There is no evidence whatsoever that the Beach House falls foul of this prohibition. What is more, the supposed concern is about what children see *outside* the Beach House – where visitors who have brought their own provisions are entitled to (and do) consume alcoholic drinks along the stretch of the Spit.
26. No responsible authority is concerned that the operation of the Beach House undermines the ‘protection of children from harm’ licensing objective. There is no evidential foundation for the proposition that it does.

Planning

27. In Forster v The Secretary of State for Communities and Local Government [2016] EWCA Civ 609, Laws LJ said that “*while a licensing committee is not bound to follow a planning decision-maker's conclusion, nor vice versa, each will and should have regard to the other where both make decisions in the same context.*”

28. It is right, therefore, that the Sub-Committee should have regard to the noise management condition recommended in the recent planning decision (October 25) giving permission for the proposed re-build of the premises.
29. Whilst it is not accepted, for the reasons summarised in paragraphs 19-22 above, that the operation of the Beach House Café has been the source of ‘public nuisance’ properly so defined, it *is* accepted that, having regard to the representations on this review, it would be appropriate for the promotion of the public nuisance licensing objective to ensure confidence in the Café not *becoming* so. Indeed, as Kim Slater touched on in his witness statement, it would be as much in the interests of the café as the hut-owners that a suitably worded licence condition set a benchmark for an acceptable level of recorded or live music, so that both sides in this dispute know where they stand.
30. There is a wealth of authority that a regulator should not abdicate its statutory responsibilities to another regulator, even if both are departments of the same council: see, for example, Norman v Secretary of State for Housing, Communities and Local Government [2018] EWHC 2910. For that reason, a noise management condition on a premises licence should be under the supervision of the licensing authority; just as a noise management condition in a planning permission should be under the supervision of the planning authority. Accordingly, counsel for the Beach House suggests the following licence condition based on, but by not slave to, the planning condition—

The premises shall not be open to the public after 17:00 on any day of the week until a Noise Management Plan (NMP) specifically addressing entertainment and people generated noise shall be submitted to and approved in writing by the Council’s Environmental Department and Licensing Authority. The NMP shall be reviewed and updated periodically, particularly in response to complaints or changes in operations. The approved NMP shall be implemented in full prior to the premises opening later than 17:00 and shall be adhered to at all times thereafter.

31. The underlying reasoning in the drafting of that condition is threefold:
- The approval of the NMP, and thus the promotion of the licensing objectives, remains (as it should) with the licensing authority.
 - A realistic view should be taken of trading in the winter months -
 - In the winter, the Beach House Café is only open in daylight hours.
 - There is no good reason why the café should be subject to a NMP before sunset, when its principal activity on a winter’s day is the provision of refreshment for dog-walkers and joggers.
 - The proposed condition also acknowledges the limited use of the beach huts before 1 March.
 - It is hoped (and expected) that a NMP will be agreed before the Spring. If it is not agreed, then the proposed condition will restrict the opening of the café to the winter hours as specified, unless varied by the licensing authority.

Conclusions

32. The way in which the Beach House operates has evolved over time. Live and recorded music is now played, and there are daytime and early evening special events. It is clear from the many photographs and video-clips that have been produced that the music and events are much-enjoyed by the café's customers. There is no sign in the photos/videos of anti-social behaviour or disorder. Well-behaved children can be seen in adult company.
33. A recurring theme in the representations on this review is that the Café should be required to revert to its past operational style, as a restaurant with no music. That is quintessentially a planning, rather than licensing, consideration.
34. The applicants for review have produced a schedule of highly restrictive conditions which they ask to be imposed on the licence. These are not accepted. The majority are disproportionate and inappropriate – because they are wholly unnecessary – for the promotion of the licensing objectives. The Café's detailed responses to the proposed conditions are attached as an annex to these submissions.

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