

**Minutes of a meeting of Mid Sussex District Council Liquor Licensing
Committee
held on Friday, 17th December, 2021
from 10.03 am - 10.31 am**

Present: Councillors: J Dabell (Chairman)
R Webb
C Laband

Officers in attendance: Tom Clark, Solicitor to the Council
Sonya Baameur, Solicitor
Jon Bryant, Senior Licensing Officer
Lucinda Joyce, Senior Democratic Services Officer

Also in attendance: Sam Heynes, Parish Clerk, Applicant

LS.1 ROLL CALL AND VIRTUAL MEETING EXPLANATION.

The Chairman welcomed everyone to the meeting.

Tom Clark, Solicitor to the Council explained the virtual meeting procedure noting that Councillor Laband is present in place of Councillor Cromie who was listed on the papers. He noted that as the meeting is held in accordance with the Licensing Act 2003 there is no requirement to meet in person and given the current levels of Covid the decision has been made to meet virtually.

LS.2 TO RECEIVE APOLOGIES FOR ABSENCE.

None.

LS.3 TO RECEIVE DECLARATION OF INTERESTS FROM MEMBERS IN RESPECT OF ANY MATTER ON THE AGENDA.

None.

LS.4 TO CONFIRM MINUTES OF THE PREVIOUS MEETING OF THE LIQUOR LICENSING COMMITTEE HELD ON 12 OCTOBER 2021.

The minutes of the meeting held on 12 October 2021 were agreed as a correct record and were electronically signed by the Chairman.

LS.5 APPLICATION TO VARY A PREMISES LICENCE - LICENSING ACT 2003.

Introduction and outline of the report

Jon Bryant, Senior Licensing Officer introduced the report noting that it's purpose is to provide information for the Committee to determine whether to agree an application to vary a premises licence.

He confirmed that an application, pursuant to Section 34 Licensing Act 2003, has been made by Cuckfield Parish Council to vary a Premises Licence at The Queens

Hall, High Street, Cuckfield, RH17 5EL. He noted that representations against the application have been made by an Interested Party.

Therefore the Committee is asked to determine the application in accordance with the Licensing Act 2003, MSDC Licensing Policy and the Home Office Guidance issued under Section 182 Licensing Act 2003, whilst having due regard to the applicant's submissions and relevant representations.

He confirmed that the background to this matter is as follows. The Queens Hall is situated on the High Street, Cuckfield. It is a listed, Victorian Village Hall in the centre of Cuckfield. There is a large hall to the rear of the building and beyond that is a garden which extends to the Cuckfield Recreation Ground.

The Hall has residential properties to both sides and land adjacent to the garden was obtained by the Parish Council on a 25 year lease in 2020 and is being converted into a nature garden for the public and hirers of the hall. The garden area contains a gazebo which is licensed for wedding ceremonies. The Premises was issued with a Premises licence by this Council in 2005 when the previous Justice's 'On' Licence was converted under the Licensing Act 2003.

He confirmed that item 6 of the report sets out the current licensable activities and times and noted that this application for a variation does not affect the timings for indoor activities. He noted that alcohol is licensed for consumption on the Premises and currently the Licensed premises consists of the building only. He also noted that there are two additional conditions currently attached to this licence which are detailed at section 8 of the report.

On the 2nd November 2021, Cuckfield Parish Council submitted an application to vary the current premises licence. Their intention is to extend the licensed premises area to include the garden to allow the consumption of alcohol in this area. There is a Gazebo in the garden that is licensed for wedding ceremonies. The application additionally requests music to be played outside only during a wedding ceremony. The variation application includes a request for an outdoor play to be held in the garden area on one occasion a year. Currently this performance is held on the Cuckfield Recreation Field and it is planned to move this performance to the garden area where there may be amplified music during the performance, but just one performance a year.

A resident of the High Street, Cuckfield, Olivia Barnard, who lives near to The Queens Hall has submitted a representation on the grounds of the prevention of crime and disorder and the prevention of public nuisance. This representation has not been resolved during the consultation period.

There was one other representation made during the consultation period from one of the neighbours which was resolved by the acceptance of additional conditions offered by Cuckfield Parish Council in respect of the additional garden area.

As stated, in order to attempt to resolve issues with neighbours, Cuckfield Parish Council have offered a number of additional conditions to be attached to the Premises Licence These are outlined in the attached appendices and are that:

1. Music will only be played outside during wedding ceremonies, there will be no amplified or unamplified music played in the garden other than this.
2. On one occasion a year an outdoor play will be held with amplified music
3. The use of the garden area for the consumption of alcohol will only be permitted to 2100 hours.

The extant representation is from Olivia Barnard. She lives in an adjacent property on the High Street, and these are in respect of the additional licensable activities that have been requested.

In brief she states that her premises directly adjoins the garden area of Queens Hall and states they have already been disturbed by events at the Hall held under the existing licence. She outlines that her partner works from home almost every day of the week and is already affected by noise from the Hall and he feels unable to make business calls due to the noise. She has further stated that performances outside will be considerably louder than those held inside. She states that the music allowed under the current licence is already overpowering and if it is allowed in the garden area it will affect their well-being.

The Senior Licensing Officer confirmed that the representation is attached to the report in full at Appendix 5. The initial representation is at p.43. He drew the Panel's attention to p46-49 which is the Senior Licensing Officer's correspondence with Olivia Barnard in an attempt to resolve the representation. He noted that it did appear that some of the representation was as a result of a misunderstanding initially as to the extent of the variation requested which he has tried to explain to Ms Barnard. In documentation from the Parish Council they have also addressed the representations but unfortunately the Senior Licensing Officer confirmed that that he has not had any reply from Ms Barnard regarding the most recent emails in respect of this.

He confirmed that the consultation period took place between 4th November and the 2nd December 2021. It was correctly advertised at the site during this period and in the Mid Sussex Times on the 11th November 2021 and site notices clearly stated the extent of the variation application.

In terms of policy context, the Senior Licensing Office confirmed that the Committee must determine the application in accordance with the Licensing Act 2003 (LA03), MSDC Licensing Policy and the current Home Office Guidance issued under Section 182 Licensing Act 2003, whilst having due regard to the applicant's submissions and relevant representations.

He noted that section 34 is set out in the report for the benefit of the committee. Moving on to relevant representations, he noted that the Licensing Act 2003 requires representations to address the four licensing objectives which are

1. Prevention of Crime and Disorder
2. Promotion of Public Safety
3. Prevention of Public Nuisance
4. Prevention of Harm to children and young persons

A representation is a 'relevant representation' if it is about the likely effect of the grant variation of the licence on the promotion of the licensing objectives. The objector must establish that such a consequence is a likely effect of a grant - (i.e. more probable than not).

He noted that it is for the Panel to consider the representations and add what weight they feel appropriate. For representations in relation to variations to be relevant, they should be confined to the subject matter of the variation. He confirmed that this isn't a review of the current licence, it is a consideration of the variation application.

The Senior Licensing Officer drew the Panel's attention to the background papers which include a plan of the garden in Appendix 1 to provide context in respect of where the application actually applies for. Appendix 3 includes some photographs of the rear area for context and Appendix 4 is submissions by the Parish Council in response to representations which have been forwarded to Olivia Barnard, and her representation too.

Questions from Members to the Senior Licensing Officer

A Member sought clarification that there have been no formal complaints made up until this application was submitted, regarding the use of the hall. The Senior Licensing Officer confirmed that he has received no formal complaints with regards to noise from any resident and when it was alluded to by Olivia Barnard he requested further details to investigate, none of which have been forthcoming.

A Member wished to clarify the outside use in terms of the garden noting the suggested condition to terminate the supply of alcohol outside at 2100hrs. He asked if outside use would therefore cease completely at 2100hrs.

The Senior Licensing Officer confirmed there would still be outside use for the benefit of people smoking as there has to be an outside space for that, but consumption of alcohol would cease at 2100. In essence it would fall back to the current situation where smokers can use the outside space but not to drink.

A question was asked in terms of the 1-night use of the area for the play, as to whether there is a termination time for that as well. It was noted an example that an event in Haywards Heath takes place all day and ceases at 2200hrs but is considerably more noisy than the proposed application here. The Senior Licensing Officer confirmed that on speaking to the applicant it is likely to be around 2200hrs, but it may be something that the Panel may wish to consider fixing during their deliberation, after hearing from the applicant.

Sam Heynes, Parish Clerk, Applicant addressed the Committee

She noted that the Queens Hall is very popular especially for weddings. They only hold one wedding at a time at the hall and over time have extended this to the garden to make it possible to be married in the Gazebo as well as inside the hall. Therefore there is a need to formalise the licensing of this area. With taking over the lease of the adjacent space it has really expanded the garden and they are really looking forward to developing it over coming years into a nature garden in memory of Angela Fox, a renowned resident of the village.

She confirmed that they are very mindful of their neighbours and aware that they are situated in a residential area with neighbours on both sides. One neighbour in particular is adjacent to the hall garden and she commented "I don't want to be dealing with complaints every Monday morning from residents after a rowdy party in the garden, it is not a good use of anyone's time and I don't want to alienate residents, our aim is to live in harmony with them." She confirmed that the Parish Council has liaised with Mid Sussex and taken on feedback when planning the garden. They felt that that 9pm is good time to say that use stops and people must come inside, noting that it is usually getting dark around this time. They also decided not to allow music in the garden other than during actual ceremony when walking up aisle and back again.

She noted that Queens Hall as a facility means that you can have event inside and outside, so if the weather is bad there can be music in the hall and then guests can mill outside if the weather is suitable. Similarly, if you are planning a wedding you can make your decision on the day whether to hold it inside or outside depending on the weather. It is a flexible space and the applicant is just trying to make it as usable as possible for the people who want to use the space.

Regarding the play, she confirmed that it has been held every year for “I don’t know how many years on Cuckfield Rec”, which is situated immediately the other side of the boundary of the garden. It typically has no more than 100 people attending and is a nice event for residents of the village. She believes it starts around 7pm and finishes about 10pm with an interval and by the time the production company have cleared up they have gone by 10.30pm. She confirmed that it is not a big and rowdy event and from a noise perspective won’t make much difference as it has been occurring just outside the boundary up to this point.

Ms Heynes asked the Senior Licensing Officer for clarification of the location of the individual party who submitted the representation. Her understanding is that the location is a cottage just along from the hall, and there is quite a gap as there is the Helmy Hallet yard in between. She also observed that there are other establishments in the village that use their outside areas longer than the hall does, in the middle of the village surrounded by residents. As applicants, she confirmed that the Hall has deliberately chosen to contain the use of the garden just to make better for their neighbours. She noted the compromise of the use of the hall which has been there 130 years before neighbours arrived, being mindful that people are entitled to a decent standard of living in their own gardens especially in the summer.

She confirmed that notices are at the front of the hall saying to be mindful when you leave and she believes they have them at the back as well but if not will ensure that they do. She confirmed that they emphasis to all hirers that it is a residential area and people need to be respectful of that. They also have someone who comes to the hall at the end of the event to make sure that everyone is finished and done according to the licence terms and the hall is closed. She did not believe that would be needed for the garden use but will make sure the licensee is aware of the new conditions, as they would need to be and that they know to make sure people are not drinking in the garden after 9pm.

Ms Heynes asked the Senior Licensing Officer if there has been a response from any other responsible authorities in relation to the licence application. The Senior Licensing Officer confirmed that there has been no other representations from any of the responsible authorities and noted that the Environmental Protection team had no objection and were happy with it as it stands. He also confirmed that within Appendix 3 there are 2 photographs with the end view of the garden and in the distance is where he believes the individual who made the representation actually resides.

The Applicant confirmed that wedding income for the hall is a key stream of income for The Parish Council. They really rely on it, especially missing it in the last year with Covid. If they were unable to continue to generate this revenue it will have impact on village as they will have to reflect that in pre-set rates. The Hall is popular well-loved venue and they see the use of the garden as an enhancement of that and are trying to do so in a respectful way being mindful of the neighbours.

Questions from the Members to Ms Heynes

A Member noted that no official complaints have been received at licensing level and asked Ms Heynes if as proprietors, have they received any complaints over the past year. Ms Heynes confirmed that one complaint had been received earlier in the summer from a neighbour who's garden is adjacent to the nature garden. There was a wedding that took place on a Friday which is unusual. They were playing music in the garden and were disturbing the neighbours and she confirmed that is a big part of why the Parish Council have proposed the additional conditions. They have taken on board the neighbours feedback and appreciate that what occurred at the time was unpleasant for the neighbour and have ensured it has not happened again since. The Parish Council have made it clear to all wedding hirers that music cannot be played in the garden and that is why they want to put that restriction in to give that reassurance to neighbours that they have taken their feedback seriously and appreciate the update it caused them at the time. That is the only complaint that they have had.

The Chairman asked for an estimation of how many weddings are expected to take place outside. Ms Heynes confirmed that across a year it is approximately 20. It is a little busier at the moment as they are dealing with postponed weddings. The weddings take place from March to November and the number of them held in the garden is a third or possibly a quarter depending on the weather if they can go outside.

The Solicitor to the Council sought clarification from Ms Heynes regarding the play. He asked if the suggestion from a Member to make sure the play is cleared from the garden by 2230 would be acceptable as part of the licensing conditions. Ms Heynes confirmed that she would be happy to put a restriction in place but would want to double check how quickly they can get out to make sure we aren't imposing something that is not achievable. She noted that an alternative might be to ask them to start earlier but they are a travelling group from Gloucestershire who have to travel down and set up, usually start around 7pm. Whilst putting everything away there is no sound playing, just the sound of packing. She reiterated that it was once a year and the idea is that people come and have picnics on the ground and sit out to watch the show.

A Member noted that 2230 could be draconian and if the Panel were to seek to put a cap on it, as it is only once a year, 2300 is more than reasonable or it could extend even further.

Interested Party Representation

The Chairman directed the Panel to the representation made by Ms Barnard. She was not able to attend the meeting but the details are in the report and he sought confirmation from the Panel that they have all read and considered the representation. The Panel confirmed that they had by a show of hands.

Summing Up from Ms Heynes

Ms Heynes confirmed that they were hoping to formalise the licence to use the garden, for predominantly weddings throughout the year when the weather is good enough. They are happy to impose the 9pm end time for use of the garden with alcohol and there will be no music other than a couple of songs for the ceremony. They will also make sure that all hirers are aware of the restrictions and ask that they respect them. The Parish Council has a deposit system in place too and will make sure that any rules which are broken will result in a loss of deposit to encourage them

to be mindful to stick to the rules to respect the neighbours so they can continue to enjoy a peaceful relationship with them.

The Solicitor advised the public participants that the Panel would retire to deliberate and make a decision today which will be recorded in a decision letter.

As there were no further questions the public meeting finished at 10.31am so that the Committee could deliberate.

RESOLVED

The application to vary a premises licence was approved based on the existing conditions of the license and the proposed additional conditions supplied by the Parish Council and stipulated in the report.

The meeting finished at 10.31 am

Chairman