

## Licensing Sub-Committee

Minutes of a Meeting of the Licensing Sub-Committee held in the Council Chamber, Civic Centre, Tannery Lane, Ashford on the **2<sup>nd</sup> January 2009**

### **Present:**

Cllr. Mrs Blanford (Chairman);  
Cllrs. Mrs Bell, Mrs Martin

### **Also Present:**

Cllrs. Clarkson, Mrs Heaton

Licensing Manager, Legal Advisor, Senior Member Services & Scrutiny Support Officer, Member Services & Scrutiny Support Officer

Mr P Newman, Mr R Cook – Applicants.

Mr & Mrs A & B Barnett, Mr R Burt, Mrs Domke, Mr & Mrs J & M Elphick, Mr S Emery, Mr K McDuff, Mr D Medcraft – Interested Parties.

## **356 Election of Chairman**

### **Resolved:**

**That Councillor Mrs Blanford be elected as Chairman for this meeting of the Licensing Sub-Committee.**

## **357 Declarations of Interest**

Councillor Clarkson declared a Code of Conduct Interest (Personal and Prejudicial) as Chairman of the Charing Playing Fields Management Committee, Chairman of the Charing Playing Fields Board of Trustees, Chairman of the Charing Road Safety and Traffic Management Group and Vice Chairman of Charing Sports and Social Club. He advised that he would give his views on the application and then withdraw from the meeting before further debate.

## **358 Minutes**

### **Resolved:**

**That the Minutes of the meetings of this Sub-Committee held on the 19<sup>th</sup> December 2008 be approved and confirmed as correct records.**

### **359 Charing Sports and Social Club, Arthur Baker Field, The Moat, Charing, Ashford, Kent TN27 0JJ – Application for a Premises Licence.**

The Chairman opened the meeting and welcomed all those present. Members confirmed that they had read the papers relating to the application. The Legal Advisor explained the procedure to be followed at the meeting.

The Licensing Manager then gave a brief summary of his report. He explained that the premises consisted of a function room with a bar and sports facilities consisting of changing rooms and showers. The club was located on the side of the Arthur Baker playing field in Charing and there was a large car park for people using the facilities. The car park, playing fields and club were accessed via a single lane to a residential area, known as The Moat.

Admittance to the premises was currently restricted to members and guests, the general public were not permitted onto the premises. The premises had a Club Premises Certificate (CPC) which had been converted from a Club Registration Certificate originally awarded by the Magistrates' Court in 1972 under the Licensing Act 1964. The CPC permitted the supply of alcohol to members and guests from 1000 to 2300 Monday to Saturday and from 1200 to 2230 on Sunday. There were restrictions on Christmas Day and Good Friday and there was an extension on New Year's Eve until the end of permitted hours on the 1<sup>st</sup> January.

In 2005 representatives of the Club contacted the Licensing Authority and sought advice on whether the Charing Sports and Social Club and the Charing Bowls Club could be licensed through the Licensing Act 2003 under one CPC. Based on the Magistrates' decision and the Authority's understanding of the law concerning the licensing of private member clubs at that stage, the representative was advised that the clubs could remain under one certificate. An application was subsequently made to convert the Club Registration Certificate to a CPC and the application was automatically granted in 2005. In April 2008 it came to the attention of the Licensing Authority that Charing Bowls Club and Charing Sports and Social Club operated under different Club Rules and had separate Committees. A representative of the Licensing Authority met with the Chairman of the Charing Playing Fields Management Committee and representatives of the Charing Sports Club to discuss the issue of the joint CPC. The advice given during the discussions was that either the two committees could combine and have a single set of rules and elected officials or the two clubs should be licensed separately.

In October 2008 a CPC was applied for by the Charing Bowls Club and during the consultation period no representations were received and the CPC was automatically granted. Following discussions with representatives of the Charing Sports Club it became apparent that there was a desire to change the permitted hours and occasionally admit members of the public onto the premises. It was suggested to the Club's representatives that a new premises licence would be the most appropriate course of action. The application proposed to permit the sale of alcohol from 1000 until 2300 Sunday to Thursday and from 1000 until 0100 on Friday and Saturday, with extensions on Christmas Eve, Boxing Day and New Year's Eve until 0200. Opening hours were proposed from 0830 until 30 minutes after the end of the permitted hours for the sale of alcohol. The application proposed regulated

entertainment in the form of plays, the showing of films, performances of dance, live and recorded music and of anything of a similar description (all inside the premises) until 2330 Sunday to Thursday and until 0130 on Friday and Saturday, with extensions on the three stated dates above for live and recorded music and anything of a similar nature. The facilities for making music, for dancing and for other entertainment were also requested for the same hours.

Charing Sports and Social Club and the Arthur Baker Playing Field had been licensed for events involving the public on eight occasions during 2008, through Temporary Event Notices. Records showed that the Council had received one complaint regarding events associated with the Charing Sports and Social Club in the last ten years, but this concerned an outside event and the licensed activities proposed in this application were sought for inside the premises only. The Licensing Manager drew attention to pages 30 and 31 of the Agenda which showed the layout of the Charing Sports and Social Club, indicating the licensable area, and the location of the Club in relation to surrounding properties.

A Member asked about the admittance of the public to the premises and if in granting the licence it would mean that any individual would be permitted to the premises. The Licensing Manager explained that if a premises licence were to be granted then this would mean that any individual would be able to enter the premises and purchase a drink, however if the Club were to impose management rules then this could restrict entry onto the premises.

An Interested Party and a Member asked for clarification of the opening hours and supply of alcohol hours as stated on pages 26 and 27 of the agenda. The Licensing Manager explained that the time of 0230 referred to the time of which people will be on the premises on Christmas Eve, Boxing Day and New Years Eve. The sale of alcohol would be until 2300 Sunday to Thursday and 0100 Friday and Saturday.

The Licensing Manager drew attention to page 28 of the agenda which contained suggested conditions from the applicant; he then drew attention to page 263, Appendix E, of the agenda which contained conditions consistent with the applicants operating schedule.

Fifty eight parties had made representations. A summary of these representations had been provided at Appendix C and copies of the letters at Appendix D. All representations were from parties living in the area and had a number of common themes in terms of the licensing objectives and 52 of the 58 representations raised the same points which could be summarised as follows:

- Loud music coming from the premises during the occasional events that were currently held at the premises and concern about the applications request for live and recorded music and the effect the potential noise nuisance this may cause, given the premises' lack of soundproofing.
- Potential public safety with increased traffic outside the premises and vehicles being driven without due care and attention likely to cause a nuisance to the interested parties. Members were asked to consider whether the applicant was responsible for these issues under the Licensing Act 2003.

- The prevention of public nuisance and the prevention of crime and disorder were objectives raised with reference to the behaviour of customers leaving the premises. Vandalism, rubbish and shouting were examples raised by numerous interested parties.
- Concern a premises which is used as a nursery school was an inappropriate place to be licensed at times when children were present.

The Licensing Manager reminded Members that issues regarding planning matters were not matters which can be considered by the Licensing Sub Committee when considering applications under the Licensing Act 2003. He also advised that the nursery had been operating within the premises for a number of years whilst the premises had been licensed from 1000 under the current CPC.

Mr Newman, the applicant, spoke in support of the application. He advised Members that the Sports and Social Club was run by unpaid volunteers and it was hoped that a new license would assist with raising money for the upkeep of the playing field. The Club had held a license since 1972 and the nursery had been tenants for the past 18 years. The bar had not been opened whilst the nursery was in session and Mr Newman assured Members that he would be happy to agree to a condition which prevented the sale of alcohol whilst the nursery was in attendance. Kent County Council and OFSTED had visited the site on more than one occasion and had not made any adverse comments towards the arrangement. He advised Members that it was unlikely that the Club would be open any more than it currently was. The current license allowed for the Club to open on all days of the week but at present the Club only opened when football or cricket matches were taking place. Two new speakers had been installed in the Club which directed sound downwards instead of outwards. He assured Members that he would be agreeable to the conditions as listed in paragraph 17 on page 8 of the agenda.

The Ward Member, Councillor Clarkson, spoke in support of the application. He reiterated Mr Newman's comments in regards to the tenancy of the nursery and the hours of opening. He advised Members that the Police had raised no objections to the license on the grounds of crime and disorder and the only vandalism that had occurred to the pavilion had been when the building was closed. The level of vandalism was not high but when it occurred it was annoying. He also advised Members that there had been no objection from the Highways Agency concerning public safety. Although there was no footpath on the approach road, as mentioned in many of the representations, the road itself was 12ft wide and large enough for both cars and pedestrians. Councillor Clarkson advised Members that the Club were aware that the building itself was old and did not have soundproofing but the Club had taken steps to mitigate sound travel which the Club Secretary had outlined in his speech to the Committee. He summed up by saying that there was little substance in most of the comments made by Interested Parties and that they were not justified. He understood the fears of the residents in neighbouring properties and it was not in the Club's interest to alienate its neighbours.

Councillor Clarkson withdrew from the meeting.

Mr R Burt, an Interested Party, spoke in objection to the application. He advised Members that he had undertaken some research into noise abatement legislation and quoted some case history. In his opinion the Club had taken no steps to stop noise after 2300, he felt that on some occasions noise had increased after this time. He also advised Members that Harley Davidson enthusiasts had used the premises for an event and had created a large amount of noise by revving their engines for a prolonged period.

The Legal Advisor explained that a nuisance could be interpreted as noise unreasonably affecting a person. As there had only been one complaint in ten years it would be difficult to describe the activities taking place on the premises as a statutory nuisance.

Mr S Emery, an Interested Party, spoke in objection to the application. He queried whether the premises would be large enough to hold plays and if it was felt this would occur. He advised Members that there had been a lack of consultation with local residents over the making of this application and he was concerned that the presence of a nursery was not mentioned with the application itself. Was the statement on page 27 section N of the Agenda false? He also commented that it was difficult for the elderly and single parents to complain as they felt vulnerable leaving their homes late at night. Although the Club state that they did not open for all the hours that were currently permitted and would continue to open for limited days this was not in writing and the Club could change their mind at any given time.

The Licensing Manager explained that section N on page 27 of the Agenda referred to adult activities such as lap dancing. There was no requirement for the applicant to state that a nursery was a tenant at the premises on their application, there were a number of village halls which had the same arrangements. In his opinion the application had been made correctly. It would be an offence for a bar to be open whilst a nursery/school was in session. It was perhaps unlikely that a nursery/school would be in session 365 days a year and as such the bar could open on the days that the nursery/school was not in session.

Mr K McDuff, an Interested Party, spoke in objection to the application. He advised Members that he was representing the residents of Pym House, which was a large building housing mainly elderly residents. There was some concern about the increased number of functions that could take place at the Sports and Social Club as noise travelled straight to Pym House and this could also result in increased foot traffic along the footpath that runs alongside Pym House.

Mr D Medcraft, an Interested Party, spoke in objection to the application. He advised Members that there were a growing number of young families moving to the area. He was concerned about the volume of noise created by the Sports and Social Club as he had experienced his children being kept awake by it in the past. He was also concerned about the lighting at the entrance to the Club.

Councillor Mrs Martin asked the Interested Parties if they had ever approached the relevant authorities, i.e. KCC, the Police, to raise an objection about any of the issues raised. Mr Burt responded that he had not made any official complaints; he was concerned about functions taking place on both Fridays and Saturdays. Mrs Domke confirmed that she had made an official complaint relating to an outside event that had taken place. She was concerned that residents had not been

informed that such an event was taking place and had this occurred it would have enabled residents to make alternative arrangements for the evening.

The Licensing Manager advised that over the Christmas period for example, only one complaint was received relating to noise from licensed premises in the Ashford Borough. Complaints needed to be received in relation to premises for the Licensing Authority to be able to investigate.

In response to comments/questions Mr Newman advised that:

- It was not easy to pass on the cost of obtaining Temporary Events Notices
- The Club would not allow any member of the general public to enter the premises on an ad hoc basis, if a private function was taking place then those in attendance would be there by invitation only
- The Club did not have a smoking shelter but did provide buckets of sand for the disposal of cigarettes
- The local village society had used the hall for rehearsals for a play and the Club wished to be licensed should they wish to use the premises in the future, this also applied to films as the history society had used the premises for the showing of a film

With agreement from Members, the applicant and the interested parties the application was amended to include the consumption of alcohol on and off the premises instead of restricting the consumption of alcohol to on the premises. This was due to a misunderstanding of the application form by the applicant.

Mr Newman confirmed that the maximum capacity for the Sports and Social Club was 80, although it was usual for no more than 60 people to be present at any function.

When questioned about how the temperature inside the premises would be regulated if all doors and windows had to be kept closed when amplified music or speech was taking place, Mr Newman confirmed that it would be probable that the Club would have to look at the installation of air conditioning.

The Licensing Manager then summed up the nature of the application, the additional steps put forward by the applicant to promote the four licensing objectives which he had interpreted into enforceable conditions, and the issues for the Sub-Committee to consider. He reminded the Sub-Committee that they may grant the variation without modifications to the proposed conditions, modify the conditions of the licence, or reject whole or part of the application.

The Sub-Committee then retired to make their decision.

On return the Legal Advisor read out the decision.

**Resolved:**

**That the premises licence be granted and the sale of alcohol be permitted from:**

**Sunday to Thursday: 1000 until 2300**

**Friday and Saturday: 1000 until 0000**

**Christmas Eve/Boxing Day/New Year's Eve: 1000 until 0100**

**Opening hours until 30 minutes after the end of the permitted hours for the sale of alcohol.**

**Regulated entertainment:**

**Showing of films, performances of live and recorded music and of anything of a similar description (all inside the premises) and facilities for making music and dancing:**

**Sunday to Thursday: 1000 until 2300**

**Friday and Saturday: 1000 until 0000**

**New Year's Eve: 1000 until 0100**

**Subject to the conditions consistent with the operating schedule set out in Appendix E of the Licensing Manager's report, and the following additional conditions: -**

- (i) The licence holder will ensure prominent, clear notices shall be displayed at all exits requesting customers to respect the needs of local residents and leave the premises and the area quietly.**
- (ii) The licence holder will not permit noise from amplified music to be audible from the inside of a neighbour's property.**
- (iii) The licence holder will ensure all external doors and windows are kept closed, other than for access and egress, in all rooms when events involving amplified music or speech are taking place.**
- (iv) The licensee or a nominated representative shall receive and respond to complaints.**
- (v) The licence holder and appropriate staff will regularly monitor noise levels outside the premises to ensure that they are not excessive or likely to disturb neighbours.**
- (vi) The licence holder will promote sensible drinking and will proactively monitor the consumption of alcohol by its customers. Service will be refused to anyone appearing to be drunk.**
- (vii) The licence holder will not permit the sale of alcohol Monday to Friday when the nursery is in session.**

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- (viii) The license holder will not permit the consumption of alcohol outside the premises after 2100 or when amplified music is taking place.**
  - (ix) The licence holder will ensure that no more than twelve private events will take place during the calendar year, these can take place on Fridays and Saturdays and are to finish no later than 0030.**
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Queries concerning these minutes? Please contact Kirsty Liddell:  
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