

LICENSING SUB – COMMITTEE

Thursday 30 January 2025 11:00 at Guildhall Winchester

Report of the Service Lead for Public Protection

Contact Officer: Carol Stefanczuk

Tel: 01962 848188

Email: licensing@winchester.gov.uk

Application: Review of Premises Licence

Premises: Boomtown Fair, Matterley Bowl, Alresford Road, Winchester

Part A. Report

- 1 Application**
- 2 Responsible Authorities**
- 3 Other Representations**
- 4 Observations**
- 5 Conditions**
- 6 Other Considerations**

Part B. Appendices

- Appendix 1 Representations from Other Persons**
- Appendix 2 Premises Licence**
- Appendix 3 Copy of report LR588 (adjourned hearing)**
- Appendix 4 Evidence from Premises Licence Holder**

Part A.**1. Application**

Applicant: PC Brian Swallow, on behalf of the Chief Officer of Hampshire and Isle of Wight Constabulary*

Premises: Boomtown Fair, Matterley Bowl, Alresford Road, Winchester

* The original application for the review of the premises licence was submitted by Hampshire and Isle of Wight Constabulary but has since been withdrawn – see further details below.

- 1.1 This report relates to an application to review the premises licence for the above premises, submitted in accordance with section 51 of the Licensing Act 2003.
- 1.2 The application was submitted on 2 October 2024 by PC Brian Swallow on behalf of Hampshire and Isle of Wight Constabulary, a Responsible Authority as defined under section 13 of the Licensing Act 2003.
- 1.3 The application related to the prevention of crime and disorder and public safety licensing objectives following the death of a 22 year old male of a suspected overdose of unlawful drugs at the 2024 event.
- 1.4 No representations were received from any other Responsible Authority. However, the South Downs National Park Authority commented that they agree with suggested wording for conditions and so wished to support the police in seeking this.
- 1.5 17 valid representations were received from 'Other Persons'.
- 1.6 A Licensing Sub-Committee hearing was scheduled for 25 November 2024 and all parties were given a Notice of Hearing.
- 1.7 On 21 November 2024, the licensing authority received an email on behalf of the Chief Officer of Police giving notice that they were withdrawing the review application and stating he wished to "seek continued engagement and mediation with the operators and their legal representatives to reach a suitable outcome that is agreeable to all parties by addressing the issues and concerns that have been highlighted within the application. It is hoped that this outcome can be achieved prior to next year's event."
- 1.8 At the Licensing Sub-Committee on 25 November 2024, Members resolved to adjourn the hearing to a future date to allow all parties to consider the remainder of the Review in light of the Police's withdrawal of representations. The Chairman also stated that; "the adjournment

shall facilitate consideration of the unique circumstances which have arisen which may engage elements which require consideration of the law and whether the remainder of the Review can continue.”

- 1.9 Following the hearing, Daniel Lucas, Senior Planning and Litigation Lawyer for Winchester City Council and Matthew Phipps, Solicitor for Boomtown Festival UK Limited, considered the legal situation in more detail and both sought further legal advice. As the law remains silent in these circumstances, and in the interests of natural justice, it was considered that a Licensing Sub-Committee should be held to consider the representations from the 17 Other Persons who were a party to the review application.
- 1.10 [Report LR588](#) details the original application with supporting documentation submitted by the police. Note, some documents were exempt from public viewing due to their sensitive nature. A copy of the report can be found at Appendix 3.
- 1.11 The police review application related to the prevention of crime and disorder and public safety licensing objectives. The representations by Other Persons mainly refer to the public nuisance licensing objective.
- 1.12 A copy of the representations from Other Persons can be found at Appendix 1.
- 1.13 The premises is situated within the South Downs National Park (SDNP). The Sub-Committee must seek to further the SDNP purposes when considering applications to ensure they are respected, as set out in section 11A(1A) of the National Parks and Access to the Countryside Act 1949 (as amended by Section 245 of the Levelling-Up and Regeneration Act 2023). See paragraphs 4.6 to 4.9 below.
- 1.14 Notices of the hearing were sent to all Parties on 14 January 2025.

Designated Premises Supervisor

Christopher Rutherford

Relevant Representations

2. Responsible Authorities

All of the Responsible Authorities have been served with a copy of the application. The representations received are as follows:

Environmental Health

No representations received.

Hampshire Constabulary

Applicant for the purposes of this case.

Hampshire Fire and Rescue Service

No representations received.

Child Protection Team

No representations received.

Building Control

No representations received.

Head of Trading Standards

No representations received.

Public Health Manager

No representations received.

Home Office

No representations received.

Licensing Authority

No representations received.

South Downs National Park Authority

No representations received.

3. Representations from Other Persons

Representations have been received from 17 'Other Persons', all of which are against the application. The main concerns are regarding the prevention of public nuisance licensing objective.

Representations can be seen at Appendix 1.

4. **Observations**

- 4.1 The Sub-Committee is obliged to determine this application with a view to promoting the Licensing Objectives:
- The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm
- 4.2 In making its decision, the Sub-Committee is also obliged to have regard to the [National Guidance](#) and the Council's [Licensing Policy](#).
- 4.3 The Sub-Committee must have regard to all of the representations.
- 4.4 The Sub-Committee must take the following steps it considers appropriate to promote the Licensing Objectives:
1. Modify the conditions attached to the premises licence either permanently or temporarily for a period not exceeding three months;
 2. Exclude a licensable activity from the premises licence either permanently or temporarily or for a period not exceeding three months;
 3. Remove the designated premises supervisor from the premises licence;
 4. Suspend the premises licence for a period not exceeding three months;
 5. Revoke the premises licence.
- 4.5 In deciding which of these powers to invoke, it is expected that the Sub-Committee should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.
- 4.6 The Sub-Committee must seek to further the SDNP purposes when considering applications to ensure they are respected. The purposes are:-
- (a) Purpose 1 – to conserve and enhance the natural beauty, wildlife and cultural heritage of the area.
 - (b) Purpose 2 – to promote opportunities for the understanding and enjoyment of the special qualities of the National Park by the public.
- 4.7 If there is a conflict between the SDNP purposes, Purpose 1 must have priority.

- 4.8 Section 11A(1A) of the National Parks and Access to the Countryside Act 1949 (as amended by Section 245 of the Levelling-Up and Regeneration Act 2023) states the following:

11A Duty of certain bodies and persons in relation to the purposes for which National Parks are designated

(1A) In exercising or performing any functions in relation to, or so as to affect, land in any National Park in England, a relevant authority other than a devolved Welsh authority must seek to further the purposes specified in section 5(1) and if it appears that there is a conflict between those purposes, must attach greater weight to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the area comprised in the National Park.

- 4.9 On 16 December 2024, [Guidance for relevant authorities on seeking to further the purposes of Protected Landscapes](#) was published. This guidance states that ‘the duty is an active duty, not passive’. The following are applicable excerpts of what this means to relevant authorities:

- *a relevant authority should take appropriate, reasonable, and proportionate steps to explore measures which further the statutory purposes of Protected Landscapes*
- *as far as is reasonably practical, relevant authorities should seek to avoid harm and contribute to the conservation and enhancement of the natural beauty, special qualities, and key characteristics of Protected Landscapes*

Terminal hours

The Sub-Committee should take account of the National Guidance and the Council’s Licensing Policy with regard to terminal hours and take such steps as it considers appropriate to promote the Licensing Objectives.

(Licensing Policy 2.22 Part 4, A8, C4)

Licensing Objectives

Crime and Disorder

The Sub-Committee should consider any appropriate conditions to prevent crime and public disorder relating to the premises having regard to the operating schedule and the representations.

(Licensing Policy 1.9, 2.9 - 2.11, 2.17, 2.19 – 2.21 and Part 4 Section A)

Public Safety

The Sub-Committee should consider any appropriate conditions relating to public safety having regard to the relating to the premises having regard to the operating schedule and the representations.

(Licensing Policy Part 4, B2, B3)

Public Nuisance

The Sub-Committee should consider any appropriate conditions to prevent public nuisance caused by noise pollution from the premises relating to the premises having regard to the operating schedule and the representations.

(Licensing Policy Part 4, Section C)

Protection of Children

The Sub-Committee should consider any necessary conditions for the Protection of Children relating to the premises having regard to the operating schedule and the representations.

(Licensing Policy Part 4, D6, D7)

Human Rights

It is considered that Articles 6 (right to a fair trial) 8 (right to respect for private and family life) and Article 1 of the First Protocol (right to peaceable enjoyment of possessions) may be relevant. As there is a right of appeal to the Magistrates' Court, it is considered that there would be no infringement of Article 6. Article 8 is relevant, insofar as the nearby residents could claim that this right would be infringed by disturbance from customers. This should be balanced against the applicants' right to use of their premises under Article 1 of the First Protocol. Interference with these rights is permitted, where this interference is lawful, appropriate in a democratic society, and proportionate. Likewise, the residents may argue that their rights under Article 1 of the First Protocol would be infringed. If conditions are imposed, there should be no interference with any convention rights. To the extent that any interference may occur, it would be justifiable in a democratic society, and proportionate.

Public Sector Equality Duty

The Public Sector equality duty must be taken in to consideration with all decision making. The duty is stated in section 149 of The Equality Act 2010. This application raises no considerations under this Act.

5. Conditions

Existing Conditions

A copy of the Premises Licence with existing conditions can be found at Appendix 2.

6. Other Considerations

Council Strategy Outcome (Relevance To:)

This report relates to the 'Vibrant Local Economy' priority by working with partners and using powers available to us to make Winchester a safe and pleasant place to live, work and visit.

Resource Implications

No fee is applicable for this application. In regulating the activities, it is anticipated that an appropriate level of officer attendance will be covered by the licence annual fee.

Appendices

1. Representations by Other Persons
2. Copy of Premises Licence
3. Copy of report LR588 (adjourned hearing)
4. Evidence from Premises Licence Holder