

Hearing Procedure

- 1 The Chair of the Licensing Committee will introduce the Committee and ask officers to introduce themselves.
- 2 The Chair will ask the applicants to formally introduce themselves.
- 3 The Licensing Officer will outline the procedure to be followed at the hearing.
- 4 Hearing Procedure: -
 - i. The Licensing Officer will introduce the report.
 - ii. Questions concerning the report can be asked both by Members and the applicant.
 - iii. The applicant / licensee (or his/her nominated representative) will then be asked to: -
 - a) detail the application;
 - b) provide clarification on the application and respond to the representations made.
 - iv. The applicant / licensee (or his/her nominated representative) may then be asked questions by members and with the leave of the Chair from the other parties present.
 - v. The Licensing Officer will introduce in turn representatives for the Responsible Authority and Interested Parties who will be asked to detail their relevant representations.
 - vi. Members may ask questions of those parties
 - vii. With the leave of the Chair the applicant or his representative may ask questions of the representatives of the Responsible Authorities and Interested Parties.
 - viii. The applicant will then be given the opportunity to sum up the application. The Licensing Officer will then detail the options.
 - ix. There will then be a private session for members to take legal advice and consider the application.
- 5 The decision of the Licensing Committee will be given in accordance with the requirements of the Licensing Act 2003 and regulations made there under.

Notes:

- At any time in the Licensing Process Members of the Committee may request legal advice from the Solicitor to the Committee. This advice may be given in open session or in private.
- The Committee Hearing will be held in public unless and in accordance with the Regulations the Committee determine that the public should be excluded.

Committee Name and Date of Committee Meeting

Licensing Sub-Committee – 2nd November 2022 at 14:00 hours (2:00 pm)

Report Title

Consideration of an application (made in accordance with s.87 of the Licensing Act 2003) for the review of the Club Premises Certificate issued to Anston Club Limited in respect of Anston Club, 1 Main Street, North Anston, Sheffield S25 4BD.

Report Author

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Report Summary

On the 7th September 2022 an application was made on behalf of the Licensing Authority, for the review of the Club Premises Certificate currently in force in respect of Anston Club, 1 Main Street, North Anston, Sheffield S25 4BD

The application seeks the revocation of the Club Premises Certificate

Representations in support of the application have been made on behalf South Yorkshire Police.

Representations in support of Anston Club Limited have been received from two local resident.

Further details on the application and the representations can be found within the body of this report.

Recommendations

1. That the Licensing Sub-Committee considers the information contained within this report (and associated appendices) along with any additional information presented at the hearing and subsequently determines the application that has been made.
2. The Licensing Sub-Committee should inform the Licensing Manager of the decision in accordance with the requirements of the Licensing Act 2003 and Regulations made thereunder.

List of Appendices Included

- Appendix 1 Club Premises Certificate (CP0037)
- Appendix 2 Application under consideration
- Appendix 3 Representations in support of the application.
- Appendix 4 Representations in support of the North Anston Club Limited.
- Appendix 5 Licensing Authority evidence in support of the review application.
- Appendix 6 Evidence submitted by Anston Club Limited

Background Papers

Rotherham MBC Statement of Licensing Policy 2020 -2025
(Available at www.rotherham.gov.uk/licensing)

Revised guidance issued under section 182 of the Licensing Act 2003 (April 2018)
(Available at <https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>)

Council Approval Required

No

Exempt from the Press and Public

No

Consideration of an application (made in accordance with s.51 of the Licensing Act 2003) for the review of the Club Premises Certificate issued to Anston Club Limited in respect of Anston Club, 1 Main Street, North Anston, Sheffield S25 4BD.

1. Background

- 1.1 A Club Premises Certificate was first in 2005 following an application made, by Anston Working Men's Club, under transitional provisions of the Licensing Act 2003. The transitional provisions allowed for the transfer of the various licenses and certificates then issued by the Magistrates Court to the local authority..
- 1.2 In 2011 notification of change of name from Anston Working Men's Club to Anston Club Limited was received.
- 1.3 A copy of the Club Premises Certificate issued to Anston Club Limited in respect of the premises known as Anston Club and situated at 1 Main Street, North Anston, Sheffield S25 4DB is attached at Appendix 1.
- 1.4 In summary the Certificate authorises the supply of alcohol and the provision of regulated entertainment for the benefit of members of the Club and their guest on
- each of the days Sunday to Thursday between 11:00am and Midnight; and
 - Friday and Saturday between 11:00am and 1:00am on the day following.
- 1.5 Whilst not transcribed onto the Certificate the Licensing Act 2003 sets out that the conditions to which all Clubs must comply. A summary of these conditions is set out below:
- The Club must be established and conducted in good faith and have a minimum of 25 members.
 - The premises must be occupied and used regularly for Club purposes
 - Alcohol may only be supplied, and entertainment provided, to Club members and their guests.
 - New members must wait two days between making an application and getting membership privileges.
 - Unless managed by the Club in general the purchase of alcohol on behalf of the Club must be managed by an elected committee, whose members are member so the Club and aged 18 years or over.
 - There must be no arrangement for any individual to financially benefit from buying or selling alcohol

2. Key Issues

Location of the Premises

- 2.1 A location plan of the premises will be circulated at the hearing.

The application

- 2.2 On 7th September 2022 an application was made on behalf of the Licensing Authority, in their role under the Licensing Act 2003 as a Responsible Authority by Keeley Ladlow, for the review of the Club Premises Certificate issued Anston Club Limited in respect Anston Club, 1 Main Street, North Anston, Sheffield S25 4BD. A copy of the application is attached at Appendix 2.
- 2.3 The application seeks the revocation of the Club Premises Certificate on the grounds that the Club is:
- failing to promote three of the licensing objectives, namely public safety, the prevention of crime and disorder and public nuisance; and
 - not operating in good faith as a “qualifying club”.

Consultation

- 2.4 Consultation on the application has been carried out on the application in accordance with all statutory requirements and the Council’s procedure. There is a prescribed period of 28 days following the submission of an application during which time representations in relation to the application may be submitted.
- 2.5 At the end of the prescribed period, three representations had been received, one in support of the application to review the Club Premises Certificate and two in support of the Club retaining the Certificate.
- 2.6 All parties making representations to the application have been invited to the hearing today and, if attending, will be given the opportunity to address the Sub-Committee in relation to the matters raised in their representations.
- 2.7 Members of the Sub-Committee should give full consideration of the issues raised in the representations when determining the application.

Representation in Support of Applicant

- 2.8 South Yorkshire Police, in their role under the Licensing Act 2003 as a Responsible Authority, have submitted representation in support the application for the revocation of Club Premises Certificate. A copy of the representations from the Police is attached at Appendix 3.

Representation in Support of Anston Club Limited

- 2.9 Representations from two local residents, both of whom support Anston Club Limited, are attached at Appendix 4.

Evidence provided in support of the Applicant (by the Licensing Authority)

- 2.10 Additional documentation in support of the application made on behalf of the Licensing Authority is attached at Appendix 5. In summary this evidence includes:

- overview statements from Keeley Ladlow, Principal Licencing Officer and Lisa Underwood Parkin, Licensing Enforcement Officer.
- Copies of the complaints referred to in the application
- action plan between South Yorkshire Police and Anston Club Limited
- warning letter sent by Keeley Ladlow to Anston Club Limited
- images of the Clubs “signing in book” and day membership receipts
- an overview, together with images taken from the CCTV system at Anston Club
- images of people smoking inside the Club.

2.11 Video footage from the CCTV at Anston Club has also been submitted by the Licensing Authority, which will be presented at the hearing.

Evidence provided by the Club Certificate Holder (Anston Club Limited)

2.12 Anston Club Limited has submitted evidence in response to the review application, a copy of which is attached at Appendix 6. In summary this evidence Includes:

- Grounds of Review Application - Numbered
- Response to review – Mr Fisher
- Response to review – Mr Kavanagh
- Letter – CCTV
- Photos of outdoor area – proposed
- Drugs Notice
- Polite Notice
- Messages – Chris from Club
- Petition in support
- Letters & Email in support

3. Options available to the Licensing Sub-Committee

3.1 A licensing authority must carry out its functions under the Licensing Act with a view to promoting the licensing objectives:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

3.2 In considering this matter, the Committee should take into account any representations or objections that have been received from responsible authorities or other persons, together with any representations made by the certificate holder. In reaching the decision, regard must also be had to relevant provisions of the national guidance and the Council’s licensing policy statement.

3.3 In relation to this application, the options available to the Committee are to:

- modify the conditions of the certificate;
- exclude a qualifying club activity from the scope of the certificate;
- suspend the certificate for a period not exceeding 3 months;
- To withdraw the certificate.

3.4 The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the certificate holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.

3.5 However, where responsible authorities such as the Police or Environmental Health Officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.

3.6 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

3.7 Licensing authorities should also note that modifications of conditions and exclusions of authorised activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the certificate for up to three months could have a financial impact and would only be expected to be pursued as an appropriate means of promoting the licensing objectives or preventing illegal working. So, for instance, a certificate could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems

at the premises and, where other measures are deemed insufficient, to revoke the certificate.

- 3.8 All licensing determinations should be considered on the individual merits of the application. 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. Findings on any issues of fact should be on the balance of probability.
- 3.9 It is important that a licensing authority should give comprehensive reasons for its decisions in anticipation of any appeals. Failure to give adequate reasons could itself give rise to grounds for an appeal.

4. Timetable and Accountability for Implementing this Decision

- 4.1 Any decision made by the Licensing Sub-Committee does not have effect until:
- the end of the period given for appealing against the decision; or
 - if the decision is appealed, until the appeal is disposed of.
- 4.2 An appeal may be lodged by either the applicant or a party to the hearing that has made a relevant representation.
- 4.3 Parties to the hearing must be informed of the decision within 5 working days of the hearing (or within 5 working days from the last day of the hearing if it takes place over multiple days).

5. Financial Implications

- 5.1 There are no specific financial implications arising from this application.
- 5.2 However, additional costs may be incurred should the matter go to appeal. In such an eventuality it may not be possible to recover all of the costs incurred. The impact of these additional costs (if any) will therefore need to be met from within existing revenue budgets.

6. Legal Advice and Implications

- 6.1 A Council Solicitor will be in attendance at the hearing to provide appropriate legal advice to the Licensing Sub-Committee in relation to specific aspects of the application / hearing, however the advice below is generally applicable to all applications.
- 6.2 Hearings under the Licensing Act 2003 operate under the Licensing Act 2003 (Hearings) Regulations 2005 (as amended).

- 6.3 In accordance with Regulation 18 of the Licensing Act 2003 (Hearings) Regulations 2005, the authority may take into account documentary or other information produced by a party in support of their application, representations or notice either before the hearing or, with the consent of all parties, at the hearing.
- 6.4 The Sub Committee may accept hearsay evidence and it will be a matter for the Licensing Sub-Committee to attach what weight to it that they consider appropriate. Hearsay evidence is evidence of something that a witness neither saw nor heard but has heard or read about.
- 6.5 The Secretary of State's guidance to the Licensing Act 2003 is provided to licensing authorities in relation to the carrying out of their functions under the 2003 Act. It also provides information to magistrates' courts hearing appeals against licensing decisions and has been made widely available for the benefit of those who run licensed premises, their legal advisers and the general public. It is a key medium for promoting best practice, ensuring consistent application of licensing powers across England and Wales and for promoting fairness, equal treatment and proportionality.
- 6.6 Section 4 of the 2003 Act provides that, in carrying out its functions, a licensing authority must 'have regard to' guidance issued by the Secretary of State under section 182. The guidance is therefore binding on all licensing authorities to that extent. However, the guidance cannot anticipate every possible scenario or set of circumstances that may arise and, as long as licensing authorities have properly understood this guidance, they may depart from it if they have good reason to do so and can provide full reasons.
- 6.7 In addition to the above, members are reminded that all decisions must be taken in accordance with the Council's Statement of Licensing Policy (adopted 3rd June 2020).
- 6.8 Departure from the guidance and / or Statement of Licensing Policy could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken.

7. Risks and Mitigation

- 7.1 The statutory requirements in relation to the consideration of this application are detailed in this report. It is essential that the Sub-Committee act in accordance with these statutory provisions and take account of statutory guidance.
- 7.2 Failure to do this exposes the Council to significant risk of legal challenge, the consequences of which could result in financial and / or reputational damage to the Council.
- 7.3 Members are therefore urged to fully consider the information in this report when making a decision regarding this application, and to ensure that any decision made is justifiable, proportionate, and based on the promotion of one or more of the Licensing Objectives.
- 7.4 Council officers are present at the meeting today and can provide additional advice to members of the Sub-Committee should this be required. In addition, a copy of the statutory guidance and Statement of Licensing Policy is available for members to review should they wish to do so.

8. Accountable Officer(s)

Diane Kraus, Principal Licensing Officer (Policy & Administration), Community Safety and Street Scene

This report is published on the Council's website.