

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

REPORT OF: Tom Clark, Head of Regulatory Services

Contact Officer: Jon Bryant, Senior Licensing Officer  
Email: [jon.bryant@midsussex.gov.uk](mailto:jon.bryant@midsussex.gov.uk) Tel: 01444 477076

Wards Affected: Ansty

Key Decision No

Report To: Liquor Licensing Panel

---

### 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 Mr John Thorpe on behalf of ACSC Services Ltd to vary a Premises Licence at Ansty Village Centre, Recreation Ground, Deaks Lane, Ansty, Haywards Heath RH17 5AS. Representations against the application have been made by three Interested Parties on the grounds of a Prevention of Public Nuisance.
  - 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.
- 

### Background

- 4 ACSC Services Ltd is the Trading subsidiary of Ansty Sports and Social Club and they were granted a Premises Licence by the Licensing Committee on the 24<sup>th</sup> April 2021.
- 5 Ansty Sports and Social Club had previously operated on the site as a members' club since before the Second World War. It has provided the umbrella for its sporting clubs and sections over many years. On the completion of the new Club house and facilities the Club applied for and was granted a Premises Licence.
- 6 It is currently licensed for the following licensable activities;

Licensable Activity	Timings
Sale by retail of alcohol	Everyday 12:00 - 23:00 Christmas Eve 12:00 – 00:00

Non Standard Timings – Supply alcohol up to 24.00 on up to 12 days in the year, for special events, such as, birthday parties and Club Awards Nights. including Christmas Eve and New Years Eve.

7 The current opening hours of the premises are:

**Everyday** 09:00 - 23:00

**Christmas Eve** 09:00 - 00:00

**Non Standard Timings** - Supply alcohol up to 24.00 on up to 12 days in the year, for special events, such as, birthday parties and Club Awards Nights. including Christmas Eve and New Years Eve.

8 I have appended the full conditions currently attached to this licence to the rear of the report.

In brief they include the following conditions which were attached to the licence after a previous hearing of the Licensing Committee:

- a. Provision of CCTV
- b. Challenge 25 Policy
- c. Staff Training and staff being made aware of licence conditions.
- d. Refusals register
- e. Outside areas not to be used after 21:00 hours other than for customers using the designated smoking area.
- f. Staff sale of alcohol having DPS written authorisation
- g. Keeping the exit route of the Balcony area clear
- h. Glasses and bottles only to be taken outside into an area 3 metres into the recreation field and appropriate signage.
- i. External doors and windows to remain closed after 2100 hours
- j. Procedures for dealing with noise complaints
- k. Bottling out and waste collection times.

9 These conditions were added to the Premises Licence by the Committee on the determination of the initial application for the Premise Licence.

10 It should be noted that ASCS lodged an appeal with the Magistrates Court in respect of the condition imposed by the Committee that the outside areas could not be used after 2100 hours. The original Premises Licence application had requested the use of the Balcony and outside area until 2200 hours. The appeal is in respect of this condition.

11 Mr Thorpe advised that ACSC had paused the appeal and on the 3<sup>rd</sup> May 2022 submitted an application to vary the current premises licence.

The application is to allow the use of the outside and balcony areas for licensable activities to 2200 hours and to permit the playing of amplified music

up to 00:00 hours inside the premises on 12 days a year to correspond with the non-standard timings for the supply of alcohol.

12 Three representations have been received from members of the public, referred to as 'Interested Parties' within the Act. The main points raised in the representations that are relevant relate to the licensing objective of the Prevention of a Public Nuisance. These representations have not been resolved.

13 The Environmental Protection Team responded to the consultation stating:

*I note that there was a Licensing Sub Committee that determined the previous application and imposed a 21:00 hrs curfew for the balcony and outside areas. I believe that this was issued on 13 April 2021. This was over 12 months ago, and in my opinion that is sufficient time to assess the situation. According to our records, we have had no noise complaints since then, but we did receive an email from Mr Thorpe at the start of Feb 2022 advising that a live music event they had had the week before had generated a number of complaints. This suggests that residents can clearly be affected by noise from the premises. However, this was not noise from outside or balcony activities, and the fact that Mr Thorpe wrote to us for advice on this matter suggests a responsible attitude and a genuine desire to "get things right".*

*Taking all of the above into consideration, I do not object to the application for 22:00 hrs for outside/balcony areas. I do strongly recommend that if granted, the applicant is reminded that any complaints about noise could result in a noise abatement notice or the premises license being called in for review.*

14 The application was correctly advertised at the site between 4<sup>th</sup> May 2022 to 2<sup>nd</sup> June 2022 and in the Mid Sussex Times on 19<sup>th</sup> May 2022.

15 Mr Thorpe has made further extensive submissions in support of the application that are attached to this report in respect of the measures put in place by the club to mitigate public nuisance caused by noise, recording of complaints and actions taken by the Social Club.

## **Representations**

16 Interested Parties Representations. The full representations are appended to the report and the main points are summarised.

### **Emma Sparham**

Emma Sparham has made objections on the Grounds of the Prevention of a Public Nuisance.

She has stated that she lives directly opposite the Village Centre and that the requested changes have a direct impact on her family and neighbours.

She references the Committee decision letter on the grant of the Licence and further states that the matters raised by the panel are still valid and makes the following points

1. Noise does travel, especially during the evening hours when the traffic using the main road (Cuckfield Road) dies down.
2. The Village Centre is surrounded by houses, with children of all ages (babies to ones taking exams) therefore it is essential & respectful that residents are not disturbed.
3. In the summer months windows are opened for ventilation and the bedrooms of my house (mine & my daughter's) directly face the Village Centre. I feel, a change of curfew times, may restrict me in opening these windows with a fear of noise disturbance late at night. I know this will be the same for my neighbours as they have bedrooms in the same position in their houses.

*She further states that with regards to the comments regarding lack /no complaints to date about noise, the surrounding neighbours and John Thorpe have a WhatsApp group to highlight any disturbances. To date this has worked, and on past occasions action has been taken but this, of course, was after myself, my daughter and my neighbours were disturbed. To say that they have not received any complaints is confusing, especially regarding amplified music where on one occasion the music (DJ) was so loud that it could be heard through double glazed windows*

There are further comments in respect of the comparison made with other village venues detailed in full in the attached appendices and in conclusion she states

*My request is for you to seriously consider not accepting this variation to the premises license for Ansty Village Centre; for the curfew to be increased for the balcony to 22.00 and amplified music to midnight. The residents went through this process only a year ago which resulted in a reasonable outcome for all parties. To have to, again, revisit this matter is very disheartening, especially when we keep hearing that the Village Hall Committee has its residents' interests foremost in their minds*

### **Karen Sedgewick-Smith**

Karen Sedgewick-Smith has made objections on the Grounds of the Prevention of a Public Nuisance.

She states:

*Upon reading the application to the Variation of a Premises Licence for Ansty Village Centre, I felt that I should object to the variation that has been applied for....ie, the extension of the use of the outside area from 21:00 to 22:00*

*I live in very close proximity to the club and on a couple of occasions I and my neighbours have had to complain to request that the music be turned down on our WhatsApp group that was set up between the neighbours and John Thorpe who is a trustee on the Ansty Community Sports Club and the Village Hall Trust when a problem does occur.*

*The conversations held outside the Village Hall, travel very clearly to the residents, and with the addition to the loud music the noise becomes terribly invasive and permeates the homes nearby. To extend the balcony times would only increase more noise disturbance for the immediate neighbours*

*There was a comparison made between the Ansty Social Club and East Grinstead Social Club, but upon looking at the proximity of the East Grinstead Club and surrounding housing to the Ansty Club and housing, there really is no comparison to be made. The houses in Ansty are much closer to the club*

*So I would object to the variation. We have had a fair amount of noise disturbance, and I feel that it would be unfair on the surrounding houses for there to be more noise disturbance.*

**Joanna Steadman**

Joanna Steadman has made objections on the Grounds of the Prevention of a Public Nuisance.

She states:

*I complained to you directly, via email, twice last year in July and October about noise from the "Club" when the doors were left open and they had a live band or from people making noise on the balcony at 9.30pm. I am aware of neighbours commenting to the club about noise on the "whatsapp" group that was set up to enable us to report issues. The Applicant has representation on this WhatsApp Group and I am surprised, given this, that they are seeking to review the licence in this way. The open elevated position in combination with its proximity to neighbouring residential dwellings means that noise from the balcony, even from just opening the doors, carries and is a nuisance/disturbance to the neighbouring residential properties, which include a number of family homes with young children. This impacts on the amenity of nearby residents by virtue of noise and disturbance.*

**Policy Context**

17 Determination of Application for the Variation of 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.

18 Section 35 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.

19 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

20 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 - (ie more probable than not)

## 21 Guidance Issued Under Section 182 of the Licensing Act 2003

### 9.3

Where a representation concerning the licensing objectives is made by a responsible authority about a proposed operating schedule and it is relevant (see paragraphs 9.4 to 9.10 below), 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 (see paragraphs 9.4 to 9.10 below). 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.

### 9.4

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 example, a representation from a local businessperson about the commercial damage caused by competition from new licensed premises would not be relevant. On the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be relevant. In other words, representations should relate to the impact of licensable activities carried on from premises on the objectives.

### 9.37

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.

### 9.38

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;
- Guidance issued under Section 182 Licensing Act 2003;
- its own statement of licensing policy.

### 9.42

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.

9.43

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.

### **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 plan of premises  
Appendix 2 – Additional comments from applicant  
Appendix 3 – Current Licence Conditions  
Appendix 4 – Area Map  
Appendix 5 – Photos of Location

### **Representations**

Appendix 6 – Emma Sparham  
Appendix 7 – Karen Sedgewick-Smith  
Appendix 8 – Joanna Steadman

Appendix 9 - Extract of Agreed Hearings Procedure