

**Minutes of a meeting of Mid Sussex District Council Liquor Licensing Panel
held on Thursday, 6th April, 2023
from 10.00 am**

Present: Councillors: B Forbes (Chairman)
J Henwood
C Laband

Officers in attendance: Paul Vickers, Solicitor to the Licensing Panel
Jon Bryant, Senior Licensing Officer
Michael Bateman, Team Leader - Food & Safety Licensing
Alison Hammond, Democratic Services Officer

Also in attendance: Niki Smyth, Joint Applicant, Director Cuckfield Golf Centre
Paul Smyth, Joint Applicant, Owner Cuckfield Golf Centre
Gerard Conway, Interested Party, Resident
Alexander Austin, Democratic Services Officer
Ellen Fisher, Democratic Services Officer

LS.1 TO RECEIVE APOLOGIES FOR ABSENCE.

None.

LS.2 TO RECEIVE DECLARATIONS OF INTERESTS FROM MEMBERS IN RESPECT OF ANY MATTER ON THE AGENDA.

None.

LS.3 APPLICATION TO VARY A PREMISES LICENCE - LICENSING ACT 2003.

Introduction and outline of the report

Jon Bryant, Senior Licensing Officer introduced the report for the Panel to determine an application to vary the current Premises Licence pursuant to Section 34 Licensing Act 2003 made by Cuckfield Golf Centre Ltd at Staplefield Road, Cuckfield Haywards Heath, RH17 5HY and he noted that one member of the public who is also a local resident, referred to as an Interested Party had made a representation on the grounds of the Prevention of a Public Nuisance. The variation sought to amend the plan attached to premises licence as the clubhouse has been remodelled and extended; there is a requirement for the plan to correctly reflect the licensed area. He highlighted that the licensable activities and times had not changed.

The Panel were 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.

The Senior Licensing Officer confirmed that Cuckfield Golf Centre premises licence PWA0321 was issued on 7 September 2006, and prior to 2006 a licence had previously been issued to an alternative building. He reiterated that the licensable activities, timings, conditions, and mandatory conditions were only listed for reference. The application before the Panel reflected the revised layout and remodelling of the clubhouse; it did not seek to amend or remove the existing conditions, nor review any previous planning applications. None of the Responsible

Authorities had made a representation, one other representation had been received from an Interested Party but was not accepted as it was not relevant to the Licensing Objectives. Appendix 6 detailed the emails between the Interested Party, Mr Conway and the Licensing Team; an email from the Senior Licensing Officer explained that any reference to previous planning applications were not relevant in respect of Licensing applications. Mr Conway's representations were on the grounds of public nuisance, he expressed concern that a bigger clubhouse would result in more noise from more people and vehicles at the location.

The Panel were asked to determine the application in accordance with Sections 34 and 35 of the Licensing Act 2003 (LA03), 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 highlighted sections 34 and 35 of the LA03 for determination of the Relevant representations must address one of the four Licensing Objectives: the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm. Section 9.4 of the Home Office Guidance states representations for a variation must be confined to the subject of the variation. Section 182 guidance states representations are relevant if they are about the likely effect of the grant of the application on the promotion of the licensing objectives; representations can support or be in objection to the application and a representation is "relevant" if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. The Local Authority have to decide if representations are frivolous or vexatious. The determination should be evidence based, justifiable as being appropriate to the licensing objectives and proportionate. In the case of borderline cases the benefit of the doubt about any aspect of a representation should be given to the person making the representation. He reiterated that the Panel should consider each application on a case-by-case basis. The final decision made by the Committee could be subject to appeal in the Magistrates Court by any party to the proceedings, and any decision by the Committee should be evidence based. The Senior Licensing Officer concluded by noting that the plan of the current licensed area was out of date.

Questions to the Senior Licensing Officer

There were no questions for the Senior Licensing Officer from Miss Smyth or Mr Conway.

In response to the questions from the Panel, the Senior Licensing Officer advised only one noise complaint had been received in 2019 by the Environment Protection Team and the complainant had asked not to be identified to the licence holder. He also confirmed that the nearest residential properties are to the left hand side of the golf club's entrance south of Staplefield road and towards Mill Hall Farm.

Miss Niki Smyth, Applicant

Miss Smyth advised they took over the golf club in 2018. The club was well established, and events were often held in an open marquee which could have been very noisy. She highlighted that the building was in a bad state of repair. And the building was refurbished so it would be more compliant and for the benefit of the members, employees and the public. The licensed area is not much larger than before, and the area is double glazed, has sound proofing and heavy curtains to prevent the transfer of noise to the local residents and to promote the Licensing Objectives. They do not allow 18th and 21st birthday parties and have stringent conditions for any parties held at their premises. She disputed that the source of the

noise complaint of June 2019 came from their premises and advised it was the adjacent rugby club. She also highlighted that the Parish Council will be holding events at the rugby club in an open marquee.

Questions to the Applicant

There were no questions from the Senior Licensing Officer or Mr Conway.

In response to the Chairman's question about an additional condition for the closing of windows and doors except for access and egress after a set time, Miss Smyth advised they would accept the condition but had held a number of events last with them open, and they had received no noise complaints. They would prefer not to have the extra condition.

Mr Gerard Conway Cooper, Interested Party:

Mr Conway stated that he is a resident of Cuckfield and lives close by to the licensed premises. He expressed concerns over the Council's procedure for licensing as other local residents had not been notified, a representation had not been accepted and the residents were not allowed to speak. He also noted that parts of his objection had been withheld from the Panel, he was not attempting to revisit planning matters. These procedural issues were not in the public interest. He expressed concern of more noise from the future intensification of the use of the premises due to the extension to the clubhouse and extended terrace, noting the topography of the land increases the risk of noise travelling to local residences. He recounted events when noise from the clubhouse had disturbed his sleep. He also summarised comments from his neighbours regarding the noise from the clubhouse; however, the Chairman advised he is the Interested Party and the neighbours' comments were not relevant.

He highlighted an incident on 22 June 2019 when he was disturbed by noise, he had recorded amplified music from the clubhouse, but advised he had not made a complaint to the Council. He expressed concern that the licence was not amended as the clubhouse was extended, noted that the new plan of the clubhouse bears no resemblance to the old plan and there were no conditions on noise, staff obligations or CCTV maintenance. He believed it was extremely likely that a public nuisance will occur as there will be more intensive use of the premises.

Questions to the Interested Party

The Senior Licensing Officer drew attention to number of comments made by Mr Conway. The application was correctly advertised at the premises and in the Mid Sussex Times; there is no regulation to circulate the application details to a wider audience. The only people who can speak at the hearing are those people whose representations have been accepted; any comments from his neighbours must be disregarded as they do not relate to Mr Conway's representation. The current premises licence is not under review, the licensable activities and timings were not up for consideration. He reiterated that planning matters were not relevant and must be disregarded.

The applicant had no questions for Mr Conway.

In response to questions from the Panel the Senior Licensing Officer advised only one other representation had been received but it was not relevant. He had emailed the person back for further details to make it relevant to the Licensing Objectives and likely effect of the variation, but no reply was received.

Miss Smyth confirmed that they started using the bar and licensed area of the ground floor in September 2022, noting some works were still required in other areas.

The Senior Licensing Officer confirmed that the notice relating to the application was displayed on the entrance to the golf club and the clubhouse door from the 16 February to the 15 March 2023, and was advertised in the Mid Sussex Times on 23 February 2023. The Licensing Team complied with the following timelines: that the public consultation period ran for 28 days from the acceptance of the application and the newspaper advert appeared within 10 days of the acceptance of the application.

Paul Vickers, Solicitor to the Panel highlighted regulation 19 of the Licensing Act 2003 (Hearings) Regulations 2005 which states that the Panel should disregard any representations made that are not relevant to the application or the promotion of the licensing objectives: the prevention of crime and disorder; promotion of public safety; the prevention of public nuisance; and the protection of children from harm. He also noted that under Section 182 guidance, paragraph 14.84 the Panel are not bound by any decisions made by planning and building control. He confirmed no representation had been received from the Responsible Authorities, which included the Planning Team; representation that does not relate to the Licensing Objectives should be disregarded.

Summing up by the Applicant

Miss Smyth advised the floor space of the licensed area had not changed, when they bought the golf club there was a small kitchen, the bar and the toilets but no disabled toilet. The kitchen was not compliant and was far too small, the bar and kitchen are now approximately twelve times bigger; the layout of the building is now compliant for food hygiene ratings and the capacity is the same.

A member of the Panel noted there was no mechanism for communication between the golf club and the local residents for complaints, he sought and received confirmation that only one complaint had been received by the Environment Protection Team in June 2019. The relationship between the golf club and local residents would benefit from a WhatsApp group or other method to facilitate dialogue for a complaints process. The golf club should outline their complaints process to the residents to enable better dialogue between the business and the residents. He expressed concern that there were no timings for bottling.

Miss Smyth liked the idea of a WhatsApp group and advised they do have answer phone which is reviewed each morning. Bands always do a sound check prior to performing and they are keen to work with their neighbours to prevent being a nuisance.

Mr Conway commented that notifying the Environment Protection Team was the best way to make complaints, so they are recorded and investigated. When questioned he advised he had not made any complaints to the Environment Protection Team as the anticipated noise level had not yet been reached.

The Solicitor reiterated the application was only a variation to the layout of the licensed area.

In response to the Chairman's question on excessive noises levels from amplified music, the Senior Licensing Officer advised if there is an issue with noise in the future the golf club could fit a noise limiter to their equipment using a level agreed with the Environment Protection Team. He highlighted the importance of notifying the golf club, the Environment Protection Team and the Licensing Team when there is an issue with noise; the Licensing Team also follow up if there is an instance of public nuisance to local residents. The golf club and residents must co-exist together. If they

have a method to communicate any incident can be addressed at the time of the occurrence, which could avoid a breakdown of the golf club's relationship with their neighbours.

Miss Smyth advised they are happy to leave their bottling until later in the morning.

The Solicitor advised the Members would retire to deliberate and asked the other attendees to the meeting to remain in the Council Chamber. The Members left the Chamber at 10.58 am.

The Members returned to the Chamber at 11.15 am.

The Chairman confirmed the Panel decisions was to grant application with additional conditions.

The Solicitor confirmed the additional conditions were:

Windows and doors are to be closed by 23:00 except for entry and exit;
The External area is not used after 23:00; and
Waste glass is not emptied between 22:00 and 08:00.

The Panel also suggested that the Designated Premises Supervisor has a mobile with a widely publicised number in order to address complaints at the time they occur.

The Solicitor to the Licensing Panel advised the applicants the decision would be confirmed to them in writing. All parties to the hearing have a right to appeal within 21 days to the Magistrates Court if they disagree with the decision of the Panel.

Mr Conway commented that he respected the Panel's decision, noted a disparity with timings of bottling, the use of the terrace and shutting of windows and doors. He requested the timing in the additional condition be changed to 22:00.

The Solicitor advised the Panel had made their decision, if he had any complaints regarding noise the Environment Protection Team should be contacted so his complaint is registered. He should also contact the golf club at the time of the complaint so it can be addressed quickly and relations with the neighbours can be maintained.

Mr Paul Smyth commented that he runs a successful business, has never had any problems with his neighbours and is approachable.

RESOLVED

The application to vary a premises licence was approved with the following additional conditions:

Windows and doors are to be closed by 23:00 except for entry and exit;
The External area is not used after 23:00; and
Waste glass is not emptied between 22:00 and 08:00.

The meeting finished at 11.20 am

Chairman