



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 52 (10) of the act to:

Name: **Mutiny In The Park Limited**  
Address: **Larch House  
Parklands Business Park  
Denmead  
Waterlooville  
Hants  
PO7 6XP**  
Status: **Holder**

That a hearing was held on: **27 November 2017**

To consider an application for the **REVIEW of a premises licence** made in accordance with Section 51 of the Act. The details of the licence holder and premises are:

Name of Licence Holder: **Mutiny In The Park Limited**  
Premises and address: **Mutiny In The Park  
Mutiny Festival Summer Carnival  
King George V Playing Field  
Cosham  
Portsmouth  
PO6 3XA**

#### Decision of The Licensing Authority:

In determining and considering the application pursuant to section 52 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

**Reasons For Decision:**

The Committee has heard the representations of the licence holder, the relevant responsible authorities and the advocate acting upon behalf of the licence holder in addition the Committee has considered all the papers put before them along with the annexes attached to each document. The Committee has heard counsel for the police. The Committee note the positive comments from all today with respect to the current and ongoing working relationship.

This Committee is engaged by reason of referral back to the Committee by the relevant Responsible Authority Police seeking a review of the current licence.

The Responsible Authority (Police as the applicant Responsible Authority) assert that the licensee has failed in the administration of the licence to promote the licensing objectives with particular regard to the licensing objectives of prevention of crime and disorder, public safety and the protection of children from harm.

The above position is supported by the Licensing Authority who make representations with respect to the protection of children from harm. The Director of Children Families and Education has also submitted a representation with respect to the protection of children from harm.

Additional representations have been received from the Director of Public Health on the basis of protection of children from harm and also the prevention of crime and disorder., A representation from Environmental Health has also been received asserting a failure to deal with public nuisance via the level of noise.

A member of the public has also written into the Committee outlining the basis of a lack of support for the event. A councillor has submitted a supporting representation.

All representations are contained within Annex C to the Committee report.

The Committee look to all the Responsible Authorities but mainly the police for guidance and assistance in determining the effect of a licensing activity in terms of all the licensing objectives, but principally in terms of the police, prevention of crime and disorder - the Committee should but are not obliged to accept all reasonable and proportionate representations made by the police.

The Committee take a similar view with respect to the representations made by the Licensing Department.

The above stated the Committee have balanced within their consideration all representations made by the licence holder through their advocate and by way of comments made by the current licensee. Additionally they note the additional papers submitted to them on the 23<sup>rd</sup> November (dealing with management of the event) along

with the positive supporting comments contained within the representation from Councillor Linda Symes.

In considering the application for review, the Committee is mindful of the following facts as having been established upon a balance of probability and further that they have been specifically taken to the relevant parts of the statutory guidance under Section 182 of the Licensing Act 2003.

1. The Committee have looked at the above guidance with specific reference to paragraph 2.22 looking at the issue of key protections to children covering a range of issues including moral, physical and psychological harm, in the sense of exposure to alcohol and other influences which could cover language and whilst not directly mentioned in the guidance paragraph drug usage. The Committee can see that whilst the organisers have attempted to put in place an evolving list of conditions they are also entitled to conclude on the facts that there were problems with respect to the 2017 event.
2. The Committee also look at paragraph 2.29 giving considerable weight to the representations about child protection, paying due regard to the information produced by the police, the Public Health department and from the public - there were clear failings with respect to the admission, supervision and control of persons attending, to include children below the current licence condition of 16. This was of real concern to the Committee given the failing of the event organisers to deal with issue of admission, security and substance misuse irrespective of age.
3. The Committee is engaged and can deal with matters as per paragraph 11.19 and 11.20 (dealing with issues as to cause and response being no more than is appropriate and proportionate) of the guidance and also state that they consider their obligations within the light of paragraph 11.23 in that modifications and or exclusions to the licensing activities should be imposed so that impact to the licence holder is appropriate and proportionate.

The above said the Committee has considered that the evidence whilst establishing that three incidents have occurred is not such that they feel inclined to impose a condition as sought by the police and supported by the other responsible authorities. The incidents whilst serious need to be looked at as against the raft of conditions offered by the licence holders to address and assuage concerns principally revolving around the protection of children, public safety and the protection of crime and disorder.

The Committee will not impose a condition making the event open to 18 years and over only.

Whilst there is contradicting evidence on both sides of the argument, upon clear analysis the Committee are entitled to think the evidence from the hospital should be given limited weight (as the figures cannot be related to the events on balance). Also that with respect to Mrs Patterson's evidence whilst regrettable is not such given the measures now offered that it would likely happen again.

The above said the Committee appreciate the views of Mrs Patterson were sincerely held.

Having heard the representations from the applicants and their advocate the Committee is satisfied that the burden that rests with the applicants to shift in showing that their new proposed operating schedule will promote the relevant licencing objective has been shifted. In coming to this conclusion the Committee have been shown a new set of conditions and were of the view that the licence holder had sufficiently assuaged the concerns as set out by the police and all the supporting responsible authorities. When dealing with a review the Committee in the exercise of its powers is entitled to modify the conditions of the premises licence and so does as follows:

- 1) All conditions as set out on page 93 of the licence holders bundle (1-10) shall be added.
- 2) The licence holders will produce an updated noise management plan which will record the fact they agree to aim to comply with the conditions 1 and 2 appearing on Richard Lee's email of the 8 November 2017.
- 3) That as a condition the licence holder will at the 2018 event take such steps to record and produce a recording at all desk monitoring positions measurements demonstrating what noise levels existed having been present during both days of the event. Such information to be provided within 7 days to the responsible authority after the event being completed.

The Licensing Committee is aware that any responsible authority, indeed anyone can ask that the Committee review the licence currently held which would of course engage this Committee in being able to consider the full range of evidence including matters that are currently being considered here at any future review hearing.

#### **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:

Where an application for a review of a premises licence is decided under section 52, an appeal may be made against that decision by:

- **The applicant for the review;**
- **The holder of the premises licence; or**
- **Any other person who made relevant representations in relation to the application**

**Note:** The holder of the licence is to be the respondent in addition to the Licensing Authority in relation to any appeal lodged by the applicant for the review or any other person who made relevant representations in relation to the application.

In accordance with section 52(11) of the Act, a determination under section 52 does not have effect:

- **Until the end of the period given for appealing against the decision, or**
- **If the decision is appealed against, until the appeal is disposed of**

**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.<sup>1</sup>

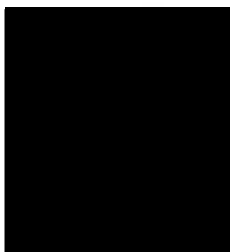
**Action that may be taken by the Magistrates' Court:**

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: **1 December 2017**



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

<sup>1</sup> 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.

