



Portsmouth
CITY COUNCIL

NOTIFICATION OF DECISION

Licensing Act 2003 - Licensing Sub-Committee

PORTSMOUTH CITY COUNCIL as licensing authority in accordance with the Licensing Act 2003 ("the act") and regulations made thereunder, hereby give notice pursuant to section 36 of the act to:

Name: **The Travelling Flem Ltd**

Address:



Status: **Applicant**

That a hearing was held on: **12 August 2015**

To consider an application for the **VARIATION of a premises licence** made in accordance with Section 34 of the Act. The details of the applicant and premises are:

Name of Applicant: **The Travelling Flem Ltd**

Premises and address: **HUIS
62 Elm Grove
Southsea
PO5 1JG**

Decision of The Licensing Authority:

In determining and considering the application pursuant to section 35 of the act, the Committee had regard to:

- The Licensing Act 2003
- The promotion of the licensing objectives
- The council's adopted statement of licensing policy for the time being in force
- The statutory guidance issued by the Secretary of State for the time being in force
- Any relevant case law
- The representations (including supporting information) presented by all the parties

Decision:

Grant with conditions.

All doors are to remain closed (other than for access or egress) whilst regulated entertainment is being provided.

Reasons For Decision:

The committee carefully considered the application before it for a variation to an existing premises licence and the written representations.

Whilst the committee noted the objectors' concerns and fears in relation to principally two of the statutory licensing objectives, they being prevention of public nuisance and potentially the prevention of crime and disorder, the committee heard no direct evidence that the grant of a variation would cause any of the licensing objectives to be undermined.

The committee noted that none of the relevant responsible authorities made objections the variation application.

The premises is not in an area of special policy or cumulative impact and there is no evidence that the variation sought would be inconsistent with the Licensing Act 2003, statutory guidance or the applicable policy considerations. It was also noted that the Act assumes a grant of an application in the absence of finding of relevant premises specific evidence to rebut this presumption.

Fears and concerns are not sufficient to deny the application. This said the committee recognised that it would be appropriate to enhance the current conditions attached to the current licence to include: All doors are to remain closed (other than for access or egress) whilst regulated entertainment is being provided.

The committee considered that the imposition of the appropriate condition and the general power of review under the Licensing Act 2003 coupled with the current licence conditions as already in place are consistent in promoting the licensing objectives.

Appeal Provisions:

In accordance with the provisions of Schedule 5 of the Act, appeal provisions exist in respect of applications made to the Licensing Authority. Those provisions are outlined as follows:

The applicant:

Where the Licensing Authority rejects (in whole or in part) an application to vary a premises licence, the applicant may appeal against the decision - *Part 1, paragraph 1(b) of the Act*.

Where the Licensing Authority grants (in whole or part) an application to vary a premises licence, the applicant may appeal against any decision:

to modify the conditions of the licence - *Part 1, paragraph 4(2) of the Act*.

A person who made relevant representations:

Where a person who made relevant representations in relation to the application desires to contend:

- a) that any variation ought not to have been made, or
- b) that, when varying the licence, the Licensing Authority ought not to have modified the conditions of the licence, or ought to have modified them in a different way,

he may appeal against the decision – *Part 1, paragraph 4(3) of the Act.*

Note: The applicant for the licence is to be the respondent in addition to the Licensing Authority in relation to any appeal lodged by a person(s) who made relevant representations.

General Provisions About Appeals:

An appeal must be made to the Magistrates' court for the petty sessions area in which the premises concerned are situated.

An appeal must be commenced by notice of appeal given by the appellant to the designated officer for the Magistrates' court within the period of 21 days beginning with the day on which the appellant was notified by the Licensing Authority of the decision appealed against.¹

Action that may be taken by the Magistrates' Court:

On an appeal against a decision of the Licensing Authority, a Magistrates' court may:

- dismiss the appeal;
- substitute for the decision appealed against, any other decision which could have been made by the Licensing Authority; or
- remit the case to the Licensing Authority to dispose of it in accordance with the direction of the court,

and may make such order as to costs as it thinks fit.

Date of Notice: **13 August 2015**



Signed on behalf of the Head of Service
(Authorised Officer)

¹ The period of 21 days will commence from the date on which written notice is given, or in the case of electronic transmission, when the text is received.