



## LICENSING SUB COMMITTEE

Notice of a Meeting, to be held in the Ashford Borough Council on Friday, 9th August, 2019 at 10.00 am.

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The Members of the Licensing Sub Committee are:-

Cllrs. Farrell, Feacey, Krause  
Cllr Wright (Reserve)

### Agenda

### Page Nos..

1. **Election of Chairman**
  2. **Apologies/Substitutes**  
To receive Notification of Substitutes in accordance with Procedure Rule 1.2(iii)
  3. **Declarations of Interest** 1 - 2  
To declare any interests which fall under the following categories, as explained on the attached document:
    - a) Disclosable Pecuniary Interests (DPI)
    - b) Other Significant Interests (OSI)
    - c) Voluntary Announcements of Other InterestsSee Agenda Item 3 for further details
  4. **Minutes** 3 - 8  
To approve the Minutes of this Sub-Committee held on 19 June 2019.
  5. **Procedure Note for Licensing Hearings** 9 - 12
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DS  
24 July 2019

Queries concerning this agenda? Please contact Kirsty Morland 01233 330499  
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# Agenda Item 3

## Declarations of Interest (see also “Advice to Members” below)

- (a) **Disclosable Pecuniary Interests (DPI)** under the Localism Act 2011, relating to items on this agenda. The nature as well as the existence of any such interest must be declared, and the agenda item(s) to which it relates must be stated.

A Member who declares a DPI in relation to any item will need to leave the meeting for that item (unless a relevant Dispensation has been granted).

- (b) **Other Significant Interests (OSI)** under the Kent Code of Conduct relating to items on this agenda. The nature as well as the existence of any such interest must be declared, and the agenda item(s) to which it relates must be stated.

A Member who declares an OSI in relation to any item will need to leave the meeting before the debate and vote on that item (unless a relevant Dispensation has been granted).

However, prior to leaving, the Member may address the Committee in the same way that a member of the public may do so.

- (c) **Voluntary Announcements of Other Interests** not required to be disclosed under (a) and (b), i.e. announcements made for transparency alone, such as:

- Membership of amenity societies, Town/Community/Parish Councils, residents' groups or other outside bodies that have expressed views or made representations, but the Member was not involved in compiling or making those views/representations, or
- Where a Member knows a person involved, but does not have a close association with that person, or
- Where an item would affect the well-being of a Member, relative, close associate, employer, etc. but not his/her financial position.

[Note: Where an item would be likely to affect the financial position of a Member, relative, close associate, employer, etc.; OR where an item is an application made by a Member, relative, close associate, employer, etc., there is likely to be an OSI or in some cases a DPI. ALSO, holding a committee position/office within an amenity society or other outside body, or having any involvement in compiling/making views/representations by such a body, may give rise to a perception of bias and require the Member to take no part in any motion or vote.]

### **Advice to Members on Declarations of Interest:**

- (a) Government Guidance on DPI is available in DCLG's Guide for Councillors, at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/5962/2193362.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/5962/2193362.pdf)
- (b) The Kent Code of Conduct was adopted by the Full Council on 19 July 2012, and a copy can be found in the Constitution alongside the Council's Good Practice Protocol for Councillors dealing with Planning Matters. See <https://www.ashford.gov.uk/media/2098/z-word5-democratic-services-constitution-2019-constitution-of-abc-may-2019-part-5.pdf>
- (c) Where a Member declares a committee position or office within, or membership of, an outside body that has expressed views or made representations, this will be taken as a statement that the Member was not involved in compiling or making them and has retained an open mind on the item(s) in question. If this is not the case, the situation must be explained.

**If any Member has any doubt about any interest which he/she may have in any item on this agenda, he/she should seek advice from the Director of Law and Governance and Monitoring Officer, or from other Solicitors in Legal and Democracy as early as possible, and in advance of the Meeting.**

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## Licensing Sub-Committee

Minutes of a Meeting of the Licensing Sub-Committee held in Committee Room 2, Civic Centre, Tannery Lane, Ashford on the **19<sup>th</sup> June 2019**.

### **Present:**

Cllr. Shorter (Chairman);

Cllrs. Krause, Wright.

### **Also Present:**

Licensing Officer, Licensing Officer, Principal Litigator, Legal Work Placement, Member Services Officer.

Mr J Simpson – Home Office Representative

PC A Pringle – Police Representative

Mr K Ahmadzai – Applicant.

Ms J Hammond – Supporting the Applicant.

## **50 Election of Chairman**

### **Resolved:**

**That Councillor Shorter be elected as Chairman for this Meeting of the Licensing Sub-Committee.**

## **51 Minutes**

### **Resolved:**

**That the Minutes of the Meeting of this Sub-Committee held on the 15<sup>th</sup> April 2019 be approved and confirmed as a correct record.**

## **52 The Codfather, 15 High Street, Ashford, Kent TN24 8TH – Application for a Premises Licence**

The Chairman opened the meeting and welcomed all those present. He explained the procedure to be followed at the meeting.

The Licensing Officer summarised the application as set out in the report. The application was for a premises license for the sale of Late Night Refreshment. She drew attention to the previous licence that had been revoked by the Licensing Sub-Committee on 24<sup>th</sup> January 2019. The application sought Late Night Refreshment

with the premises not being open to the public, and the license to be restricted to a delivery only service. Representations had been received from both Kent Police and the Home Office. Following confirmation that the application was for delivery only, Kent Police had withdrawn their representation. The Home Office had raised concerns regarding the employment of illegal workers at the premises. She highlighted the steps open to the Committee in making their decision, in that they could grant the application as is, grant the application with additional conditions or refuse the application.

Mr Simpson from the Home Office drew attention to his representation and confirmed that a civil penalty fine for £30,000 was imposed on Codfather Kent Ltd, 15 High Street, Ashford on 20<sup>th</sup> December 2018. This was in respect of an Immigration Enforcement visit, on 15<sup>th</sup> June 2018, when two male nationals from Afghanistan were found working illegally at the premise. There had been no objection or appeal from the employer so after 28 days appeal rights were exhausted. The penalty was due and still outstanding. He confirmed that the Applicant was the responsible person for employment at that time.

Mr Ahmadzai advised that the Company had been fined by the Home Office, he felt that this did not relate to him personally.

Mr Simpson advised that Mr Ahmadzai had attended their offices on 21<sup>st</sup> June 2018 and admitted responsibility for the employment of staff therefore his comment was of interest, however not a matter for the Sub-Committee.

The Principal Litigator advised the Sub-Committee that the fine had been issued by the Home Office, it had yet to be paid, it was not appealed and therefore was valid. It was not, however, a matter for the Sub-Committee to consider.

Mr Ahmadzai advised that he had taken over the Company as a Director and since the revocation of the Late Night Refreshment licence the profitability of the company had deteriorated. He advised that he was under the impression that he had applied for Late Night Refreshment, however it appeared that his Agent who had completed the forms on his behalf had not done so, just solely for Late Night Refreshment for delivery only.

The Principal Litigator drew attention to the application that had been submitted and the hours of operation requested within. Further, she advised that Kent Police had withdrawn their representation based on the application not permitting the public onto the premises after 11pm. The Sub-Committee were only able to determine the application before them.

Mr Ahmadzai advised that his legal representative had not arrived for the Hearing so he did not have the representation he would have liked. Ms Hammond, his future Mother in Law, would act as support to him throughout the hearing and assist with his understanding of the questions put forward. He felt that when submitting the application there had been resistance from the Licensing Team, additionally when displaying the notice there had been issues too. He questioned why he had not been notified and why the application had not been granted.

The Chairman advised that the Licensing Team had followed the correct processes. Communications had been made with both the Applicant and his Agent throughout the process. The Sub-Committee noted that what Mr Ahmadzai would like permitted and what had been applied for were different.

In response to questions from the Sub-Committee Mr Ahmadzai advised that he would not open the premises to the public after 11pm. He confirmed that he would do what was set out in the license and only that which he was permitted to do. In respect of the licensing objectives, since the incident in January all staff had been trained in aggressive behaviour, drunk and disorderly persons. He had a certificate to prove this, which had been seen by the Council. Mr Ahmadzai could not confirm who had provided this training nor the specific course undertaken, but would be able to provide the certificate should the Sub-Committee request it. In respect of the CCTV cameras, Mr Ahmadzai confirmed that he and another member of staff were able to operate the system.

Mr Ahmadzai advised that he would not and did not employ illegal workers. He had been advised by the Home Office of the checks to carry out, however did not have a written policy to support this. Mr Ahmadzai advised that he had not employed any new staff since the incident in January but assured the Sub-Committee that any future new staff would be given appropriate training. In response to questions, Mr Ahmadzai advised that he did not keep records of training undertaken by staff.

The Sub-Committee drew attention to the conditions contained with the application and the subsequent conditions contained at pages 49 and 50 in the agenda papers. The Licensing Officer advised that the original conditions submitted were not suitable therefore others had been proposed and had been agreed by the Agent, the confirmation of this was contained within the agenda papers.

In response to questions from the Sub-Committee, Mr Ahmadzai advised that he did not have an incident book nor did he have a procedure note for the operation of the CCTV system. He was of the understanding that these would not be required until the licence was granted. In conclusion, Mr Ahmadzai advised that he would operate within the licence should it be granted.

The Sub-Committee then retired to make their decision.

On return, the Chairman read out the Licensing Sub-Committee's decision and reasons. A copy of the decision notice and reasoning was issued to the Applicant after it had been read.

**Resolved:**

**That the licence not be granted.**

The decision notice and formal wording read out by the Chairman is appended to these Minutes. The decision notice was duly issued to the Applicant at the meeting before the meeting was formally closed.

**LICENSING SUB-COMMITTEE  
WEDNESDAY 19<sup>TH</sup> JUNE 2019**

**APPLICATION FOR A PREMISES LICENCE FOR THE COD FATHER  
(15 HIGH STREET, ASHFORD, KENT, TN24 8TH)**

**LICENSING SUB-COMMITTEE DECISION AND REASONINGS**

**LICENSING OFFICERS**

Alison Simmonds  
Julian Postlethwaite

**REASON FOR  
MEETING:**

An application was made for a Premises License for The Codfather, 15 High Street. Representations were made by Kent Police and the Home Office.

**DELIBERATION:**

The Licensing Sub-Committee listened to the introduction given by the Licensing Officer in respect of the application made, for the serving of Late Night Refreshments by delivery only and the options open to the Committee.

The Sub-Committee heard from Home Office representative who advised that a civil penalty fine for £30,000 was imposed on Codfather Kent on 20<sup>th</sup> December 2018. This was in respect of an Immigration Enforcement visit, on 15<sup>th</sup> June 2018, when two male nationals from Afghanistan were found working illegally at the premises. There was no objection or appeal from the employer so after 28 days appeal rights were exhausted. The penalty was due and still outstanding. The Applicant was the person responsible at that time for the employing of staff.

The Sub-Committee heard from the Applicant who advised that the application before the Committee was not that that he wished to pursue, however understood that was what was before the Sub-Committee for consideration.

There was significant discussion regarding the fine from the Home Office, the Legal Advisor clarified that the fine was valid, had not been appealed and was not a matter for the consideration of the Sub-Committee.

The Sub-Committee noted that CCTV was in operation in the premises. The Applicant advised that this was kept for 28 days and he and a member of his staff could operate this, however there were no written instructions on the operation of this system.

The Sub-Committee questioned what written procedures were in place to ensure the running of the business. The Applicant confirmed that he did not have any procedures in place, let alone any written procedures. He was questioned whether records had been kept regarding training that

had taken place following the hearing in January. The Applicant confirmed that training had taken place and that he had a certificate to prove this. He could not, however, confirm what training this was nor whom it had been provided by, he did note that he would be able to provide a copy to the Sub-Committee should it be necessary and noted that he had provided this to the Licensing Team previously.

The Sub-Committee questioned what steps were in place to ensure that illegal workers were not employed in the future. The Applicant advised, with assistance, that he had a checklist provided to him by the Home Office. However, he did not have any written policies to support or expand upon the check list.

The Sub-Committee then retired.

The Sub-Committee considered the following relevant licensing objectives; prevention of Crime and Disorder, Public Safety, the Prevention of Public Nuisance and the Prevention of Harm to Children.

During deliberations the Sub-Committee considered the representation from the Home Office and the perceived ongoing risk and in particular the last paragraph in the written representation: *'The Home Office (Immigration Enforcement) have presented this evidence to inform the licensing committee's consideration and to draw to its attention the significant risk that the licensing objective of preventing crime and disorder is being undermined.'*

Furthermore, the demonstrable lack of understanding by the Applicant regarding control procedures and record keeping was of the utmost concern to the Sub-Committee. The absence of written policies to support the operation of the business and in particular the employment, training and operation of the CCTV all of which would support the Licensing Objectives.

The Sub-Committee questioned how the delivery service would work and to that end the Legal Advisor contacted the Applicant to enquire how the food would exit the premises and how orders would be placed for delivery. The Applicant responded that the food would leave the premises via the rear exit and orders would be received via Just Eat or the telephone, with drivers using cars for delivery.

The Sub-Committee noted that the conditions originally put forward as part of the application had been superseded by those contained on pages 49 and 50, a fact that the Applicant did not seem to be aware of when questioned. In respect of the making of the application, it was apparent to the Sub-Committee that numerous errors had been made which had been highlighted by the Licensing Officer and it appeared from the Applicants statements during the meeting that the application had been made by his agent, with the Applicant having little to no input nor understanding of the process or the application put forward.

Further to the aforementioned conditions, it was clear that the CCTV would not cover the area in which the licensable activity would be taking place, namely the rear of the premises.

The Sub-Committee were of the opinion that the evidence put forward by the Applicant, and that given verbally at the meeting, was not sufficient to support the licensing objectives, in particular the objective of preventing crime and disorder. The lack of written policies and procedures did not give the Sub-Committee any confidence that should the application be granted that the Applicant would promote any of the licensing objectives.

**DECISION MADE:**

*The licence not be granted.*

**Right of Appeal**

- There is a right of appeal against this decision. An appeal must be commenced by notice of appeal given by the Appellant or anybody affected by this decision to the Magistrates Court within 21 days of the date of this notice.

Dated: 19<sup>th</sup> June 2019

## PROCEDURE NOTE FOR LICENSING HEARINGS

1. Prior to the meeting of the Committee<sup>1</sup>, the Committee will have read and familiarised themselves with the Licensing Officer's report and documents referred to in it.
2. The hearing will take place in public, subject to a discretion to exclude the public and/or parties where the public interest in doing so outweighs the public interest in the hearing taking place in public<sup>2</sup>. The Committee may also exclude anyone behaving disruptively.<sup>3</sup>
3. The parties<sup>4</sup> are entitled to be assisted or represented by any person, whether or not legally qualified. A party is entitled to withdraw any of their representations orally at the hearing or at least 24 hours before the day or the first day of the hearing.<sup>5</sup>
4. The Committee may extend any time limit in the Regulations for a specified period where it considers this to be necessary in the public interest, but must state the period of the extension and the reason for it.<sup>6</sup> For example, the Committee may extend the time for making a request to call a witness (see paragraph 16- below).
5. Where a party has notified the authority that he does not intend to attend, the Committee will proceed with the hearing in his absence. Where he has not so notified the authority but does not attend, the Committee may adjourn the hearing to a specified date where it considers it necessary in the public interest to do so. Otherwise, it will proceed with the hearing.<sup>7</sup>
6. Before proceeding in the absence of a party who has not indicated that they do not wish to attend, the Licensing Officer will attempt to ascertain the reason for that party's non-attendance.
7. The Committee may adjourn the hearing to a specified, or extra, date where it considers this to be necessary for the determination of the case.<sup>8</sup> There are limitations on the ability of the Committee to adjourn the case beyond the time limits for determination during the transitional period and on reviews following closure orders by the police.<sup>9</sup>
8. At the outset of the meeting, a Chair will be elected and any personal and/or prejudicial interests declared.<sup>10</sup>

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<sup>1</sup> In this Note the expression "the Committee" includes a sub Committee.

<sup>2</sup> Reg 14 Licensing Act 2003 (Hearings) Regulations 2005

<sup>3</sup> Reg 25.

<sup>4</sup> Reg 2(1) "a person to whom notice of the hearing is to be given under Reg 6(1)" – includes objectors and responsible authorities, such as the Police.

<sup>5</sup> Reg 10

<sup>6</sup> Reg 11.

<sup>7</sup> Reg 20.

<sup>8</sup> Reg 12.

<sup>9</sup> Reg 13.

<sup>10</sup> Model Code of Conduct

9. Except where the Regulations make specific requirements, the procedure will be in the discretion of the Committee.<sup>11</sup>
10. At the beginning of the hearing, the Committee will explain to the parties the procedure it proposes to follow.<sup>12</sup>
11. The Chairman will indicate that all the papers before the Committee have been read and that the Committee is familiar with the issues. He will ask the parties to avoid repetition.
12. The Chairman will indicate the order of presentation.
13. If there are a number of objectors present, the Chairman may request that a spokesperson be appointed. He will make it clear that any party<sup>13</sup> who wishes to speak will be able to do so, and that the appointment of a spokesperson does not mean that the objections of any interested party will be given less weight.
14. The Chairman may also indicate how the Committee intends to deal with conditions proposed by the parties or by the Committee itself. He may ask the parties to attempt to agree a schedule of conditions for use if the Committee is minded to grant the application. This will not mean that the Committee has formed any view of the merits. It will only come to its decision at the end.
15. A party is entitled to be represented or assisted by another person, whether or not that person is legally qualified.<sup>14</sup>
16. If a party wishes a person (other than himself or his representative) to appear at the hearing he must have made a request to do so prior to the hearing within the times prescribed in Reg. 8. The request must name the person and give a brief description of the point(s) on which that person may be able to assist. In such a case, the Committee will determine the application for permission at the outset of the hearing.<sup>15</sup> In determining that request, the authority will consider the representations of all parties upon the matter and may consider the relevance of the proposed evidence, the assistance it will in fact offer to the Committee and the prejudice to the parties, if the evidence is admitted or excluded.<sup>16</sup>
17. Each of the parties has a right to:
  - a. address the Committee;
  - b. give clarification of any point, where such clarification has been sought by the Council in its notice of hearing;
  - c. question any other party, but only where this is expressly permitted by the Committee (see para 21 below).<sup>17</sup>

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<sup>11</sup> Reg 21.

<sup>12</sup> Reg 22

<sup>13</sup> see footnote 4

<sup>14</sup> Reg 15.

<sup>15</sup> Reg 22

<sup>16</sup> Reg 22

<sup>17</sup> Reg 16.



27. The Committee will give reasons for its decision and will confirm the decision in writing to the parties.



ASHFORD  
BOROUGH COUNCIL

**Agenda Item No:**

**Licence Reference**      **WK/201904960**

**Report To:**                      **LICENSING SUB COMMITTEE**

**Meeting Date:**                **9 AUGUST 2019**

**Report Title:**                **Licensing Act 2003 - Application for a club premises certificate at Wittersham Sports Ground, Poplar Road, Wittersham, Ashford.**

**Report Author:**              Trevor Ford

**Summary:**

The report advises Members of a licence application under the provisions of the Licensing Act 2003.

Application type:      **Application for a club premises certificate**

Applicant:                **Wittersham General Sports Club Trading Limited**

Premises:                **Pavilion, Wittersham Sports Ground, Poplar Road, Wittersham, Ashford.**

Members are asked to determine whether to grant the club premises, with or without additional conditions pursuant to the Act

**Key Decision:**                NO

**Affected Wards:**              Wittersham

**Recommendations:**      **The Committee is asked to determine the application and decide whether to grant the club premises certificate, with or without additional conditions pursuant to the Act.**

**Policy Overview:**            The decision is to be made with regard to the Licensing Act 2003, Secretary of State's Guidance issued under Section 182 of the Act and the Council's Statement of Licensing Policy. Where the decision departs from the Policy or Guidance the departure must be directed solely at the attainment of the licensing objectives, and such departure must be supported by clear and cogent reasons.

**Financial Implications:**      The costs associated with processing the application are taken from licensing fee income.

**Other Material Implications:**      **HUMAN RIGHTS:** In considering this application the Sub Committee will balance the competing Human Rights of the various parties including the right to respect for private and family life, the protection of property and the right to a fair hearing.

**LEGAL:** Under the Licensing Act 2003 the Council has a duty to exercise licensing control of relevant premises.

**Exemption Clauses:** Not applicable  
**Background Papers:** None

**Contacts:** trevor.ford@ashford.gov.uk

## Agenda Item No.

**Report Title:** **Licensing Act 2003 - Application for a club premises certificate – Wittersham Sports Ground, Poplar Road, Wittersham**

### Purpose of the Report

1. The report advises Members of a licence application under the provisions of the Licensing Act 2003.

Application type: **Application for a club premises certificate**

Applicant: **Wittersham General Sports Club Trading Limited**

Premises: **Wittersham Sports Ground, Poplar Road, Wittersham, Ashford.**

### Issue to be Decided

2. Members are asked to determine whether to grant the club premises certificate, with or without additional conditions pursuant to the Act.

### Background

#### *The Licensing Objectives*

3. The licensing authority must carry out its functions under the Licensing Act 2003 with a view to promoting the licensing objectives namely, the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm (LA 2003, s4 (1)).

#### *Application details*

4. The application is for a club premises certificate. The premises is situated on a sports/recreation ground and incorporates the pavilion and section of the recreation ground immediately outside the pavilion.
5. See **Appendix A** for the application for a club premises certificate, along with plans for the internal and external parts of the premises.

Although there was a small error in the original application (relating to opening times) and plan, which resulted in the 28 day consultation period being 'restarted' the application has been made and advertised in the correct manner.

6. A location map of the premises and surrounding area can be found at **Appendix B**.

7. Photos from a site visit are contained at **Appendix C**.
8. The applicant states within section I of the application form (The Operating schedule) the additional steps they intend to take in order to promote the four licensing objectives if the proposed application is granted.
9. The Operating schedule put forward by the applicant will form part of the certificate conditions on the club premises certificate. Additionally, in light of objections to the grant of the certificate, the applicant has offered additional conditions in order to try to alleviate some of the concerns raised. The agreed list of conditions, being both those offered in the applications operating schedule and offered by the applicant since, can be found at **Appendix D**.
10. It is the responsibility of the Licensing Authority to prepare conditions that are “consistent” with the operating schedule (s.18).
11. The Licensing Authority should not issue a licence with conditions that are illegal or that are unenforceable.
12. In making a determination, members may wish to be aware that a separate club premises certificate held by Wittersham Football Club was previously operated at these premises for a significant number of years, and is referenced in a number of the representations highlighted later in this report. The Licensing Authority has had responsibility for that certificate since 2005 in line with the Licensing Act 2003 transfer from the Magistrates Court.
13. In order to assist the Sub-Committee in understanding reported incidents relating to the premises under the previous club premises certificate, Kent Police have provided incident information covering the last five years. This is contained at **Appendix E**. Reports of incidents relating to the Environmental Health Authority and Licensing Authority, covering the period since 2005, are detailed at **Appendix F**.

***Relevant premises operating hours***

14. The application proposes to permit the supply of alcohol only. Regulated entertainment has not been applied for.

|  |                                   |
|--|-----------------------------------|
| <b>Supply of alcohol</b>                 | Monday to Sunday<br>12:00 – 23:00 |
| <b>Hours premises open to the public</b> | Monday to Sunday<br>08:00 – 00:00 |

Additionally to the above times, non-standard timing has been applied for to cover;

Christmas Eve

Supply of alcohol extended to 23:30  
Premises open to the public extended until 01:00

New Year's Eve

Supply of alcohol extended until 01:00

### ***Representations from Responsible Authorities***

There are no representations from the relevant Responsible Authorities, which include the following bodies;

- i) Police Authority
- ii) Fire Authority
- iii) Planning Authority
- iv) Environmental Health Authority (pollution, harm to health, and health and safety)
- v) Social services (protection of children from harm)
- vi) Trading Standards (weights and measures)
- vii) Public Health
- viii) Home Office (immigration enforcement)

### ***Representations from other parties***

15. Under section 35(5) of the Licensing Act 2003, representations are relevant if they are about the likely effect of the grant of the licence on the promotion of the licensing objectives and (subsection 6) are made by an interested party or responsible authority within the prescribed period, are not withdrawn or, in the opinion of the licensing authority, frivolous or vexatious
16. The prescribed period for the receipt of such representations in this case is, by Regulation 22(b) of the Licensing Act 2003 Regulations 2005 "during a period of 28 consecutive days starting on the day after the day on which the application to which it relates was given to the authority by the applicant".
17. 18 parties have made representations; these are listed in **Appendix G**.

The main concerns arising from the representations are summarised as;

#### **Prevention of Crime and Disorder**

- i) Potential for drug use
- ii) Potential for 'drink-driving'
- iii) Security of the premises itself
- iv) General disorder at the premises
- v) Antisocial behaviour including
  - Public urination

#### **Promotion of Public Safety**

- vi) Potential for club users to allow uncontrolled dogs onto the sports ground - safety and fouling
- vii) Overcrowding in the premises
- viii) Fire safety concerns

#### **Prevention of Public Nuisance**

- ix) Noise from patrons at the premises, and when leaving
- x) Lighting associated with operation of the club premises certificate
- xi) Additional vehicles, and increased irresponsible parking resulting from the grant of the club premises certificate
- xii) Littering arising from the grant of the club premises certificate
- xiii) Odour from the emptying of the existing cesspit
- xiv) Increased issues with on-site parking against neighbouring property – blocking light

#### **Protection of Children from Harm**

- xv) Potential for harm to children from;
  - Interaction between the provision of alcohol and use of the clubroom by children – exposing children to unruly behaviour, foul language, etc.
  - Accessibility to changing rooms
  - Collection and use of discarded cigarette butts by children
  - Supply of alcohol to children

18. Additionally comments have been raised with regard to;

- i) 'Competition' with any other licensed premises, whether existing, planned, or proposed – the village pub
- ii) Whether the club meets the qualifying criteria as set out in the Licensing Act 2003
- iii) Existing impacts of the operation of the sports ground and pavilion without an operation club premises certificate (i.e. parking during football matches, and a low kitchen sink)

- iv) Usage rights between premises users
- v) Lighting associated with the existing use of the premises/grounds
- vi) Litter associated with the existing use of the premises/grounds
- vii) Unfenced pond and ditch/drain falling outside of premises being applied for
- viii) Noise from music and amplified sound – no regulated entertainment has been applied for in this application

It should be highlighted that the purpose of the hearing is to consider the impact of the grant of the club premises certificate on the licensing objectives only. Members are therefore respectfully reminded that the matters raised in paragraph 18 cannot be taken into account at this hearing.

Whilst matters relating to whether a club meets the qualifying criteria are a matter for the Licensing Authority to consider they are not for consideration as part of this sub-committee hearing.

It can however be confirmed that the Licensing Authority are satisfied, so far as reasonably practicable, that the club meet the qualifying criteria.

19. Finally, it is highlighted to members of the sub-committee that any persons who placed a representation and are attending to speak, may only amplify and clarify their written objection placed within the statutory 28 day period. New issues cannot be raised and new evidence cannot be submitted unless agreed with all parties.

### **General**

20. Members attention is drawn to the following matters:
- All applications are to be considered on their merits as well as against the relevant policy and statutory framework.
  - Due regard should be given to the provisions of the Human Rights Act 1998, Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000 and Section 17 of the Crime and Disorder Act 1998 and, so far as possible, reflect local crime prevention strategies.
  - The operating schedule forms part of the completed application form for a club premises certificate. The operating schedule should include information, which is necessary to enable any responsible authority or other party to assess whether the steps to be taken to promote licensing objectives are satisfactory.
  - The licensing authority may not impose any conditions unless its discretion has been engaged following the making of relevant representations and it has been satisfied at a hearing of the appropriateness to impose conditions due to the representations raised. It may then only impose such conditions

as are appropriate to promote the licensing objectives arising out of the consideration of the representations. However, in order to minimise problems and the necessity for hearings, it would be sensible for applicants to consult with responsible authorities when schedules are being prepared. This would allow for proper liaison before representations prove necessary.

- Where problems have occurred, the application for the new licence will afford an opportunity for responsible authorities and other parties to raise the issue through representations and for conditions addressing any nuisance previously caused to be attached following a hearing where necessary. The views of local residents will be important in establishing the extent of any history of problems.
- 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 (including those carrying on business) 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.
- Public nuisance is not narrowly defined in the 2003 Act and retains its broad common law meaning for the Act's purposes. It is important to remember that the prevention of public nuisance could therefore include low-level nuisance, perhaps affecting a few people living locally, as well as major disturbance affecting the whole community. It may also include in appropriate circumstances the reduction of the living and working amenity of other parties living and working in the area of a licensed premises. Public nuisance may also arise as a result of artificial light, dust, odour and insects or where its effect is prejudicial to health.
- Where applications have given rise to representations, any necessary and appropriate conditions should normally focus on the most sensitive periods. For example, music noise from premises usually occurs from mid-evening until either late evening or early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. In certain circumstances, conditions relating to noise may also prove necessary to address any disturbance anticipated as customers enter and leave the premises and therefore, in the immediate vicinity of the premises.
- In the context of preventing public nuisance, it is essential that conditions are focused on measures within the direct control of the licence holder. Conditions relating to public nuisance caused by the anti-social behaviour of customers once they are beyond the control of the licence holder, or premises management cannot be justified and will not serve to promote the licensing objectives in relation to the licensing activities carried on at the premises. Beyond the vicinity of the premises, these are matters for personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in his own right. However, it would be perfectly reasonable for a licensing authority to impose a condition it considered appropriate following relevant representations from

an interested party that requires the licence holder to place signs at the exits from the building encouraging patrons to be quiet until they leave the area and to respect the rights of people living near-by to a peaceful night. After a licence has been granted or varied, a complaint relating to a general (crime and disorder) situation in a town centre should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence.

- The Guidance states “the conditions that are appropriate for the promotion of the licensing objectives should emerge initially from the risk assessment carried out by a prospective licence or certificate holder, which they should carry out before making their application for a premises licence or club premises certificate. This would be translated into the steps recorded in the operating schedule or club operating schedule which must also set out the proposed hours during which licensable activities will be conducted and any other hours during which the premises will be open to the public.”
- It is perfectly possible that in certain cases, because the test is one of appropriateness, where there are other legislative provisions, which are relevant and must be observed by the applicant, no additional conditions at all are needed to promote the licensing objectives.

### ***Decision options***

21. The steps an authority may take are:

- a) Grant the certificate subject to
  - i) Such conditions as are consistent with the operating schedule accompanying the application modified to such an extent as the authority considers necessary for the promotion of the four licensing objectives, and
  - ii) any conditions which must under section 19, 20, or 21 of the Licensing Act 2003 be included in the licence (the mandatory conditions).
- b) Exclude, or limit, the scope of any of the licensable activities to which the application relates.
- c) Reject the application.

### **Consultation**

22. All relevant parties have followed the consultation procedures required under the Licensing Act 2003.

### **Implications Assessment**

23. The decision should be made with regard to the Secretary of State's Guidance and the Council's Statement of Licensing Policy under the Licensing Act 2003. Where the decision departs from either the Guidance or the policy clear and

cogent reasons must be given. Members should be aware that if such a departure is made the risk of appeal / challenge is increased.

### **Human Rights**

24. While all Convention Rights must be considered, those which are of particular relevance to the application are:

- Article 8 - Right to respect for private and family life
- Article 1 of the First Protocol - Protection of Property
- Article 10 – Freedom of Expression

The full text of each Article is given in the attached **Appendix H**.

### **Handling**

25. The timings for handling the application are set out in the Licensing Act 2003 and related regulations.

### **Conclusion**

26. Members must ensure that the application is considered on its merits, as well as against the relevant guidance, policy and statutory framework.

## **APPENDIX A – APPLICATION**

Application for a club premises certificate to be granted  
under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS BEFORE COMPLETING APPLICATION

Before completing this form please read the guidance notes at the end of the form.  
If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.  
You may wish to keep a copy of the completed form for your records.

### **WITTERSHAM GENERAL SPORTS CLUB TRADING LIMITED**

*(Insert name of club)*

club applies for a club premises certificate under section 71 of the Licensing Act 2003 for the premises described in Part 1 below (the club premises).

The club is making this application to you as the relevant licensing authority in accordance with section 68 of the Licensing Act 2003.

#### **Part 1 – Club premises details**

|  |           |          |          |
|--|-----------|----------|----------|
| Name of club<br><b>Wittersham General Sports Club Trading Limited</b>  |           |          |          |
| Postal address of premises or, if none, ordnance survey map reference or description<br><b>Wittersham Sports Ground, Poplar Road, Wittersham</b> |           |          |          |
| Post Town  | Tenterden | Postcode | TN30 7PD |
| Telephone number (if any)  |           |          |          |
| E-mail address (optional)  |           |          |          |

|  |            |          |            |
|--|------------|----------|------------|
| Name of person performing duties of a secretary to the club<br><b>Adrian Delaney</b> |            |          |            |
| Address of person performing duties of a secretary to the club<br>[REDACTED]         |            |          |            |
| Post Town  | Tenterden  | Postcode | [REDACTED] |
| Daytime contact telephone number (if any)  | [REDACTED] |          |            |
| E-mail address (optional)  | [REDACTED] |          |            |

|   |              |
|---|--------------|
| Non-domestic rateable value of premises | £ £ 4,500.00 |
|---|--------------|

Are the club premises occupied and habitually used by the club? Yes  No

**Part 2 – Club Operating Schedule**

When do you want the club premises certificate to start? DD MM YYYY  

|   |   |   |   |   |   |   |   |
|---|---|---|---|---|---|---|---|
| 2 | 4 | 0 | 7 | 2 | 0 | 1 | 9 |
|---|---|---|---|---|---|---|---|

If you wish the certificate to be valid only for a limited period, when do you want it to end? DD MM YYYY  

|  |  |  |  |  |  |  |  |
|--|--|--|--|--|--|--|--|
|  |  |  |  |  |  |  |  |
|--|--|--|--|--|--|--|--|

**General description of club (please read guidance note 1)**  
 The premises is a sports ground and pavilion for the benefit of people within the Parish. The membership will be taken from the membership of the sections of the Wittersham Sports Club. The supply of alcohol will be limited to within the clubroom of the pavilion with consumption being either within the clubroom and/or within a 30 metre radius of the south westerly flank of the pavilion as identified on the attached plans

If 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend: 

|     |
|-----|
| N/A |
|-----|

What qualifying club activities do you intend to conduct on the club premises?

- | Provision of regulated entertainment  | Please tick all that apply          |
|---|-------------------------------------|
| a) plays (if ticking yes, fill in box A)  | <input type="checkbox"/>            |
| b) films (if ticking yes, fill in box B)  | <input type="checkbox"/>            |
| c) indoor sporting events (if ticking yes, fill in box C)   | <input type="checkbox"/>            |
| d) boxing or wrestling entertainment (if ticking yes, fill in box D)  | <input type="checkbox"/>            |
| e) live music (if ticking yes, fill in box E)   | <input type="checkbox"/>            |
| f) recorded music (if ticking yes, fill in box F)   | <input type="checkbox"/>            |
| g) performances of dance (if ticking yes, fill in box G)  | <input type="checkbox"/>            |
| h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H)                         | <input type="checkbox"/>            |
| <b>The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club (if ticking yes, fill in box I)</b> | <input checked="" type="checkbox"/> |

I

| Supply of alcohol<br>Standard days and timings<br>(please read guidance note 6) |       |        | Will the supply of alcohol be for consumption -<br><u>please tick</u> (please read guidance note 7)  |                                     |
|---|-------|--------|--|-------------------------------------|
| Day   | Start | Finish | On the premises  | <input checked="" type="checkbox"/> |
| Mon   | 12:00 | 23:00  | Off the premises   | <input type="checkbox"/>            |
| Tue   | 12:00 | 23:00  | Both   | <input type="checkbox"/>            |
| Wed   | 12:00 | 23:00  | <u>State any seasonal variations</u> (please read guidance note 4)<br><br>Winter months likely to be on a reduced basis<br><br><u>Non-standard timings. Where the club intends to use the premises for the supply of alcohol at different times from those listed in the column on the left, please list</u> (please read guidance note 5)<br><br>Christmas Eve finish extended to 23:30<br>New Years Eve finish extended to 01:00 |                                     |
| Thur  | 12:00 | 23:00  |  |                                     |
| Fri   | 12:00 | 23:00  |  |                                     |
| Sat   | 12:00 | 23:00  |  |                                     |
| Sun   | 12:00 | 23:00  |  |                                     |
|   |       |        |  |                                     |
|   |       |        |  |                                     |

J

|   |       |        |   |
|---|-------|--------|---|
| <b>Hours club premises are open to the members and guests</b><br>Standard days and timings<br>(please read guidance note 6) |       |        | <b>State any seasonal variations</b> (please read guidance note 4)  |
| Day   | Start | Finish |   |
| Mon   | 08:00 | 00:00  |   |
| Tue   | 08:00 | 00:00  |   |
| Wed   | 08:00 | 00:00  |   |
| Thur  | 08:00 | 00:00  | <b>Non standard timings. Where you intend the premises to be open to the members and guests at different times from those listed in the column on the left, please list</b> (please read guidance note 5)<br><br>Christmas Eve - extended finish time to 01:00<br><br>New Years Eve - extended finish time to 01:30 |
| Fri   | 08:00 | 00:00  |   |
| Sat   | 08:00 | 00:00  |   |
| Sun   | 08:00 | 00:00  |   |
|   |       |        |   |

K

|  |
|--|
| <p><b>Please highlight any adult entertainment or services, activities, or other entertainment or matters ancillary to the use of the club premises that may give rise to concern in respect of children</b> (please read guidance note 8).</p> <p>The Wittersham General Sports Club Trading Limited has no intention of owning any gaming machines nor holding any gambling events or any such event that may be considered to give rise to concern in respect of children</p> |
|--|

**L Describe the steps you intend to take to promote the four licensing objectives:**

**a) General – all four licensing objectives (b,c,d,e) (please read guidance note 9)**

The main objective of the Wittersham General Sports Club Trading Limited under the guidance of the Wittersham Sports Club is to promote the involvement of people within the Parish in the Sports Club so as to increase the sporting activity and use of the ground as identified within the Sports Club Governing Document.

**b) The prevention of crime and disorder**

As experienced when a social section last operated at the Club, we know that the greater involvement by local people will help to reduce petty crime and anti social behaviour in the surrounding area.

**c) Public safety**

We are up to date with all our fire regulations and have a nominated first aider

**d) The prevention of public nuisance**

We provide a centre for the local community to enjoy and become involved which will in itself help to reduce the public nuisance. The provision of sport and recreational activities will provide a platform for people to become more committed and involved.

Increase usage of the facility may cause extra litter. We will ensure that extra bins are provided in the car park and at the exit gate to ensure that this is catered for.

**e) The protection of children from harm**

Both the sporting and other activities will help provide a safe outlet for children in which to participate. There will be qualified child protection people available within the WGSCTL which will be on a general basis although during times such as school holidays there is a chance that he/she could be available for most of the day.

**Checklist:**

**Please tick to indicate agreement**

- I have made or enclosed payment of the fee.
- I have enclosed the plan of the premises.
- I have sent copies of this application and plan to the responsible authorities.
- I have completed and enclosed the club declaration and enclose a copy of the club rules.
- I understand that I must now advertise my application.
- I understand that if I do not comply with the above requirements my application will be rejected.

**IT IS AN OFFENCE, LIABLE ON SUMMARY CONVICTION TO A FINE NOT EXCEEDING LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION.**

**Part 3 – Signatures (please read guidance note 10)**

I ADRIAN MICHAEL DELANEY  
(Insert full name)

make this application on behalf of the club and have authority to bind the club

|           |              |
|-----------|--------------|
| Signature | [REDACTED]   |
| Date      | 18 June 2019 |
| Capacity  | Secretary    |

Address for correspondence associated with this application (please read guidance note 11)

[REDACTED]  
Wittersham

|  |            |           |            |
|--|------------|-----------|------------|
| Post town  | Tenterden  | Post code | [REDACTED] |
| Telephone number (if any)  | [REDACTED] |           |            |
| If you would prefer us to correspond with you by e-mail your e-mail address (optional) |            |           |            |
| [REDACTED]   |            |           |            |

**PART A**

[Insert name and address of relevant licensing authority and its reference number (optional)]

**Declaration for a club premises certificate to be granted under the Licensing Act 2003**

PLEASE READ THE FOLLOWING INSTRUCTIONS BEFORE COMPLETING DECLARATION

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

**Club Premises details**

|   |           |  |
|---|-----------|--|
| Name of club  |           | WITTERSHAM GENERAL SPORTS CLUB TRADING LIMITED |
| Postal address of club, if any, or, if none, ordnance survey map reference or description |           |  |
| Wittersham Sports Ground, Poplar Road, Wittersham   |           |  |
| Post Town   | Tenterden | Postcode TN30 7PD                              |
| Telephone number (if any)   |           |  |
| E-mail (optional)   |           |  |

**CLUB DECLARATION AS TO QUALIFYING CLUB STATUS**

WITTERSHAM GENERAL SPORTS CLUB TRADING

..... club makes the following

(Insert name of club)

**declarations**

- 1) Where the club to which this application relates is:  
 a registered society within the meaning of the Industrial and Provident Societies Act 1965;  
 a registered society within the meaning of the Friendly Societies Act 1974; or  
 a registered friendly society within the meaning of the Friendly Societies Act,  
 the club declares that the club satisfies:

Please tick  Yes

Condition 1 in section 62(2) of the Licensing Act 2003

Please give relevant club rule number(s)

Condition 2 in section 62(3) of the Licensing Act 2003

Please give relevant club rule number(s)

Condition 4 in section 62(5) of the Licensing Act 2003

Does the club wish to supply alcohol to members and guests?  
If yes the club declares that -

The purchase of alcohol for the club and the supply of alcohol by the club is under the control  
of the members or of a committee appointed by the members

Please give relevant club rule number(s), if any

2) Where the club to which this application relates is:  
an association organised for the social well-being and recreation of persons employed in or  
about coal mines, the club declares that the club satisfies:

Please tick  Yes

Condition 1 in section 62(2) of the Licensing Act 2003

Please give relevant club rule number(s)

Condition 2 in section 62(3) of the Licensing Act 2003

Please give relevant club rule number(s)

Does the club wish to supply alcohol to members and guests?  
If yes the club declares that it satisfies -

First condition in section 66(4) of the Licensing Act 2003  
Please give relevant club rule number(s), if any

Second condition in section 66(5) of the Licensing Act 2003  
Please give relevant club rule number(s), if any

3) Where the club to which this application relates does not fall into the categories  
in 1 or 2 above, the club declares that the club satisfies:

Please tick  Yes

Condition 1 in section 62(2) of the Licensing Act 2003

Please give relevant club rule number(s)

Condition 2 in section 62(3) of the Licensing Act 2003



Please give relevant club rule number(s)

Clause 24 (2) in Articles of Association

Condition 3 in section 62(4) of the Licensing Act 2003



The club's arrangements for restricting the club's freedom of purchase of alcohol are:

(a) contained in club rule number(s),

Clause 4

(b) or, as follows

*(Please provide a short description)*

The company will be run by the elected board of directors and all activities will be their respon

The club's provisions by which money or property of the club or any gain arising from the carrying on of the club is or may be applied for charitable benevolent or political purposes are:

(a) contained in club rule number(s),

Clause 2

(b) or, as follows

*(Please provide a short description)*

Clause 2 identifies that the company is a not for profit organisation and all profits all be donated to the charity for the benefit of all members.

The arrangements for giving members information about the finances of the club are:

(a) contained in club rule number(s),

Clause 27

(b) or, as follows

*(Please provide a short description)*

Clause 27 provides for the accounts to be received by members at an annual general meeting of the company.

Please describe details of the books of account and other records kept to ensure the accuracy of the information about finances given to members of the club or give the relevant rule number(s)

Wittersham General Sports Club is a not for profit ltd company and as such is bound in law to account accurately to its Directors and members.

Please tick  Yes

- Condition 4 in section 62(5) of the Licensing Act 2003
- Condition 5 in section 62(6) of the Licensing Act 2003
- The club proposes to supply alcohol to members and guests and declares that the club satisfies:
- additional condition 1 in section 64(2) of the Licensing Act 2003
- Please give relevant club rule number(s), if any
- additional condition 2 in section 64(3) of the Licensing Act 2003
- Please give relevant rule number(s), if any
- additional condition 3 in section 64(4) of the Licensing Act 2003
- Please give relevant club rule number(s), if any

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE], UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

I A. M. DELANEY....., make this declaration on behalf of the club and have authority to bind the club

Signature



Date..... 4 June 2019

Capacity

Secretary

**Company No: 11738867**

**THE COMPANIES ACT 2006**

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**PRIVATE COMPANY LIMITED BY GUARANTEE**

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**ARTICLES OF ASSOCIATION**

**- of -**

**WITERSHAM GENERAL SPORTS CLUB TRADING LIMITED**

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THE COMPANIES ACT 2006

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PRIVATE COMPANY LIMITED BY GUARANTEE

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ARTICLES OF ASSOCIATION

- of -

WITTERSHAM GENERAL SPORTS CLUB TRADING LIMITED

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PART 1  
DETAILS, INTERPRETATION AND LIMITATION OF LIABILITY

1. **Defined Terms**

1.1 In these Articles, unless the context requires otherwise:

**2006 Act** means the Companies Act 2006 as modified by statute or re-enacted from time to time.

**Annual Members Meeting** means the annual meeting of the Club Members held in accordance with these Articles, which for the avoidance of doubt is not a general meeting for the purposes of the 2006 Act.

**Articles** means these articles of association, as may be amended from time to time.

**bankruptcy** includes individual insolvency proceedings in a jurisdiction other than England and Wales or Northern Ireland which have an effect similar to that of bankruptcy.

**Board** means the board of directors of the Company established from time to time in accordance with Article 17, the members of which are the directors of the Company for the purposes of the 2006 Act.

**Chair** means the person elected from time to time in accordance with these Articles as the Chair of the Company.

**Charity** means Wittersham Sports Club an unincorporated charity registered with charity number 302890 or any other charitable body which succeeds to its charitable purpose.

**clear days** means a period of days exclusive of the day on which the notice is served and of the day for which it is given.

**Club Member** means a Club Member admitted in accordance with Article 24 who for the avoidance of doubt is not a Voting Member.

**Company** means the above named company.

**Company Secretary** means such person as the Board may appoint as company secretary from time to time.

**director** means a director of the Company, and includes any person occupying the position of director, by whatever name called.

**document** includes, unless otherwise specified, any document sent or supplied in electronic form.

**electronic form** has the meaning given in Section 1168 of the 2006 Act.

**hard copy form** has the meaning given in Section 1168 of the 2006 Act.

**member** means both Voting Members and Club Members.

**participate** has, in relation to a directors' meeting, the meaning given in Article 10.

**Rules** means the rules and regulations of the Company made by the Board, as amended from time to time.

**Sports Sections** means those sections that appear in the Charity Governing Document dated 10 March 1965 and as amended thereafter from time to time.

**Voting Member** means a member of the Company for the purposes of the 2006 Act, having the right to vote at general meetings of the Company.

**writing** means the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether sent or supplied in electronic form or otherwise.

1.2 Unless the context otherwise requires, other words or expressions contained in these Articles bear the same meaning as in the 2006 Act.

1.3 Words importing the singular number shall include the plural number and vice versa. Words importing the masculine gender only shall include the feminine gender. Words importing persons shall include corporations.

1.4 For the purposes of Section 20 of the 2006 Act, the relevant model articles shall be deemed to have been excluded fully and replaced with the provisions of these Articles.

## **2. Not for Profit**

2.1 No portion of the income or property of the Company shall be paid or transferred directly or indirectly, overtly or covertly by way of distribution, bonus or otherwise by way of profit to the Club Members of the Company. No director or Club Member shall be paid a salary, bonus fee or other remuneration for working for the Company.

2.2 Nothing in Article 2.1 shall prevent the payment in good faith by the Company:

2.2.1 to any director, committee or sub-committee member of reasonable and proper out-of-pocket expenses incurred in the exercise of their powers and the discharge of their responsibilities in relation to the Company;

2.2.2 any payment to a Club Member (who is not a director) for goods or services provided to the Company (including as an employee of the Company);

2.2.3 of interest on money lent by a member of the Company or its directors at a commercial rate of interest;

- 2.2.4 of reasonable and proper rent for premises demised or let by any member of the Company or by any director;
- 2.2.5 of any premium in respect of the purchase and maintenance of indemnity insurance in respect of liability for any act or default of the directors (or any of them) in relation to the Company; or
- 2.2.6 payments or donations made to the Charity.

Provided that if the director is also a trustee of the Charity any benefit from the Company must not be prohibited by the Charity's Constitution.

### **3. Liability of Members**

- 3.1 The liability of each Voting Member is limited to £1, being the amount that each Voting Member undertakes to contribute to the assets of the Company in the event of its being wound up while he is a Voting Member or within one year after he ceases to be a Voting Member, for any of the items set out in Article 3.2.
- 3.2 The items for which the Voting Members undertake to contribute are:
  - 3.2.1 payment of the Company's debts and liabilities contracted before he ceases to be a Voting Member;
  - 3.2.2 payment of the costs, charges and expenses of winding up; and
  - 3.2.3 adjustment of the rights of the contributories among themselves.

## **PART 2 DIRECTORS**

### **DIRECTORS' POWERS AND RESPONSIBILITIES**

#### **4. Directors' General Authority**

- 4.1 Subject to these Articles and the 2006 Act, the Board is responsible for the management of the Company's business, for which purpose it may exercise all the powers of the Company.

#### **5. Voting Members' reserve power**

- 5.1 The Voting Members may, by special resolution, direct the directors to take, or refrain from taking, specified action.
- 5.2 No such special resolution invalidates anything which the directors have done before the passing of the resolution.

#### **6. Directors May Delegate**

- 6.1 Subject to these Articles, the Board may delegate any of the powers which are conferred on it under these Articles:
  - 6.1.1 to such person or committee;
  - 6.1.2 by such means (including by power of attorney);

- 6.1.3 to such an extent;
- 6.1.4 in relation to such matters or territories; and
- 6.1.5 on such terms and conditions,  
as it thinks fit.
- 6.2 All acts and proceedings delegated under Article 6.1 shall be reported to the Board in due course.
- 6.3 If the Board so specifies, any such delegation may authorise further delegation of the Board's powers by any person to whom they are delegated.
- 6.4 The Board may revoke any delegation in whole or part, or alter its terms.

#### **DECISION-MAKING BY DIRECTORS**

#### **7. Directors to Take Decisions Collectively**

Any decision of the Board must be either a majority decision or a decision taken in accordance with Article 8.

#### **8. Unanimous Decisions**

- 8.1 A decision of the Board is taken in accordance with this Article when all eligible directors indicate to each other by any means that they share a common view on a matter.
- 8.2 Such a decision may take the form of a resolution in writing, copies of which have been signed by each eligible director or to which each eligible director has otherwise indicated agreement in writing.
- 8.3 References in this Article to eligible directors are to directors who would have been entitled to vote on the matter had it been proposed as a resolution at a meeting of the Board.
- 8.4 A decision may not be taken in accordance with this Article if the eligible directors would not have formed a quorum at such a meeting.

#### **9. Calling a Meeting of the Board**

- 9.1 The Board may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit.
- 9.2 The Board shall report on their activities to the Club Member at the Annual Members Meeting.
- 9.3 Any director may call a meeting of the Board by giving notice of the meeting to the directors or by directing the Company Secretary to give such notice. Notice will also be sent to the Charity, who may send an observer to the meeting (who may not vote).
- 9.4 Notice of any meeting of the Board must indicate:
  - 9.4.1 its proposed date and time;
  - 9.4.2 where it is to take place; and

9.4.3 if it is anticipated that directors participating in the meeting will not be in the same place, how it is proposed that they should communicate with each other during the meeting.

9.5 Notice of a meeting of the Board must be given to each director, but need not be in writing. A director who is absent from Great Britain shall be entitled to notice of a meeting if he has provided a valid email address.

#### **10. Participation in Meetings of the Board**

10.1 Subject to these Articles, directors participate in a meeting of the Board, or part of a meeting of the Board, when:

10.1.1 the meeting has been called and takes place in accordance with these Articles, and

10.1.2 they can each communicate to the others any information or opinions they have on any particular item of the business of the meeting.

10.2 In determining whether directors are participating in a meeting of the Board, it is irrelevant where any director is or how they communicate with each other.

10.3 If all the directors participating in a meeting of the Board are not in the same place, they may decide that the meeting is to be treated as taking place wherever any of them is located.

#### **11. Composition of the Board and Quorum**

11.1 The quorum for meetings of the Board may be fixed from time to time by a decision of the directors, but it must never be less than three, and unless otherwise fixed it is three

11.2 Subject to Article 11.3, the Board may act notwithstanding any vacancy in their body.

11.3 If the total number of directors for the time being is less than the quorum required, the directors must not take any decision other than a decision to fill a casual vacancy arising among the directors in accordance with Article 22;

#### **12. Chairing of Meetings of the Board**

12.1 The Chair shall be chair of the Board. The Chair shall preside as chair at all meetings of the Board at which he shall be present.

12.2 If at any meeting the Chair is not present within 15 minutes after the time appointed for holding the meeting or he is not willing to preside the members of the Board present shall choose one of their number to be chair of the meeting. The person so appointed for the time being is to be treated as the chair of the meeting for the purposes of these Articles.

#### **13. Casting Vote**

13.1 If the numbers of votes for and against a proposal are equal, the Chair or other director chairing the meeting of the Board has a casting vote.

13.2 Article 13.1 shall not apply to give a casting vote to the Chair or other director chairing the meeting (as appropriate) if, in accordance with these Articles, the Chair or other director is not to be counted as participating in the decision-making process for quorum or voting purposes.

## **14. Conflicts of Interest**

- 14.1 Subject to Article 14.2, if a proposed decision of the Board is concerned with an actual or proposed transaction or arrangement with the Company in which a director is interested, that director is not to be counted as participating in the decision-making process for quorum or voting purposes.
- 14.2 The prohibition under Article 14.1 shall not apply when:
- 14.2.1 the Board approves the director counting towards the quorum and voting on the transaction or arrangement notwithstanding such interest in accordance with Section 175 of the 2006 Act;
- 14.2.2 the director need not declare an interest pursuant to Section 177 or 182 of the 2006 Act; or
- 14.2.3 the director's conflict of interest arises from a permitted cause.
- 14.3 For the purposes of Article 14.2, the following are **permitted causes**:
- 14.3.1 a guarantee, security or indemnity given, or to be given, by or to a director in respect of an obligation incurred by or on behalf of the Company (if any);
- 14.3.2 any benefits provided by the Company to Club Members that are available to all Club Members;
- 14.3.3 any general arrangements made by the Company for Club Members;
- 14.3.4 any arrangements relating to the Charity.
- 14.4 For the purposes of this Article 14, references to proposed decisions and decision-making processes include any meeting of the Board or part of a meeting of the Board.
- 14.5 Subject to Article 14.6, if a question arises at a meeting of the Board or of a committee of the Board as to the right of a director to participate in the meeting (or part of the meeting) for voting or quorum purposes, the question may, before the conclusion of the meeting, be referred to the chair of the meeting whose ruling in relation to any director other than himself is to be final and conclusive.
- 14.6 If any question as to the right to participate in the meeting (or part of the meeting) should arise in respect of the Chair, the question is to be decided by a decision of the directors at that meeting, for which purpose the Chair is not to be counted as participating in the meeting (or that part of the meeting) for voting or quorum purposes.

## **15. Records of Decisions to be Kept**

- 15.1 The Board must ensure that the Company keeps a record, in writing, for at least ten years from the date of the decision recorded, of every unanimous or majority decision taken by the Board and by the Company at general meeting.
- 15.2 Any such records, if purporting to be signed by the chair of such meeting, or by the chair of the next succeeding meeting, shall be sufficient evidence without any further proof of the facts therein stated.
- 15.3 Any such records shall be circulated to all members of the Board.

**16. Directors' Discretion to Make Further Rules**

The Board shall have the power to make, vary and revoke the Rules including, but not limited to, Rules:

- 16.1 creating regulations, standing orders and/or bye-laws for the better administration of the Company and to regulate the function, role and operation of committees to assist the Board in the better administration of the Company; and
- 16.2 in relation to licensable activities of the Company.

**APPOINTMENT OF DIRECTORS**

**17. Appointing Directors**

- 17.1 The number of directors shall be not less than three and not more than five, provided that there cannot be more than one director nominated by each of the Sports Sections (as further set out in this Article).
- 17.2 With effect from the first Annual Members Meeting in 2019, the directors shall be appointed as follows:
  - 17.2.1 The Company shall notify the Sports Sections of the date of the Annual Members Meeting at least 35 days before the date set for the Annual Members Meeting;
  - 17.2.2 The Sports Sections shall have 14 days from the date they receive the notification to nominate up to two of their members (who must be aged 18 years or over) for appointment as directors and inform the Company in writing;
  - 17.2.3 The Club Members shall then vote on the appointment of those nominated for office at the Annual Members Meeting. Provided that only one director nominated by each Sports Section may be elected as a director.
- 17.3 The directors shall retire at the end of the Annual Members Meeting each year unless re-elected by the Club Members in accordance with these Articles.
- 17.4 Any person accepting nomination to the Board who has any financial interest or other conflict of interest in such appointment must, before accepting the nomination, state in writing to the Company all such interests. Failure to do so will lead to automatic disqualification from Board membership. The Board has the right to veto such an election if, in its opinion, it is not in the best interests of the Company.
- 17.5 All acts carried out in good faith at any meeting of the Board or of any sub-committee, or by any person acting as a director, shall, notwithstanding it be afterwards discovered that there was some defect in the appointment or continuance in office of any such person be as valid as if every such person had been duly appointed or had duly continued in office.

**18. Termination of Director's Appointment**

- 18.1 Without prejudice to the provisions of Section 168 of the 2006 Act, a person shall cease to be a director of the Company as soon as:
  - 18.1.1 that person ceases to be a director by virtue of any provision of the 2006 Act or is prohibited from being a director by law;

- 18.1.2 a bankruptcy order is made against that person;
- 18.1.3 a composition is made with that person's creditors generally in satisfaction of that person's debts;
- 18.1.4 a registered medical practitioner who is treating that person gives a written opinion to the Company stating that that person has become physically or mentally incapable of acting as a director and may remain so for more than three months;
- 18.1.5 by reason of that person's mental health, a court makes an order which wholly or partly prevents that person from personally exercising any powers or rights which that person would otherwise have;
- 18.1.6 that person ceases to be a member of any Sports Sections; or
- 18.1.7 that person is removed by the Charity serving written notice on the Company as the Director is removed;
- 18.1.8 notification is received by the Company from the director that the director is resigning from office, and such resignation has taken effect in accordance with its terms.

**19. Directors' Remuneration**

- 19.1 The Company shall not employ any director of the Company to provide any services outside the scope of the ordinary duties of a director and shall not pay any director any remuneration in relation to his role on the Board.

**PART 3  
APPOINTMENTS AND CASUAL VACANCIES**

**20. Chair**

The Board shall appoint and remove one of their number as Chair.

**21. Company Secretary**

Subject to the provisions of the 2006 Act, the Company Secretary may be appointed by the Board for such term and at such remuneration and upon such conditions as they may think fit and any Company Secretary appointed may be removed by them.

**22. Casual Vacancies**

A casual vacancy arising among the directors shall be filled by the Board provided always that the person appointed to fill the vacancy shall only hold office until the end of the next Annual Members Meeting unless re-elected in accordance with these Articles.

**BECOMING AND CEASING TO BE A MEMBER**

**23. Voting Member - admission and decision making**

- 23.1 The sole Voting Member shall be the Charity.
- 23.2 If the Charity is unincorporated it shall be a member through the person of its chair from time to time. The Charity shall notify the Company of the name of its chair. The membership rights may be exercised by the chair or by the Charity which he or she

represents. The chair of the Charity shall only act on the authority of the trustees of the Charity.

23.3 If the Charity ceases to exist then the Board shall admit another registered charity as the Voting Member of the Company.

23.4 Decisions of the Voting Members can be made:

23.4.1 By passing a written resolution in accordance with the provisions of the 2006 Act; or

23.5 By passing a resolution at a members' meeting convened and held in accordance with the provisions of the 2006 Act.

#### **24. Club Membership**

24.1 Subject to Article 24.2, all members aged 18 years and over of the Sports Sections shall be Club Members of the Company.

24.2 A person shall not be admitted to membership or admitted to any privileges of membership of the Company until two days have passed since his application for membership of the Sports Sections was submitted.

#### **25. Conditions of Club Membership**

25.1 All Club Members shall be bound by and subject to these Articles and the Rules.

25.2 Subject to Article 26, the Board may terminate the membership of any person, or impose any other sanction they determine to be appropriate, in connection with the breach of any condition of membership set out in this Article 25.

#### **26. Termination of Club Membership**

26.1 The Board may terminate Club Membership if there are complaints about the Club Member and the Board decides that his continued membership is not in the best interests of the Company. The Club Member that is the subject of a complaint shall have the right to present a statement in his defence either verbally or in hard copy form to the Board and shall have a right of appeal to an appeal committee set up by the Board (whose members shall not have been involved in the decision to remove membership). The Club Member that is the subject of the complaint shall have the right to present a further statement in his defence either verbally or in hard copy form to the appeal committee, whose decision shall be final.

26.2 Club Membership terminates if the person is no longer a member of any Sports Sections.

26.3 Club Membership is not transferable and ceases on death.

### **ORGANISATION OF ANNUAL MEMBERS MEETINGS**

#### **27. Annual Members Meetings**

27.1 The Company shall hold an Annual Members Meetings in every calendar year at such time and place as may be determined by the Board and shall specify the meeting as such in the notices calling it.

27.2 The Annual Member Meeting shall be held for the following purposes:

27.2.1 to receive from the Board the Company's accounts;

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27.2.2 to receive from the Board a report of the activities of the Company since the previous Annual Members Meeting; and

27.2.3 to elect the directors in accordance with these Articles.

**28. Attendance and Speaking at Annual Members Meetings**

28.1 The Board may make whatever arrangements they consider appropriate to enable those attending an Annual Members Meeting to exercise their rights to speak or vote at it.

**29. Quorum for Annual Members Meetings**

29.1 No business other than the appointment of the chair of the meeting is to be transacted at an Annual Members Meeting if the persons attending it do not constitute a quorum.

29.2 Ten Club Members present in person shall be a quorum.

**30. Chairing Annual Members Meetings**

30.1 The Chair shall chair Annual Members Meetings if present and willing to do so. If the Chair shall be absent, or if at any Annual Members Meeting he is not present within 15 minutes of the time at which a meeting was due to start:

30.1.1 the directors present, or

30.1.2 (if no directors are present), the meeting,

must appoint a director or Club Member to chair the meeting, and the appointment of the chair of the meeting must be the first business of the meeting.

**VOTING AT ANNUAL MEMBERS MEETINGS**

**31. Voting**

31.1 Every Club Member shall be entitled to receive notice of, attend Annual Members Meetings and cast one vote.

**PART 4**

**ADMINISTRATIVE ARRANGEMENTS**

**32. Means of Communication to be Used**

32.1 Subject to these Articles, anything sent or supplied by or to the Company under these Articles may be sent or supplied in any way in which the 2006 Act provides for such documents or information to be sent or supplied by or to the Company.

32.2 Subject to these Articles, any notice or document to be sent or supplied to the Voting Member of the Board in connection with the taking of decisions by the Board may also be sent or supplied by the means by which that director has asked to be sent or supplied with such notices or documents for the time being.

32.3 A director may agree with the Company that notices or documents sent to that director in a particular way are to be deemed to have been received within a specified time of their being sent, and for the specified time to be less than 48 hours.

32.4 Notice of Annual Members Meetings may be sent to the Club Members by email and/or shall be put on the notice board at the clubhouse at least 14 days prior to the Annual Members Meeting.

**33. No Right to Inspect Accounts and Other Records**

Except as provided by law or authorised by the Board or an ordinary resolution of the Company, no person is entitled to inspect any of the Company's accounting or other records or documents merely by virtue of being a member.

**DIRECTORS' INDEMNITY AND WINDING UP**

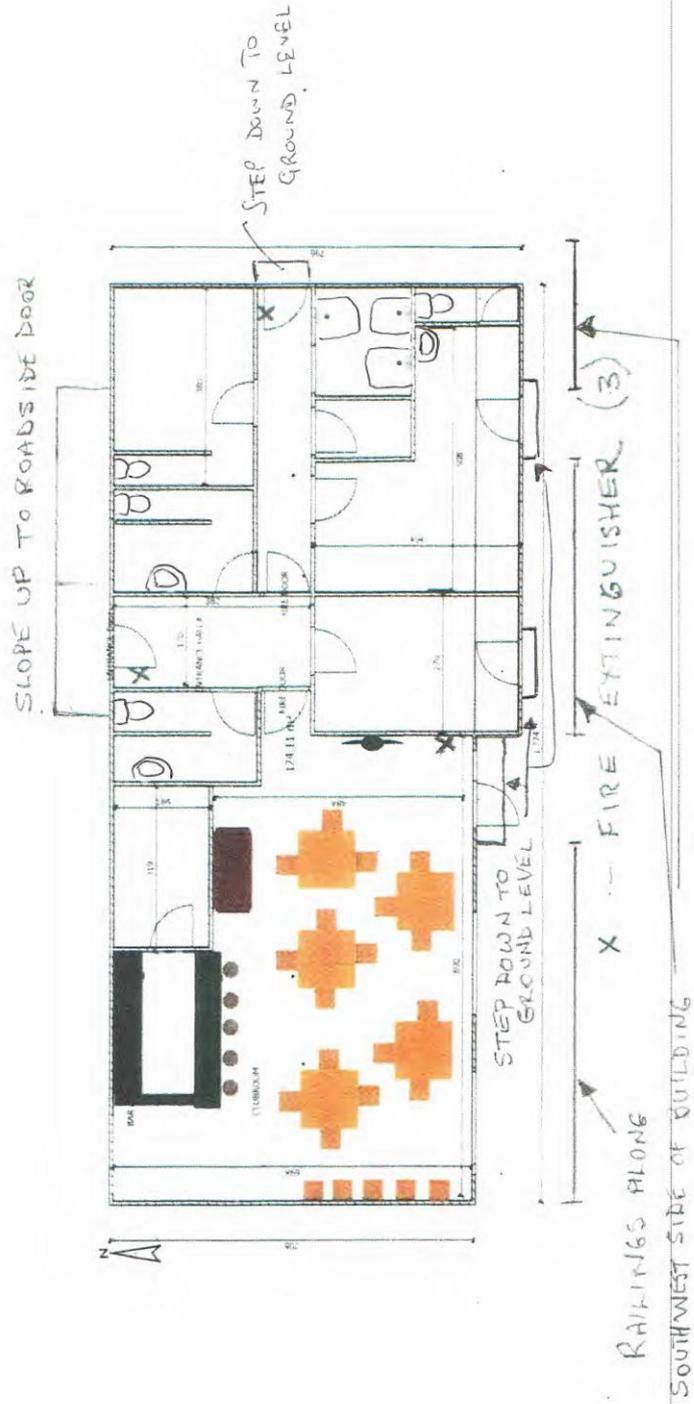
**34. Winding Up**

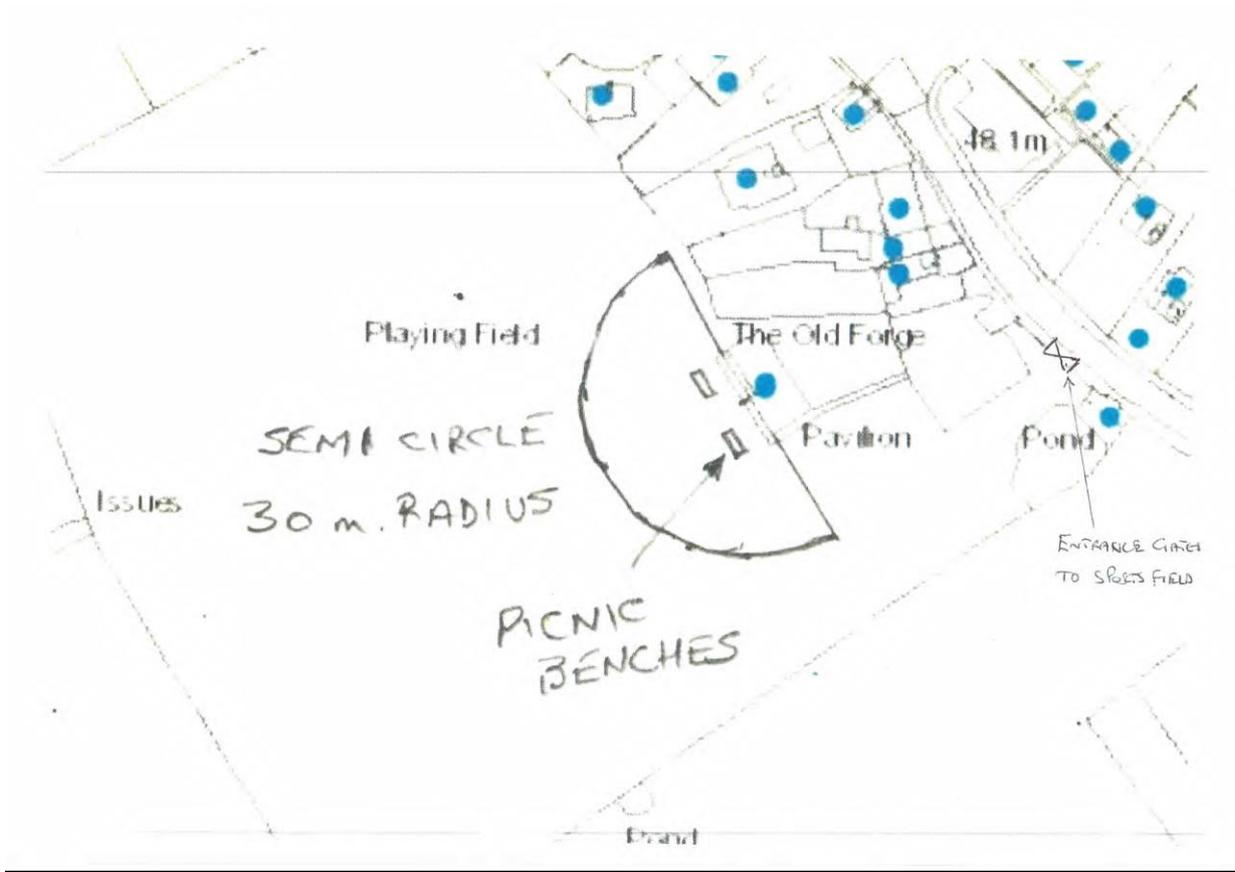
34.1 If the Company is wound up all remaining assets of the Company after paying the debts of the company and the costs of winding up shall be paid to the Charity.

**35. Indemnity**

35.1 Subject to the provisions of the 2006 Act but without prejudice to any indemnity to which a director may otherwise be entitled, every Director or other officer or auditor of the Company shall be indemnified out of the assets of the company against any liability incurred by him or her in defending any proceedings, whether civil or criminal, in which judgment is given in his or her favour or in which he or she is acquitted or in connection with any application in which relief is granted to him or her by the court from liability for negligence, breach of duty of trust in relation to the affairs of the Company.

WITTERSHAM SPORTS CLUB PAVILION LAYOUT







**APPENDIX C – SITE PHOTOS**

Photo 1 – Rear of pavilion to car park, showing closest neighbour 'The Old Forge'



Photo 2 – Front of pavilion showing part of the consumption area



Photo 3 - From corner of Pavilion showing proximity to residents on The Street, Wittersham



Photo 4 – Corner of pavilion showing proximity to neighbouring gardens



Photo 5 – Showing Poplar Road in the SE direction of The Street



Photo 6 – Showing Poplar Road in the NW direction of Swan Street



Photo 7 – Photo showing car park and boundary with ‘The Old Forge’



Photo 8 – Photo of corner of pavilion with round pathway light and sports flood light



## **APPENDIX D – OPERATING SCH. CONDITIONS (AGREED WITH APPLICANT)**

### **General**

None

### **Prevention of Crime and Disorder**

None

### **Protection of Public Safety**

1. During operation of the CPC, the certificate holder shall ensure that there is at least one member of staff, or volunteer, present who holds a first aid certificate and shall be the nominated first aider.

### **Prevention of Public Nuisance**

2. The certificate holder shall ensure that litter bins are installed in the premises car park (including one at the exit to the public highway) and ensure that these are emptied at suitable frequencies to minimise litter.
3. The certificate holder shall ensure that signage is installed at the exits to the building/premises reminding patrons to keep noise to a minimum and to respect the neighbours.
4. The certificate holder shall designate an area for smoking, including installation of a cigarette butt bin, away from the nearest residential boundaries.
5. Flood lighting shall not be used for the purpose of operating the Club Premises Certificate, except lighting that is installed to light pathways, car parking, or is otherwise required for reasonable safety reasons.

### **Protection of Children from Harm**

6. The certificate holder shall ensure that at least one member of staff has completed a 'child safeguarding awareness' session in order to help identify concerns and ensure the appropriate reporting of such concerns.

## **APPENDIX E – POLICE INCIDENT DETAILS 2014-2019**



### **Community Safety Unit**

Ashford Police Station, Tufton Street, Ashford, Kent TN23 1BT

Date: 17<sup>th</sup> July 2019

Dear Sir/Madam,

Re: Wittersham Sports Club CPC application.

The following information is provided to assist the Ashford Borough Council's licensing sub-committee. Kent Police do not submit any representations in regards to it.

Listed below is a summary of recorded crimes that took place at the premises during a five year period.

**November 2018 – Theft / criminal damage.** Containers locking mechanism was damaged and a second container reported as stolen.

**August 2018 - Allegation of an assault on the sports ground.**

**August 2018 - Allegation of an assault within the pavilion.**

**October 2018 - Vandalism on sports ground.**

**May 2017 - Vandalism on sports ground.**

**October 2017 - Vandalism on sports ground.**

**December 2016 - Burglary.**

**March 2015 - Burglary.**

Kent Police do not consider these incidents of crime to be relevant to the operation of the premises from a licensing perspective.

Yours sincerely,

PC 10699 Pringle  
Licensing Enforcement Officer  
Community Safety Unit  
Ashford Police Station.

## **APPENDIX F – ENV. HEALTH/LICENSING INCIDENT DETAILS**

### **WK/201610056**

Date 06/12/2016

Type – Pro-active drug swabbing visit with Kent Police

Outcome – Cocaine traces confirmed in toilets. The reading provided was not unusual for the type/nature of the premises. Advisory letter sent to club secretary. No further intervention.

### **WK/201507505**

Date 16/08/2015

Complaint type – Loud music

Outcome - One-off incident. No formal intervention required.

## **APPENDIX G – REPRESENTATIONS**

|                             |  |
|-----------------------------|--|
| <b>Objector</b>             | Mr & Mrs Eagle                                 |
| <b>Objector Address</b>     | Rosedene, 18 Poplar Road, Wittersham, TN30 7PG |
| <b>Date Received</b>        | 18 July 2019                                   |
| <b>Distance to premises</b> | 70m (approx..)                                 |

### **Objection Details**

Reference: Application of Club Premises Certificate (Licensing Act 2003) - Wittersham General Sports Club Trading Ltd.

Dear Sir,

With reference to the above Licensing application, we would ask you to kindly consider our objections to the granting of said licence.

The weekly opening hours (Monday to Sunday 12:00 - 23:00) have the potential to cause noise, anti social behaviour and increased traffic levels at unsocial times on many occasions.

The Sports Club would seem to be acting as a Public House, since the Club will be open to members and guests on a virtually full time basis.

We would like to mention that there are plans afoot for Wittersham Village to raise funds with the aim to re-open, what was formally named, the Swan Public House.

We feel that this option would cover the basic requirements of the General Sports Club.

We trust that you will give this letter your full consideration.

|                             |   |
|-----------------------------|---|
| <b>Objector</b>             | Wittersham Football Club                    |
| <b>Objector Address</b>     | Mill House, Wittersham, Tenterden, Tn30 7EJ |
| <b>Date Received</b>        | 17 July 2019                                |
| <b>Distance to premises</b> | N/A   |

## Objection Details

### Wittersham Football Club

Secretary and Welfare Officer

Miriam Lewis  
 Mill House  
 Wittersham  
 Tenterden  
 Kent  
 TN30 7EJ



Wednesday 17 July 2019

Dear Sir

#### APPLICATION FOR CLUB PREMISES CERTIFICATE WITTERSHAM GENERAL SPORTS CLUB TRADING LTD

The Committee of Wittersham Football Club wish to make representation in relation to the above application for a Club Premises Certificate at The Sir Victor and Lady Mallet Sports Field, Poplar Road, Wittersham, where they have played football since the inception of Lady Mallet's Charitable Trust in 1965.

The Committee met on Monday 16 July 2019 and it was resolved by unanimous decision that I should write as the Welfare Officer for the Club in relation to the fourth licensing objective which is the protection of children from harm.

I would first of all like to say that it is with some regret that it is felt that there is a need to write on this matter. One would have hoped that the applicant Wittersham General Sports Club Trading Ltd (WGSCTL) might have approached the Football Club in advance of the application being submitted in order to seek our views and address any concerns. Sadly this did not happen.

The Licensing Act 2003 requires the applicant to set out the steps that they propose to take to promote the four licensing objectives.

It is noted that all four licensing objectives are of equal importance but in the context of Wittersham Sports Ground, I believe this particular objective, the protection of children from harm, requires special attention.

It is disappointing then that the applicant's submission shows little engagement with the issues that are likely to occur when the needs of drinkers and young sports player are to be met within a modest building without any area which could be used exclusively for the supply and consumption of alcohol and on grounds which are exclusively designated to sport. The 5.6 acre field consists of 3 junior pitches, a senior pitch, a training pitch, cricket practice area and a cricket square with outfield.

The children aged from six upwards are currently the main users of the grounds and pavilion by a considerable margin both in terms of numbers and frequency of use. We have four junior teams who play league matches regularly on Saturdays from September to May and weekly training for all teams takes place throughout the year.

#### **Access to the Clubroom**

This is an extremely important issue which should be addressed. The clubroom is an area essential to the effective running of the junior football club. Any exclusion of the children from this area when they are involved in their sport would seriously impact on what we are able to offer and in addition the provision of the clubroom greatly aids us in protecting the welfare of the children. The clubroom is used for:

Refreshment: This is where players and their families come to have drinks and snacks. There is only now one small sink in the clubroom where access to water can be had and this is behind the bar.

Shelter: In cold and wet weather this is a warm and dry place for the children to shelter.

Education: This is where group and individual discussion takes place often relating to code of conduct and safe-guarding issues.

Socialising and Play Area: Players enjoy meeting in the clubroom before and after matches. Siblings of the junior players enjoy being able to play games, read, draw pictures etc while the games are being played. The area is particularly well used in the winter.

First Aid: The area is useful for treating injuries which cannot be dealt with pitch-side.

If a bar controlled by a separate organisation catering for the needs of a wholly different group of people were operating alongside these activities there would be clear conflict and potential for harm to the children. This was soon realised during the short period the social club was open in 2016 and the bar was closed when junior matches were taking place.

It is therefore requested that a commitment is given by WGSCCL that the bar will not be open when junior training and matches are taking place.

#### **Maintaining a Family- Friendly and Safe Environment**

The Football Club has run a bar at senior games for very many years largely without creating any issues of concern for the well-being of the children. In recent years at least the bar has been very low key. We have always sought to create a family-friendly and safe environment for children. We are greatly assisted in this as the Football Club is a relatively tight-knit community. Our young players will often come unaccompanied on Saturdays afternoons to watch games and the operation of the bar has not created a problem of access since the premises are not primarily or exclusively used for the consumption of alcohol.

We have concerns that the operation of the bar on a more commercial basis by WGSCCL could lead to problems for these children as on match days the bar could be frequented by the larger membership of WGSCCL some of whom would not be known to us.

We trust this family friendly atmosphere can be retained

**Other Issues which could impact on Child Safety**

Control of Use of Illicit Drugs: During the operation of the social club in November 2016 the premises were inspected by the police and Ashford Licensing. Both the gents and ladies toilets were tested positively for cocaine. In light of the large number of children who use the premises, we would hope to see a policy of zero-tolerance in place.

Control of Excessive Drinking: Alcohol- related crime and anti-social behaviour is sadly common place. There has certainly been some incidents at the premises of aggressive and violent behaviour associated with drunkenness. Witnessing such behaviour can be frightening and emotionally damaging to young children and others. Given the family focus which it is hoped will be retained, we would expect a strong line to be taken against members or guests who engage in such behaviour.

Control of Dogs: There is already a problem at the grounds as a result of some dog walkers allowing their dogs to foul the pitches but when the bar was open 7 days a week the problem was far greater. Dogs were allowed to roam while their owners drank at the bar. In the interests of the safety and health of the children and others I think there is case for dogs to be kept on a lead.

Smoking: During the time of the social club a very large number of discarded cigarette ends accumulated in the veranda area and in front of the Club. I was informed by a neighbour that some secondary school pupils used to visit the area on a morning before getting their coach to school and collect these up in order to build up a supply of tobacco. I was shocked at this but was later told it is quite common. This is clearly harmful to children and measures should be adopted to ensure responsible disposal.

We understand this application is to be referred to the Licensing Committee, we trust members will address our concerns and if further clarification is needed on any points, please do not hesitate to contact me.

Yours sincerely

Miriam Lewis

|                             |  |
|-----------------------------|--|
| <b>Objector</b>             | Karin Singleton                                |
| <b>Objector Address</b>     | The Smitings, Poplar Road, Wittersham TN30 7NT |
| <b>Date Received</b>        | 17 July 2019                                   |
| <b>Distance to premises</b> | 395m (approx.)                                 |

### Objection Details

Dear Sirs

I would like to register my objection to the above application for the following reasons:

1. This sports club has a well-attended, vibrant youth football section. As demonstrated previously, when the social club was in operation, all of the activities of the pub overrode those of any sporting activity and the amenities enjoyed by the youth teams were lost to them. Additionally, where the youth football club was always previously a safe place for the children to enjoy their sport, it became secondary to the drinking establishment and the children were exposed to people whose agenda was simply to use the premises for drinking. I understand that whilst the social club was open in the pavilion previously, there were problems with unruly and aggressive behaviour and cocaine use. This scenario, in my opinion, is one of oil and water and I do not believe (and as was demonstrated previously) that the two factors (youth sports section and drinking establishment) can co-exist without putting the children at unacceptable risk.
2. The application, I believe, if granted, would result in great nuisance and would impede on the reasonable assumption of uninterrupted enjoyment of property to the immediate neighbours.
3. Due to its rural nature, I fear that persons "driving under the influence" will become problematic and that instances of disorder will increase.

Whilst the following may not be grounds for objection I would like to mention also the potential loss of amenity for the village in terms of the community project to reopen The Swan. Surely it must be viewed that a public house has, by its very nature, a broader opportunity to serve all members of the community and beyond. Should this licence application be approved, it would surely jeopardise the project, which would be a great shame for the village.

|                             |  |
|-----------------------------|--|
| <b>Objector</b>             | Ms Ann Beeching                                  |
| <b>Objector Address</b>     | New House Farm, Brenzett, Romney Marsh, Tn29 0BE |
| <b>Date Received</b>        | 17 July 2019                                     |
| <b>Distance to premises</b> | 11km (approx.)                                   |

### **Objection Details**

#### **Wittersham General Sports Club Trading Company** **Application for a Club Premises Certificate**

I object to this application on the following grounds:

#### **Prevention of Crime and disorder:**

It is quite incorrect to say that anti social behaviour improved when the previous Social Club was open and selling alcohol at all hours. In fact, the exact opposite was true, the Sports Club was itself broken in to, alcohol taken and money stolen. I do not see that setting up a drinking establishment in the middle of the village, surrounded by homes is going to in any way improve anti social behaviour or reduce crime. Quite the reverse if history repeats itself.

#### **Promotion of public safety:**

The club room in the pavilion is quite small. If large numbers of people were to use this room it could become heavily overcrowded especially in bad weather. I am aware that steps have **NOT** been put in place to conform to a recent Fire safety inspection. A Fire Safety Inspection carried out on behalf of the Football Club in 2017 highlighted several serious issues and it is certainly not correct to say that the Sports Club is up to date with fire regulations.

The perfectly acceptable sink used for washing up in the club room after matches etc was ripped out when the old Social Club was set up. A ridiculous, literally knee-high sink was installed to replace it. There is a serious risk of users damaging their backs. The club room is entirely unsuitable for use as a full time bar.

There have been concerns about parking on the road outside while football games are in progress. This could become much worse if permission were granted for a drinking establishment.

#### **Protection of children from harm:**

I was appointed trustee representative for Junior Football on the Sports Club Committee in September 2016 and have continuous service as a trustee since then. I would be most unhappy for the premises and grounds to be used by drinkers. I would go so far as to say that it would be morally and practically wrong to grant a licence that would expose these children to the dangers they would face from a drinking establishment being set up in the way that the applicants are intending. If granting a licence then allowed people whose only interest would be in going to the pavilion to drink, I would have serious concerns around the safety of our young players. There would be the potential danger of exposure to people who might be drunk.

The pavilion and grounds are used mainly by young children, aged from seven upwards. They train every week after school and play games on the pitches during the course of Saturdays. They also have tournaments and presentation days over

the weekends. The club room should be available for children and spectators to take refuge in bad weather. It should be available for children for coaching instruction, signing on and for social interaction both before and after games. This will become impossible if a bar is open running pub hours every day of the week. Wittersham Sports Club is a charitable trust, set up solely for the purpose of playing sport. How can it be acceptable for access to the club pavilion to be denied to some sportsmen (some of our players are under 18), but especially youngsters?

Past experience when a social club was being run showed quite emphatically that children suffered. They were ushered away from the pavilion and made to feel unwelcome anywhere on the sports grounds or buildings. Drinking should not be taking place when children are present and using the facilities.

When the social club was running problems with litter and the detritus of smoking was both unsightly and unhygienic. It was quite disgusting and most inappropriate for children to be running about in. People using the club brought along their dogs which were allowed to roam and foul everywhere. The pitches had to be cleared of this before the children could use them. The health hazards associated with animal faeces are well known.

#### **Prevention of public nuisance:**

The activities of the bar will generate noise and disturbance for those living nearby. I understand that there is a noise restriction relating to the grounds and pavilion. I hope the Licensing Department will bear this in mind when deciding on this application

If the hours applied for are granted there could inevitably be drinkers on the site seven days a week for most of the day.

**Please bear in mind that the Charity Commission has clearly stated that there can be no social club on the premises and the bar must only be open ancillary to legitimate sport.** How will the Licensing Department police this? If this is the real intention there is absolutely no need for such extensive hours or the need for Christmas and New Year later opening hours.

The sport currently played is adult and junior football, usually played throughout Saturdays and one or two evenings a week. Cricket matches on some Saturdays or Sundays and on some Wednesday evenings in the summer. Stoolball Practice is on Thursdays but does not seem to have got going this year. The occasions to open the bar should only relate to these sports.

I believe the area being considered for the consumption of alcohol is much too large. There are houses along Poplar Road that could be affected by such an unreasonably extensive area, this would appear to even encroach on the junior pitches which cannot be right.

The Sports Grounds were very clearly intended by the late Lady Mallet to be used for outdoor sport. I am very concerned that this application, if granted, will completely change the nature of the grounds to the detriment of sport. The children, who at the moment enjoy such wonderful facilities, will be sidelined by a possible drive to have the bar open seven days a week.

|                             |                                       |
|-----------------------------|---------------------------------------|
| <b>Objector</b>             | Mr and Mrs Mepham                     |
| <b>Objector Address</b>     | UNCONFIRMED, Poplar Road, Wittersham. |
| <b>Date Received</b>        | 17 July 2019                          |
| <b>Distance to premises</b> | UNKNOWN                               |

#### **Objection Details**

Dear Sirs,

We would like to strongly object to this application as it will cause a great deal of disturbance and disruption to surrounding homes and further afield in this peaceful village.

It will create a great deal of discarded rubbish, encouragement to drink driving and unsocial behaviour including disgusting acts of people relieving themselves against neighbours walls and in their gardens on their way home, which as you can imagine is not at all pleasant.

These things have happend before when this club served alcohol and caused it to be shut.

There are a lot of families and elderly people living here and we certainly do NOT need to have this 1 day a week let alone 7 days a week.

|                             |                                      |
|-----------------------------|--------------------------------------|
| <b>Objector</b>             | Ms Alison Stevens                    |
| <b>Objector Address</b>     | 10 Poplar Road, Wittersham, TN30 7PG |
| <b>Date Received</b>        | 17 July 2019                         |
| <b>Distance to premises</b> | 100m (approx.)                       |

#### **Objection Details**

're application for a club premises licence.

With regard to these premises opposite my house ,I find it most unsettling for me due to the noise level generated by users of the bar.I know I can vouch for this from past experience.The vehicles also will cause a problem late at night.It is unlikely that users would only be local residents

so this would be a magnet for undesirable people.

At the moment the bar is open for matches and events which is acceptable, however running it as a pub,and being open every day,is not acceptable.

|                             |   |
|-----------------------------|---|
| <b>Objector</b>             | Anne M Dunboyne   |
| <b>Objector Address</b>     | The Tallat, West Ilkenton Farm, Lynton, Devon, EX35 6QA |
| <b>Date Received</b>        | 16 July 2019  |
| <b>Distance to premises</b> | 328km (approx.)   |

### Objection Details

Dear Mr. Ford,  
 WITTERSHAM GENERAL SPORTS CLUB  
 TRADING LTD.  
 Application for CPC Licence to  
 supply/sell alcohol at Wittersham Sports Field.  
 I OBJECT TO THE ABOVE APPLICATION ON THE  
 FOLLOWING GROUNDS.

1) It is my belief that alcohol is not meant  
 to be sold on the sports field at all. It  
 never was in my mother, Lady Mallet's life  
 time.

2.) The Pavilion is there for the convenience  
 of those playing sport, and in particular the  
 children who are the main users of the field.  
 Trading alcohol is a separate use of the  
 Pavilion which would result in loss of

amenity, and obstruction to the children  
in the exercise and enjoyment of their  
rights — amounting to a  
PUBLIC NUISANCE

in common law and for the purposes  
of the Licensing Act 2003.

3) Furthermore, I believe that the  
applicant company has no right  
to occupy the Pavilion under the  
terms of my late mother's Charitable  
Trust.

I should be grateful if you would  
kindly acknowledge receipt of this letter.

|                             |   |
|-----------------------------|---|
| <b>Objector</b>             | Mr Oliver Lewis                               |
| <b>Objector Address</b>     | Mill House, Stocks Road, Wittersham, TN30 7EJ |
| <b>Date Received</b>        | 16 July 2019                                  |
| <b>Distance to premises</b> | 306m (approx.)                                |

## Objection Details

### **Application by Wittersham General Sports Club Trading Ltd for a Club Premises Certificate to operate at Wittersham Sports Club, Poplar Road, Wittersham, TN30 7PD**

#### **Introduction**

On Page 5 of Ashford Borough Council's "Statement of Licensing Policy 2014-2019" it is stated, with reference to the requirements of the Licensing Act 2003:

*The Act requires applicants to consider carefully this Policy when drafting their applications. Applicants should show that they have considered the practical effects of managing their business to accord with this Policy.*

*Ashford Borough Council expects holders of a premises licence, club premises certificate or temporary event notice to make every effort to minimise the impact of their activities and any nuisance or anti-social behaviour by their patrons within the vicinity of their premises.*

Having myself carefully read the Policy, I would be surprised if the applicant has done the same given the scant regard which appears to have been given to its requirements.

Although there has been a Club Premises Certificate in operation at the premises for many years, this is a new application, additional to the one already held by the Wittersham Football Club. It is to be held by a trading subsidiary which clearly wishes to operate the premises on a more commercial basis, presumably involving the employment of staff as was the case when the "social club" was unlawfully operating from the premises between August 2016 and January 2017.

Given the above, I would have expected that the applicant would have wished to assure those like myself who use the premises on a regular basis for sporting purposes that they are at least making some kind of effort to minimise the impact and ensure the safety of the premises. Equally one would expect that some regard would have been shown for the impact on near neighbours and children.

It is disappointing that none of these issues have been adequately addressed and my detailed comments on the submitted Operating Schedule can be found below.

#### **General Description**

I feel that this section should have made clear that the whole of the premises, that is the pavilion and over 5 acres of playing field are the subject of a charitable trust which requires that the premises are used for exclusively charitable purposes in line with Charity Law. The Charity Commission has made it clear that a "social club" could not operate from the premises and that the supply/sale of alcohol is

only able to take place when sports which are deemed charitable are taking place. This would exclude, as I understand it, the likes of darts, pool and “pub games”. The applicant should make clear their commitment to adhere to this as part of the application.

It is stated that the sale of alcohol will be limited to the clubroom but there is no indication that this is a multi-purpose room that must double up for many other purposes which are essential to the operation of the pavilion for its charitable purposes. No attempt has been made to explain how these uses would be reconciled.

I am concerned also about the area that has been defined for the “consumption” of alcohol. I understand the stated 30m radius of the pavilion has now been narrowed down to a semi-circular area of 30m radius in front of the pavilion. The new plan provided some time after the application was validated is of poor quality but as groundsman of the Football Club it appears to me that these measurements as drawn would encroach on the senior pitch, the junior 7-a-side pitch and the children’s training pitch. This is totally unacceptable.

### **Operating Times**

It is stated that the premises will be open to the members of the Wittersham General Sports Club Trading Ltd every day of the week from 8am to midnight and the licensable hours will be between 12pm and 11pm. On Christmas Eve the opening hours will be extended to 1am and the licensing hours until 11.30pm and on New Year’s Eve the opening hours will be extended until 1.30am and the licensing hours to 1am.

Given that the sports field is only to be used for essentially outdoor sport and any use of a bar must be in connection with that, these hours seem totally inappropriate and certainly seem to be focused on normal pub opening times rather than the times sporting activities currently take place at the ground. In these circumstances I can see no justification for opening the bar either on Christmas Eve or New Year’s Eve.

In addition there appears to be no recognition of the fact that the vast majority of the current users of the ground are under the age of eighteen and could not be members of this trading company that purports to be a club. Neither is there any consideration of how the entirely different needs of these two sets of users could be reconciled.

### **Promotion of the Four Licensing Objectives**

#### **a) General**

This section is supposed to cover all four licensing objectives but in fact makes no reference to any of them. The notion that the provision of a bar, which is the sole purpose of this trading company, will increase sporting activity must be to view things in the wrong order within the context of this trust. The knock on effect must essentially flow from the other direction. The sport must come first and the supply of alcohol must be ancillary. Given the very serious health and social problems associated with alcohol consumption it seems somewhat disingenuous that a Charity which is set up to promote healthy recreation in the form of outdoor sport should see a bar as the main draw for players. Given the vast majority of the current users are children this is of particular concern.

## b) The Prevention of Crime and Disorder

Having been a trustee of the Charity during the time that the social club was in operation, I am genuinely struggling to understand how the applicant could have come to this conclusion. During the short period that the social club referred to was in operation between August 2016 and January 2017, the following incidents were recorded by the Charity trustees:

- Break in to pavilion involving damage to the pavilion and the theft of alcohol and a substantial sum of cash left on the premises.
- Positive drug testing- evidence of cocaine use found in both the gents and ladies toilets being the only area tested.
- Fights in the grounds
- Complaints about anti-social behaviour from neighbours which were also raised at Parish Council level.

By contrast since the social club closed, I am not aware of any incidents of this kind. So to suggest that the social club reduced anti-social behaviour and petty crime seems to be wholly at variance with the facts.

It would be more appropriate for the applicant to describe what best practice measures they would put in place to protect the public especially in relation to preventing and discouraging drug use and controlling excessive consumption of alcohol which can often be linked to criminal and anti-social behaviour.

They could also look at the physical security of the premises and the responsible use of CCTV.

## c) Public Safety

Where it is stated "*we are up to date with all our fire regulations*", I take it "our" refers to the Trustees of Wittersham Sports Club rather than the Wittersham General Sports Club Trading Ltd. As a former trustee and a regular user of the premises I am certain this is not correct. Building works were carried out to the premises in July and August 2016. Fire doors were not correctly fitted to building regulations and the new entrance created (without the necessary planning consent) does not have the correct signage or emergency lighting.

It is not clear whether a fire risk assessment has been submitted with the application but the requirement for this is made clear in the Council's Licensing Policy on Page 15:

*"When preparing their operating schedules, applicants are reminded that it is a requirement of legislation that any licensed premises carry out a fire risk assessment and to record the significant findings in writing (Regulatory Reform (Fire Safety) Order 2006 Article 9 paragraph 6)."*

A fire risk assessment was commissioned by the Football Club in February 2017 which was passed to Trustees and this highlighted a number of issues.

There is also no mention in the Operating Schedule of limits on the capacity of the licensed area. The clubroom is not a large room and numbers should be limited.

There is also the issue of parking at the premises. This is a particular problem on match days and there has certainly been complaints about the highway being

blocked. The increased use that the applicant predicts would only exacerbate this problem.

#### d) The prevention of Public Nuisance

There can be little doubt that to have such great sporting facilities in the village is an enormous benefit and there is certainly a case to argue that if people are positively engaged there will be a general reduction in anti-social behaviour. This, however, is not what I think the applicant should be considering here. They should be looking at the impacts that the licensable activities have on those living in the vicinity. It should be noted that the sports field is in a very sensitive location at the centre of a quiet rural village. Sound travels some distance. We for example live around 300m from the ground and the noise is quite clearly audible when events are happening. I would think then that the times when alcohol can be consumed outside should be limited and the area for outside consumption should be reduced and moved away from the gardens of neighbouring properties.

Consideration should be given to providing a designated area for smoking which again is away from the neighbouring gardens

Measures should be taken to ensure people leave the premises quietly and respect neighbours.

Light pollution has also been an issue and there should be some control of the use of outside lighting.

The applicant has dealt to some extent with the issue of litter but does not go far enough. Providing extra bins would be helpful but the issue is more with ensuring any litter is regularly cleared up and the outside bins are regularly emptied. Consideration should also be given to dealing with dog mess and discarded cigarette stubs which were a considerable problem when the social club was open.

I would also suggest consideration should be given to the storage and disposal of empty beer barrels which were often left littering the premises for weeks.

#### e) The Protection of Children from Harm

Again it is recognised that the participation in sport provides many benefits to children and those involved in organising this have a duty to keep the children safe. I myself can bear witness to playing football at Wittersham for very many years as a child. It is great to see so many children still benefitting from Lady Mallet's trust with games and training taking place throughout the year, almost every week and in all weathers.

The applicant has a duty to address how the licensable activities might impact on this important usage and how the two can be reconciled. Particular attention needs to be given to the shared use of the clubroom. This is used by the children, parents and club officials for meetings, tuition and administration, as well as providing a place for refreshment, socialising and shelter for everyone. The only sink in the clubroom is behind the bar and the only place the lights can be turned on is behind the bar. These issues should be resolved.

The clubroom is an area important to the delivery of sport and that should not be compromised by its use as a commercial bar. In light of this, will the bar for example be closed when junior matches and training are taking place?

Could I also ask, what measures will be taken to prevent the sale of alcohol to minors? Given the previous use of illegal drugs in the toilets how will this be monitored given these same toilets are also used by the children?

### **Conclusion**

This is an unusual application for a Club Premises Certificate from a trading company which purports to be a club but that club does not yet exist. From reading the "Club Rules" in the form of Articles of Association, it is difficult to conceive of a club which is in fact controlled by another organisation and not its members.

On the basis of the information provided by the applicant, Wittersham General Sports Club Trading Ltd, I can have little confidence that the bar will be run responsibly. I cannot see how the Operating Schedule complies with the Licensing Policy and therefore it should, in its current form, be rejected.

In addition, the Council should seriously consider whether the Wittersham General Sports Club Trading Ltd is in fact a "real club" as defined on Page 24 of the Licensing Policy. It is the Council's legal duty to do this and I would like to be assured that this matter has been properly investigated.

There is also the question of the rights of occupancy of the premises. The Wittersham General Sports Club Trading Ltd certainly does not currently occupy the premises and there must be serious doubts as to whether a trading company set up in this contrived way could lawfully occupy the premises under the terms of the Lease. Again I would like assurances that the Council has fully investigated this matter.

|                             |                                     |
|-----------------------------|-------------------------------------|
| <b>Objector</b>             | C Paterson                          |
| <b>Objector Address</b>     | 14 The Street, Wittersham, TN30 7ED |
| <b>Date Received</b>        | 15 July 2019                        |
| <b>Distance to premises</b> | 232m (approx.)                      |

#### Objection Details

Dear Sir

I as a resident of The Street Wittersham have been made aware of the application of the Committee of the playing field for a license to sell alcohol and have extended opening hours turning it almost into a social club and not as originally intended as a playing field for sporting activities I feel it my duty to complain on the grounds of it being a public nuisance. It is lovely to hear football matches during the day but I do not relish the thought of being woken up by noisy revellers after the sports pavillion has closed.

I hope that you will consider my objections to a license being granted

|                             |                                     |
|-----------------------------|-------------------------------------|
| <b>Objector</b>             | Mr & Mrs Avery                      |
| <b>Objector Address</b>     | 1 Forge Meads, Wittersham, TN30 7PE |
| <b>Date Received</b>        | 14 July 2019                        |
| <b>Distance to premises</b> | 78m (approx.)                       |

### Objection Details

I am writing to object to the application of a licence for the sale of alcohol at the Sports Ground Pavilion, Poplar Road, Wittersham, Kent TN30 7PD. I object under the following objectives:

**THE PREVENTION OF CRIME AND DISORDER AND THE PREVENTION OF PUBLIC NUISANCE.**

As a couple we are relaxed and easy going people and not ones to complain. We understand the need for a village pub in Wittersham. However when choosing to live somewhere there are certain things people take into consideration before purchasing your property. If I purchased a house near Brands Hatch for example, I would be a fool to then complain about the noise from the race track! The following scenario also applies to pubs and clubs etc. We did not choose to move next to either, and our property is directly opposite the Sports Club.

The sale of alcohol was permitted at the sports club a year or two ago. During this period ourselves and fellow neighbours, some of which have very young children, experienced many nights of disturbed sleep due to the drunken disorder of some of the users of the Sports Club. Often the noise caused by the club exceeded midnight, mostly by drunken people, or teenage children of these people shouting at each other in the car park! During summer months, many of us need to sleep with windows open to keep cool, however on warmer evenings the club obviously had more customers and the noise was exacerbated.

On several occasions we found people urinating in the hedges and gardens in the immediate vicinity of the Sports Club. The 'now removed' phone box also had its glass smashed during this period, although I can't prove it to be due to the drunken behaviour of club members.

I am sure that many of the Sports Club members would use the club how it is intended, as a local place to socialise and drink and leave the club quietly at night. However it seemed like quite a few users could not handle their drink and were effectively ruining it for other users. Signage asking patrons to leave quietly will not work with drunken people!

In summary, I feel that it is unfair to ruin the quality of sleep and life for people living in the immediate vicinity of the club just so people can have a drink. More effort should be placed into getting the village pub up and running again.

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|-----------------------------|-------------------------------------|
| <b>Objector</b>             | Mr A Barkel                         |
| <b>Objector Address</b>     | 7 Poplar Road, Wittersham, TN30 7PD |
| <b>Date Received</b>        | 12 July 2019                        |
| <b>Distance to premises</b> | 31m (approx.)                       |

### Objection Details

I am writing in response to the licencing application for the Wittersham Sports Club Trading Limited.

My representations for objection are the following;

Re: Prevention of Crime & Disorder & The Prevention of Public Nuisance

Under the previous licence held by the Wittersham Sports Club, the running of the club allowed members and their guests to leave the premises late in the evening in a loud and disorderly manner, using foul language, urinating in front of homes just outside of the sports club.

Also the use of foul language and lots of screaming/shouting in the afternoons while local residents are enjoying their gardens on summer afternoons. These acts happened regularly whilst the previous licence was in operation.

Re: Public Safety

Also under the previous licence held by the Wittersham Sports Club, members and their guests were allowed to leave the premises driving their vehicles whilst quite obviously over the alcohol limit. We have no police support in the village for monitoring such behaviour which is a large concern.

Whilst the previous licence was in operation, myself and some other local residents had a meeting with PC 10679 Alistair Pringle to express our concerns with the ongoing behaviour and drink-driving.

I do support the Sports Club for use for sporting events as these are great for our village (my support includes donations of sausage rolls free of charge for the cricket club home matches) - however;

I strongly **object** to the use of the Wittersham Sports Club being used as a club for drinking as I am extremely concerned for how it will be used - for public safety, crime, disorder & nuisance behaviour.

|                             |  |
|-----------------------------|--|
| <b>Objector</b>             | Ms Gillian Kirk  |
| <b>Objector Address</b>     | The Gothic House, The Street, Wittersham, Kent, TN30 7ED |
| <b>Date Received</b>        | 11 July 2019   |
| <b>Distance to premises</b> | 195m (approx.)   |

#### **Objection Details**

**Wittersham General Sports Club Limited application dated June 2019 for a Club Premises Certificate for a Liquor License for the premises Wittersham Sports Ground and Pavilion, Poplar Road, Wittersham**

As a resident on the Street in Wittersham with the rear of our house facing the sports field and within sight of the Sports Pavilion, I object wholeheartedly to the terms of the application set out by Wittersham General Sports Club Trading Limited.

1. The hours of trading with the sale of alcohol the company is applying for are totally unreasonable especially in a quiet residential area and are likely to cause public nuisance. Ashford Borough Council should seriously consider the times applied for as being totally excessive for a small village sports club, which has residential housing beside it and opposite it.

2. The sale of liquor well into the night is likely to disturb residents further afield i.e. Poplar Road and The Street especially if, as the company has requested, members are able to spill out of the Club house within a 30 metre radius of the pavillion with alcoholic drinks.

3. The Club's assertion that they will provide extra bins in the car park and at the exit gate to contend with extra rubbish, is frankly inadequate judging by what we have experienced when there have been football tournaments and therefore greater larger numbers than members' nights at the club.

4. Inevitably the sale of liquor in a family orientated sports club rather than a public house will expose children participating in sports to rowdy adults which will be to their detriment.

My greatest concern is the excessive hours requested in this application and the noise pollution in a residential area. I would be grateful to Ashford Borough Council if they would carefully consider these points before granting any license to the above mentioned club.

Yours sincerely

|                             |   |
|-----------------------------|---|
| <b>Objector</b>             | Mr Daniel Bennett   |
| <b>Objector Address</b>     | The Old Post Office, 12 Poplar Road, Wittersham, TN30 7PG |
| <b>Date Received</b>        | 10 July 2018  |
| <b>Distance to premises</b> | 88m (approx.)   |

### Objection Details

#### **Club Premises Certificate (Sale of Alcohol) for Wittersham General Sports Club Trading Ltd**

I have received the Operating Certificate, Notice of Application and Plan for the above application. I live almost directly opposite the Pavilion on Poplar Road.

My objections are for the following reasons:

1. There are continuous problems with parking on the site as players park on the road down to our house, presumably because there isn't sufficient parking on site for the numbers who want to play. This causes an obstruction on a blind bend, with car drivers having to negotiate with only space for one car to pass at one time. With an alcohol licence from midday to 11pm every day, this is only likely to get worse and it is currently dangerous for me, my children and car drivers who use this main road between Tenterden and Rye;
2. The Pavilion wasn't intended to be a permanent public house, but a venue for sporting activity. I have two young children and I am concerned about noise, particularly late at night as my children's bedrooms are at the front of the house. Events which have taken place on the site previously have been extremely loud, with music and on hot summer evenings. On one occasion, the noise didn't stop until after 1am. Even with the windows closed, we couldn't sleep. This is likely to be a regular occurrence with a pub opposite my house;
3. With two young children, I am concerned about drunken behaviour and the noise of people leaving the premises after closing time. There is an established public house in Wittersham and there are plans supported by locals to re-open it. It would be much better to have a pub on a designated and established site than somewhere unfit with little or no soundproofing. This is an extremely quiet rural conservation area and AONB which would be spoilt by something wholly unnecessary;

4. It appears from the plans that alcohol can be consumed up to 30 metres from the Pavilion building, which would extend the area to the road and beyond. This is completely inappropriate. It is also clear that any sort of sporting activity which previously had to take place to justify the consumption of alcoholic beverages is unrelated to the more important business of drinking as extended hours are requested for Christmas and New Year. What sort of sporting activity is due to take place on those days, justifying meeting in the Pavilion?

|                             |  |
|-----------------------------|--|
| <b>Objector</b>             | Mr Spencer W King                                    |
| <b>Objector Address</b>     | Cullens, Wittersham Road, Wittersham, Kent, TN30 7PU |
| <b>Date Received</b>        | 6 July 2019  |
| <b>Distance to premises</b> | 2.6km (approx.)                                      |

### Objection Details

**Re: Wittersham General Sports Club Trading Limited application dated 19th June 2019 for a Club Premises Certificate for the premises Wittersham Sports Ground and Pavilion, Poplar Road, Wittersham.**

Please find set out below my objections to this licence application.

The above building was constructed to provide changing facilities and space for refreshment related to the sporting activities that were permitted on the surrounding sports field. The use of the pavilion building has largely related to the times of match fixtures or training related to those sports.

It was not authorised to provide alternative facilities to the village pub or village hall which both existed at that time.

It appears that the licence being sought is for general trading for the hours of midday to 11pm weekdays and weekends not specifically related to sporting activities. It is clear this relates to hours which are additional to those that related to the sports events and it seems unavoidable that increasing the occupation of this fairly basic building to operate on the basis of pub hours will cause increased noise nuisance to the residents that surround it. This would be both in terms of potential noise emanating from the building itself and from voices, car doors and traffic movements late at night after normal post sport refreshments would have ended.

It seems unlikely that much genuine sporting activity will take place during normal working hours of the normal working week as proposed in the application. At those times the sports activities are most likely to relate to school children having matches or training after school. Using the same pavilion building for general trading with alcoholic consumption while the main occupiers are likely to be children would be incompatible. Those just drinking socially would be unlikely to want to be surrounded by noisy children who themselves might generate friction with others using the building. This could put the children at risk of verbal abuse to suppress their exuberance and provide a poor example.

The purpose of the grant to the charity of the use of the field was to encourage healthy activity such as sport, not to create a social centre. The sale of refreshments including beers and spirits in the pavilion previously was related to the times of the sports activities or special events, not for general trading throughout the day as proposed by this application. The inclusion of 'trading' in the applicants' name implies that the purpose of this entity is to create profit from trading alcohol.

Wittersham does not have a village pub currently as viability has been the problem. There is a proposal currently for the existing pub building to re-open. This was purpose built unlike the sports club pavilion and has car parking. The parish council has encouraged introducing businesses which enhance the local economy. Rather

than splitting the customer base, the village would therefore be better served by any new alcohol licence being reserved for the re-opening village pub which can be used by everyone within walking distance but would also be available to tourists and anyone passing through rather than customers being excluded from using such premises unless they have previously become the member of a club.

I therefore oppose this application as it will create disturbance, could adversely affect and influence children due to conflicting uses during the hours proposed and does not enhance the facilities available to the village residents or visitors as it requires joining a club.

I shall be grateful if you will confirm safe receipt of this email and that these comments will be taken into account when determining this application.

|                             |                          |
|-----------------------------|--------------------------|
| <b>Objector</b>             | Mr George Parkin         |
| <b>Objector Address</b>     | 8 The Street, Wittersham |
| <b>Date Received</b>        | 2 July 2019              |
| <b>Distance to premises</b> | 205m (approx.)           |

#### **Objection Details**

I object to this application firstly on the grounds of public nuisance: the club house is designed for changing rooms and limited social use and is of basic construction providing little sound insulation to protect immediate neighbours from noise.

It doesn't meet the necessary building requirements for use a drinking establishment.

The access to the clubhouse is adjacent to a property in Poplar Rd. The path from the road runs the full length of the property, as does the limited car park. Both pedestrian and vehicular movement causing noise. The building also backs on to three other properties in Poplar Road all of which suffered from anti-social behavior, noise and litter nuisance on previous occasions a licence has been allowed.

The exit from the car park into Poplar Road is also an issue as cars leaving the car park on to Poplar Road on a narrow bend with parked cars either side.

I secondly object on the grounds of protecting children from harm. The majority of sports users of the clubhouse are under 18 years old. The changing rooms and toilets are accessible from the social area.

Prospective social club members are not of course subject to checks for criminal records and character, this means children could be using the changing rooms whilst unknown adults are accessing the toilets and potentially the changing room. The building is not designed for use as an open bar and sports venue, this could leave children at risk.

The clubhouse was established as a changing facility offering post-match refreshments it was never intended to be a fulltime drinking establishment.

|                             |  |
|-----------------------------|--|
| <b>Objector</b>             | Mr & Mrs Marshall                                  |
| <b>Objector Address</b>     | The Old Forge, 3 Poplar Road, Wittersham, TN30 7PD |
| <b>Date Received</b>        | 29 June 2019                                       |
| <b>Distance to premises</b> | 24m (approx.)                                      |

### Objection Details

Dear Sirs

Application for a Grant of a Club Premises Certificate: - Wittersham General Sports Club Trading Limited

I write to raise our concerns and observations regarding the above application especially as we are the nearest most effected neighbour to this venue which at its nearest is less than two metres from our own boundary fence to the pavilion. Please also note that we are making our case having knowledge of the problems that can arise for we have first-hand experience having witnessed the difficulties of the previous fore runner of this entity which also operated as a member's club. I am additionally cognisant that I can compare the new venture with the old as this limited entity is sponsored by or has common Directorships as those of the previous failed venture. I have now had the opportunity to view the application and plans which frankly are of poor quality and produced without true accurate detail and reference to our boundaries. I may also be writing a futile and pointless letter to highlight areas of concern and compromise because advertisements and notifications have already been circulated publicly in the village and neighbouring areas advising that the WGSC will be opening for business on the 11<sup>th</sup> of July 2019. I would although it seems the CPC has already been issued or guaranteed permissions like to put forward suggestions and comments. Moreover, I did hope that as with the last venture of this nature you might have been keen and prepared to meet with the neighbours to listen in person to our concerns and anxieties to demonstrate equanimity?

My initial anxiety with the application is the uneasiness at a request for such long hours of trading seven days a week notwithstanding the fact that the Swan our local public house did not even operate such expansive opening times until it closed recently; I ask is this really required appropriate or suitable for our small village. I also point out that Community Benefit Society led by the Chairman of the Parish Council is in talks to achieve the re-opening of the Swan public house in the village as a community hub and this application is therefore counter-productive to that endeavour. Surely opening Thursday through to

Sunday commencing at say 4 pm and closing at 11pm is enough for the purposes of a village club? I do also question why we require additional establishments and one to be allowed to hold two certificates to sell alcohol in such a small community as Wittersham. The Community Benefit Society led by the Parish Council intend to reopen the Swan public house a venue more suitable for such long opening hours.

Moving on however I shall list the worries and observations as per the four relevant areas to such applications.

#### Prevention of crime

Such extensive opening hours would I propose lead to a repeat or increase in anti-social behaviour and the drunkenness seen on occasion during the operation of the last concern. In the twenty years that we have lived at the Old Forge only after the last concern opened did, we suffer any problems with anti-social behaviour, and these stopped when it failed. Please note that these events of drunken behaviour were reported during a meeting with the licensing officer held with the neighbours regarding the operation and troubles caused about the last "club" which operated identical hours. We wish to be reasonable and though we find the methodology and hours operated by the current premises certificate holder Wittersham Football Club suitable to ensuring lawfulness and negating anti-social behaviour we are not closed to argument or inflexible. The current certificate holder has a proven record of law and order and of safeguarding children while promoting healthy activity. The opening hours requested by the new entity seem more suitable to a public house than a small village members club unless the plan is to widen the membership to beyond the village which would clearly negate any local community benefits. I am very concerned at anti-social behaviour such expansive hours would encourage and I may live a sheltered life, but I know of few people who wish to commence drinking alcohol at 0800 hours on Christmas Day. I am also naturally concerned by the prospect of drink driving with the Police hard pressed at this moment in time. Candidly such times of opening as requested are more conducive to a business venture than as an altruistic beneficial addition to the charitable status encouraging sports for one and all. I might add the village hall admirably serves the purpose of a community hub at the present time and has commenced opening "pop up" pubs. My contention is that if these hours of opening are allowed it would encourage rather than lessen crime in the area and it is a fact that we did not have any anti-social behaviour in this village prior to the last attempt at opening a members club with such extensive hours. Frankly I cannot understand, nor can I find during my research the necessity or lawfulness for two club premises certificates to be held by and at the same small venue.

#### Public safety

As experienced during the previous operation/trading period the current parking facilities were unsuitable for large numbers of vehicles and the minor road became the natural overflow. The single entrance to the car park also proved dangerous to both people and other vehicles because it leads directly out to the small A road that connects Tenterden to Rye. Moreover, considering the proposed expansion of use and materials utilised in the build of the pavilion I would advocate a thorough inspection of the pavilion in respect of its

worthiness and adherence to fire regulations and moreover its suitability as a venue for such wide-ranging hours of opening in respect of public safety. Please additionally note the last club did not have a designated smoking area and as such we found people wandering about wherever they wished smoking and drinking. I note the area on the plan within which people would drink eat and smoke and I have as advised proposed a reasonable compromise and amendment to this plan as cigarette smoke is a hazard and I suggest also a health and safety risk. We would ask for a designated smoking area situated well away from our wooden boundary and the pavilion to prevent any possible fire risk if this application is or has been granted and moreover to stop the cigarette smoke into our rear gardens. Likewise, the barbeque parties (currently being advertising as of the 11<sup>th</sup> of July) could these not be at the other end of the pavilion to negate not only the fire risk to our wooden fences but take the odours to the side of the pavilion without any neighbours at all. Finally, I am aware that the toilets within this building drain into a septic tank and I remember that last time this filled regularly with effluent that were emptied usually when the smells became too much or the toilets "backed up". I suggest that this is an environmental and health concern and must be addressed or inspected before allowing such expansive opening times as it is clearly not fit for the purposes of this application.

#### Public Nuisance

I have listed my most prominent disquiet within this section though it may be more apposite to our public safety. My side and rear windows and stable door face out to the pavilion and car park and vehicles were and are parked dangerously literally blocking light to our windows and almost touching our home. I have provided a photograph demonstrating how members of the club often park and not only is such parking blocking light to our windows, but it is not safe nor courteous. I have provided an amended drawing indicating the area I would suggest the CPC designates for parking and additionally to alleviate the problem could this new group not erect a small fence ensuring that cars are not parked within our boundary on our side path before any license is granted or approved? The noise pollution and disturbance as suffered from people outside the pavilion last time could be mitigated or reduced this time by a condition ensuring there is a specific area well away from the rear fences of our gardens and again the red line is my suggested amendment to their rather vague and not to scale plan. I am additionally unhappy with both the prospect of light and sound pollution as two large halogen lights have been added to the rear of the pavilion and when on they shine directly into all our adjacent houses and gardens and will operate if as before from early evening until well past closing hours. I would also respectfully expect tight stipulations in relation to the level of noise from people and music in and out of the pavilion.

#### Protection of Children from Harm

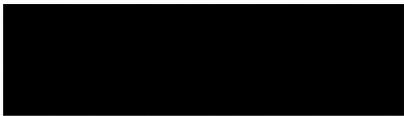
Safeguarding children at a club should form the basis of any application physical and otherwise. I suggest a direct physical risk exists as there is an unfenced pond and also a deep and dangerous ditch with often flowing water directly adjacent to the pavilion and we can attest to its menace as we witnessed first-hand last time these premises were open for such

long hours children playing and falling into this dyke/drain. Furthermore, as a sports venue originally formed and principally used all the time by children to play and train for sports, I suggest that these hours of opening as requested are not appropriate. Members smoking and drinking outside the pavilion while children watch train and play football on a regular basis fail in my mind to provide a good example; it is not only a bad role model but totally unhealthy and inappropriate in modern society.

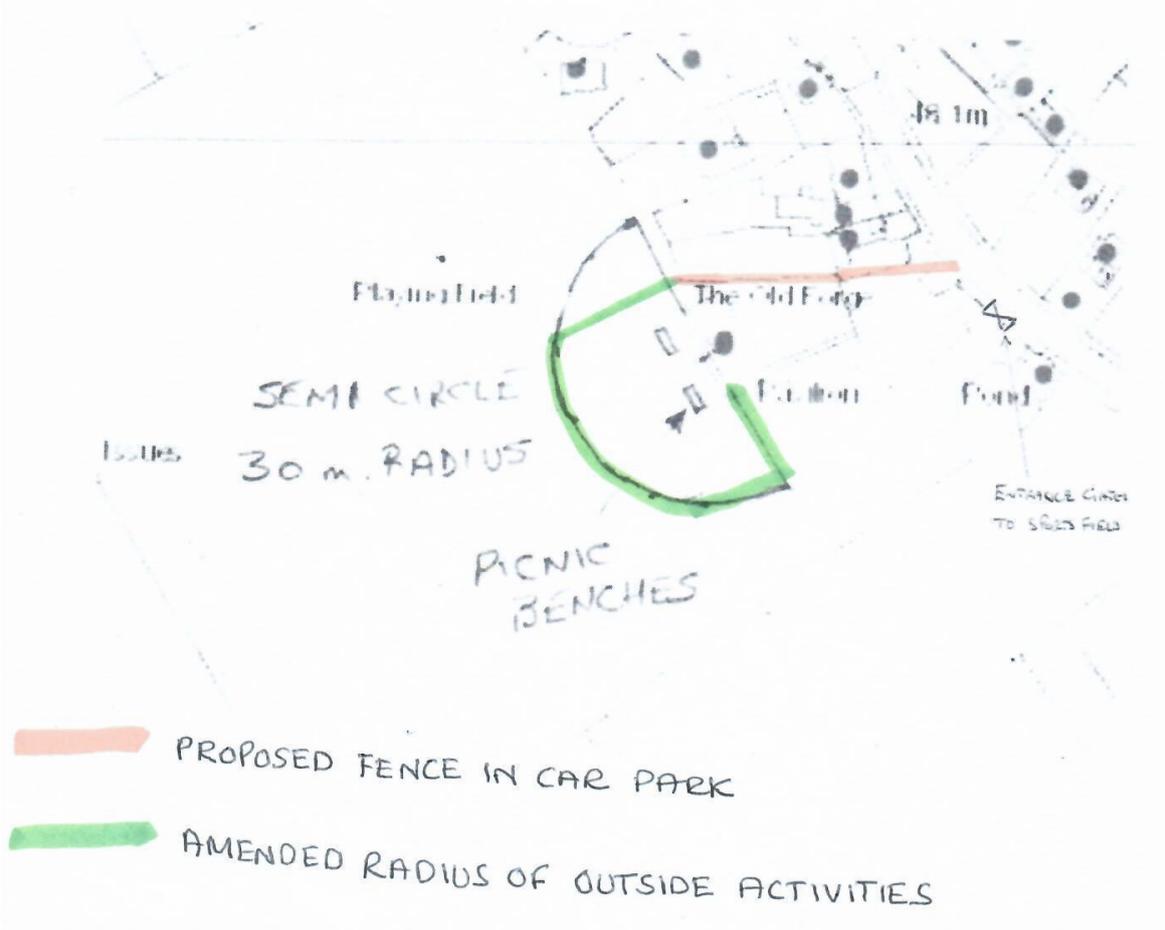
It may be that this CPC has already been issued prior to the date on the application and as such we are writing a worthless letter expressing our concerns and suggestions, but I do hope not. Accordingly, I do therefore trust that our input will not be ignored as we have attempted to identify those risks and hazards as a result of allowing such an extensive and wide-ranging further certificate to be granted and our suggestions therein. In short, we would all appreciate and offer and request participation in any additional scrutiny of the process and application as the neighbours most affected by this application.

Yours Faithfully

Mr and Mrs Marshall



Amended Drawing





|                             |  |
|-----------------------------|--|
| <b>Objector</b>             | DA & C Craib   |
| <b>Objector Address</b>     | Vine Cottage, 6 The Street, Wittersham, Kent, TN30 7ED |
| <b>Date Received</b>        | 23 June 2019   |
| <b>Distance to premises</b> | 184m (approx.)   |

### Objection Details

Dear Sirs,

With regard to the above, we would make the following comments: We have lived in Wittersham for 22 years and in that time our understanding has been that the Sports Club is for the use of the children and young people with the aim of encouraging sports and other activities. On most weekends, from our house we can see that football and cricket take place according to the season and weather permitting.

Our objections relate to the following grounds:

**Public nuisance:** In the past when a 'social club' was started up we were subjected to search lights and floodlights till late. As our bedroom faces the sheep field and then the sports club, we considered this to be a nuisance and entirely out of keeping with a village environment. It is also of course an unnecessary increase in light pollution in an area of dark skies.

**The Protection of Children from Harm/ Prevention of Crime and Disorder:**

As this was, and is we assume, intended primarily for the use of children, it is difficult to see how they would not be affected by the use by adults as a drinking club. In fact, how would the organisers/proprietors protect children from unruly behaviour or worse? It is commonly known that when used previously for the 'social' purpose, illegal drugs were found on the premises. Therefore this must be a serious consideration.

|                             |                             |
|-----------------------------|-----------------------------|
| <b>Objector</b>             | Mrs Mary Walton             |
| <b>Objector Address</b>     | Bramble Cottage, Wittersham |
| <b>Date Received</b>        | 18 June & 23 June 2019      |
| <b>Distance to premises</b> | 208m (approx.)              |

### Objection Details

**Re : Wittersham General Sports Club Trading Limited application dated 10th June 2019 for a Club Premises Certificate ( CPC ) for the premises Wittersham Sports Ground and Pavilion, Poplar Road , Wittersham.**

I object to the above application on grounds that it is not compatible with the licensing objective " The Prevention of Public Nuisance ". The impact of this licensable activity at these specific premises would in my view be unreasonable to those persons living in the vicinity.

The Wittersham Sports Field ( 5 + acres ) , although centrally located within this quiet rural village, nevertheless faces out across open privately owned fields of pastureland and orchard. Noise carries readily across such terrain and it was for this reason that planning consent for the present sports pavilion ( 25th Aug. 1995 ) was subject *inter alia* to the following condition : ----

02 *No music and / or any other amplified sound shall be audible at the site boundary of any noise sensitive premises indicated on the attached plan.*

This planning condition shows a very reasonable consideration for the section of the public who live in the houses surrounding this open and rural centre to the village. The pavilion was not to be built without taking into account the effect of noise on surrounding properties.. Whereas the sight and sound of cricket, football and other sporting activities is quite simply delightful, the noise and disturbance that would result from a license to supply and sell alcohol 12.00 - 23.00 by a trading subsidiary company would cause a marked reduction in the living amenity and environment of those people living within the already identified noise sensitive zone. My cottage is one such property. The increased noise and disturbance was apparent for the short period during which a "social club " was incorrectly operating. It was not fair on the neighbours.

Suitable measures to prevent noise and disturbance are hard to envisage. The pavilion is a stand alone very basic structure situated at one side of the open sports field. It is not an appropriate building for running a bar business at all.

Litter is likewise an inevitable problem. On a recent " Village Litter Pick Day " I personally filled an entire black bin liner bag at the sports field in a very short space of time. Much of the rubbish was squashed drinks bottles.

Under the Licensing Act 2003 Public Nuisance retains its broad common law meaning. This includes loss of amenity and obstruction to a section of the public in the exercise of their rights. The sports field is subject to a charitable trust and classified at the Charity Commission for Education / Training . Amateur Sport for Children / Young People and other defined groups. It is the Commission's view that alcohol may only be supplied / sold when sport is in progress. ( It may yet be

found that there is no power under the trusts of the charity to supply / sell alcohol at all ). Unsurprisingly , children are the main users of the sports field, and the pavilion is there for their use and convenience when matches and training sessions are in progress. If the pavilion is being used for a separate purpose ( ie trading alcohol ) this is an obstruction to this young section of the public in the exercise and enjoyment of their rights. The pavilion is their own personal space at such times -- and in particular when it pours with rain.

I urge Ashford Licensing to consider very seriously the Public Nuisance implications of this application and to accordingly refrain from granting it.

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Dear Trevor,

Many thanks for your email of 19th June. May I confirm that I would like my objection to be resubmitted in respect of the new application for revised times, with the addition of the following extra note : ----

**Extra note** pursuant to resubmission of application with amended timings

The public nuisance element to this application is greatly exacerbated by the resubmitted timings, which are frankly absurd. The trustees have no power to allow occupation of the charity's premises by a trading company at such times.

" *the bar cannot operate as a social club or pub and can only operate to support sporting events ( for example , when a match is being played or during training sessions etc.....* " ( email to me from Charity Commission dated 29th April 2019 )

Since " sports" / pub games within the pavilion eg darts, pool are not generally regarded as sports for the purpose of charitable activity, and clearly do not amount to sports for the purposes of this designated 5 + acre field, it is hard to envisage what matches or training sessions would be in progress to 11 o'clock at night every day of the week , let alone late at night on Christmas Eve and New Year's Eve. Before even considering the considerable Public Nuisance element to this application it seems essential to confine the hours being applied for , by appropriate limiting condition, to those hours when the Charity Commission has at present stated that a bar might operate, ie when a match is being played or during training sessions, which means genuine outdoor sporting fixtures on the field.

And if sport is in progress on the field, the use of the land within a 30 metre radius of the sports pavilion by a trading company would constitute a clear Public Nuisance in its broad common law meaning which includes loss of amenity and obstruction to a section of the public in the exercise of their rights. The area thus delineated of greater than 2.827 sq. metres impinges upon the sports pitches themselves !

## **APPENDIX H - HUMAN RIGHTS**

### Article 8

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

### Article 1 of the First Protocol

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws, as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

### Article 10

3. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
4. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

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