

**Minutes of a meeting of Mid Sussex District Council Liquor Licensing Panel
held on Tuesday, 23rd January, 2024
from 10.00 am**

Present: Councillors: K Berggreen
L Farren
J Mockford (Chairman)

Officers in attendance: Alex Walker, Solicitor to the Licensing Panel
Lucy Corrie, Assistant Director Communities
Jon Bryant, Senior Licensing Officer
Ellen Fisher, Democratic Services Officer

Also in attendance: Paul Thornton, Agent on behalf of Licence Holder
Sharon Wilson, Designated Premises Supervisor (DPS),
The Cricketers
Councillor Chapman, Member of Licensing Committee
Ryder White, Democratic Services Officer

LS.1 TO RECEIVE APOLOGIES FOR ABSENCE.

Apologies were received from Simon Hancock, Licence Holder of The Cricketers and the following interested parties; Lucy Chapman, Devon Busby-Kelly, Debbie Ann Busby, Linda Steer and Jane Davey.

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

None.

LS.3 TO BE AGREED BY GENERAL AFFIRMATION THE MINUTES OF THE PREVIOUS MEETING HELD ON 8 NOVEMBER 2023.

The Solicitor confirmed the minutes of the meeting held on 8 November 2023 would be deferred until the next available Committee meeting for approval.

The Solicitor confirmed the Panel had been notified of the new s182 of the Licencing Act 2003 guidance published on 18th January 2024. The Solicitor advised the new guidance did not apply retrospectively and the Panel would consider the application under the guidance that was in place at the time the application was submitted.

LS.4 APPLICATION TO VARY A PREMISES LICENCE - LICENSING ACT 2003.

Introduction and outline of the report

Jon Bryant, Senior Licensing Officer introduced the report to determine an application to vary a Premises Licence.

An application pursuant to Section 34 of the Licensing Act 2003, has been made by Mr Paul Thornton on behalf of Mr Simon Hancock, the holder of the Premises Licence at The Cricketers Public House, 23 West Street, Burgess Hill, RH15 8NY.

Representations against the application have been made by five Interested Parties on the grounds of Prevention of a Public Nuisance.

The substance of the variation application is to extend the times for the sale of alcohol by retail, the opening hours, remove outdated licence conditions and update and add new licence conditions.

The Panel 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 of the Licensing Act 2003, whilst having due regard to the applicant's submissions and relevant representations.

The Cricketers Public House is situated in West Street at the junction with Fairfield Road, Burgess Hill. Mr Simon Hancock is holder of the Premises Licence. The Pub has held a Premises Licence since the introduction of the Licensing Act 2003 and previously under the earlier Act, the Licensing Act 1964.

The report sets out the current licensable activities and the non standard timings.

Mr Bryant drew the Panels attention to a number of conditions in addition to the mandatory conditions that are currently on the licence where it the application seeking to update these conditions which are outmoded.

The variation seeks to increase the licensing hours for Sale of Alcohol and Late Night Refreshment on three nights of the week- Thursday Friday and Saturday from midnight to 1am, to amend the current opening hours accordingly and to update and amend the current conditions.

The details of the variation are set out on the report at paragraph 10.

Representations have been received from five members of public, referred to as an Interested Parties within the Act. These representations have been made in respect of the Licensing Objectives of the Prevention of a Public Nuisance.

Mr Bryant pointed out that there are no representations from any Responsible Authority. Concerns have been resolved by minor amendments to the proposed new licence conditions and the agreement with an additional condition with the Environmental Protection Team. If the Panel decides to grant the licence variation, either in full or part, I request that in addition to any other conditions felt necessary and proportionate by the Panel the amended and additional conditions proposed by the applicant and agreed with the Police and the Environmental Protection Team be attached to the varied licence. Full details of these conditions are attached in Appendix 4.

The application was advertised at the site between 29th November 2023 and 26th December 2023 and published in the local newspaper on 7th December 2023.

Mr Bryant then outlined the Interested Party Representations in full.

Lucy Chapman has made a representation on the grounds of the Prevention of a Public Nuisance. The representation states:

The noise levels are already bad, especially during summer months. I have concerns about people parking their cars in our close (which is already an issue as there isn't sufficient parking onsite) then driving home at 1.30 and causing a disturbance.

Devon Busby-Kelly has made representations on the grounds of the Prevention of a Public Nuisance.

I feel very concerned about this due to the potential noise of people leaving the pub later than they already do.

This is mostly due to the fact people are unable to mostly park in the car park of the pub due to the 2 parking spots not being able to be used for cars. The front car park is completely full of old cars and the back is mostly full of cut down logs, I'm assuming this is other business ' running in the pubs location. This means that people who visit the pub don't park there as there is only about 8 spaces which some are of course taken up by staff. Instead people park on main rds and in the closes that are nearest. Especially during the summer you always get woken up by cars leaving the pub or drunken people leaving. At least at the moment it's only midnight but the idea that it's going to be later is worrying. The pub is not in a town center or a location with no one around, it is surrounded by residential properties including flats, houses and a old people's home. Also though I appreciate the pub saying it will lower noise and not allow people outside but people will be going in and out as they do now, to smoke or talk and they will be heard as you cannot control how loud they are going to be. And when they do open the doors, especially when in very hot weather people will want to go outside to cool down we will hear the music as we do now.

I have nothing against the pub but I know so many of my neighbours and others that live close are very concerned over this change. If something could be done about the car park so people who are visiting do not park by people's houses it would certainly help ease the worry but as it stands we already have enough trouble with people leaving and making noise at midnight please do not make this any later.

Debbie Ann Busby has made representations on the grounds of the Prevention of a Public Nuisance.

Firstly I have nothing against the pub at one time my grandad use to serve there, the problem is it is not in the town or in the country ,it's in a residential area .The noise aspect worries me as you cannot stop people shouting ,laughing they have had a good time but unfortunately they park in the roads where we live ,in the summer our windows are open so we will be woken up in the early hours of the morning . Unfortunately, there is no other place to park except outside our houses or even by our garages.

Linda Steer has made a representation on the grounds of Prevention of a Public Nuisance.

I can't see the need to be open later. The noise level when people leave is unacceptable especially in the summer when windows are open. We already have to put up with their customers parking outside our houses and leaving at all different times of the day and night.

Jane Davey has made a representation on the grounds of Prevention of a Public Nuisance. The representation states:

With reference to the above with regard to increase licensing on Thursday Friday Saturday we have had numerous complaints over the years where I have been in touch with the licensing department due to noise and drinking outside every weekend people are drinking outside well after 23 hours even up to about 1230 am and outside in garden and front of pub quite often when I am on a late shift I get dropped in my taxi and people outside shouting and drinking well after 1200 am x as well as the music which can be so loud you have to close the windows if only the landlady would adhere to the rules and customers I would not be sending this email.

With reference to the above I can confirm that the comments I have made are on the grounds of potential public nuisance.

The extended hours will have a detrimental impact in this matter.

We have endured quite a lot of noise and nuisance over the years the only time we had any respite was during the pandemic.

I believe the extended hours would only make matters worse.

Mr Bryant pointed out that the Panel will note that comments surrounding parking issues in the locality could not be considered as relevant in respect of this application and the consideration of the Panel is in respect of the likely effect of the variation on the licensing objectives and is not a process to review the current licence.

The Panel must determine the application in accordance with 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, relevant representations, and the Hearing Procedure under which the panel operates.

Mr Bryant advised that the relevant legislation was set out in the report and the panel would refer to the solicitor if they had any questions concerning it.

Mr Bryant set out 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 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).

Parts of the guidance Issued Under Section 182 of the Licensing Act 2003 were outlined to the Panel.

At section 2.21 it states that the 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific

premises on persons living and working in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.

Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.

Where a representation concerning the licensing objectives is made by a responsible authority about a proposed operating schedule and it is relevant, the licensing authority's discretion will be engaged. It will also be engaged if another person makes relevant representations to the licensing authority, which are also not frivolous or vexatious. Relevant representations can be made in opposition to, or in support of, an application and can be made by any individual, body or business that has grounds to do so.

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.

For representations in relation to variations to be relevant, they should be confined to the subject matter of the variation.

It is for the licensing authority to determine whether a representation (other than a representation from responsible authority) is frivolous or vexatious on the basis of what might ordinarily be considered to be vexatious or frivolous.

It is recommended that, in borderline cases, the benefit of the doubt about any aspect of a representation should be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it.

Each responsible authority will be an expert in their respective field, and in some cases, it is likely that a particular responsible authority will be the licensing authority's main source of advice in relation to a particular licensing objective. The Panel were advised that the Environmental Protection Team have a key role in preventing a public nuisance.

As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation and should be allowed sufficient time to do so, within reasonable and practicable limits.

Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or

other persons, and representations made by the applicant or premises user as the case may be.

The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

The Senior Licensing Officer noted the report sets out the relevant parts of the policy and he detailed the appendices which are included.

Questions to the Senior Licensing Officer

There were no questions to the Senior Licencing Officer.

Agent on behalf of the Licence Holder

Paul Thornton, Agent on behalf of Simon Hancock, Licence Holder, applicant. He gave apologies for Simon Hancock would was due to attend the Panel, however, he had been called away on an urgent matter, however, Sharon Wilson (DPS) was present and available to answer any questions.

Mr Thornton confirmed the application was for a variation of the licence to increase the licensing hours for the sale of alcohol and late night refreshments on three nights of the week, Thursday, Friday and Saturday from midday to 1am, an extension of 3 hours in total. At the same time, they would like to take the opportunity to remove outdated licence conditions and update and add new licence conditions. He explained the current conditions were archaic and unworkable and they would like to introduce new conditions which are comprehensive and enforceable. These included CCTV and where to place cameras, training and the records to be kept. Cut off time for the patio and outside garden area to be 22:00 hours. No outside drinking after 23:00 hours and a last entry time of 23:30 hours for new customers. These will all apply for all days of the week. He therefore feels they have adequately fulfilled the requirements of the MSDC licensing policy at section 9 para 5.

Mr Thornton explained the simple reason for the application to extend the licensing hours is to retain existing customers at the pub to compete with 3 existing pubs in the local area who are currently licensed to serve alcohol until 1am. Regular customers who would like to stay at The Cricketers, tend to go to those pubs that are open later. He highlighted the impact of Covid 19 on the hospitality industry and that businesses were still recovering from the impact of the pandemic.

He noted there had been no representations from the Responsible Authorities and that no incidents had been reported in relation to the pub and no objections to the revised conditions from the Environmental Protection Team. The Mangers are acutely aware of the pub in the current residential area and (although it was not a matter for the panel) they had taken steps to increase the number of spaces in the pub car park to reduce any parking issues on the neighbouring roads. He also noted the location was a busy area in general, with two football pitches in the vicinity that held two football matches a week, increasing the number of people using the area and trying to park their cars. Mr Thornton noted that 90-95% of the pubs trade are within walking distance of the establishment.

In response to the representations, Mr Thornton advised they did not want to diminish these, however none had led to formal action being taken against The Cricketers. He was aware there were occasional noise nuisance issues noted in 2018 and 2000, but the Licence Holder and DPS had confirmed these were not regular occurrences. In the past any issues have been resolved informally with no intervention required by officers. Both the Licence Holder and the DPS encourage residents and members of the public to call or speak directly with the pub if they have any issues or concerns, so these can be resolved informally and immediately. Simon Hancock has over 40 years' experience in the hospitality industry, and both the Licence Holder and the Designated Premises Supervisor are professional and diligent in their responsibilities. Mr Thornton shared with the Panel a reference from Stonegate, the Freehold company, regarding the Licence Holder, Mr Hancock is very well thought of in the Trade. Sharon Wilson has been a DPS at The Cricketers for nearly 14 years. Both are highly experienced and know their customers which enables them to carry out a code of conduct with existing customers.

The Cricketers has recently undergone an internal refurbishment which has resulted in a change in the demographics of the customers of the pub, which they would like to maintain through the extension of the licensing hours. He reminded the Panel that no objections have been raised by the Responsible Authorities regarding the application to vary the licence, citing the Temporary Event notice for 16 events a year for the pub to be open until 1am as a good example. He was not aware of any complaints as a result of this condition.

Questions to the Licence Holder

A Member asked how the no new entry to the premises after 11.30pm would be managed and Mr Thornton confirmed this would be enforced by the Manager and the DPS on duty.

Similarly, a Member asked how the rear garden/patio area would be supervised, Mr Thornton confirmed under the new conditions there would no outside drinking after 11pm and the rear garden/patio must be cleared by 10pm. Staff would supervise this and manage customers.

Licence Holder – Summary

Mr Thornton had no further information to add in summary.

The Solicitor outlined the next steps. If the Panel is unable to come to a decision today, it will be communicated to the various parties within 5 working days. They may come with a decision today with written reasons being provided within 5 working days, the next steps will be made clear after the Panel had retired. Any party or interested party could appeal within 21 days of the written decision being provided and the appeal should be to the Brighton Magistrates Court.

The Panel retired to consider the application and representations at 10.40am and returned to the Chamber at 11.09am.

The Chairman noted that after deliberation and having considered all the information presented, including the Mid Sussex District Council licensing policy, the Government guidance, representations, (although no formal complaints had been made in the recent past) and the reference from the Stonegate Pub group, they agreed to extend the licensing hours, remove the outdated conditions and replace with the 10 proposed and agreed licensing conditions. They wanted to remind the Applicant that

should regular noise complaints be received following these amendments this could lead to a review.

The Solicitor reiterated that any party or interested party could appeal within 21 days of the written decision being provided and the appeal should be to the Brighton Magistrates Court. This will be included in the written decision which will be provided within the next 5 working days.

Resolved

The Panel agreed to:

- Amend Timings of Licensable Activities as follows:
 - Sale of Alcohol
Thursday, Friday, Saturday 1100-0100 hrs
 - Late Night Refreshment
Thursday, Friday, Saturday 2300 -0100 hrs
- Remove the outdated conditions and replace with the 10 proposed and agreed licensing conditions as listed in the Senior Licensing Officers report.

The meeting finished at 11.10 am

Chairman