

## Application to Vary a Premises Licence – Licensing Act 2003

REPORT OF: Tom Clark, Head of Regulatory Services

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Wards Affected: Cuckfield  
Key Decision: No  
Report To: Liquor Licensing Panel

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### Purpose of Report

- 1 To provide information in order that the Committee can determine an application to vary a Premises Licence.

### Summary

- 2 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. Representations against the application have been made by an Interested Party.
  - 3 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.
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### Background

- 4 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 car park for Cuckfield Recreation Ground.
- 5 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 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 Licence 'On' Licence was converted under the Licensing Act 2003.
- 6 It is currently licensed for the following licensable activities;

| Licensable Activity                   | Timings  |
|---------------------------------------|--|
| A performance of dance - Indoors      | Monday to Saturday 09:00 - 00:00<br>Sunday 10:00 - 23:00 |
| A performance of live music - Indoors | Monday to Saturday 09:00 - 00:00                         |

|   |                                 |                                |
|---|---------------------------------|--------------------------------|
|   | Sunday                          | 10:00 - 23:00                  |
| The exhibition of a film - Indoors                      | Friday to Saturday              | 14:00 - 23:00                  |
| Entertainment similar to dancing/making music - Indoors | Monday to Saturday<br>Sunday    | 09:00 - 00:00<br>10:00 - 23:00 |
| The performance of a play - Indoors                     | Monday to Saturday<br>Sunday    | 09:00 - 00:00<br>10:00 - 23:00 |
| Sale by retail of alcohol                               | Wednesday to Friday<br>Saturday | 18:00 - 23:00<br>12:00 - 23:00 |
| Any playing of recorded music - Indoors                 | Monday to Saturday<br>Sunday    | 09:00 - 00:00<br>10:00 - 23:00 |

- 7 Alcohol is supplied for consumption on the Premises only.
- 8 The additional conditions currently attached to this licence are:
1. All windows and doors to be kept closed after 2100 hours.
  2. Inbuilt sound limitation device to be maintained in efficient working order.
- 9 On the 2<sup>nd</sup> 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 Cuckfield Recreation Field and it is planned to move this performance to the garden area where there may be amplified music during the performance.
- 10 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.
- 11 There was one other representation made during the consultation period which was resolved by the acceptance of the additional conditions offered by Cuckfield Parish Council in respect of the additional use of the garden area.
- 12 As stated, Cuckfield Parish Council have offered a number of additional conditions to be attached to the Premises Licence should the application be granted. These are outlined in the attached appendices.

## Representations

- 13 Representations have been received from an interested party, Olivia Barnard, who lives in an adjacent property, 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 they have already been disturbed by events at the Hall held under the existing licence. She states 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.

- 14 The consultation period took place between 4<sup>th</sup> November and the 2<sup>nd</sup> December 2021. It was correctly advertised at the site during this period and in the Mid Sussex Times on the 11<sup>th</sup> November 2021

### **Policy Context**

- 15 Determination of Application for a Premises Licence

The Committee 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 and relevant representations.

- 16 Section 34 LA03 deals with the determination of the application:

Grant of premises licence

34 Determination of application for premises licence

(1) This section applies where the relevant licensing authority—

(a) receives an application, made in accordance with section 34, to vary a premises licence, and

(b) is satisfied that the applicant has complied with any requirement imposed on him under subsection (5) of that section.

(2) Subject to subsection (3) and section 36(6) the authority must grant the application.

(3) Where relevant representations are made, the authority must—

(a) hold a hearing to consider them, unless the authority, the applicant and each person who has made such representations agree that a hearing is unnecessary, and

(b) having regard to the representations, take such of the steps mentioned in subsection (4) (if any) as it considers appropriate for the promotion of the licensing objectives.

(4) The steps are—

- (a) to modify the conditions of the licence;
- (b) to reject the whole or part of the application;

and for this purpose, the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

(5) In this section, “relevant representations” means representations which—

(a) are about the likely effect of the grant of the application on the promotion of the licensing objectives and

(b) meet the requirements of subsection (6),

(6) The requirements of are—

(a) that the representations were made by [a responsible authority or other person] within the period prescribed under section 17(5)(c) by virtue of Section 34(5)

(b) that they have not been withdrawn, and

(c) in the case of representations made by a person who is not a responsible authority, that they are not, in the opinion of the relevant licensing authority, frivolous or vexatious.

## 17 Relevant Representations

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

18 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)

### Section 182 Guidance

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

20 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

- 21 In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:
- the steps that are appropriate to promote the licensing objectives;
  - the representations (including supporting information) presented by all the parties;
  - the Section 182 Guidance;
  - The MSDC Statement of Licensing Policy.

### **Other Options Considered**

- 22 In order to lawfully provide licensable activities as applied for, they must be conducted under the authority of a Premises Licence.

### **Financial Implications**

- 23 The final decision made by the Committee in this matter is subject to appeal in the Magistrates Court by any party to the proceedings.

### **Other Material Implications**

- 24 Section 136 Licensing Act 2003 – A person commits an offence if he carries on or attempts to carry a licensable activity on or from any premises otherwise than under and in accordance with an authorisation or he knowingly allows a licensable activity to be so carried on.
- 25 A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine or both.

### **Sustainability Implications**

- 26 None.

### **Background Papers**

Appendix 1 – Application Form and new plan of premises  
Appendix 2 – Current Licence Conditions  
Appendix 3 – Photos of Location  
Appendix 4 – Further submissions by the applicant in response to representation

### **Representations**

Appendix 5 – Olivia Barnard representation and associated emails

### **Other Documents**

Appendix 6 – Requested conditions if variation granted.